



## Final Regulation Agency Background Document

<b>Agency name</b>	Board for Contractors
<b>Virginia Administrative Code (VAC) citation</b>	18 VAC 50-30
<b>Regulation title</b>	Board for Contractors Individual License and Certification Regulations
<b>Action title</b>	Certified Accessibility Mechanics
<b>Date this document prepared</b>	May 6, 2013

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 14 (2010) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

### Brief summary

*Please provide a brief summary (no more than 2 short paragraphs) of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation. Also, please include a brief description of changes to the regulation from publication of the proposed regulation to the final regulation.*

The Board for Contractors seeks to amend its regulations to include "Certified Accessibility Mechanics" among its regulant population. The proposed amendments include adding a definition of "Certified Accessibility Mechanics", the criteria for such certification, the fees associated with such certification, the continuing education associated with such certification, prohibited acts, and the jurisdiction of the Board over such regulants. The proposed amendments also include an endorsement for "limited use/limited application" elevators.

### Statement of final agency action

*Please provide a statement of the final action taken by the agency including (1) the date the action was taken, (2) the name of the agency or board taking the action, and (3) the title of the regulation.*

At its meeting of April 9, 2013, the Board for Contractors adopted these regulations as final.

**Legal basis**

*Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant citations to the Code of Virginia or General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., agency, board, or person. Your citation should include a specific provision authorizing the promulgating entity to regulate this specific subject or program, as well as a reference to the agency/board/person’s overall regulatory authority.*

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Virginia Code § 54.1-1102 states in part that the Board shall have the power and duty to promulgate regulations to carry out the requirements of Chapter 11 of Title 54.1 of the Code of Virginia.

Chapter 81 and Chapter 207 of the Acts of the 2010 General Assembly created the Certified Accessibility Mechanics Program. Section 54.1-1142 (amended by Chapters 81 and 207) authorizes the Board for Contractors to issue certified accessibility mechanic certificates to applicants that meet specified criteria.

Virginia Code § 54.1-201(E) states in part that regulatory boards shall promulgate regulations in accordance with the Administrative Process Act necessary to assure continued competence, to prevent deceptive or misleading practices by practitioners and to effectively administer the regulatory system administered by the regulatory board.

The content of the regulations adopted by the Board shall not be in conflict with the purposes of the statutory authority.

**Purpose**

*Please explain the need for the new or amended regulation. Describe the rationale or justification of the proposed regulatory action. Detail the specific reasons it is essential to protect the health, safety or welfare of citizens. Discuss the goals of the proposal and the problems the proposal is intended to solve.*

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The Board for Contractors seeks to add “Certified Accessibility Mechanic” to its regulant population. This new certification program will encompass, more specifically, areas of contracting work not previously specifically addressed in the definitions and regulations of the Board. This new program will ensure members of the public are able to hire “Certified Accessibility Mechanics” with the required knowledge and skill to do the work sought. Additionally, those mechanics will fall under the laws and regulations of the Board.

**Substance**

*Please identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. A more detailed discussion is required under the “All changes made in this regulatory action” section.*

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The General Assembly enacted §54.1-1142 of the Code of Virginia. This amendment to the statutes introduces “Certified Accessibility Mechanics” to the regulatory authority of the

Board for Contractors. These regulations will define entry requirements, list fees and set certificate maintenance procedures for this new program.

## Issues

*Please identify the issues associated with the proposed regulatory action, including:*

- 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions;*
  - 2) the primary advantages and disadvantages to the agency or the Commonwealth; and*
  - 3) other pertinent matters of interest to the regulated community, government officials, and the public.*
- If there are no disadvantages to the public or the Commonwealth, please indicate.*

1) In amending these regulations the Board for Contractors is complying with the provisions of legislation signed into law this year establishing a program to certify accessibility mechanics. After studying data relative to accident rates, inspection reports and the licensing/education requirements in other states, the General Assembly determined a need for this level of regulation in order to protect the public. The primary advantage of the program is to ensure that work done on wheelchair lifts, chair lifts, dumb waiters, private residence elevators, and limited use/limited access elevators is performed by individuals who have received sufficient training and demonstrated enough experience to reasonably assume competency in the repairs they will be completing. At the same time, the legislation takes the step to require ongoing education of those individuals in an effort to ensure that safety issues that arise as a result of technological advances, are passed on to those who are responsible for repairing the devices.

2) The only possible disadvantage to the program may arise at the beginning with respect to the approval of continuing education classes and providers. The Board initially experienced difficulty in the Tradesman program with initial approval of continuing education classes and providers, but the difficulties fixed themselves and there are now over 200 providers and even double that in courses. The "Certified Accessibility Mechanics" are a highly technical vocation and its regulant population is expected to be very computer literate and so online continuing education is expected to be offered quickly and easily. It is likely that there will be difficulties that occur during the first renewal cycle, but should become less of a disadvantage as more training programs are approved by the Board and the physical location of the regulant population is identified.

3) This development of this program, through the legislative process, was supported by industry representatives, localities and other interested parties, all of whom were in the workgroup created by Senate Bill 811 (Chap. 251 2009 Acts of the General Assembly). Testimony provided and information gathered by the work group indicated that the majority of those individuals currently employed as wheelchair lifts, chair lifts, dumb waiters, private residence elevators, and limited use/limited access elevators would welcome a requirement that all individuals performing this type of work, meet those similar standards of training and education as already in place for non-residential elevator companies.

## Changes made since the proposed stage

*Please describe all changes made to the text of the proposed regulation since the publication of the proposed stage. For the Registrar’s office, please put an asterisk next to any substantive changes.*

There have been no changes made since the proposed change.

**Public comment**

*Please summarize all comments received during the public comment period following the publication of the proposed stage, and provide the agency response. If no comment was received, please so indicate.*

No comments were received during the public comment period.

**All changes made in this regulatory action**

*Please list all changes that are being proposed and the consequences of the proposed changes. Describe new provisions and/or all changes to existing sections.*

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
18VAC50-30-10		Definitions Section.	The proposed change is an administrative change that would include a definition for “Certified Accessibility Mechanic” and “Limited Use/Limited Application Endorsement” under the current definitions section of the Board for Contractors. These definitions are being added to require those engaged in residential elevator installation to hold a license with similar yet different requirements than a “Certified Elevator Mechanic.”
18VAC50-30-40	18VAC50-30-40(G) and (H)	Evidence of Ability and Proficiency Section.	The proposed change would include an evidence of ability and proficiency section for both the “Certified Accessibility Mechanic” and “Limited Use/Limited Application Endorsement,” respectively, that lay out the required education and experience for each.  The proposed changes are being added to differentiate the requirements from

			<p>“Certified Elevator Mechanics,” already in place with the Board.</p>
18VAC50-30-90		Fees for Licensure and Certification.	<p>The proposed change would include a fee applicable for licensure and certification for both the “Certified Accessibility Mechanic” and the “Limited Use/Limited Application Endorsement.” The proposed changes include fees equal to those required of all other individual licenses and certifications issued by the Board with the exception of “Limited Use/Limited Application” as this is the first endorsement issued by the Board.</p>
18VAC50-30-100		Fees for Examinations.	<p>The proposed change would include “Certified Accessibility Mechanic” and the “Limited Use/Limited Application Endorsement” under the provisions for fees charged for examinations.</p> <p>This proposed change addressed the need for an exam for “Certified Accessibility Mechanics.”</p>
18VAC50-30-120		Renewal.	<p>The proposed change would include a renewal fee for “Certified Accessibility Mechanics.”</p>
18VAC50-30-130		Reinstatement.	<p>The proposed change would include a reinstatement fee for “Certified Accessibility Mechanics.”</p>
18VAC50-30-185		Revocation of Licensure or Certification.	<p>The proposed change would include a provision that provides the Board the authority to revoke the “Certified Accessibility Mechanic” certification.</p>
18VAC50-30-190		Prohibited Acts.	<p>The proposed change would include “Certified Accessibility Mechanic” and “Accessibility Mechanic” as in the current Prohibited Acts section under the jurisdiction of the Board for Contractors.</p> <p>This proposed change enables to Board for Contractors to take disciplinary action over those licensed as “Certified Accessibility Mechanics.”</p>
18VAC50-30-200	18VAC50-30-200(E)	Vocational Training	<p>The proposed change would require that Certified Accessibility training be completed through education providers approved by the Board for Contractors.</p> <p>This change addresses the vocational</p>

			training requirements for Certified Accessibility Mechanics.
18VAC50-30-220		Continuing Education Courses	<p>The proposed change will lay out what the Continuing Education Courses for the "Certified Accessibility Mechanic" certificate shall cover.</p> <p>This proposed change is in place to differentiate the Continuing Education requirements from those in place for "Certified Elevator Mechanics."</p>

Enter any other statement here