



Final Regulation Agency Background Document

Agency name	Board for Contractors
Virginia Administrative Code (VAC) citation	18 VAC 50-30
Regulation title	Board for Contractors Tradesman Regulations <u>Individual License & Certification Regulations</u>
Action title	Amending Regulations to add Certified Elevator Mechanics
Date this document prepared	October 25, 2006

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 21 (2002) 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of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed.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 (the Board) is amending its current regulations to reflect and respond to statutory changes, clarify previous regulations and respond to changes in the industry. With the exception of a fee increase in January 2003, there has been no change to the regulations since November 2001 when Liquefied Petroleum Gas Fitters and Natural Gas Fitter Providers became regulated as a result of legislative action.

These regulations, as adopted, amend and clarify the definitions, removing those that are already in the statutes or no longer applicable; as well as amending a number of definitions in order to make them more consistent with similar definitions in the Contractor Regulations and clarifying other definitions by adding appropriate references to existing statutes, other programs or additional language. Many of these changes were made as a result of questions that have been presented to the Board on a daily basis by licensees, Building Officials and the general public.

These regulations include the implementation of continuing education for licensed tradesman as a requirement for renewal and reinstatement of licensure, which is currently permitted by statute. This amendment was made as a result of comments, discussions and presentations made by the staff of the Apprenticeship Council of the Department of Labor and Industry and by representatives of a number of trade organizations, in particular the Plumbing and Mechanical Professionals of Virginia.

Additionally, Chapter 188 of the Acts of the General Assembly (2004) added Article 4 to Chapter 11 of Title 54.1 of the Code of Virginia. This amendment to the statutes introduces “Certified Elevator Mechanics” to the regulatory authority of the Board for Contractors. In order to facilitate this introduction, the current regulations must be amended to define entry requirements, list fees and set certificate maintenance procedures for this new program. In many instances, specifically those sections that provide general information about all programs incorporated into these regulations, the amendment is merely the addition of elevator mechanics to the regulations. In other areas, however, new regulations were developed to facilitate the requirements, unique to the certified elevator mechanics program, that were set in the statutes.

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 taking the action, and (3) the title of the regulation.

On October 24, 2006, the Board for Contractors voted to adopt these amendments to 18 VAC 50-30-10 et seq. as final.

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly chapter numbers, if applicable, and (2) promulgating entity, i.e., agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.

Section 54.1-1102 of the Code of Virginia provides the authority for the Board for Contractors to promulgate regulations for the licensure of tradesman and certification of backflow prevention device workers in the Commonwealth.

As provided in Chapter 188 of the Acts of the General Assembly, Section 54.1-1142(A) of the Code of Virginia provides the authority for the Board to issue certificates to practice as an elevator mechanic in the Commonwealth.

As provided in Chapter 188 of the Acts of the General Assembly, Section 54.1-1143(A) of the Code of Virginia requires the Board to establish in the regulations requirements for the

completion of continuing education as a prerequisite to renewal as a “Certified Elevator Mechanic.”

The content of the regulations is up to the discretion of the Board, but 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.

1) Amending the definitions in these regulations is essential to maintain consistency in the administration of the statutory licensing requirements for tradesman and certified backflow prevention device workers assigned to the Board for Contractors. Many of these definitions duplicate language already contained in the statutes. Removing these duplicative sections of the regulations eliminates confusion, which can occur when the statutes and regulations conflict during that period of time after a statutory amendment becomes effective and the regulations “catch-up” through the regulatory review process. The confusion caused during this lag time can be detrimental to the health, safety and welfare of citizens, as the two sources of authority (law and regulation) contain different provisions, making it much more difficult for those directly involved in protecting the public, such as law enforcement officers, building inspectors, and permitting clerks, from having a single source authority.

Other proposed “clean-up” amendments are essential to remove sections of the regulations that are no longer in effect, such as special time-sensitive licensing provisions that have expired, and to clarify sections of the regulations that, based on numerous comments we have received from licensees and other interested parties, are confusing. This streamlining and clarification of the regulations make them easier to understand and serve both the regulant population and the public by making it easier to determine if a tradesman is in compliance with the regulations that were promulgated to protect the health, safety and welfare of citizens.

The rapid changes in the construction industry and the reaction to a number of those changes reflected in amendments to the building code, specifically those codes governing trade-related work (National Electrical Code, International Plumbing Code, International Mechanical Code, International Fuel-Gas Code), are the primary purpose for proposing the implementation of a continuing education requirement. These various building codes are continuously developed and amended as technology changes to ensure that citizens, who are rapidly incorporating these technological changes into their homes and businesses, are protected as much as possible from injury or property damage due to improper installation, repair or maintenance of trade-related equipment. Additionally, legislation was passed during the 2006 General Assembly session that would exempt the promulgation of amendments to the Virginia Uniform Statewide Building Code (VUSBC) from the normal regulatory process, thereby increasing the probability that the VUSBC will be changed more often. Conversations with Building Officials and other members of the Virginia Building and Code Officials Association indicate that building code changes may occur as often as every 18 months, making it much more imperative that individuals holding a tradesman license be exposed to code specific training.

2) The overall goal of these proposed regulations is to simplify existing regulations through the elimination of duplicative sections and clarification of sections that had been the subject of questions from both the public and licensees, and to increase the level of protection afforded to the citizens of Virginia, with the least amount of burden placed on the regulant population.

The Board for Contractors staff has received an increasing number of telephone calls, emails and other forms of correspondence from citizens and government officials, regarding tradesman who are having difficulty with the ever-changing provisions of the various building codes associated with trade-related work. Since January 2003, the Board has adjudicated 1596 disciplinary cases. Approximately 20% of those cases involved situations where some requirement of the building code was not followed properly, such as obtaining a permit, getting an inspection, or failing to abate a building code violation found as a part of an inspection. Over half of those violations involved trade-related work. Additionally, during that same time period, fourteen licensed tradesmen have been brought before the Board for violation of the Tradesman Regulations, with three of those cases resulting in license revocation. The tradesman program was transferred from the Department of Housing and Community Development to the Board for Contractors in 1995 and from that transfer until January 2003, not a single tradesman license was revoked by the Board. Amending the regulations to require that licensed tradesman attend code-based continuing education classes is anticipated to have a positive affect by reducing the number of disciplinary actions against licensed tradesman.

3) The Board is required by Chapter 188 of the Acts of the General Assembly, approved on March 19, 2004, to amend its regulations to add Certified Elevator Mechanics to the list of individual licenses and certificate holders under its authority. The goal of these regulations is to meet the requirements set forth in the law, providing the most protection to the public while proving to be the least burdensome on the regulant.

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.

The primary substantive changes to the definitions found in 18 VAC 50-30-10 remove regulatory definitions that duplicate statutory definitions of what already appear in statute, such as the definition of "tradesman." These duplicate definitions can and often require additional clarifying language, such as the definition of "helper."

Substantive changes to Part II (Entry) of the regulations remove sections that are obsolete based on date requirements listed or duplicates of what already appear in statute. These changes were included as a result of public comment received during the NOIRA comment period and to the Board at other times through the course of regularly scheduled meetings.

The requirement of the completion of three hours of building code related continuing education for each trade specialty (one hour for the gas-related trades) as a prerequisite for renewal is the

major substantive change to Part III (Renewal and Reinstatement) and can be found in 18 VAC 50-30-120.

In Part V, Standards of Conduct, the adopted regulations provide for a new section (18 VAC 50-30-185) , which provides specific language regarding the Board’s authority to revoke a license or certificate. Also outlined are the sanctions, authorized by statute, which may be imposed by the Board.

Substantive changes to Part VI of the regulations include amending the name of the section to “Vocational Training and Continuing Education,” which more accurately reflects its content. The adopted changes to this section include the clarification of vocational training course requirements and the addition of proposed administrative criteria resulting from the addition of continuing education to the requirements for renewal. This section outlines requirements for approval of courses by the Board for Contractors and the requirements in place for the providers, as well as other administrative requirements such as reporting course completion, reporting changes and others.

Chapter 188 of the Acts of the General Assembly added Article 4 to Chapter 11 of Title 54.1 of the Code of Virginia. This amendment to the statutes introduces “Certified Elevator 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. Since this is a new program all changes made to the existing regulations are substantive.

Many of these changes are administrative in nature and merely add the term “elevator mechanic” to existing language that includes all of the individual regulatory programs referenced in these regulations. This would include definitions and references to administrative actions, such as renewal and reinstatement, which are common to the other programs.

Other changes outline entry and testing requirements for those individuals applying for certification as elevator mechanics, including formal education hours, acceptable levels of experience and apprenticeship information. Along with the entry and testing requirements are fees applicable for this new certification program, which are incorporated into the sections that contain fees for all other programs within these regulations.

Since continuing education is a statutory requirement of this program, provisions are added to the regulations regarding those requirements in the sections involving renewal and vocational training/continuing education. This included references to programs developed by nationally affiliated providers as well as approval requirements for individuals not affiliated with a national 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 adopting these regulations, the Board for Contractors is continuing to provide necessary public protection required by existing statutes, with amendments that are the least burdensome to their licensees and complying with the provisions of legislation signed into law in 2004 establishing a program to certify elevator 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 to protect the public.

The primary advantage to the public resulting from the certification of elevator mechanics is to ensure that work done on elevators and escalators 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 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.

Further protection is afforded the public by ensuring that those performing work requiring a tradesman license maintain adequate training levels to safely complete the work. The proposed amendments will, without compromising that level of protection, clarify existing regulations and implement a program to ensure that licensed tradesman maintain their proficiency with the applicable building code for their trade. There are no anticipated disadvantages to the public, including private citizens or businesses.

2) The amendment of these regulations will be advantageous to the Department by removing obsolete language from the regulations, which has been the source of numerous contacts with both regulants and the general public and efforts by staff to explain provisions in the regulations that are no longer applicable. Additionally, regulatory language that duplicates statute poses a significant problem when those statutes are amended and the regulations “lag” behind the amended statute because of the time factor involved in the regulatory review process. The implementation of building code based continuing education will result in a decrease in complaints received against tradesman from both local building inspectors and consumers regarding difficulty with tradesman whose knowledge of code changes is not current. These complaints, time consuming to investigate and adjudicate, can be costly to consumers who often have to pay extra money to have these problems abated.

Although the implementation of a new certification program is predicted to have a relatively small impact on the total regulant population of the Board for Contractors, the development and implementation of data base software that will track continuing education requirements, will be unfamiliar territory for the board and its licensing staff. Other programs within the Department, however, already incorporate continuing education and their expertise will be tapped as needed to ensure a smooth transition.

3) In reviewing the public comment, the Board weighed the protection to the public against any additional financial burden placed on the regulant. Fees will not likely increase as the total cost to implement the program is \$50,000 and the Board currently has 103,000 regulants. Therefore, the cost per regulant would be less than 50 cents which would be absorbed by the Board. In addition, implementation of the continuing education program should result in fewer consumer complaints, therefore decreasing program costs resulting from investigation and adjudication of complaints.

The amendments to the definitions will provide needed clarification for the local building officials throughout the Commonwealth who, along with their permitting staff, are often the front-line for questions from tradesman regarding licensing requirements.

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.

Section number	Requirement at proposed stage	What has changed	Rationale for change
18 VAC 50-30- 10	“[A]nd supervise the work of installing, repairing and maintaining specific types of materials and equipment” was added to the definition of “Journeyman”	Language was removed	Removed at the request of the Administration.
	The proposed regulations contained a definition of “Supervision.”	The definition was removed	Removed at the request of the Administration
	“[A]nd provides supervision as defined in this chapter to helpers and laborers” was added to the definition of “Supervisor”	Language was removed	Removed at the request of the Administration

18 VAC 50-30- 80		“Repealed” was added to the title.	“Repealed” was inadvertently omitted from the title on the proposed regulations, even though the section is being repealed.
18 VAC 50-30- 120 B	Continuing education hours required for licenses issued or renewed after July 1, 2007	Effective date changed to licenses issued or renewed after December 31, 2007.	The Board for Contractors was of the opinion that, considering a likely promulgation date in the second half of 2006, it would be burdensome on the regulant population to require that continuing education hours be completed by July 2007. The December 2007 date will provide an extra period of time for licensees to meet the requirements of the regulations.

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.

Commenter	Comment	Agency response
Gary Owens Rural Retreat, VA	Against requiring tradesman card holders to attend schooling every two years as a prerequisite to renewal. It is just another way to increase cost.	The Board understands the economic impact on licensed individuals affected by this proposal. The proposed regulations only require continuing education based on the applicable portions of the building code. The Virginia Uniform Statewide Building Code is in place to protect the health and safety of the citizens of the Commonwealth of Virginia. Changes to the law regarding the amending of the various building codes will result in those codes being modified more often,

		emphasizing the need for code based continuing education in order that licensed tradesman remain current on portions of the building code applicable to their trade.
Laurie Crigler Plumbing and Mechanical Professionals of Virginia	The Plumbing and Mechanical Professionals of Virginia support these regulations.	The Board is appreciative of the comment.
Michael Quick Fredericksburg, VA (received through Town Hall)	No comment specifically on the regulatory changes however, requests that the Board for Contractors adopt procedures that will provide for the notification of all affected regulants, through email or regular mail, when such changes to the requirements are considered.	The Board for Contractors ensures that every applicable statute and executive order mandated public notification requirements are followed with regards to amending their regulations. The Board encourages licensees to not only take advantage of the public participation mailing list, but to attend meetings or, if that is not possible, to review the minutes of the Board and Committee meetings, which are electronically posted, in order to maintain a knowledge of what the board is considering. We have added your name to our notification list and you will start to receive notices in the mail.
Received from three sets of petitions received in unmarked envelopes during the public comment period. The total number of signatures on the petitions was approximately 170.	Object to the proposed regulations as they are a way for DPOR to obtain additional fees from citizens. Also object to the creating of a new position, with an estimated cost of \$50,000, to “do additional paperwork.”	The Board understands the economic impact on licensed individuals directly affected by this proposal and the small businesses that employ those individuals. The Board also understands concerns about an increase in fees to support the continuing education program. The \$50,000 in increased costs include not only a staff position but all start-up costs (hardware, software, office space, etc.). The Board does not anticipate a fee increase to implement the continuing education program and, in fact, program costs may decrease overall due to the expected decrease in consumer complaints. The proposed regulations only require continuing education based on the applicable portions of the building code. The Virginia Uniform Statewide Building Code is in place to protect the health and safety of the citizens of the Commonwealth of Virginia. Changes to the law regarding

		<p>the amending of the various building codes will result in those codes being modified more often, emphasizing the need for code based continuing education in order that licensed tradesman remain current on portions of the building code applicable to their trade.</p>
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All changes made in this regulatory action

Please detail all changes that are being proposed and the consequences of the proposed changes. Detail new provisions and/or all changes to existing sections.

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
18 VAC 50-30-10		<p>Definition of “affidavit”</p> <p>Definition of “approved”</p> <p>Definition of “backflow prevention device testing”</p> <p>Definition of “backflow prevention device work.”</p> <p>Definition of “backflow prevention device worker.”</p> <p>Definition of “board”</p> <p>Definition of “certified elevator mechanic”</p> <p>Definition of</p>	<p>Definition removed as affidavit requirements omitted from statute in order to accommodate online transactions.</p> <p>Removed as unnecessary regulation.</p> <p>Removed as already defined in § 54.1-1128.</p> <p>Amended for clarification, proposal directly references statutory definition of backflow prevention device testing.</p> <p>Removed as already defined in § 54.1-1128.</p> <p>Removed as unnecessary regulation.</p> <p>Adds the definition of this new program to the regulations.</p> <p>Removed as unnecessary regulation</p>

		<p>“department”</p> <p>Definitions of “gas fitter” and “plumber”</p> <p>Definition of “helper”</p> <p>Definition of “licensed tradesman”</p> <p>Definition of “regulant”</p> <p>Definition of “reinstatement”</p> <p>Definition of “renewal”</p> <p>Definition of “tradesman”</p>	<p>Amended from “tradesman” to “an individual” in order to clarify the definition.</p> <p>Amended for clarification in order that they are not confused with apprentices, already defined in the regulations.</p> <p>Removed as unnecessary and redundant.</p> <p>Added “liquefied petroleum gas fitter,” “natural gas fitter” providers and “elevator mechanic” to the definition. These programs were added in statute since the last amendment to these regulations.</p> <p>Amended to make the definition generic to all individual licenses and certifications.</p> <p>Amended to make the definition generic to all individual licenses and certifications.</p> <p>Removed as already defined in § 54.1-1128.</p>
<p>18 VAC 50-30-20</p>		<p>Section title</p> <p>Various text amendments</p>	<p>The section title was amended for clarification, since all programs are either licensure or certification, there is no need to continue to add new programs to the title as they are assigned by law.</p> <p>Sections of the text were amended for clarification purposes and to remove unnecessary or redundant language. “Trade” was amended to “regulated activity” and “each individual who engages in, or offers to engage in...” was amended to each “applicant.” The language “oral or written” was removed as it pertains to examinations, in order to clarify that any type of examination (oral, written, computer based, etc.) could be given. The requirement for an affidavit was also amended to “a statement certifying” as the requirement</p>

			to submit an affidavit was removed from statutes, in part to facilitate online applications.
18 VAC 50-30-30		Various text amendments	<p>Sections of the text were amended for clarification purposes and to remove unnecessary or redundant language. “Tradesman” and “backflow prevention device worker” were removed in order that the section read simply “licensure or certification,” a more generic term. In two instances, “testing service” was amended to “testing organization” for clarification purposes. “Affidavit” was removed from sub-paragraph 8 as was redundant language “Virginia Tradesman Law.”</p> <p>Sub-paragraph 9 was amended by removing language that permitted the Board to disapprove an application for failure to provide requested information within 60 days. The fact that fees are valid for one year, agency record retention policy and the provisions of the Administrative Process Act as they pertain to case decisions made by regulatory boards (including the disapproving of applications), makes this section of the code obsolete.</p>
18 VAC 50-30-40		Evidence of ability and proficiency for other programs incorporated into these regulations.	<p>Paragraph D (2) was amended for the purposes of continuity and clarification.</p> <p>Paragraph E adds requirements for certification as an elevator mechanic, including three years of experience and 144 hours of formal vocational training.</p> <p>These requirements are within the guidelines of other states that regulate elevator mechanics where vocational experience can be used in lieu of completing an apprenticeship program. The law, as enacted, requires a minimum of three years of practical experience. The proposed regulations require three years of practical experience in the service/repair of elevators, escalators or related conveyances. Of the ten other states with similar programs all but three, require three years of practical</p>

		<p>experience, with Florida (4 years) exceeding the average, Vermont (4 years with a licensed Vermont elevator mechanic) and Washington (no experience required) below the average. Other states with elevator programs dissimilar to Virginia’s have a wide variance of experience requirements. The three years is also conducive to various apprenticeship programs that, on average, require the same amount of time. With those facts in mind, the Board agreed that the three year minimum was sufficient and that to exceed that amount would be an unnecessary burden to the regulants.</p> <p>In addition to the experience requirements the Board has proposed that an applicant complete 144 hours of formal vocational training. Although, few states have an educational <i>requirement</i> outside of optional apprenticeship programs (California and Connecticut), the requirement of formal vocational training was mandated in the new law, the amount of training was not. Research was inconclusive as the requirement for formal vocational training is not endorsed equally in other states. The Board has historically required formal vocational training for all individual licensing and certification programs in order to ensure that those individuals who chose not to enter a profession through an approved apprenticeship program are provided equivalent training to those who do. This requirement provides equality in the education presented to both apprentices and non-apprentices increasing the level of protection afforded to consumers while placing no additional burden on applicants. The Board felt, however, that elevator mechanics should not be burdened with the same educational requirements of tradesman, such as plumbers and electricians, since the scope of practice was much smaller and the availability of courses related to the subject matter was more restricted. Discussions with industry representatives, union sponsors and from providers of course curriculums approved by the National Elevator Industry Education</p>
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			<p>Program (NEIEP) and other interested parties at meetings held by the Virginia Housing Study Commission and other legislative committees indicates that the 144 hours is a reasonable amount of training that will ensure exposure to adequate information to safely perform the job while not being an unnecessary burden to the regulants.</p> <p>This section of the regulations also provides two other ways of obtaining Board certification. The first involves three years of practical experience and completion of a training program determined to be equivalent of the requirements established by the Board. This would allow individuals regulated in another jurisdiction (or even already practicing in Virginia) to obtain licensure without having to “go back to school” and take the Virginia test. They would only be required to document the three years of experience at which point the Board would look at the provisions of the completed training program and, if deemed equivalent, would be deemed as having met the criteria for certification.</p> <p>The last provision of this section involves certification through successful completion of an elevator mechanic apprenticeship program that is approved on the Virginia or Federal levels. This section is consistent with the provisions of those states that recognize apprenticeship programs as a means of occupational training. Seven other states have similar language in their statutes, regulations or policies.</p>
<p>18 VAC 50-30-50</p>		<p>Title Change</p> <p>Paragraph (B)(1) permits exemption from exam requirements for individuals who have completed an</p>	<p>Clarifies content of section resulting from the amendment to paragraph (C)</p> <p>This amendment is proposed as the result of comment received from the Department of Labor and Industry. As currently written, all approved apprenticeship programs would be exempt from licensure, since all are subject to approval by the Virginia Apprenticeship</p>

		<p>apprenticeship program approved by the Virginia Apprenticeship Council</p> <p>Paragraph (B)(2) requires that candidates for a particular exemption from the examination, provide documentation from the Board for Contractors</p> <p>Paragraphs (B)(3), (B)(4), and (B)(5) contain “grandfathering” provisions that are no longer in effect.</p> <p>Paragraph (C) listed exemptions from the requirement to hold a license</p>	<p>Council. However, in reality only a few actually apply (22 as of 5/1/06) and are approved to have their programs meet the requirements for licensure. This correction is necessary to make the regulation technically correct.</p> <p>The provision to obtain documentation from the Board for Contractors is being removed. It is an unnecessary burden to require an applicant to get documentation from the regulatory body to which they are applying, when that regulatory body has direct access to the required information.</p> <p>Those sections of the regulations have been removed as they are obsolete and no longer effective.</p> <p>Exemptions from the statutory requirement to hold a license must be in those governing statutes and, in this case are listed in § 54.1-1131 of the Code. Subsequently, these proposed amendments remove this section of the regulations.</p>
<p>18 VAC 50-30-60</p>		<p>This section specifically outlines the general administrative requirement of applicants for a backflow prevention device worker certification.</p>	<p>These general administrative requirements are identical to any license or certification issued by the Board for Contractors and, with proposed amendments to the regulations providing for more generic language, would be redundant. These proposed amendments, remove this section of the regulations.</p>
<p>18 VAC 50-30-70</p>			<p>Paragraph (1) removed as age requirement listed in 18 VAC 50-30-30</p> <p>Old paragraph (2) renumbered as paragraph (1)</p>

		<p>Paragraph (3) requires an affidavit</p>	<p>Paragraph (3) removed in order to delete the requirement to submit an affidavit. The requirements to submit affidavits were removed from the statutes in order to permit online applications.</p> <p>Old paragraph (4) renumbered as paragraph (2)</p> <p>Paragraph (5) removed as it is already contained in 18 VAC 50-30-30.</p> <p>Paragraph (6) removed as not necessary.</p> <p>Old Paragraph (7) renumbered as paragraph (3)</p> <p>Old Paragraph (8) renumbered as paragraph (4)</p>
18 VAC 50-30-80		<p>This section of the regulations promulgates provisions for revocation of licensure or certification, providing that the Board has the authority to require, among other things, remedial education and that building officials are tasked, by Board regulations, to report violations</p>	<p>This section of the regulations is repealed and the relevant sections moved to a more appropriate section of the regulations.</p> <p>The proposed amendments delete the provisions requiring that Building Officials and inspectors report violations. The Board for Contractors has no statutory authority over local Building Officials or inspectors.</p> <p>The remainder of the regulations was moved to a new section, 18 VAC 50-30-185, in Part V of the regulations “Standards of Conduct” the appropriate place for these provisions.</p>
18 VAC 50-30-90		<p>Title Change</p> <p>Paragraph (A) was lists administrative requirements for the submission of fees</p>	<p>The words “and examination” are removed from the title of section as examination fees, although approved by the Board as part of the procurement process, are set by the test vendor and the title can be confusing and possibly misleading. The next section of the regulations specifically addresses the examination fees.</p> <p>The term “shall not be prorated” was added to the regulations to clarify that provision. The Board receives a number of telephone calls from licensees and potential licensees</p>

		<p>Paragraph (B) provided information regarding returned checks</p> <p>Paragraphs (C) – (H) listed fees in a narrative format, based on the type of license, certificate, or situation.</p> <p>Fees</p>	<p>requesting clarification of the policy that fees not be prorated.</p> <p>This paragraph is omitted from the proposed regulations as fees charged for checks or drafts returned by financial institutions are administrative fees charged by the agency, not fees that can be set by the Board.</p> <p>The proposed regulations take paragraphs (C) – (H) and combine them into a single paragraph (B), which lists fees in a chart format, which is much less confusing and easier to read than the narrative format used in the current regulations.</p> <p>Establishes fees for the certification of elevator mechanics. These fees are consistent with those of the other programs incorporated under these regulations. It is anticipated that the number of individuals applying for this new certification program will total approximately 400 and will have an insignificant affect on the Board’s revenue. Additionally, the Callahan Act requires that DPOR review each board’s expenditures at the close every biennium, and to adjust fees if necessary.</p>
18 VAC 50-30-100		Examination Fees	Adds “elevator mechanics” to this section.
18 VAC 50-30-110		A third request for a duplicate card results in a report sent to the Enforcement Section.	<p>The language was amended to indicate that requests for a third and subsequent duplicate card <i>may</i> be referred for possible disciplinary action. This sentence was also moved to the end of the section.</p> <p>The language was changed to be optional based on the fact that the majority of circumstances do not warrant that an investigation be conducted to determine if duplicate cards are being obtained fraudulently. Most requests are benign and merely the result of cards being washed or otherwise damaged or destroyed. Current language demands that <i>ALL</i> instances result in investigation, (even in</p>

		<p>The Committee of the Board for Contractors (formerly the Tradesman and Education Committee), the Board’s only standing committee, has been exploring the issue of continuing education for individual license holders for several years. The Committee explored two major areas, a need for continuing education and, if that need exists, requirements that would be the least burdensome to the regulant, yet provide an adequate level of protection to the public.</p> <p>In determining the need for continuing education, the Board looked at the increase in complaints against licensed tradesman, the increasing complexity of the trade-related building codes being adopted by Virginia, and comments received by the Board from building officials, trade organizations and other individuals.</p> <p>Individual license and certificate holders are required, by the nature of their expertise, to have a substantial knowledge of the sections of the Virginia Uniform Statewide Building Code (VUSBC) particular to their trade. Changes to the USBC, made on a regular basis at a national level, which were required by technological advances in the industry or relevant safety issues, were slow to become promulgated in Virginia. Legislative changes made in 2006 have exempted the VUSBC from the provisions of the Administrative Process Act with regards to amendments. This will likely speed up the amendment process to the point that a tradesman could see major changes to the VUSBC nearly every licensing cycle. Since the primary purpose of the VUSBC is to provide protection to the public, it is tantamount that these individual license and certificate holders who, as stated, are required to have a substantial level of expertise, maintain that level of expertise, even through times of rapid changes to the VUSBC.</p>
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		<p>Additionally, complaints against tradesman have increased in the past four years, including the revocation of three licenses and the suspension of another. In contrast, from 1995 (when the program was given to the Board) to 2002, there had been no violations that had warranted more than a minor fine and were generally of an administrative nature. After reviewing data that included the increase in complaints with a major overhaul of the building codes, the movement of Virginia toward universally accepted building codes, comments from building officials and inspectors of a noticeable increase in the number of projects that either fail inspection or require re-inspection and the number of states that have incorporated continuing education into their tradesman licensing programs, the Board determined that the evidence was overwhelming in the justification of a continuing education requirement in Virginia.</p> <p>Part of that compilation of information involved reviewing data from other states that have similar tradesman licensure programs. A number of issues, however, had to be taken into consideration when reviewing the data collected from the other states. Virginia is unique in that a single regulatory board is responsible for virtually every aspect of licensure for the entire construction industry. Other states have separate autonomous regulatory bodies for each profession. For example many states have a Plumbing Board, responsible for the licensure of individual plumbing tradesman as well as contracting firms that perform plumbing services. Several of these states have a separate Electrical Board and still others have a separate Contractors Board. An additional issue was the number of states that either do not regulate a trade at all or delegate that regulation to the individual localities. While small in number, some of the states with the largest populations regulate some or all of their tradesman on a local level. Illinois, Indiana, and to some extent, California</p>
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		<p>and Pennsylvania have local licensing of tradesman. The Board could only review states with similar programs when making a conclusion based on their research.</p> <p>Of the 39 states that regulate all or some of their tradesman, 31 have a continuing education requirement. One state, Kentucky, is preparing to implement a program and two states, Louisiana and Massachusetts, are expanding their program to include all trades. Since many of the states have separate regulatory bodies for each trade, there is variance in the participatory rate by that trade. Seventy percent of the states that regulate electricians require continuing education as part of the renewal cycle with plumbing at around 35% and HVAC at 27%.</p> <p>The range of hourly requirements varies substantially from state to state with the least amount of education required being North Dakota's two hours per licensing cycle for plumbers to New Jersey's 34 hours per licensing cycle for electricians. Again there is a wide variation by trade with electricians, in those states requiring continuing education, averaging about 14 hours per licensing cycle. HVAC mechanics average around 10 hours per licensing cycle with plumbers averaging around 7.5 hours. Licensing cycles vary widely from locality to locality so it is also important to look at the requirements from an annual standpoint.</p> <p>Comparative annual averages reveal electricians averaging 7 hours and plumbers and HVAC mechanics averaging 5 hours per year. Subject matter was also looked at as many states allow for a wide variety of subject matter, provided that it is approved by the regulatory body. Other states require that continuing education courses be restricted to a curriculum of the applicable code (National Electrical Code, International Plumbing Code, International Electrical Code and the Fuel Gas</p>
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		<p>Code). States with restricted criteria require about half the hours of those states that allow a variety of subject matter.</p> <p>For Certified Elevator Mechanics the amount of continuing education requirements are contained within the law and are consistent with those states with similar programs that require continuing education.</p> <p>Additionally, the Board had to look at the licensing programs themselves. Gas-fitters, for example, are only independently regulated in two other states (Florida and North Carolina). Most states include the gas-fitting trade under either plumbing or HVAC.</p> <p>The final aspect to be considered by the Board was the burden to the licensee versus the benefit to the public. The Board is sensitive to placing unnecessary burdens on its regulant population, especially when many of those regulants hold licenses in other states because of their proximity to the border and the competition of licenses from those border states.</p> <p>The Board researched potential education providers to determine how much classroom time would be required to adequately teach code updates. The Virginia Building and Code Officials Association (VBCOA) made up of the building officials and inspectors from the various localities in the Commonwealth, were responsible for presenting a number of voluntary code update seminars in 2003, in anticipation of last year's major building code changes and the adoption of the new codes. These classes were approximately three hours in length for each of the trade-related specialties with the exception of gas-fitter which could be presented in about an hour. The Plumbing and Mechanical Professionals of Virginia (PMPV) representing plumbers and HVAC tradesman also provided code training to its membership and indicated that three</p>
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			<p>hours per trade would be sufficient to provide thorough coverage of the individual building codes.</p> <p>In summary, after reviewing all of the data the Board determined that continuing education was justified, that it should be a requirement of renewal for all trades, that the education requirements should be restricted to training opportunities based on the various building codes and that three hours per trade per licensing cycle is sufficient (with one hour per licensing cycle for gas-fitters).</p> <p>Creates paragraph (C) which contains the continuing education provisions for Certified Elevator Mechanics. These requirements are mandated by statute, necessitating the inclusion of the requirement in the regulations as a condition of renewal.</p>
<p>18 VAC 50-30- 130</p>		<p>Paragraph (B) provides reinstatement fees in a narrative format and contains information regarding the reinstatement process.</p> <p>Reinstatement provisions</p>	<p>Amends paragraph (B) changing the reinstatement fees from a narrative to a tabular format.</p> <p>Creates paragraphs (C) – (H) which take the individual provisions of the original paragraph and separate them into their own individual paragraphs. This clarifies the format and makes the provisions easier to read and cite in correspondence and documentation.</p> <p>This section also lists the reinstatement fee for elevator mechanics, which is equivalent to the reinstatement fee for all other programs incorporated into these regulations. It is anticipated that the number of individuals applying for this new certification program will total approximately 400 and will have an insignificant affect on the Board’s revenue. Additionally, the Callahan Act requires that DPOR review each board’s expenditures at the close every biennium and to adjust fees if necessary.</p> <p>Additional language is made to clarify other</p>

			portions of this section to ensure that the section is relevant to elevator mechanics. Other clarification language is added to separate liquefied petroleum gas fitters and natural gas fitter providers from tradesman, in order to make the provisions technically correct.
18 VAC 50-30-140		Paragraph (B)	Removing “tradesman” and “backflow prevention device worker” to make the section more generic. Eliminating the specific language allows for future additions to licensure and certification without the need to amend the regulations.
18 VAC 50-30-150		Title Change Reformatting of information	Amended title to “Adding or deleting trade designations” in order to more accurately reflect the contents of the section. Re-formatted the section by including the individual provisions in separate paragraphs (A) – (D), with the only change being the addition of clarifying language to paragraph (A) in order to match the title change.
18 VAC 50-30-180		Provides that complaints may be filed with DPOR at any time during business hours.	This section of the regulations is repealed as it is unnecessary. Procedures for filing complaints are provided in general statutes pertaining to all regulatory boards and in agency policy.
	18 VAC 50-30-185	Revocation provisions	This section was moved from 18 VAC 50-30-80, which has been repealed and was moved to Part V (Standards of Conduct) for reasons stated previously. This amendment also adds elevator mechanics to the section that already addresses other programs incorporated into these regulations.
18 VAC 50-30-190		Prohibited Acts	Paragraphs (2) & (7) - Removing “tradesman” and “backflow prevention device worker” to make the section more generic. Eliminating the specific language allows for future additions to licensure and certification without the need to amend the regulations.

			<p>Paragraph (3) – added liquefied petroleum gas fitter and natural gas fitter provider, which were not added during the last amendments</p> <p>Paragraphs (4), (5) & (6) – removed the word “trade,” added liquefied petroleum gas fitter and natural gas fitter provider, which were not added during the last amendments and changed “work” to “worker” in order to make the section grammatically correct.</p> <p>The amendment adds elevator mechanics to the applicable provisions of the prohibited acts where other programs incorporated into these regulations are mentioned.</p>
<p>18 VAC 50-30-200</p>		<p>Title Change</p> <p>Vocational Education</p>	<p>Title changed to “Vocational training” to match verbiage used in the eligibility section of the regulations.</p> <p>Paragraph (A) – Removed language that was duplicative of language used in the eligibility section of the regulations (18 VAC 50-30-40).</p> <p>Paragraph (C) – added new paragraph to separate information on course language for Certified Elevator Mechanics.</p> <p>The intent of the Board is to approve both continuing education providers (schools, organizations, etc.) and continuing education courses. This section of the regulations pertains to the procedures that must be followed by continuing education providers in order to be approved by the Board.</p> <p>The Board for Contractors, having no desire to “reinvent the wheel,” used applicable procedures and language from the already established continuing education program in place with the Real Estate Board, making changes, where required, to fit the training program designed for tradesmen.</p> <p>This amendment also adds elevator mechanics</p>

		<p>to the section of the regulations addressing vocational training. This new section requires that courses be approved by the Board, except those approved by the National Elevator Industry Education Program (NEIEP) which shall be deemed to have already met approval criteria.</p> <p>While there are several industry and union affiliated organizations that provide training programs, the independent NEIEP appears to be the standard accepted throughout the country. Six states (AL, CA, MD, TX, WA & VT) specifically mention NEIEP in their statutes or regulations as an approved education provider and all of the states surveyed recognize the NEIEP program for either pre-licensure education or continuing education.</p>
	18 VAC 50-30-210	<p>Paragraph (A) – lists the information that must be provided as part of the application from a provider that is seeking approval by the Board.</p> <p>Paragraph (B) – sets the requirement that providers must be approved by the Board prior to offering courses for credit and that correspondence and distance learning courses must include appropriate testing procedures.</p> <p>Paragraph (C) – requires that all providers must maintain a record for each student and lists information that must be included in that record.</p>
	18 VAC 50-30-220	<p>This section establishes the procedures for approval of courses offered by approved providers. The Board will be approving courses separately from course providers in order to ensure that those courses approved for continuing education credit are current and appropriate, based on any changes that have been promulgated to the various building codes that affect licensed tradesman.</p> <p>Paragraph (A) – lists the subject matter basis</p>

			<p>for the courses.</p> <p>Paragraph (B) – lists the application requirements for course approval.</p> <p>Paragraph (C) – provides that courses may be approved retroactively, however, credit will not be given until actual course approval. This provision is in place in the event that an approved provider presents a course with the intent to have it approved at a later date. This is a common occurrence in other licensing programs that require CEU's, especially at trade conferences, licensing seminars, etc.</p>
	18 VAC 50-30-230		<p>This provision requires that approved providers must electronically report course completion data within seven days of the completion of each course. It is imperative that course completion information be made available to the licensing record of regulants, as quickly as possible, and in a format that can be easily integrated into the Board's current licensing system.</p>
	18 VAC 50-30-240		<p>Provides that approved providers must have copies of their approval documentation available at all course locations.</p>
	18 VAC 50-30-250		<p>Requires that approved providers must notify the Board of changes in information provided with their application.</p>
	18 VAC 50-30-260		<p>Provides that the Board may withdraw approval of any continuing education provider for the reasons listed: (1) courses that no longer meet standards established by the Board; (2) fraudulent or deceptive advertisement; or (3) providing false information to the Board.</p>

Regulatory flexibility analysis

Please describe the agency's analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) the establishment of less stringent compliance or reporting requirements; 2) the establishment of less stringent schedules or deadlines for compliance or reporting requirements; 3) the consolidation or simplification of compliance or reporting requirements; 4) the establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the proposed regulation.

The board reviewed various types of reporting requirements and determined that electronic reporting of continuing education participation was the most efficient, accurate and cost-effective method of providing continuing education information. Electronic reporting of pre-licensure education, continuing education and examination scores is in use by a number of other regulatory boards and has proven itself against the alternative of manual reporting, which is more cumbersome and prone to error. Additionally, requiring the reporting of education completion is the responsibility of the education provider and will be done automatically, taking the burden of reporting compliance off of the regulant. Provisions will be made in the reporting procedures to address results that fail to automatically post to a particular record, which will reduce the chances that a regulant will not be able to renew his license/certification because of data posting errors.

The board explored less stringent schedules for compliance and determined that the use of the two year licensing cycle as the base of the continuing education requirements and making those requirements an eligibility criterion for renewal, would be the most efficient way of maintaining the program. Using an established date precludes the necessity that the regulant remember multiple compliance dates. The uniform subject matter and hourly requirements (with the exception of gas-fitters) also simplifies the process from the standpoint of the regulant having to track their own progress in meeting the criteria for renewal.

Unlike contractor licenses, which are issued to businesses, tradesman licenses and other certifications under the authority of the Board for Contractors, are issued to individuals. While exact data is not available, the majority of these regulants are employed by businesses that would fall into the "small business" category and most of the work performed for the public in Virginia is performed by these small businesses. Since the regulations are promulgated with the intent of protecting the public, the exemption of individuals employed by small businesses from the requirements of these amendments would directly affect the health and safety of the public. Subsequently, the board did not consider the exemption of any individuals or businesses from these requirements.

Family impact

Please assess the impact of the proposed regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

These proposed amendments are not anticipated to have any significant impact on Virginia's families.