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Proposed Regulation Agency Background Document

Agency name	Board For Contractors
Virginia Administrative Code (VAC) Chapter citation(s)	18 VAC50-30
VAC Chapter title(s)	Individual License and Certification Regulations
Action title	General Regulatory Reduction Initiative
Date this document prepared	June 19, 2023

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 19 (2022) (EO 19), any instructions or procedures issued by the Office of Regulatory Management (ORM) or the Department of Planning and Budget (DPB) pursuant to EO 19, the Regulations for Filing and Publishing Agency Regulations (1 VAC 7-10), and the *Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code*.

Brief Summary

Provide a brief summary (preferably no more than 2 or 3 paragraphs) of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation). Alert the reader to all substantive matters. If applicable, generally describe the existing regulation.

The Board for Contractors (“the Board”) proposes to amend the Individual License and Certification Regulations to (i) update and clarify provisions of the regulation, to include ensuring that the regulation reflects current agency procedures and practices; (ii) ensure the regulation compliments current Virginia law, and is clearly written and understandable; (iii) remove requirements in the regulation that are not necessary to protect the public welfare; and (iv) reduce regulatory burdens, while still protecting the public health, safety, and welfare.

The action proposes significant changes to (i) the definitions section; (ii) provisions for application procedures; (iii) general requirements for licensure or certification; and (iv) sections pertaining to the Board’s disciplinary authority and prohibited acts.

Acronyms and Definitions

Define all acronyms used in this form, and any technical terms that are not also defined in the "Definitions" section of the regulation.

"APA" means Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia).

"DPOR" means Department of Professional and Occupational Regulation.

"HVAC" means heating, ventilation, and air conditioning.

"LULA" means limited use/limited application.

Mandate and Impetus

Identify the mandate for this regulatory change and any other impetus that specifically prompted its initiation (e.g., new or modified mandate, petition for rulemaking, periodic review, or board decision). For purposes of executive branch review, "mandate" has the same meaning as defined in the ORM procedures, "a directive from the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part."

This regulatory change is not the result of a mandate.

The initial impetus for this action was Executive Directive Number One (2022), which directs Executive Branch entities under the authority of the Governor "...to initiate regulatory processes to reduce by at least 25 percent the number of regulations not mandated by federal or state statute, in consultation with the Office of the Attorney General, and in a manner consistent with the laws of the Commonwealth."

During review of the regulation, the Board identified provisions that should be revised to provide clarity and other provisions that were no longer necessary.

Legal Basis

Identify (1) the promulgating agency, and (2) the state and/or federal legal authority for the regulatory change, including the most relevant citations to the Code of Virginia and Acts of Assembly chapter number(s), if applicable. Your citation must include a specific provision, if any, authorizing the promulgating agency to regulate this specific subject or program, as well as a reference to the agency's overall regulatory authority.

The agency is the Board for Contractors. Chapter 11 of Title 54.1 of the Code of Virginia enumerates the legal authority for the Board to administer the licensure and certification programs for tradesmen, gas fitters, liquefied petroleum gas fitters, natural gas fitter providers, water well systems providers, elevator mechanics, residential building energy analysts, backflow prevention device workers, and automatic fire sprinkler inspectors.

Section 54.1-1102 of the Code of Virginia states, in part:

B. The Board shall promulgate regulations not inconsistent with statute necessary for the licensure of contractors and tradesmen and the certification of backflow prevention device workers, and for the relicensure of contractors and tradesmen and for the

recertification of backflow prevention device workers, after license or certificate suspension or revocation.

In addition, § 54.1-201 of the Code of Virginia provides, in part:

A. The powers and duties of regulatory boards shall be as follows:

1. To establish the qualifications of applicants for certification or licensure by any such board, provided that all qualifications shall be necessary to ensure either competence or integrity to engage in such profession or occupation.

5. To promulgate regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) necessary to assure continued competency, to prevent deceptive or misleading practices by practitioners and to effectively administer the regulatory system administered by the regulatory board. The regulations shall not be in conflict with the purposes and intent of this chapter or of Chapters 1 (§ 54.1-100 et seq.) and 3 (§ 54.1-300 et seq.) of this title.

Purpose

Explain the need for the regulatory change, including a description of: (1) the rationale or justification, (2) the specific reasons the regulatory change is essential to protect the health, safety or welfare of citizens, and (3) the goals of the regulatory change and the problems it is intended to solve.

The General Assembly has charged the Board with the responsibility for regulating those who (i) engage, or offer to engage in, work as a tradesman (electrician, plumber, and HVAC technician), gas fitter, liquefied petroleum gas fitter, or natural gas fitter provider; (ii) engage in the drilling, installation, maintenance, or repair of a water well or water well system; (iii) engage in, or offer to engage in, work as an elevator mechanic or accessibility mechanic; (iv) engage in, or offer to engage in, work as a residential building energy analyst; (v) present themselves as a certified backflow prevention device worker; and (vi) perform or offer to perform inspections of automatic fire sprinkler systems, by requiring that such individuals obtain the appropriate licensure or certification.

The performing of trade-related work by those who lack sufficient expertise poses a risk to the public health, safety, and welfare. These risks include the potential for significant damage to property, personal injury, and death. In addition, the improper performing of trade-related work can pose a substantial risk of financial harm to property owner who will be responsible for assuming costs to correct or complete work that is defective.

The goals of this regulatory action are:

1. Updating and clarifying the provisions of the regulation. This includes ensuring the regulation reflects current agency procedures and practices;
2. Ensuring the regulation complements current Virginia law, and is clearly written and understandable;
3. Remove requirements in the regulation that are not necessary to protect the public welfare; and
4. Reduction of regulatory burdens, while still protecting the public health, safety, and welfare.

Substance

Briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both. A more detailed discussion is provided in the "Detail of Changes" section below.

1. Section -10 is significantly revised. The definitions section is revised incorporate numerous terms that are used in the regulation, but which are already defined in statute. The statutory meanings of these terms are incorporated by reference from applicable sections of Chapter 11 of Title 54.1 of the Code of Virginia. Several definitions are removed as they are not used in the regulation, or are no longer necessary because the statutory definition is used. The section is revised to add definitions for “address of record,” “applicant,” “application,” and “HVAC work.”
2. Section -20 is repealed. The section will be replaced by a new section -25, which will provide for application procedures that reflects current agency practice and is consistent with application procedures for other DPOR programs.
3. A new section (-25) is added. This new section provides for application procedures.
4. Section -30 is significantly revised to make the provisions of the section clearer and similar to provisions for other DPOR programs. Provisions pertaining to the disclosure of criminal convictions are revised to make the regulation more consistent with the provisions of § 54.1-204 of the Code of Virginia pertaining to criminal history.
5. Section -90 is revised to include the application fee for the addition of a tradesman designation. This provision is currently located in section -150.
6. Section -140 is revised to provide that the expiration date of a reinstated tradesman is three years from the previous expiration date. This change is made to make the regulation consistent with statute, which provides for a three-year term of licensure.
7. Section -185 is significantly revised to make the provisions regarding the Board’s authority to impose regulatory discipline clearer; and to remove provisions which are duplicative of the prohibited acts in section -190.
8. Section -190 is significantly revised. The section is revised to clarify that the acts enumerated in the section subdivisions are prohibited and any violation may result in disciplinary action by the Board. Several subdivisions are revised for the purposes of clarity. Provisions pertaining to criminal convictions are revised to make the regulation more consistent with the provisions of § 54.1-204 of the Code of Virginia.

Issues

Identify the issues associated with the regulatory change, 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, include a specific statement to that effect.

The primary advantages to the public and the regulated community are that the amendments to the regulation will:

1. Provide needed updating and clarification;
2. Reduce regulatory burdens, while still protecting the public health, safety, and welfare; and
3. Remove requirements in the regulation that are not necessary to protect the public welfare.

There are no identifiable disadvantages to the public. It is not anticipated that the regulatory change will create any substantial disadvantages to the regulated community.

The primary advantage of the regulatory change to the Commonwealth is that it will permit the agency to more ably administer the licensure program.

Requirements More Restrictive than Federal

Identify and describe any requirement of the regulatory change which is more restrictive than applicable federal requirements. Include a specific citation for each applicable federal requirement, and a rationale for the need for the more restrictive requirements. If there are no applicable federal requirements, or no requirements that exceed applicable federal requirements, include a specific statement to that effect.

There are no applicable federal requirements.

Agencies, Localities, and Other Entities Particularly Affected

Consistent with § 2.2-4007.04 of the Code of Virginia, identify any other state agencies, localities, or other entities particularly affected by the regulatory change. Other entities could include local partners such as tribal governments, school boards, community services boards, and similar regional organizations. "Particularly affected" are those that are likely to bear any identified disproportionate material impact which would not be experienced by other agencies, localities, or entities. "Locality" can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulation or regulatory change are most likely to occur. If no agency, locality, or entity is particularly affected, include a specific statement to that effect.

Other State Agencies Particularly Affected

No other state agencies are particularly affected by the regulatory change.

Localities Particularly Affected

No localities are particularly affected by the regulatory change.

Other Entities Particularly Affected

No other entities are particularly affected by the regulatory change.

Economic Impact

Consistent with § 2.2-4007.04 of the Code of Virginia, identify all specific economic impacts (costs and/or benefits) anticipated to result from the regulatory change. When describing a particular economic impact, specify which new requirement or change in requirement creates the anticipated economic impact. Keep in mind that this is the proposed change versus the status quo.

Summary:

The Board is amending the governing of the Contractors by incorporating in the individual licensing general regulatory reduction package the definitions within the statute, adding the application procedures, and clarifies the language for the general eligibility and prohibited acts. The regulatory change provides and amends the current language to provide clarity to current licensees and applicants. All amendments are currently in place in the regulatory change. There is no direct economic or fiscal impact to other state agencies.

All costs incurred in support of board activities and regulatory operations are paid by the Department of Professional and Occupational Regulation (DPOR) and funded through fees paid by applicants and regulants. All boards within DPOR must operate within the Code provisions of the Callahan Act (54.1-113), and the general provisions of 54.1-201. Each regulatory program's revenues must be adequate to support both its direct costs and a proportional share of agency operating costs. DPOR allocates costs to

its regulatory programs based on consistent, equitable, and cost-effective methodologies. The Board has no other source of income.

Impact on State Agencies

<p><i>For your agency:</i> projected costs, savings, fees, or revenues resulting from the regulatory change, including: a) fund source / fund detail; b) delineation of one-time versus on-going expenditures; and c) whether any costs or revenue loss can be absorbed within existing resources.</p>	<p>There are no savings and no changes to costs, fees, or revenues of DPOR resulting from this regulatory change.</p>
<p><i>For other state agencies:</i> projected costs, savings, fees, or revenues resulting from the regulatory change, including a delineation of one-time versus on-going expenditures.</p>	<p>There are no savings and no changes to costs, fees, or revenues of other state agencies resulting from this regulatory change.</p>
<p><i>For all agencies:</i> Benefits the regulatory change is designed to produce.</p>	<p>There are no savings and no changes to costs, fees, or revenues of other state agencies resulting from this regulatory change.</p>

Impact on Localities

If this analysis has been reported on the ORM Economic Impact form, indicate the tables (1a or 2) on which it was reported. Information provided on that form need not be repeated here.

<p>Projected costs, savings, fees, or revenues resulting from the regulatory change.</p>	<p>There are no savings and no changes to costs, fees, or revenues for the localities resulting from this regulatory change.</p>
<p>Benefits the regulatory change is designed to produce.</p>	<p>There are no benefits for the localities resulting from the regulatory change.</p>

Impact on Other Entities

If this analysis has been reported on the ORM Economic Impact form, indicate the tables (1a, 3, or 4) on which it was reported. Information provided on that form need not be repeated here.

<p>Description of the individuals, businesses, or other entities likely to be affected by the regulatory change. If no other entities will be affected, include a specific statement to that effect.</p>	<p>There are no savings and no changes to costs, fees, or revenues for other entities resulting from this regulatory change.</p>
<p>Agency’s best estimate of the number of such entities that will be affected. Include an estimate of the number of small businesses affected. Small business means a business entity, including its affiliates, that: a) is independently owned and operated, and; b) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.</p>	<p>Currently there are 31,844 licensed individuals (28,762 tradesman, 1,656 backflow prevention device workers, 968 elevator mechanics, 432 water well systems provers, and 26 accessibility mechanics) who will be affected. The individuals hold licenses governed by the Board’s Individual License and Certification Regulations. No other entity or small business is a licensed individual; therefore, they will not be affected.</p>
<p>All projected costs for affected individuals, businesses, or other entities resulting from the regulatory change. Be specific and include all costs including, but not limited to:</p>	<p>There are no projected costs for affected individuals, business, or other entities resulting from this regulatory change. The regulatory package simply provides clarity and references</p>

<p>a) projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses; b) specify any costs related to the development of real estate for commercial or residential purposes that are a consequence of the regulatory change; c) fees; d) purchases of equipment or services; and e) time required to comply with the requirements.</p>	<p>the definitions within the statute.</p>
<p>Benefits the regulatory change is designed to produce.</p>	<p>The regulatory change will provide clarity to the current licenses and applicants, as all amendments are currently in practice.</p>

Alternatives to Regulation

Describe any viable alternatives to the regulatory change that were considered, and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the regulatory change. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in § 2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulatory change.

Licenses and certifications issued under this regulation are issued to individuals, and not to business entities. However, many licensees and certificate holders are likely owners or employees of business entities that meet the definition of "small business" in § 2.2-4007.1 of the Code of Virginia. No less intrusive or less costly alternatives to achieve the purpose of the regulatory change were identified.

If this analysis has been reported on the ORM Economic Impact form, indicate the tables on which it was reported. Information provided on that form need not be repeated here.

Regulatory Flexibility Analysis

Consistent with § 2.2-4007.1 B of the Code of Virginia, 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) establishing less stringent compliance or reporting requirements; 2) establishing less stringent schedules or deadlines for compliance or reporting requirements; 3) consolidation or simplification of compliance or reporting requirements; 4) establishing 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 regulatory change.

Licenses and certifications issued under this regulation are issued to individuals, and not to business entities. However, many licensees and certificate holders are likely owners or employees of business entities that meet the definition of "small business" in § 2.2-4007.1 of the Code of Virginia.

As mandated by the General Assembly, the Board protects the public health, safety, and welfare, in part, by establishing through regulation the minimum qualifications for entry into the profession, minimum standards to assure continued competency, minimum standards for conduct, and rules to effectively administer the regulatory system.

These proposed amendments do not pose an unreasonable administrative or financial burden. The enabling statutes establishing the licensing and certification programs covered by this regulation provide

no exemption for small business; therefore there are no such exemptions contained in the proposed change.

If this analysis has been reported on the ORM Economic Impact form, indicate the tables on which it was reported. Information provided on that form need not be repeated here.

Periodic Review and Small Business Impact Review Report of Findings

If you are using this form to report the result of a periodic review/small business impact review that is being conducted as part of this regulatory action, and was announced during the NOIRA stage, indicate whether the regulatory change meets the criteria set out in EO 19 and the ORM procedures, e.g., is necessary for the protection of public health, safety, and welfare; minimizes the economic impact on small businesses consistent with the stated objectives of applicable law; and is clearly written and easily understandable. In addition, as required by § 2.2-4007.1 E and F of the Code of Virginia, discuss the agency’s consideration of: (1) the continued need for the regulation; (2) the nature of complaints or comments received concerning the regulation; (3) the complexity of the regulation; (4) the extent to which the regulation overlaps, duplicates, or conflicts with federal or state law or regulation; and (5) the length of time since the regulation has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the regulation. Also, discuss why the agency’s decision, consistent with applicable law, will minimize the economic impact of regulations on small businesses.

This action is not being used to conduct a periodic review or small business impact review.

Public Comment

Summarize all comments received during the public comment period following the publication of the previous stage, and provide the agency’s response. Include all comments submitted: including those received on Town Hall, in a public hearing, or submitted directly to the agency. If no comment was received, enter a specific statement to that effect.

No comments were received during the public comment period following publication of the previous stage.

Commenter	Comment	Agency response
N/A	N/A	N/A

Public Participation

Indicate how the public should contact the agency to submit comments on this regulation, and whether a public hearing will be held, by completing the text below.

The Board is providing an opportunity for comments on this regulatory proposal, including but not limited to (i) the costs and benefits of the regulatory proposal, (ii) any alternative approaches, (iii) the potential impacts of the regulation, and (iv) the agency’s regulatory flexibility analysis stated in that section of this background document.

Anyone wishing to submit written comments for the public comment file may do so through the Public Comment Forums feature of the Virginia Regulatory Town Hall web site at: <https://townhall.virginia.gov>.

Comments may also be submitted by mail, email or fax to:

Marjorie King
 Executive Director
 9960 Mayland Drive, Suite 400
 Richmond, VA 23233
 Contractors@dpor.virginia.gov
 (866) 430-1033 (fax)

In order to be considered, comments must be received by 11:59 pm on the last day of the public comment period.

A public hearing will be held following the publication of this stage, and notice of the hearing will be posted on the Virginia Regulatory Town Hall website (<https://townhall.virginia.gov>) and on the Commonwealth Calendar website (<https://commonwealthcalendar.virginia.gov/>). Both oral and written comments may be submitted at that time.

Detail of Changes

List all regulatory changes and the consequences of the changes. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. For example, describe the intent of the language and the expected impact. Describe the difference between existing requirement(s) and/or agency practice(s) and what is being proposed in this regulatory change. Use all tables that apply, but delete inapplicable tables.

If an existing VAC Chapter(s) is being amended or repealed, use Table 1 to describe the changes between the existing VAC Chapter(s) and the proposed regulation. If the existing VAC Chapter(s) or sections are being repealed and replaced, ensure Table 1 clearly shows both the current number and the new number for each repealed section and the replacement section.

Table 1: Changes to Existing VAC Chapter(s)

Current chapter-section number	New chapter-section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
30-10	N/A	Provides definitions that are necessary to make the regulation clear and understandable, and provides definitions for other specific terms used throughout the regulation.	<p>The section is reorganized into subsections.</p> <p>Subsection A incorporates the following statutory definitions from § 54.1-1128 of the Code of Virginia:</p> <ul style="list-style-type: none"> • "Backflow prevention device worker;" • "Board;" • "Liquefied petroleum gas fitter;" • "Natural gas fitter provider;" • "Tradesman;" and • "Water well systems provider."

			<p>Subsection B incorporates the following statutory definitions from § 54.1-1140 of the Code of Virginia:</p> <ul style="list-style-type: none">• "Accessibility mechanic;"• "Certified accessibility mechanic;"• "Elevator mechanic;" and• "Limited use/limited application endorsement." <p>Subsection C incorporates the following statutory definitions from § 54.1-1144 of the Code of Virginia:</p> <ul style="list-style-type: none">• "Accredited residential building energy analyst training program;"• "Licensed residential building energy analyst;" and• "Residential building energy analysis." <p>Subsection D provides for the meaning of other defined terms and includes all existing definitions currently in section - 10.</p> <p>Subsection D is revised to add the following terms:</p> <ul style="list-style-type: none">• "Address of record" which means the mailing address designated by the licensee to receive notices and correspondence from the Board.• "Applicant" which means an individual who has submitted an application for licensure.• "Application" which means a completed, Board-prescribed form submitted with the appropriate fee and other required documentation.• "HVAC work" which means work that includes the installation, alteration, repair, or maintenance of heating systems, ventilating systems, cooling systems, steam and hot water heating systems, boilers, process piping, backflow prevention devices, and mechanical refrigeration systems, including tanks incidental to the system. <p>The terms address of record, applicant, and application are added to provide meaning to these terms as used in the</p>
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			<p>regulation, and to make the regulation more consistent with regulations for other DPOR programs.</p> <p>The term HVAC work is added to provide meaning for this term and the scope of practice for an HVAC tradesman.</p> <p>Subsection D is revised to remove the following terms:</p> <ul style="list-style-type: none"> • “Apprentice;” • “Building official/inspector;” • “Certified accessibility mechanic;” • “Certified elevator mechanic;” • “Division;” • “Limited use/limited application endorsement;” • “Liquefied petroleum gas fitter;” • “Maintenance;” • “Natural gas fitter provider;” • “Periodic inspection;” • “Repair;” • “Supervisor;” and • “Water distribution systems.” <p>These terms are removed because they are either (i) incorporated by reference from statute; or (ii) are not necessary.</p> <p>The term “backflow prevention device work” is revised to clarify its meaning. The term refers to work performed by a backflow prevention device worker for reconstruction or renewal of any part of a backflow prevention device for the purpose of returning to service a currently installed device. It does not include the removal or replacement of a defective device by installation of a rebuilt or new device.</p> <p>The term “certified automatic fire sprinkler inspector” is revised for purposes of clarity.</p> <p>The terms for “electrician,” “HVAC tradesman,” and “plumber” are revised to make the meaning of these terms consistent.</p> <p>The term “gas fitter” is revised for the purposes of clarity.</p>
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			<p>The term “helper” or “laborer” is revised to mean a person who assists a regulant.</p> <p>The term “regulant” is revised to make clear the term includes gas fitters and accessibility mechanics.</p> <p>The terms “renewal” and “reinstatement” are revised to make the meanings of these terms clearer.</p> <p>The term “trade” is revised to include any regulated activity covered by the regulation.</p>
30-20	N/A	<p>This section provides for the requirements for licensure or certification.</p> <p>The section provides that an applicant must take an examination to determine the applicant’s general knowledge of the regulated activity for which the applicant desires licensure or certification.</p> <p>If the applicant successfully complete the examination, an application furnished by DPOR must be completed.</p> <p>The section provides that the application must include the applicant’s:</p> <ul style="list-style-type: none"> • Name; • Home address; • Place of employment; and • Business address. <p>The application must also include (i) information on the applicant’s knowledge, skills, abilities, and education or training; and (ii) a statement certifying the application is correct.</p> <p>The section provides that if the application is satisfactory to the Board, a license or certification will be issued.</p>	<p>This section is being repealed.</p> <p>The section will be replaced by a new section -25, which will provide for application procedures that reflects current agency practice and is consistent with application procedures for other DPOR programs.</p>

N/A	30-25	N/A – No current requirements.	<p>This new section provides for application procedures.</p> <p>The section provides that applicants seeking licensure or certification must submit an application with the appropriate fee. Application must be made on forms provided by the Board or its agent.</p> <p>The section provides that by submitting the application to DPOR, the applicant certifies that the applicant has read and understands the applicable statutes and Board regulations.</p> <p>The section provides that receipt of an application and deposit of fees does not indicate approval of the application.</p> <p>The section provides that the Board may make further inquires and investigations with respect to an applicant’s qualifications to confirm or amplify information supplied.</p> <p>All applications must be completed in accordance with the instructions provided in the section and on the application. Applications will not be considered complete until all required documents are received by the Board.</p> <p>The section provides that an applicant will be notified if receipt of initial application is incomplete. An individual who fails to complete the application process within 12 months of receipt of the application in the Board’s office must submit a new application.</p> <p>The section provides the applicant must immediately report all changes in information supplied with the application, if applicable, prior to the issuance of the license or expiration of the application.</p> <p>The application procedures in this new section reflect current agency practice and are consistent with application procedures for other DPOR programs.</p>
50-30	N/A	This section provides for the general qualifications for licensure or certification.	The section caption is revised to reflect: “General requirements for licensure or certification.”

		<p>The section provides that every applicant meet the requirements and qualifications of the section.</p> <p>An applicant must meet the following requirements:</p> <ul style="list-style-type: none"> • Be at least 18 years old. • Meet current educational requirements by passing all required courses prior to sitting for the examination and applying for licensure or certification. • Pass the applicable examination provided by the Board or a testing organization on behalf of the Board. • Meet the experience requirements established in section - 40. • Follow all examination conduct rules. To include written instructions communicated prior to the examination date and any instructions communicated at the site on the date of the examination. Failure to comply with such rules established by the Board or the testing organization are grounds for denial of an application. • Disclose the applicant's physical home address. A post office box alone is not acceptable. • For nonresident applicants, file and maintain an irrevocable consent for DPOR to serve as a service agent for all actions filed in any court in the Commonwealth. • Sign, as part of the application, a statement 	<p>The section is revised to clarify that in addition to the applicable provisions of section -40 (examination qualifications for journeymen, masters, backflow prevention device workers, elevator mechanics, water well systems providers, accessibility mechanics, LULA endorsement, and residential building energy analyst) and section -41 (qualifications for automatic fire sprinkler inspector), an applicant must meet the general requirements for licensure or certification.</p> <p>Subdivision #2 is revised to provide that an applicant must submit an application on a form provided by the Board and documentation of identification, vocational training, and experience.</p> <p>The current provisions in this subdivision requiring an applicant to meet all educational requirements prior to sitting for the examination and applying for licensure are removed. These provisions do not reflect current agency practice.</p> <p>Current subdivision #3, which provides for the applicant passing the examination is removed. This provision is unnecessary as section -40 addresses the requirement for an individual to pass an examination.</p> <p>Current subdivision #4 is removed. This subdivision is no longer necessary.</p> <p>Current subdivision #6 is revised to clarify that an applicant must provide an address of record, and that a post office box is only acceptable when a physical address is also provided. These changes are made to make these provisions similar to those of other DPOR programs.</p> <p>Current subdivision #7 pertaining to the appointment of the DPOR as the agent for service of process for nonresident applicants is removed. This requirement is not necessary for those holding an individual license or certification.</p> <p>Current subdivision #8 pertaining to the certification statement on the application</p>
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		<p>certifying the applicant has read and understands Article 3 (§ 54.1-1128 et seq.) of Title 54.1 of the Code of Virginia, and the Board's regulation.</p> <ul style="list-style-type: none"> • Disclose a conviction, in any jurisdiction, of any felony or non-marijuana misdemeanor. Any plea of <i>nolo contendere</i> is considered a conviction. The record of conviction received from a court is considered <i>prima facie</i> evidence of a conviction or finding of guilt. The Board may deny licensure or certification in accordance with § 54.1-204 of the Code of Virginia. • Report any suspensions, revocations, or surrendering of a license or certificate in connection with a disciplinary action, or which has been the subject of discipline, in any jurisdiction prior to applying for licensure or certification. The Board may deny licensure or certification based on prior suspensions, revocations, or surrender of licenses or certifications based on disciplinary action in any jurisdiction. <p>The section also provides that the Board may make further inquiries and investigations with respect to the qualifications of the applicant, or require a personal interview with the applicant.</p>	<p>is removed. This requirement is moved to new section -25, and revised.</p> <p>Current subdivision #9 pertaining to the Board's authority to make further inquiries and investigations regarding an application is removed. This requirement is move to new section -25.</p> <p>Current subdivision #10 pertaining to disclosure of criminal convictions is revised to remove provisions that (i) provide that a plea of <i>nolo contendere</i> is considered a conviction; and (ii) a certified record of conviction is <i>prima facie</i> evidence of guilt of a criminal conviction.</p> <p>Provisions regarding <i>nolo contendere</i> pleas and certified record of conviction as being prima facie evidence of guilt appear to be contrary to the provisions of § 54.1-204 of the Code of Virginia. Under the regulation, any conviction of a regulant must be considered in accordance with § 54.1-204 of the Code of Virginia.</p> <p>This subdivision is also revised to provide that any action to taken by the Board to deny licensure or certification due to a criminal conviction has the right to request review of such action under the APA. This change is made to make the regulation consistent with other DPOR regulations.</p> <p>Current subdivision #11 pertaining to the requirement for an applicant to disclose prior regulatory discipline is revised to provide that an applicant must disclose any action taken by a board or administrative body against a professional or occupational license, certificate, or registration issued to the applicant, and specify that disciplinary action includes (i) suspension; (ii) revocation; (iii) surrender; (iv) imposition of monetary penalty; (v) requirement for remedial education; or (vi) requirement for other remedial action. The subsection was also revised to clarify the Board may deny licensure based on any prior disciplinary action taken by any board or administrative body.</p>
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30-41	N/A	<p>This section provides for the qualifications for an automatic fire sprinkler inspector certification.</p>	<p>The section caption is revised to reflect “Evidence of ability and proficiency for automatic fire sprinkler inspector.” This change is made for purposes of clarity.</p> <p>Minor stylistic changes are made to replace the word “shall” with “must” or “will” where appropriate.</p>
30-70	N/A	<p>This section provides for recognition of licensure or certification programs outside of Virginia.</p> <p>The section provides that individuals who are licensed or certified as a journeyman or master by a governing body outside of Virginia are considered to be in compliance with the regulation if the Board or its designee have determined the certifying system to be substantially equivalent to Virginia’s requirements.</p> <p>The section provides that such individuals must:</p> <ul style="list-style-type: none"> • Have received the license or certification by virtue of having passed 	<p>The section is revised to clarify that individuals who are licensed or certified as a tradesman or backflow prevention device worker by governing bodies outside of Virginia are considered to be in compliance with the regulation if the Board has determined the requirements and standards under which the license or certificate was issued are substantially equivalent to those established in the regulation.</p> <p>Minor stylistic changes are made to replace the word “shall” with “must” or “will” where appropriate. Other changes are made for purposes of clarity or style.</p>

		<p>a written or oral examination in the original jurisdiction that is substantially equivalent to the Virginia examination.</p> <ul style="list-style-type: none"> • Be in good standing as a licensed or certified tradesman in every jurisdiction where licensed or certified; and must not have had a license or certificate suspended, revoked, or surrendered in connection with a disciplinary action, or which has been the subject of discipline in any jurisdiction prior to applying for licensure in Virginia. • Complete the required application and provide a copy of the valid journeyman or master license or certification in order to sit for the same level of tradesman examination. <p>The section also provides that individuals licensed or certified as backflow prevention device workers by governing bodies outside of Virginia may sit for the Virginia examination upon presenting a currently valid certificate from the jurisdiction, along with a completed examination application and fee.</p>	
30-90	N/A	<p>This section outlines the application fees for an initial license or certification.</p> <p>This section also provides for general requirements applicable to fees received on behalf of the Board. Fees are non-refundable and the date on which a fee is received determines whether the fee was received on time.</p>	<p>The section is revised to include the fee for adding a tradesman designation. This provision is currently in section -150. This change is made to make the regulation clearer.</p> <p>Minor stylistic changes are made to replace the word “shall” with “must” or “will” where appropriate.</p>

		<p>Fees are valid for a period of one year from the date of receipt of application.</p>	
30-140	N/A	<p>This section provides for the status of a regulant during a reinstatement period.</p> <p>The section provides that when a regulant is reinstated, the regulant will continue to have the same number and will be assigned an expiration date two years from the previous expiration date.</p> <p>The section provides that a regulant who reinstates a license or certification will be regarded as having been continuously licensed or certified without interruption. The regulant remains under the disciplinary authority of the Board during this entire period and may be held accountable for their activities during this period. The Board is not divested of its authority to discipline a regulant for a violation of the law or regulations during the period prior to reinstatement.</p>	<p>The section is revised to provide that when a tradesman reinstates, the new expiration date will be three years from the previous expiration date. For all other licensees or certificate holders, the expiration date remains two years from the previous expiration date.</p> <p>This change is made to make the regulation consistent with statute, which provides that the term of licensure for a tradesman license is three years.</p> <p>Minor stylistic changes are made to replace the word “shall” with “must” or “will” where appropriate.</p>
30-150	N/A	<p>This section provides for the requirements for adding or deleting a trade designation.</p> <p>The section provides that a regulant may add a trade designation to a license by demonstrating, on a form provided by the Board, acceptable evidence of experience, and examination, if appropriate, in the designation sought. The regulant must meet the applicable requirements in Part II (18VAC50-30-20 et seq.) of the regulation.</p> <p>The section provides for the application fee to add a trade designation.</p>	<p>The section is revised to remove the application fee for adding a trade designation. This requirement is moved to section -90.</p> <p>The section is also revised to remove the provision that no fee is due to delete a designation. This provision is not necessary.</p>

		<p>The section provides that while a regulant may have multiple trade designations on a license, the license renewal date is based upon the date the card was originally issued to the individual, and not the date of the most recent trade designation addition.</p> <p>The section provides that if a regulant seeks to delete a designation, the individual must provide a signed statement listing the designation to be deleted. No fee is required to delete a designation. If a regulant only has one trade or level designation, the deletion of the designation will result in termination of the license.</p>	
30-160	N/A	<p>This section requires a regulant to report a change of address to the Board in writing within 30 days of the change. A post office address alone is not acceptable.</p> <p>The section also provides the Board is not responsible for a regulant's failure to receive notices or correspondence due to the failure to report a change of address.</p>	<p>Minor stylistic changes are made to replace the word "shall" with "must" or "will" where appropriate. Another change is made for purposes of clarity.</p>
30-170	N/A	<p>This section prohibits the assigned or transfer of a license or certification.</p>	<p>Minor changes are made for purposes of clarity or style.</p>
30-185	N/A	<p>This section provides for grounds for revocation of licensure or certification</p> <p>The section provides that licensure or certification may be revoked for:</p> <ul style="list-style-type: none"> • Misrepresentation; • Fraudulent application; • Incompetence; 	<p>The section caption is revised to reflect "Grounds for disciplinary action."</p> <p>The provisions of this section are removed and replaced with new provisions which provide that the Board may:</p> <ul style="list-style-type: none"> • Impose remedial education; • A monetary penalty in accordance with § 54.1-202(A) of the Code of Virginia;

		<ul style="list-style-type: none"> • An egregious or repeated violation of the USBC. <p>The section also provides the Board has the power to require remedial education, and to fine, suspend, revoke, or deny renewal of a license or certification of any individual who is found to be in violation of the statutes or regulations governing the practice of the professions.</p>	<ul style="list-style-type: none"> • Revoke a license or certification; • Suspend a license or certification; • Refuse to renew a license or certification. <p>If a licensee or certificate holder has been found to have violated or cooperated with others in violation any provisions of the regulations of the Board; or any provisions of Chapter 1 or Chapter 11 of Title 54.1 of the Code of Virginia.</p> <p>These changes more clearly provide for the Board’s authority to impose regulatory discipline, and are consistent with similar provisions in other DPOR regulations.</p> <p>Provisions regarding specific prohibited conduct are already addressed in section – 190, and are not necessary.</p>
30-190	N/A	<p>This section establishes specific prohibited acts which may be grounds for disciplinary action against a regulant.</p> <p>Prohibited acts include:</p> <ul style="list-style-type: none"> • Furnishing substantially inaccurate or incomplete information to the Board in obtaining, renewing, reinstating, or maintaining a license or certification; • Failure to report the suspension or revocation of a license or certification. • Negligence or incompetence; • Misconduct; • Abandonment, intentional and unjustified failure to complete work; retention of funds; • Making any misrepresentation or making a false promise; 	<p>The section is revised to clarify that the acts enumerated in the section subdivisions are prohibited and any violation may result in disciplinary action by the Board.</p> <p>Several subdivisions are revised for the purposes of clarity.</p> <p>Current subdivision #6, which makes it a prohibited act to be found of improper or dishonest conduct in the practice of a tradesman, liquefied petroleum gas fitter, natural gas fitter provider, backflow prevention device worker, elevator mechanic, accessibility mechanic, or water well systems provider by a court of competent jurisdiction is removed. This prohibited act is not necessary, as the Virginia Contractor Transaction Recovery Act is not applicable to individual licensees or certificate holders.</p> <p>Provisions in current subdivision #11 that (i) provided that a plea of <i>nolo contendere</i> is considered a conviction; and (ii) a certified record of conviction is <i>prima facie</i> evidence of guilt of a criminal conviction are removed. A corresponding change is made to current subdivision #12 regarding the prohibited act for failing to report a conviction.</p>

		<ul style="list-style-type: none"> • Having been convicted or found guilty of any felony, or any misdemeanor involving lying, cheating, stealing, sexual offense, non-marijuana drug distribution, physical injury, or relating to the practice of the profession; • Failing to report a conviction, finding of guilt within 30 days; • Having been disciplined by any county, city, town, or any state or federal governing body; • Failure to comply with the USBC; and • Failure to obtain a building permit or applicable inspection where required. 	<p>Provisions regarding <i>nolo contendere</i> pleas and certified record of conviction as being prima facie evidence of guilt appear to be contrary to the provisions of § 54.1-204 of the Code of Virginia. Under the regulation, any conviction of a regulant must be considered in accordance with § 54.1-204 of the Code of Virginia.</p>
30-200	N/A	<p>This section provides for the requirements applicable to vocational training that may be used to qualify for licensure or certification.</p>	<p>A technical change is made for the purposes of clarity. The provisions of subsection D, which provides that water well systems provider courses be approved by the Board, and subsection E, which provides that certified accessibility courses be approved by the Board, are merged into subsection C.</p>