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## Notice of Intended Regulatory Action (NOIRA) Agency Background Document

<b>Agency name</b>	Board for Contractors
<b>Virginia Administrative Code (VAC) Chapter citation(s)</b>	18 VAC 50-22
<b>VAC Chapter title(s)</b>	Board for Contractor Regulations
<b>Action title</b>	Eligibility Requirement Amendment
<b>Date this document prepared</b>	10/05/2022

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 the subject matter, intent, and goals of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation).*

The Board for Contractors seeks to amend its contractor license eligibility requirements including experience, education, and companion licensure/certification. These amendments may affect applicants for Class A, B and C contractors license, Residential Building Energy Analyst Firm license, Class A, B and C Temporary license, and qualification for licensure by reciprocity or substantial equivalency.

### Acronyms and Definitions

*Define all acronyms or technical definitions used in this form.*

There are no acronyms, abbreviations, or technical definitions.

### 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the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part.”*

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On September 20, 2022, the Board approved a Notice of Intended Regulatory Action to amend the eligibility requirements for contractor applicants seeking to obtain licensure.

The Board is conducting a review of its Regulations in accordance with Governor Youngkin’s Executive Directive 1.

### 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.*

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§ 54.1-1102 A of the Code of Virginia provides the Board for Contractors with the authority to promulgate regulations not inconsistent with the statute necessary for the licensure of contractors and tradesman.

§ 54.1-201 A 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

*Describe the specific reasons why the agency has determined that this regulation is essential to protect the health, safety, or welfare of citizens. In addition, explain any potential issues that may need to be addressed as the regulation is developed.*

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During the review of their regulations in accordance to the provisions of Executive Directive 1, the Board identified their eligibility requirements as potentially burdensome to contracting businesses seeking licensure. The Board identified several areas to review and amend to possibly lower the required years of experience while ensuring minimum competency and protection of the health, safety, and welfare of the public as its primary goal.

### Substance

*Briefly identify and explain the new substantive provisions that are being considered, the substantive changes to existing sections that are being considered, or both.*

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18 VAC 50-22-40 of the regulations provides detail on the requirements of a firm seeking to obtain a Class C licensure. Potentially, requirements for certain classifications and specialties may be amended, including but not limited to acceptance of national certifications, apprenticeships and amending the years of experience.

18 VAC 50-22-50 of the regulations provides detail on the requirements of a firm seeking to obtain a Class B licensure. Potentially, requirements for certain classifications and specialties may be amended, including but not limited to acceptance of national certifications, apprenticeships and amending the years of experience.

18 VAC 50-22-60 of the regulations provides detail on the requirements of a firm seeking to obtain a Class A licensure. Potentially, requirements for certain classifications and specialties may be amended, including but not limited to acceptance of national certifications, apprenticeships and amending the years of experience.

18 VAC 50-22-62 of the regulations provides detail on the requirements of a firm seeking to obtain a Residential Building Energy Analyst license. Potentially, requirements not statutorily required may be amended.

18 VAC 50-22-65 of the regulations provides detail on the requirements of a firm seeking to obtain a temporary license. Potentially, requirements not statutorily required may be amended.

18 VAC 50-22-66 of the regulations provides detail on the Board's disciplinary authority over temporary license holders. Potentially, this section may be amended for clarity

18 VAC 50-22-70 of the regulations provides detail on licensure by reciprocity and substantial equivalency. This section may be amended for clarity purposes.

### **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.*

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No viable alternatives have been identified at this time.

### **Periodic Review and Small Business Impact Review Announcement**

*If you wish to use this regulatory action to conduct, and this NOIRA to announce, a periodic review (pursuant to § 2.2-4017 of the Code of Virginia and the ORM procedures), and a small business impact review (§ 2.2-4007.1 of the Code of Virginia) of this regulation, keep the following text. Modify it as necessary for your agency. Otherwise, delete the paragraph below and insert “This NOIRA is not being used to announce a periodic review or a small business impact review.”*

This NOIRA is not being used to announce a periodic review or a small business impact review.

## 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. In addition, as required by § 2.2-4007.02 of the Code of Virginia, describe any other means that will be used to identify and notify interested parties and seek their input, such as regulatory advisory panels or general notices.*

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The Board for Contractors 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, and (iii) the potential impacts of the regulation.

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 c/o Board for Contractors, 9960 Mayland Drive, Suite 400, Richmond, Virginia 23233, telephone (804) 367-2785, fax (866) 430-1033, email: [contractor@dpor.virginia.gov](mailto:contractor@dpor.virginia.gov). 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 the proposed stage of this regulatory action.