



Notice of Intended Regulatory Action (NOIRA) Agency Background Document

Agency name	Board for Contractors
Virginia Administrative Code (VAC) citation	18VAC50-30
Regulation title	Certified Accessibility Mechanics
Action title	Board for Contractors – Certified Accessibility Mechanics
Date this document prepared	August 26, 2010

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

Purpose

Please describe the subject matter and intent of the planned regulatory action. Also include a brief explanation of the need for and the goals of the new or amended regulation.

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

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 number(s), 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.

Virginia Code § 54.1-1102 states in part that the Board shall have the power and duty to promulgate regulations to carry out the requirements of Chapter 23.3 of Title 54.1 of the Code of Virginia.

Chapter 81 and Chapter 207 of the Acts of the 2010 General Assembly created the “Certified Accessibility Mechanic” program. Section 54.1-1142 (amended by Chapters 81 and 207) authorizes the

Board for Contractors to issue certified accessibility mechanic certificates to applicants that meet specified criteria.

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

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

Need

Please detail the specific reasons why the agency has determined that the proposed regulatory action is essential to protect the health, safety, or welfare of citizens. In addition, delineate any potential issues that may need to be addressed as the regulation is developed.

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

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

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

Substance

Please detail any changes that will be proposed. For new regulations, include a summary of the proposed regulatory action. Where provisions of an existing regulation are being amended, explain how the existing regulation will be changed.

The General Assembly enacted §54.1-1142 of the Code of Virginia. This amendment to the statutes introduces “Certified Accessibility Mechanics” to the regulatory authority of the Board for Contractors. These regulations will define entry requirements, list fees and set certificate maintenance procedures for this new program.

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
18VAC50-30-10	N/A	Definitions Section.	The proposed change is an administrative change that would include a definition for “Certified Accessibility Mechanic” and “Limited Use/Limited Application Endorsement” under the current definitions section of the Board for Contractors. These definitions are being added to require those engaged in residential elevator installation to hold a license with similar yet different requirements than a “Certified Elevator Mechanic.”
18VAC50-30-40	18VAC50-30-40(G) and (H)	Evidence of Ability and Proficiency Section.	The proposed change would include an evidence of ability and proficiency section for both the “Certified Accessibility Mechanic” and “Limited Use/Limited Application Endorsement,” respectively, that lay out the required education and experience for each. The proposed changes are being added to differentiate the requirements from “Certified Elevator Mechanics,” already in place with the Board.
18VAC50-30-90	N/A	Fees for Licensure and Certification.	The proposed change would include a fee applicable for licensure and certification for both the “Certified Accessibility Mechanic” and the “Limited Use/Limited Application Endorsement.” The proposed changes include fees equal to those required of all other individual licenses and certifications issued by the Board with the exception of “Limited Use/Limited Application” as this is the first endorsement issued by the Board.
18VAC50-30-100	N/A	Fees for Examinations.	The proposed change would include “Certified Accessibility Mechanic” and the “Limited Use/Limited Application Endorsement” under the provisions for fees charged for examinations.

			This proposed change addressed the need for an exam for “Certified Accessibility Mechanics.”
18VAC50-30-120	N/A	Renewal.	The proposed change would include a renewal fee for “Certified Accessibility Mechanics.”
18VAC50-30-130	N/A	Reinstatement.	The proposed change would include a reinstatement fee for “Certified Accessibility Mechanics.”
18VAC50-30-185	N/A	Revocation of Licensure or Certification.	The proposed change would include a provision that provides the Board the authority to revoke the “Certified Accessibility Mechanic” certification.
18VAC50-30-190	N/A	Prohibited Acts.	The proposed change would include “Certified Accessibility Mechanic” and “Accessibility Mechanic” as in the current Prohibited Acts section under the jurisdiction of the Board for Contractors. This proposed change enables to Board for Contractors to take disciplinary action over those licensed as a “Certified Accessibility Mechanic.”
18VAC50-30-200	18VAC50-30-200(E)	Vocational Training	The proposed change would require that Certified Accessibility training be completed through education providers approved by the Board for Contractors. This change addresses the vocational training requirements for Certified Accessibility Mechanics.
18VAC50-30-220	N/A	Continuing Education Courses	The proposed change will lay out what the Continuing Education Courses for the “Certified Accessibility Mechanic” certificate shall cover. This proposed change is in place to differentiate the Continuing Education requirements from those in place for “Certified Elevator Mechanics.”

Alternatives

Please describe all viable alternatives to the proposed regulatory action that have been or will be considered to meet the essential purpose of the action. Also, please describe the process by which the agency has considered or will consider other alternatives for achieving the need in the most cost-effective manner.

Since this is a new program, mandated by law, no other alternatives exist for amending the regulations in order to bring “Certified Accessibility Mechanics” into compliance under the Code of Virginia.

Public participation

Please indicate whether the agency is seeking comments on the intended regulatory action, including ideas to assist the agency in the development of the proposal and the costs and benefits of the alternatives stated in this notice or other alternatives. Also, indicate whether a public hearing is to be held to receive comments on this notice.

The Board is seeking comments on the intended regulatory action, including but not limited to 1) ideas to assist in the development of a proposal, 2) the costs and benefits of the alternatives stated in this background document or other alternatives and 3) potential impacts of the regulation. The agency/board is also seeking information on impacts on small businesses as defined in § 2.2-4007.1 of the Code of Virginia. Information may include 1) projected reporting, recordkeeping and other administrative costs, 2) probable effect of the regulation on affected small businesses, and 3) description of less intrusive or costly alternative methods of achieving the purpose of the regulation.

Anyone wishing to submit written comments for the public comment file may do so by mail, email or fax to Eric Olson, Executive Director, Board for Contractors, 9960 Mayland Drive, Suite 400, Richmond, VA 23233, fax to (804) 1-866-430-1033, or email to contractors@dpor.virginia.gov. Written comments must include the name and address of the commenter. In order to be considered comments must be received by the last day of the public comment period.

A public meeting will be held and notice of the meeting can be found in the Calendar of Events section of the Virginia Register of Regulations. Both oral and written comments may be submitted at that time.

Participatory approach

Please indicate, to the extent known, if advisers (e.g., ad hoc advisory committees, regulatory advisory panels) will be involved in the development of the proposed regulation. Indicate that 1) the agency is not using the participatory approach in the development of the proposal because the agency has authorized proceeding without using the participatory approach; 2) the agency is using the participatory approach in the development of the proposal; or 3) the agency is inviting comment on whether to use the participatory approach to assist the agency in the development of a proposal.

The Board will use the participatory approach to develop a proposal if it receives at least 15 written requests to use the participatory approach prior to the end of the public comment period. Persons requesting the agency use the participatory approach and interested in assisting in the development of a proposal should notify the department contact person by the end of the comment period and provide their name, address, phone number, email address and their organization (if any). Notification of the composition of the advisory panel will be sent to all applicants.

Family impact

Assess the potential 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.

No impact on families in Virginia has been identified as resulting from the proposed amendments to the regulations.