



[townhall.virginia.gov](http://townhall.virginia.gov)

## Final Regulation Agency Background Document

<b>Agency name</b>	Board for Contractors
<b>Virginia Administrative Code (VAC) Chapter citation(s)</b>	18 VAC 50 – 30 – 40
<b>VAC Chapter title(s)</b>	Board for Contractors Individual License and Certification Regulations
<b>Action title</b>	Backflow Vocational Training
<b>Date this document prepared</b>	November 3, 2021

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 14 (as amended, July 16, 2018), the Regulations for Filing and Publishing Agency Regulations (1VAC7-10), 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 seeks to lower the current vocational training requirement for Certified Backflow Prevention Device Workers who have less than seven years of experience in water distribution systems. The current requirement is 40 hours and the Board is proposing to lower it to 32 hours.

### 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.*

There are no acronyms or technical definitions used in this form that are not specifically identified.

### Statement of Final Agency Action

*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.*

---

At its meeting on Tuesday, October 26, 2021 the Board for Contractors adopted these proposed regulations as final.

### Mandate and Impetus

*List all changes to the information reported on the Agency Background Document submitted for the previous stage regarding the mandate for this regulatory change, and any other impetus that specifically prompted its initiation. If there are no changes to previously reported information, include a specific statement to that effect.*

---

On July 7, 1999, the Board for Contractor promulgated regulations, as a result of a legislative mandate, to certify individuals that performed inspections on backflow prevention devices. The Board based many of its eligibility requirements on those already in place for regulatory bodies throughout the United States and by national certifying organizations. Since that time the experience and vocational training requirements have not changed by the Board for Contractors.

Over the course of the past several months the Board has been contacted by individuals interested in becoming certified in Virginia, who have experienced difficulty finding a 40 hour vocational training class, which is required for individuals that have less than seven years of experience with water distribution systems. These individuals have indicated that, while a few providers still offered 40 hour classes, the majority had shifted to 32 hour classes. This was done in large part because a significant number of regulatory agencies and national certifying organizations had changed their education requirements from 40 hours to 32 hours.

### 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.*

---

§ 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 certification of backflow prevention device workers.

### 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's intended to solve.*

---

The Board for Contractors is responsible for regulating businesses and individuals engaging in work within the construction and trade industry. Part of that responsibility is to develop entry level eligibility criteria that afford protection to the public while, at the same time, are not overly burdensome to those seeking licenses or certifications. Since 1999 the Board has certified individuals as backflow prevention device workers and set entry standards that were, at the time, reasonable and not overly burdensome. When developing these initial entry criteria the Board reviewed the requirements of those other states that regulated the backflow industry. Additionally, the Board reviewed the certifying criteria set forth by national certifying agencies active in the industry. Since that time several states and organizations have changed their initial entry criteria, reducing the number of vocational training hours. In response, several of the approved vocational training providers, who are generally approved in other states as well as Virginia, have stopped offering some of the longer certification courses. This has directly resulted in applicants for a backflow certification in Virginia experiencing difficulty in finding vocational training courses that meet the requirements set forth by the Board for Contractors.

In response to comments that have been received over the past several months, the Board researched the vocational training criteria in several states and found that four of six neighboring states that regulate backflow testers have vocational training requirements that are less than those of Virginia. Additionally, while there is no training requirement that is prevalent throughout the United States, of the dozen programs reviewed, only three required the same amount of vocational training as Virginia, the others were lower.

In response to the comment received from applicants and the research done by board staff, the Board for Contractors determined that an amendment to the current requirements was appropriate.

## 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.*

18 VAC 50-30-40 would be amended to lower the formal vocational training requirement of individuals with a minimum of four years, but less than seven years of experience from 40 hours to 32 hours.

## 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 advantage for individual private citizens is the fact that applicants for the backflow certification will no longer experience difficulty in finding vocational training courses, potentially allowing for more businesses to employ certified individuals.

There are no disadvantages to the public, private citizens, businesses or the Commonwealth.

This regulatory change will align the Commonwealth's requirements with The University of Florida, Training, Research and Education for Environmental Occupations (UF TREEO), one of the most prominent national certifying agencies, and other states and localities throughout the United States.

**Requirements More Restrictive than Federal**

*List all changes to the information reported on the Agency Background Document submitted for the previous stage regarding any requirement of the regulatory change which is more restrictive than applicable federal requirements. If there are no changes to previously reported information, include a specific statement to that effect.*

There are currently no Federal requirements for licensure or certification as a backflow prevention device worker.

**Agencies, Localities, and Other Entities Particularly Affected**

*List all changes to the information reported on the Agency Background Document submitted for the previous stage regarding any other state agencies, localities, or other entities that are particularly affected by the regulatory change. If there are no changes to previously reported information, include a specific statement to that effect.*

Other State Agencies Particularly Affected

No other State agencies are particularly affected.

Localities Particularly Affected

No other localities are particularly affected

Other Entities Particularly Affected

No other entities are particularly affected.

**Public Comment**

*Summarize all comments received during the public comment period following the publication of the previous stage, and provide the agency 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.*

Commenter	Comment	Agency response
Lou Spencer	"My name is Lou Spencer. I'm the assistant business manager with Plumbers and Gasfitters Local Union #5. My local union and our signatory contractors operate throughout Greater Northern Virginia. With regard to the amount or training needed to qualify for backflow certification, my local union does not have a strong opinion one way or another except to say that more training is	Thank you for your comment.

	<p>preferable. Virginia is reminded of how and why its water purveyors are required to have cross connection in control programs. In Roanoke, Virginia in October 1979 Chlordane, a highly toxic insecticide, was back-siphoned into the water supply. This occurred while the water department was repairing a water main during a water service interruption. The Chlordane was back-siphoned into the house plumbing and the city water main.</p> <p>I would suggest the higher levels of training are more desirable and increased enforcement of cross connection programs is in order. And if I can be of any further assistance to the Board for Contractors let me know. We are eager to protect the health and sanitation of the Commonwealth in the Commonwealth.”</p>	
--	--	--

**Detail of Changes Made Since the Previous Stage**

*List all changes made to the text since the previous stage was published in the Virginia Register of Regulations and the rationale for the changes. 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. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. \* Put an asterisk next to any substantive changes.*

<b>Current chapter-section number</b>	<b>New chapter-section number, if applicable</b>	<b>New requirement from previous stage</b>	<b>Updated new requirement since previous stage</b>	<b>Change, intent, rationale, and likely impact of updated requirements</b>
No Changes	No Changes	No Changes since previous stage	No Changes	No Changes

**Detail of All Changes Proposed in this Regulatory Action**

*List all changes proposed in this action and the rationale for the changes. 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. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. \* Put an asterisk next to any substantive changes.*

Current chapter-section number	New chapter-section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of updated requirements
18 VAC 50 – 30 – 40 D 1		Four years of practical experience in water distribution systems and 40 hours of formal vocational training in a school approved by the board.	With the regulation change, the applicant will now be required to completed 32 hours of vocational training if they have four years of experience.