

**TITLE 64
LEGISLATIVE RULE
BUREAU FOR PUBLIC HEALTH**

**SERIES 25
CERTIFICATION OF BACKFLOW PREVENTION
ASSEMBLY TESTERS**

§64-25-1. General.

1.1. Scope. -- This legislative rule governs the examination and certification of backflow prevention assembly testers. The W. Va. Code is available in public libraries and on the Legislature's web page: <http://www.legis.state.wv.us/>.

1.2. Authority. -- W. Va. Code §§16-1-4, 16-1-9 and 16-1-9a.

1.3. Filing Date. -- April 29, 2004.

1.4. Effective Date. -- April 29, 2004.

§64-25-2. Application and Enforcement.

2.1. Application. -- This rule applies to certified backflow prevention assembly testers as defined in Section 3 of this rule.

2.2. Enforcement. -- This rule is enforced by the Commissioner of the Bureau for Public Health or his or her designee.

§64-25-3. Definitions.

3.1. Applicant. -- An individual who has applied for certification as a backflow prevention assembly tester.

3.2. Approved. -- Accepted by the Commissioner.

3.3. Backflow Prevention Assembly Tester Certification. -- a written document issued by the Commissioner certifying an individual as a tester for backflow prevention assemblies.

3.4. Certified Backflow Prevention Assembly Tester. -- An individual who meets all of the requirements under this rule to be certified to inspect and test backflow prevention assemblies or methods.

3.5. Commissioner. -- Commissioner of the West Virginia Bureau for Public Health or his or her designee.

§64-25-4. Qualifications for Certification.

4.1. Applicants for certification as a backflow prevention assembly tester shall:

4.1.a. Be a minimum of eighteen (18) years of age;

4.1.b. Have either a high school diploma or general education diploma (GED); and

4.1.c. Either:

4.1.c.1. Complete and pass all parts of an approved forty (40) hour course of instruction in theory, design, performance, testing and maintenance of backflow prevention assemblies; or

4.1.c.2. Meet re-certification, reinstatement or reciprocity requirements as provided in sections 7 or 8 of this rule.

§64-25-5. Certification Application.

5.1. Application.

5.1.a. An applicant for certification as a backflow prevention assembly tester shall submit an application (Form EW-75, available from the Bureau for Public Health), proof of education and proof of completing an approved course of instruction as identified in Section 4 of this rule.

5.1.b. Any applicant who commits fraud or misrepresentation on the application will be permanently disqualified from consideration.

§64-25-6. Certification Examinations.

6.1. The Commissioner shall schedule the two part (written and performance) examination for those applicants who meet the requirements in Section 4 of this rule and shall notify the applicants at least fourteen (14) days before the scheduled examination date.

6.2. The examinations shall consist of a performance examination and a closed book written examination. Exceptions to the written part are:

6.2.a. An applicant may make written request to the director at least thirty (30) days before a scheduled examination date for an oral examination to be given instead of the written examination;

6.2.a.1. Before an oral examination will be given, an applicant shall obtain written approval from the Commissioner; and

6.2.a.2. The taking of an oral examination shall not affect the performance examination requirement.

6.2.b. All examinations shall be administered in English.

6.3. Examination grade.

6.3.a. An applicant's certification status shall be determined by the examination grade.

6.3.b. To pass the examination, an applicant is required to make a minimum grade of seventy percent (70%) on the written examination, and must demonstrate competence to the Commissioner on the performance examination.

6.3.c. An applicant who does not receive a passing grade on the written or successfully complete the performance examination shall wait a minimum of sixty (60) days before applying for reexamination.

6.3.d. An applicant who fails an examination three (3) times shall wait a minimum of one (1) year before reexamination.

6.4. Ineligible Applicants:

6.4.a. The Commissioner shall declare the examination scores of any applicant who corrupts or attempts to corrupt the examination process invalid and shall declare the applicant ineligible for certification upon discovery of the applicant's conduct.

6.4.b. Conduct resulting in invalidation of the examination includes:

6.4.b.1. Any action that violates the security of examination materials, such as removal of any examination materials from the examination room;

6.4.b.2. Communicating with any other examinee or permitting one's answers to be copied by another examinee; or

6.4.b.3. Falsifying or misrepresenting information for admission to the examination, impersonating an examinee or having someone else take the licensing examination on one's own behalf.

§64-25-7. Certification Expiration, Re-certification, Revocation and Reinstatement.

7.1. Expiration. Backflow prevention assembly tester certifications expire three (3) years after the date of issue.

7.2. For re-certification:

7.2.a. Backflow prevention assembly testers shall submit a written application (Form EW-75, available from the Bureau for Public Health) to the Commissioner at least thirty (30) days before and no more than ninety (90) days prior to expiration of current certification and the application shall include documentation, satisfactory to the Commissioner, that the applicant has sufficient experience or has attended one or more approved continuing education courses for backflow prevention assembly testers during the past three (3) years.

7.2.b. Testers who fail to submit an application for re-certification or submit an incomplete application within the time period stated in Subdivision 7.2.a. of this rule shall retake and pass both the written and

performance examinations in accordance with Section 6 of this rule before the applicant will be re-certified.

7.3. Revocation or suspension. The Commissioner may revoke or suspend the certificate of any person who fraudulently obtains certification, or is found to have committed neglect, incompetency or misconduct in the performance of his or her duties as a backflow prevention assembly tester, including non-compliance with this rule. Any person whose certificate is suspended must cease any inspection and testing of backflow prevention assemblies until their certification is reinstated.

7.4. Reinstatement. The Commissioner may reinstate any person whose certification has been revoked upon being presented with satisfactory evidence that all deficiencies leading to the revocation have been corrected.

§64-25-8. Reciprocity.

8.1. The Commissioner may grant West Virginia certification to a backflow prevention assembly tester certified by another jurisdiction, if written proof is presented to the Commissioner that:

8.1.a. The applicant has successfully passed a certification examination at least equivalent to that required under this rule;

8.1.b. The applicant has successfully completed a course of instruction at least equivalent to that required under this rule; and

8.1.c. The applicant meets the educational and age requirements of this rule.

§64-25-9. Compliance and Penalties.

9.1. A person subject to the provisions of this rule shall comply fully with them and shall not direct or assist another person to violate this rule.

9.2. A person who violates any provision of this rule is subject to the criminal penalties of West Virginia Code §16-1-18.

§64-25-10. Administrative Due Process.

10.1. Those persons adversely affected by the enforcement of this rule may request a contested case hearing in accordance with the Division of Health rule, "Rules and Procedures for Contested Case Hearing and Declaratory Rulings," 64CSR1.