



## Fast Track Proposed Regulation Agency Background Document

<b>Agency name</b>	Board for Asbestos, Lead, Mold, and Home Inspectors
<b>Virginia Administrative Code (VAC) citation</b>	18VAC15-40
<b>Regulation title</b>	Certified Home Inspectors Regulations
<b>Action title</b>	Remove requirement that training courses have to be taken in a classroom setting to be accepted as meeting the Certified Home Inspector entry requirements.
<b>Date this document prepared</b>	September 8, 2011

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*.

### Brief summary

*Please provide a brief summary (no more than 2 short paragraphs) of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes.*

This regulatory action will amend 18VAC15-40-30 by removing the requirement that training courses have to be taken in a classroom setting to be accepted as meeting the Certified Home Inspector entry requirements. This will allow for distance learning options including, but not limited to, online courses. The current regulations allow Continuing Professional Education to be taken outside of a classroom setting and this amendment will make the regulations regarding pre-certification training and continuing professional education requirements to be more consistent with each other.

## Statement of final agency action

*Please 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.*

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(1) The language was adopted on August 23, 2011, by the (2) Board for Asbestos, Lead, Mold, and Home Inspectors. The language will amend the (3) Certified Home Inspectors Regulations.

## 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 General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., the agency, board, or person. Describe the scope of the legal authority and the extent to which the authority is mandatory or discretionary.*

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The promulgating entity is the Virginia Board for Asbestos, Lead, Mold, and Home Inspectors.

§ 54.1-201.5 of the *Code of Virginia* (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+54.1-201>) states that the Board has the power and duty "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.

Section 54.1-501 (7) (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+54.1-501>) states that the Board shall promulgate regulations regarding the professional qualifications of home inspectors applicants, the requirements necessary for passing home inspectors examinations in whole or in part, the proper conduct of its examinations, the proper conduct of the home inspectors certified by the Board, the implementation of exemptions from certifications requirements, and the proper discharge of its duties.

The imperative form of the verb "shall" is used, making the Board's authority to regulate mandatory rather than discretionary.

## Purpose

*Please explain the need for the new or amended regulation. Describe the rationale or justification of the proposed regulatory action. Detail the specific reasons the regulation is essential to protect the health, safety or welfare of citizens. Discuss the goals of the proposal and the problems the proposal is intended to solve.*

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The fact that distance learning is not acceptable as an entry requirement but is acceptable as a renewal requirement may create confusion among the regulant population. In addition, the desire to complete distance learning courses, online courses specifically, has grown in popularity. The cost reduction from not having to travel, to find lodging, and time away from work could be substantial for some individuals.

With the advancement in technology, the number of Home Inspector online courses has increased and are readily available. At the same time, classroom courses are becoming more difficult to find compared to online courses and this creates a barrier to certification. The Board feels there will be no loss in the required skills resulting from the switch to distance learning.

**Rationale for using fast track process**

*Please explain the rationale for using the fast track process in promulgating this regulation. Why do you expect this rulemaking to be noncontroversial?*

*Please note: If an objection to the use of the fast-track process is received within the 30-day public comment period from 10 or more persons, any member of the applicable standing committee of either house of the General Assembly or of the Joint Commission on Administrative Rules, the agency shall (i) file notice of the objections with the Registrar of Regulations for publication in the Virginia Register, and (ii) proceed with the normal promulgation process with the initial publication of the fast-track regulation serving as the Notice of Intended Regulatory Action.*

The fast track process is being used to make amendments to the Board's regulation language for consistency, not to add any substantive changes to its existing regulations. The amendment also results in a less restrictive regulation.

**Substance**

*Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. (Provide more detail about these changes in the "Detail of changes" section.)*

No new substantive provisions or changes are being introduced.

**Issues**

*Please identify the issues associated with the proposed regulatory action, 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, please indicate.*

- 1) The primary advantage to the public is a more flexible training entry requirement which may allow for additional Certified Home Inspectors. There are no disadvantages to the public as pre-certification training is still a requirement.
- 2) The primary advantage to the Commonwealth is a more flexible training entry requirement which may allow for additional Certified Home Inspectors. There are no disadvantages to the Commonwealth as pre-certification training is still a requirement.

- 3) The primary advantage to those wishing to become a Certified Home Inspector is that the barrier of completing classroom instruction is removed and more flexible and more available pre-certification training options such as online course will now be accepted by the Board.

**Requirements more restrictive than federal**

*Please identify and describe any requirement of the proposal which is more restrictive than applicable federal requirements. Include 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 statement to that effect.*

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There are no requirements that exceed applicable federal requirements.

**Localities particularly affected**

*Please identify any locality particularly affected by the proposed regulation. Locality particularly affected means any locality which bears any identified disproportionate material impact which would not be experienced by other localities.*

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There are no particularly affected localities.

**Regulatory flexibility analysis**

*Please 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) the establishment of less stringent compliance or reporting requirements; 2) the establishment of less stringent schedules or deadlines for compliance or reporting requirements; 3) the consolidation or simplification of compliance or reporting requirements; 4) the establishment of 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 proposed regulation.*

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- 1) The current compliance and reporting requirements are the least stringent consistent with public protection. Reporting requirements for the amended regulations will not change from what is in effect currently. Currently, documentation must be submitted upon initial application for certification to verify training instruction. No other standard reporting requirements are created by the proposed new regulations.
- 2) The current regulation provisions and the proposed amendments do not establish schedules or deadlines for compliance or reporting requirements.
- 3) There are no compliance or reporting requirements to simplify.

- 4) The current regulations and the proposed amendments apply to individuals and not to businesses, small or otherwise.
- 5) The current regulation and the proposed amendments apply to individuals and not to businesses.

**Economic impact**

*Please identify the anticipated economic impact of the proposed new regulations or amendments to the existing regulation. When describing a particular economic impact, please specify which new requirement or change in requirement creates the anticipated economic impact.*

<p><b>Projected cost to the state to implement and enforce the proposed regulation, including (a) fund source / fund detail, and (b) a delineation of one-time versus on-going expenditures</b></p>	<p>a) Fund: NGF (0900) Program/Service Area: 560 46</p> <p>b) One-Time: No one-time costs are expected as a result of this regulatory change.</p> <p>Ongoing: No ongoing costs are expected as a result of this regulatory change.</p>
<p><b>Projected cost of the new regulations or changes to existing regulations on localities.</b></p>	<p>No change anticipated.</p>
<p><b>Description of the individuals, businesses or other entities likely to be affected by the new regulations or changes to existing regulations.</b></p>	<p>The revised regulations apply to individuals applying for home inspector certification. There were 37 applicants in fiscal year 2011.</p>
<p><b>Agency’s best estimate of the number of such entities that will be affected. Please include an estimate of the number of small businesses affected.</b> Small business means a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.</p>	<p>There are approximately 266 individuals certified as home inspectors.</p>
<p><b>All projected costs of the new regulations or changes to existing regulations for affected individuals, businesses, or other entities. Please be specific and include all costs. Be sure to include the projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses. Specify any costs related to the development of real estate for commercial or residential purposes that are a consequence of the proposed regulatory changes or new regulations.</b></p>	<p>There is no anticipated additional cost to the regulants.</p>
<p><b>Beneficial impact the regulation is designed to produce.</b></p>	<p>The regulations are being revised to remove a requirement regarding pre-certification training. The current regulations require pre-certification training be taken in a classroom setting. The revision will allow distance learning including but not limited to online courses. The desire to complete distance learning courses, online courses specifically, has</p>

	grown in popularity and the cost reduction from not having to travel, to find lodging, and time away from work could be substantial for some individuals. Also, the pre-certification requirements will then be consistent with continuing professional educational requirements which already allow training outside the classroom setting, including distance learning and online courses.
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**Board for Asbestos, Lead, Mold, and Home Inspectors**  
**Fiscal Impact of Proposed Regulation**

**Summary:**

The current Home Inspector Regulations for the Board for Asbestos, Lead, Mold, and Home Inspectors are being revised to remove a requirement regarding pre-certification training. The current regulations require pre-certification training be taken in a classroom setting. The revision will allow distance learning including but not limited to online courses. The pre-certification requirements will then be consistent with continuing professional educational requirements which already allow training outside the classroom setting, including distance learning and online courses. No fiscal impact is expected as a result of these changes.

All costs incurred in support of board activities and regulatory operations are paid by the department and funded through fees paid by applicants and licensees. All boards within the Department of Professional and Occupational Regulation 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. The department allocates costs to its regulatory programs based on consistent, equitable, and cost-effective methodologies. The board has no other source of income.

**Fiscal Impact:**

	FY 2012	FY 2013	FY2014	FY2015
Fund	NGF (0900)	NGF (0900)	NGF (0900)	NGF (0900)
Program/Service Area	560 46	560 46	560 46	560 46

Impact of Regulatory Changes:				
One-Time Costs	0	0	0	0
Ongoing Costs	0	0	0	0
Total Fiscal Impact	0	0	0	0
FTE	0.00	0.00	0.00	0.00

**Description of Costs:**

One-Time: No one-time costs are expected as a result of this regulatory change.

Ongoing: No ongoing costs are expected as a result of this regulatory change.

**Cost to Localities:** No change anticipated.

**Description of Individuals, Businesses, or Other Entities Impacted:** The revised regulations apply to individuals applying for home inspector certification. There were 37 applicants in fiscal year 2011.

**Estimated Number of Regulators:** There are approximately 266 individuals certified as home inspectors.

**Projected Cost to Regulators:** There is no anticipated additional cost to the regulators.

**Alternatives**

*Please describe any viable alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action. 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 regulation.*

No new substantive provisions or changes are being introduced. The absence of any substantive changes and the narrow scope of their applicability preclude any alternatives.

**Family impact**

*Please assess the 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.*

A family impact has not been identified.

**Detail of changes**

*Please list all changes that are being proposed and the consequences of the proposed changes. If the proposed regulation is a new chapter, describe the intent of the language and the expected impact in each section. Please describe the difference between the requirements of the new provisions and the current practice or if applicable, the requirements of other existing regulations in place.*

*If the proposed regulation is intended to replace an emergency regulation, please list separately (1) all provisions of the new regulation or changes to existing regulations between the pre-emergency regulation and the proposed regulation, and (2) only changes made since the publication of the emergency regulation.*

For changes to existing regulations, use this chart:

<b>Current section number</b>	<b>Proposed new section number, if applicable</b>	<b>Current requirement</b>	<b>Proposed change and rationale</b>
18VAC15-40-30.2.b	N/A	Current requirement is that pre-certification training instruction must be completed in a classroom setting.	<p>This proposed amendment strikes the word classroom and therefore allows pre-license training to be completed in other settings should the applicant choose, such as online.</p> <p>Online courses are becoming more popular and available in greater number, while at the same time classroom courses are increasingly hard to find. The cost reduction from not having travel, lodging, and time-away-from-work could be substantial for some individuals. The Board feels there will be no loss in the required skills resulting from the switch to distance learning.</p>