



Final Regulation Agency Background Document

Agency name	Board for Asbestos, Lead, and Home Inspectors
Virginia Administrative Code (VAC) citation	18 VAC 15-40
Regulation title	Certified Home Inspector Regulations
Action title	Regulatory Review
Date this document prepared	May 2, 2014

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of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed.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. If applicable, generally describe the existing regulation. Also, please include a brief description of changes to the regulation from publication of the proposed regulation to the final regulation.

This regulatory action will amend 18VAC15-40-90.C to remove the requirement that applicants retake the examination for those applicants whose certificates have been expired for more than two years. The amendment will eliminate a burdensome re-entry requirement while continuing to effectively protect the health, safety, and welfare of the public. There are no changes to the regulations since the publication of the proposed regulations.

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 or board taking the action, and (3) the title of the regulation.

The Board for Asbestos, Lead, and Home Inspectors adopted final Certified Home Inspector Regulations at its May 1, 2014 board meeting.

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant citations to the Code of Virginia or General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., agency, board, or person. Your citation should include a specific provision authorizing the promulgating entity to regulate this specific subject or program, as well as a reference to the agency/board/person's overall regulatory authority.

§ 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."

§ 54.1-501 of the Code of Virginia (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+54.1-501>) provides the authority for the Board to promulgate regulations for the certification of home inspectors. The content of the regulations is pursuant to the Board's discretion, but shall not be in conflict with the purposes of the statutory authority.

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 it 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.

In response to the Governor's Regulatory Reform initiative, the Board for Asbestos, Lead, and Home Inspectors reviewed its current regulations to identify, amend or repeal any regulations that are unnecessary or no longer in use and reduce unnecessary regulatory burdens on regulated groups.

Substance

Please identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. A more detailed discussion is required under the "All changes made in this regulatory action" section.

Currently, home inspectors, whose certificates have been expired for more than two years, must apply as new applicants and retake the examination. The proposed amendment will amend 18VAC15-40-90.C to remove the requirement for these individuals to retake the examination.

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 that the cost for having to retake the examination will not be passed along to the home inspector's clients. There are no disadvantages to the public since these individuals have already met the examination requirement.
- 2) This action poses no advantages or disadvantages to the Commonwealth.
- 3) The primary advantage to those home inspectors who must reapply is the elimination of the expense of having to retake the examination.

Changes made since the proposed stage

Please describe all changes made to the text of the proposed regulation since the publication of the proposed stage. For the Registrar's office, please put an asterisk next to any substantive changes.

There have been no changes to the regulations since the publication of the proposed regulations.

Public comment

Please summarize all comments received during the public comment period following the publication of the proposed stage, and provide the agency response. If no comment was received, please so indicate.

Commenter	Comment	Agency response
Fred Heppner Heppner Associates, Inc. Former ALHI Board Chair	Mr. Heppner agrees with the recommendation. The American Society of Home Inspectors does not require a member to retake the EBPHI Exam if his membership has lapsed for any amount of time.	The Board thanks Mr. Heppner and agrees with his comment.

All changes made in this regulatory action

Please list all changes that are being proposed and the consequences of the proposed changes. Describe new provisions and/or all changes to existing sections.

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
18VAC15-40-90.C	N/A	A certificate that has been expired for more than two years cannot be reinstated. The applicant is required to apply as new applicant and	The proposed amendment removes the requirement to retake the examination for any applicant who must apply as a new applicant.

		must retake the examination.	An applicant is required to pass the examination as an entry requirement. Requiring the applicant who must reapply as a new applicant to retake the examination serves no purpose and places an unnecessary and costly burden upon the applicant.
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