



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	Fee Adjustment
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of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed.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.

The proposed regulations will increase fees for the Board for Asbestos, Lead, and Home Inspectors to ensure that revenues are sufficient but not excessive to cover its ongoing operating expenses. The Board's most recent fee changes were fee decreases that were effective in 2000. The Board has incurred an increase in costs for enforcement activities, Information Systems development costs, and application processing and customer support services. Without the proposed fee increases, the Board will incur a deficit by the end of the 2012-2014 biennium and the Department will not collect adequate revenue to pay for operations.

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. 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.

- 1) § 54.1-113 (Callahan Act) requires regulatory boards to periodically review and adjust fees.
§ 54.1-201.A.4 provides the authority to regulatory boards to levy and collect fees.
§ 54.1-304.3 describes the authority of DPOR to collect and account for fees.
§ 54.1-308 requires costs to be paid by regulatory boards.
- 2) Board for Asbestos, Lead, and Home Inspectors.

All of these provisions of the Code of Virginia are mandatory.

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.

The intent of the proposed changes in regulations is to increase licensing fees for regulants of the Board for Asbestos, Lead, and Home Inspectors. The Board must establish fees adequate to support the costs of the Board operations and a proportionate share of the Department's operations. By the close of the next biennium, fees will not provide adequate revenue for those costs.

The Department of Professional and Occupational Regulation (DPOR) receives no general fund money but, instead, is funded almost entirely from revenue collected for license and certificate application fees, renewal fees, examination fees, and other licensing fees. DPOR is self-supporting and must collect adequate revenue to support its mandated and approved activities and operations. Fees must be established at amounts that will provide that revenue. Fee revenue collected on behalf of the various boards funds the Department's authorized special revenue appropriation.

The Board for Asbestos, Lead, and Home Inspectors has no other source of revenue from which to fund its operations.

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.

The Board for Asbestos, Lead, and Home Inspectors reviewed the fees listed in 18VAC15-40-50 and 18VAC15-40-52 and, based on projected revenues and expenses, developed a fee schedule that meets the requirements of the applicable statutes while being the least burdensome to the regulant population.

<u>Fee Type</u>		<u>Current Fees</u>	<u>Proposed Fees</u>
Application	Individuals	25	80
Renewal	Individuals	25	45
Late Renewal	Individuals	25	35
Reinstatement	Individuals	75	80

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.

The primary issue for the proposed fee increase is the Department's statutory requirement to comply with the Callahan Act.

Further issues to be addressed as regulations are developed include:

The Callahan Act required DPOR to review each board's expenditures at the close of each biennium, and to adjust fees if necessary. The Board for Asbestos, Lead, and Home Inspectors is expected to incur a deficit of \$82,268 by the end of the 2012-2014 biennium and a Callahan Act percentage of -11.5%.

The regulatory review process generally takes a minimum of 18 months, and so it is essential to consider fee increases now to avoid a greater deficit than currently projected. In order to address the deficit as currently projected, new fees will need to become effective by late in fiscal year 2014. Otherwise, the Board's deficit will increase to the point that the new fees would be inadequate to provide sufficient revenue for upcoming operating cycles, which could result in the Board having to consider additional fee increases in the near future.

The advantage of these changes is that the regulatory program will be able to continue to function in order to protect the public. The disadvantage is that these changes will increase the cost of the license to the regulated population; however, the impact of these changes on the income of the regulated population should not be of a great significance compared to their level of income.

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.

No public comment was received.

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
18VAC15-40-50	N/A	Application fee for home inspector certification: \$25	Application fee for home inspector certification: \$80 The adjustment of fees is mandated by statute.
18VAC15-40-52	N/A	Renewal fee for home inspector certification: \$25 Late renewal fee for home inspector certification: \$50 (\$25 renewal + \$25 late fee) Reinstatement fee for home inspector certification: \$100 (\$75 reinstatement + \$25 renewal)	Renewal fee for home inspector certification: \$45 Late renewal fee for home inspector certification: 80 (\$45 renewal + \$35 late fee) Reinstatement fee for home inspector certification: \$125 (\$80 reinstatement + \$45 renewal) The adjustment of fees is mandated by statute.