



**Virginia  
Regulatory  
Town Hall**

**Notice of Intended Regulatory Action  
Agency Background Document**

<b>Agency Name:</b>	15
<b>VAC Chapter Number:</b>	20
<b>Regulation Title:</b>	Asbestos Licensing Regulations
<b>Action Title:</b>	Pre-NOIRA
<b>Date:</b>	March 20, 2000

This information is required prior to the submission to the Registrar of Regulations of a Notice of Intended Regulatory Action (NOIRA) pursuant to the Administrative Process Act § 9-6.14:7.1 (B). Please refer to Executive Order Twenty-Five (98) and Executive Order Fifty-Eight (99) for more information.

**Purpose**

*Please describe the subject matter and intent of the planned regulation. This description should include a brief explanation of the need for and the goals of the new or amended regulation.*

The subject matter of the planned regulation amendments is to continue to establish procedures and requirements for the approval of accredited asbestos training programs; for the licensure of individuals and firms to engage in asbestos abatement work; and for the establishment of standards for performing the various aspects of asbestos related work.

The intent of the planned regulation amendments is to assure the existence of an infrastructure of trained and qualified individuals and firms to remove asbestos containing materials in such a manner so as to assure that no person is exposed to asbestos fibers.

The Virginia Board for Asbestos and Lead's (Board) existing regulations became effective on September 1, 1994. The Board's Public Participation Guidelines (PPGs) require the Board to evaluate its regulations for effectiveness and continued need at two year intervals. On February 3, 1997, the Board published a NOIRA to pursue the review required by its PPGs. The review was comprehensive and required substantial effort to address concerns raised by the Office of the Attorney General.

Executive Order 25 became effective on June 30, 1998 and mandated that certain aspects of the process be completed within specific time frames. Because of the technical and complex nature of the regulations and the concerns raised by the Attorney General, the Board was unable to comply with the deadlines set by Executive Order 25. As a result, the NOIRA was withdrawn by memorandum dated July 8, 1999.

The Board now seeks to publish a NOIRA again and to pursue the regulation revision begun in 1997.

The goal of the planned regulation amendments is to revisit the amendments developed during the regulation review started in 1997 and consider the additional comments expected during the NOIRA comment period.

### Basis

*Please identify the state and/or federal source of legal authority to promulgate the contemplated regulation. The discussion of this authority should include a description of its scope and the extent to which the authority is mandatory or discretionary. The correlation between the proposed regulatory action and the legal authority identified above should be explained. Full citations of legal authority and, if available, web site addresses for locating the text of the cited authority must be provided.*

The Board's authority to promulgate regulations for the Asbestos Licensing Program is found in Section 54.1-501 of the Code of Virginia, which mandates that the Board promulgate regulations necessary to carry out the requirements of Chapter 5 of Title 54.1 in accordance with the provisions of the Administrative Process Act to include, but not limited to, the prescription of fees, procedures, and qualifications for the issuance and renewal of licenses, and governing conflicts of interest between various categories of asbestos licenses. (For Code text, see: <http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+54.1-501>). The Board is also mandated to approve criteria for accredited asbestos training programs, for training managers and principal instructors, and to promulgate regulations governing the licensing of and the establishment of performance criteria for asbestos analytical laboratories. In addition, the Board is mandated to promulgate regulations governing project monitors on asbestos projects, the circumstances in which project monitors shall be required and the training requirements for project monitors.

The use of the imperative form of the verb (shall) makes the regulation promulgation requirement mandatory rather than discretionary.

The planned regulatory action will implement House Bill Number 951, which was passed during the 1996 Session of the Virginia General Assembly, by deleting all references to roofing, flooring and siding (RFS) contractors, inspectors and training providers, and will carefully review the existing regulations for effectiveness and continued need. (For bill text, see: <http://leg1.state.va.us/cgi-bin/legp504.exe?961+ful+CHAP0846>).

## Substance

*Please detail any changes that would be implemented: this discussion should include a summary of the proposed regulatory action where a new regulation is being promulgated; where existing provisions of a regulation are being amended, the statement should explain how the existing regulation will be changed. The statement should set forth the specific reasons the agency has determined that the proposed regulatory action would be essential to protect the health, safety or welfare of citizens. In addition, a statement delineating any potential issues that may need to be addressed as the regulation is developed shall be supplied.*

The following will be reviewed and considered for revision:

The Board is proposing to amend its existing regulations governing the licensure of asbestos professionals, laboratories, and training providers by modifying the definition section, clarifying and modifying the entry and experience requirements for licensure, and clarifying and modifying the procedures and provisions regarding renewal and reinstatement of licenses.

All references to roofing, flooring, and siding (RFS) contractors, inspectors and training providers will be deleted since RFS contractors, inspectors and training providers were deregulated during the 1996 Session of the Virginia General Assembly by House Bill Number 951. (For bill text, see: <http://leg1.state.va.us/cgi-bin/legp504.exe?961+ful+CHAP0846>).

The Board will seek public comment on its regulations in their entirety and will consider amendments to any provision that a comment suggests is necessary or appropriate.

These planned amendments to the Virginia regulations are essential to continuing the implementation of federal mandates and to address a clear and imminent threat to the health, safety and welfare of the public. Various sources have estimated that upwards of 12,000 workers will die of asbestos-related diseases every year. Most of these workers will ten to forty years after they started working with or around asbestos.

Asbestos is a naturally occurring mineral which breaks up into microscopic fibers. The fibers accumulate in the lungs and can lead to various diseases. After ten to forty years from the date of exposure asbestos can cause asbestosis, lung cancer, mesothelioma, and other cancers.

Training is vital so that personnel in the asbestos field do not run the risk of exposing themselves to a known carcinogen.

By requiring training and licensure of personnel in the asbestos abatement field, the amended regulations will help to protect the health, safety, and welfare of the public.

## Alternatives

*Please describe, to the extent known, the specific alternatives to the proposal that have been considered or will be considered to meet the essential purpose of the action.*

The Board's objective in requesting approval to publish a Notice of Intended Regulatory Action is to evaluate the burden and intrusion into commerce resulting from its regulations and determine, with the assistance of public comment, whether its existing regulatory scheme is appropriate or requires revision.

The Board will carefully consider each substantive provision in order to identify a less burdensome and intrusive alternative and will, during the process, rely heavily on the comments provided by the regulated industry and the public.

## Family Impact Statement

*Please provide a preliminary analysis of the potential 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.*

No impact on families has been identified.