



## Final Regulation Agency Background Document

<b>Agency name</b>	Board for Asbestos, Lead, and Home Inspectors
<b>Virginia Administrative Code (VAC) citation</b>	18 VAC 15-40
<b>Regulation title</b>	Certified Home Inspector 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>	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of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed.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 18VAC15-40-30 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 provisions regarding pre-certification training consistent with the provisions for continuing professional education requirements. Since the publication of the proposed regulations and as a result of public comment received, the board further amends 18VAC15-40-30 to limit the number of hours to no more than half of the required instruction course hours through distance and online education technology.

### 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.*

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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.*

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The promulgating entity is the Virginia Board for Asbestos, Lead, 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 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.*

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The Board's current regulations allow continuing education to be gained via alternative delivery methods, but do not allow initial training to be gained via alternative means. 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. By limiting the number of instructional hours from distance or online education technology to meet the entry requirements non-mandatory, the Board will be able to protect the health, safety, and welfare of the public by facilitating a knowledgeable regulant population via the mandate for

required training, but lessen the regulatory cost and burden on applicants necessary to comply with the Board’s current, classroom-only training requirements. Finally, as certification as a home inspector is not mandatory to engage in the profession, adding the regulatory burden of classroom-only instruction to a voluntary certification program has not been determined to be necessary to protect the health, safety, and welfare of the public.

**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, all instruction to meet the entry requirements for home inspector certification must be taught in a classroom setting. The amendment will allow alternative delivery methods for up to one-half of the required pre-certification training hours.

**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 increased opportunities for those providing home inspection services to obtain certification by the Board, thereby potentially resulting in a more knowledgeable, competent profession. 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 certified home inspectors is that the logistical barriers (travel costs, loss of income during training course time, etc.) that may be associated with completing classroom instruction is reduced. Potential applicants will have greater flexibility, and ideally increased availability, in course offerings.

**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.*

Section number	Requirement at proposed stage	What has changed	Rationale for change
18VAC15-	Removes the restriction	*Limits the number of hours to no	The Board agreed with

40-30.2.b	that training courses must be taken in a classroom setting to meet the entry requirements.	more than half of the required instruction course hours through distance and online education technology.	public comment indicating that a person who takes exclusively non-classroom training may be limited in the development of certain skills and knowledge necessary for certification that may be acquired through hands-on training.
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**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.*

<b>Commenter</b>	<b>Comment</b>	<b>Agency response</b>
Fred Heppner	<p>Mr. Heppner was a member of the advisory group that assisted the ALHI Board with the initial promulgation of the Certified Home Inspectors Regulations. Mr. Heppner served as one of the two initial home inspector members of the Board and served several years as the Board Chair.</p> <p>Mr. Heppner appreciates the Commonwealth's effort to bring the education requirements for regulated occupations into the 21st century by using computer based distance learning to impart the "knowledge" based portion of this education. Where distance learning fails to work properly is imparting the "skill" based education. Either classroom-based skill training must take place or an apprenticeship program employed.</p> <p>Home inspectors have skill sets that cannot be adequately taught by distance learning. Home inspectors may seriously injure both themselves and the public while walking on roofs, crawling</p>	<p>The Board thanks Mr. Heppner for his comments.</p> <p>The Board carefully considered Mr. Heppner's suggestion and concurs that a person who takes exclusively online and distance training may be limited in the development of certain skills and knowledge necessary for certification. However, the specific suggestion posed by Mr. Heppner appears to be overly restrictive and limiting for a voluntary certification program. As a compromise, the Board agreed to keep the four different options of education and experience, but allow no more than half of the required instruction course hours through distance and online education technology.</p>

	<p>through attics, removing electrical panel covers and access panels on heating equipment, or while climbing improperly erected ladders. Also, a gas furnace damaged by a careless or poorly trained inspector could injure or kill occupants of the house.</p> <p>Mr. Heppner suggests eliminating the current education requirement options and replace with:</p> <p>1) Completed 70 classroom contact hours and have completed a minimum of 50 home inspections (or 25 home inspections under the supervision of a Virginia Certified Home Inspector); or</p> <p>2) Completed a 70-hour distance learning course and have completed a minimum of 50 home inspections under the direct supervision of a Virginia Certified Home Inspector.</p> <p>By choosing the second option, the applicant would learn the skills needed through this quasi apprentice-like training.</p>	
<p>Jim Purvis</p>	<p>Mr. Purvis feels that because of the complexity of the profession, skills needed to be successful cannot be acquired solely from a textbook. He believes that such skills can only be acquired through instructor-led classroom training, hands-on inspections, and several months of mentoring by an experienced home inspector.</p>	<p>The Board thanks Mr. Purvis for his comments.</p> <p>The Board acknowledges the value of training courses taught in a classroom setting. However the Board is responsible for administering regulations in a manner that provides protection of the public in the least-burdensome and least-intrusive manner. The Board concurs that a person who takes exclusively online and distance training may be limited in the development of certain skills and knowledge necessary for certification and believes that the proposed amendment reaches a balance between the value of classroom training and reducing regulatory burdens.</p>

<p>Andy Ling</p>	<p>Mr. Ling believes that distance learning is a viable alternative to classroom instruction. He suggests that such courses, including testing methods, need to be regulated by the State of Virginia. He also suggests that applicants who have passed the National Home Inspectors Examination or an equivalent examination, should be exempt from the educational requirement.</p> <p>Mr. Ling further suggests an apprenticeship program of at least 12 weeks under a Virginia Certified Home Inspector. The applicant would be required to conduct a minimum of 50 inspections, which must be verified by the Certified Home Inspector and reviewed by the Board. The fees for such an apprenticeship program should also be set by the Board. He feels that certain skills with an emphasis on safety can only be learned in the field.</p>	<p>The Board thanks Mr. Ling for his comments.</p> <p>While his suggestions may have merit, the Board does not have the statutory authority to regulate home inspection training courses or to regulate an apprenticeship program.</p>
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**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.*

<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 replaces “classroom instruction” with “instruction courses” and therefore allows pre-license training to be completed in other settings should the applicant choose, such as online and distance learning. Additional language has been added limiting the number of hours that can be gained for alternative delivery methods to no more than half of the required instruction course hours.</p> <p>Online courses are becoming more popular</p>

			and available in greater numbers, 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.
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