



Proposed Regulation Agency Background Document

Agency name	Virginia Board for Asbestos, Lead, and Home Inspectors
Virginia Administrative Code (VAC) citation	18 VAC 15 -40
Regulation title	Certified Home Inspectors Regulations
Action title	Proposed - General Review with emphasis on the definitions, the entry, experience and practice standards as well as the consideration of adopting continuing professional education (CPE) requirements.
Date this document prepared	September 8, 2008

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 36 (2006) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

In a short paragraph, please summarize all substantive changes that are being proposed in this regulatory action.

Amendments are proposed to the definitions, the qualifications for certification, the certified home inspection contract provisions, the certified home inspection report provisions, the conflict of interest provisions, and the unworthiness and incompetence provisions. A continuing professional education requirement is being proposed. Several sections are proposed for amendment to conform to DPOR's Model Regulations and have no substantive impact.

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

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 by (1) detailing the specific reasons why this regulatory action is essential to protect the health, safety, or welfare of citizens, and (2) discussing the goals of the proposal, the environmental benefits, and the problems the proposal is intended to solve.

Purchasing a home is the largest financial decision and investment made by most Virginia citizens. A competent home inspection is critical to the purchase decision to avoid unexpected expenses.

The current regulations were the first to be promulgated under the statutory authority granted by the 2001 Session of the Virginia General Assembly and have been in effect since July 1, 2003 without amendment.

The passing of four years since initial promulgation and the Board’s experience with the current regulations led the Board to conclude that a general review as well as consideration of continuing professional education (CPE) provisions is appropriate.

The Board conducted a general review of its current regulation's provisions with emphasis on the definitions, entry standards, experience requirements, standards of practice, and the need to add continuing professional education (CPE) requirements.

Substance

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

Sixteen hours of continuing professional education (CPE) will be required during each 24-month certificate renewal cycle beginning with the certificate renewal cycle that ends two years after the amendment becomes effective.

Two definitions are added to the definition section to add to clarity by giving specific meanings to words used in the regulation language. Two definitions are deleted as the terms are not used in the regulation text.

Two new entry standards are added to allow a home inspector certificate to be issued to individuals who have completed fewer home inspections when those inspections were completed under the direct supervision of a Virginia-certified home inspector.

Amendments are made to the language allowing applicants with 10 years of home inspection experience to qualify for a certificate without classroom training. The amendments require documentation of a minimum of 250 home inspections completed in substantial compliance with the Board's regulations in order to qualify.

Amendments are made to the certificate renewal procedure which causes the act of submitting a renewal application to be submitted is an affirmation that the renewal applicant maintains the required insurance, has completed the CPE requirements, and is in continued compliance with the Board's regulations. The

current regulation is less specific. The Board's staff sends a renewal notice to expiring regulants stating that the act of returning the renewal notice is the renewal applicant's certification that he continued to maintain the required insurance and is in continued compliance with the Board's regulations. Those that apply for renewal without returning the renewal application are sent a statement to sign indicating they are in compliance. The regulation amendment will streamline the renewal process for the regulant and for Board staff by eliminating the need for documentation from the applicant to confirm compliance; renewal of the certification infers compliance.

Amendments are made to the home inspection contract section addressing the inspection for asbestos, lead-based paint, mold and radon, and the inspection of outbuildings as well as the presence of components involved in manufacturers' recalls. An amendment is also made to allow the home inspection client's authorized representative to sign the home inspection contract.

Amendments are made to the certified home inspection report section allowing the client to be represented by an authorized representative and emphasizing that the report must describe in writing the conditions of readily accessible components and readily observable defects. Amendments are also made to address certain components that are adjacent, but not attached, to the property being inspected, the inspection of garages and railings, the inspection of garage door openers, the inspection of arc fault interrupters, and the inspection of systems that are turned off, winterized, or otherwise secured.

Amendments are made to the conflict of interest section allowing certified home inspectors to perform certain types of inspections or refer clients to others only after the home inspector's involvement or interest in the property to be inspected is disclosed.

Amendments are made to the unworthiness and incompetence section empowering the Board to take disciplinary action against those home inspectors who perform home inspections when they are not qualified by training or experience to conduct the specific inspection. The amendments also empower

disciplinary action against certificate holders who fail to maintain the proficiency necessary to perform home inspections.

A number of non-substantive amendments are made to rearrange the current regulation provisions to conform to the DPOR Model Regulations.

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 the regulatory action poses no disadvantages to the public or the Commonwealth, please so indicate.

1. The primary advantage of the new and amended provisions to the public is the availability of minimally competent home inspectors using contracts designed to disclose the scope and limitations of the planned home inspection and using inspection reports that document, in writing, any defects found. Further, the public will benefit from certified home inspectors who keep up with changes in technology and other aspects of housing construction through continuing professional education (CPE). Revising contracts and inspection reports currently in use as well as completing CPE will add some costs; however, these are expected to be minor. Many regulants belong to professional organizations that already require CPE as a condition of continued membership.

2. The primary advantage to DPOR and the Commonwealth is an amended regulation that can be administered effectively and is anticipated to provide a reasonable level of public protection with a minimum intrusion into the conduct of commerce. No disadvantage has been identified.

3. No other pertinent matter of interest to the regulated community, government officials, and the public has been identified.

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.

No pertinent federal requirements have been identified.

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.

No locality has been identified as being particularly affected by the proposed regulation amendments.

Public participation

Please include a statement that in addition to any other comments on the proposal, the agency is seeking comments on the costs and benefits of the proposal and the impacts of the regulated community.

In addition to any other comments, the board/agency is seeking comments on the costs and benefits of the proposal and the potential impacts of this regulatory proposal. Also, the agency/board is seeking information on impacts on small businesses as defined in § 2.2-4007.1 of the Code of Virginia. Information may include 1) projected reporting, recordkeeping and other administrative costs, 2) probable effect of the regulation on affected small businesses, and 3) description of less intrusive or costly alternative methods of achieving the purpose of the regulation.

Anyone wishing to submit written comments may do so by mail, email or fax to **David E. Dick, Executive Director, Board for Asbestos, Lead, and Home Inspectors, 9960 Mayland Drive, Richmond, VA 23233-1485, (804) 367-2648, fax (804) 527-4297, alhi@dpor.virginia.gov**. Written comments must include the name and address of the commenter. In order to be considered comments must be received by the last date of the public comment period.

A public hearing will be held and notice of the public hearing may appear on the Virginia Regulatory Town Hall website (www.townhall.virginia.gov) and can be found in the Calendar of Events section of the Virginia Register of Regulations. Both oral and written comments may be submitted at that time.

Economic impact

Please identify the anticipated economic impact of the proposed regulation.

<p>Projected cost to the state to implement and enforce the proposed regulation, including</p>	<p>(a) NGF (0900) (b) One-Time: Printing (\$400) and mailing (\$250)</p>
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<p>(a) fund source / fund detail, and (b) a delineation of one-time versus on-going expenditures</p>	<p>costs for the notifications to the affected regulants.</p> <p>Ongoing: \$200 in CPE audit expenses are the only costs expected as a result of this regulatory change.</p> <p>These costs will be absorbed within the Board's current budget and no appropriation or fee increases are necessary.</p>
<p>Projected cost of the regulation on localities</p>	<p>No change anticipated.</p>
<p>Description of the individuals, businesses or other entities likely to be affected by the regulation</p>	<p>This regulation change will affect all Certified Home Inspectors who wish to renew or reinstate their certifications.</p>
<p>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. 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>This regulatory change will impact 256 Certified Home Inspectors.</p>
<p>All projected costs of the regulation for affected individuals, businesses, or other entities. Please be specific. Be sure to include the projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses.</p>	<p>No change in licensing fees is anticipated as a result of this regulatory change. Home Inspector regulants will have to incur the costs of 16 hours of continuing professional education every two years. The typical cost of continuing education is from \$30 to \$90 per contact hour or approximately \$480 to \$1,440 every two years. Most Certified Home Inspectors already complete the CPE requirements as part of membership in various trade organizations.</p>

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.

The Board considered a number of alternatives to the current entry standards, such as changing the number of training hours required and the number of home inspections required to qualify for a certificate. The Board considered mandating that the home inspections completed to qualify for a certification be completed under the direct supervision of a certified home inspector. Requiring all qualifying inspections to be completed under a certified individual would have a disproportionately adverse impact on applicants

in parts of the Commonwealth with few certified home inspectors available. Currently, certified home inspectors, even in parts of the Commonwealth with many certified home inspectors, might be reluctant to train a potential competitor. There is no evidence of a hazard caused by the current entry standards. The Board did determine that the number of home inspections necessary to qualify for a certification could be reduced with no adverse affect on the level of public protection if those inspections were conducted under the direct supervision of a certified home inspector. The Board is proposing amendments to the entry standards that would allow an applicant with fewer home inspections completed to qualify for a certification if the inspections were conducted under the direct supervision of a certified home inspector.

The Board considered alternatives to the current entry standard allowing 10 years of home inspection experience to substitute for the training requirement. One alternative was to eliminate the substitution entirely. This would require all home inspections conducted during the 10 years to have been conducted in compliance with the Board's regulations, and it would also require all home inspector certificate applicants to ride along or obtain mentoring from certified home inspectors before qualifying. The Board could identify no hazard created by the current 10-year standard. It felt that requiring inspections to have been completed in compliance with the Board's regulations before the Board's regulations came into effect was not reasonable. Additionally, the ride-along/mentoring alternative would have a disproportionately adverse impact on applicants in parts of the state with few certified home inspectors available. The Board decided to keep the 10-year standard, to require documentation of 250 home inspections (25 per year) during the 10-year period, and to require that the inspections be conducted in *substantial* compliance with the Board's regulations. As a result, inspections performed must be a written evaluation of the readily accessible components of a residential building as provided for in the Board's regulations in order to qualify. Inspections performed for other purposes will not qualify. The current entry standard of 35 training hours with 100 unsupervised inspections or 70 training hours with 50 unsupervised inspections remains unchanged.

The continuing professional education (CPE) requirement was popular with many in the industry (nine of the 12 individuals providing NOIRA comments favored CPE), but the Board focused on finding a public protection aspect that justified the cost. The technology found in housing is continuing to evolve, making periodic training necessary to protect the public. Many of the Board's regulants are members of professional organizations that already require CPE as a condition of continued membership. The public protection value of competent practitioners and the recognition of the importance of CPE by the regulated industry justified proposing a CPE requirement for public comment.

The Board proposed two amendments to its unworthiness and incompetence standards. The first is similar to a provision in the Professional Engineers regulations requiring a regulant to be qualified by training or experience to perform each professional task undertaken. Given the diversity of homes on the market and the real possibility that a member of the public may be harmed by a regulant taking on a job beyond his competence, the Board proposed an amendment providing for disciplinary action for a regulant who took on an inspection beyond his competence.

Similarly, the Board has proposed a regulation enabling disciplinary action against a regulant who fails to maintain proficiency through training. This answers the concern that regulants may take only CPE courses that are convenient rather than CPE courses that meet their continued competence needs.

The Board considered its conflict of interest standards. The current regulations do not allow a regulant to perform a home inspection on a property upon which the regulant has performed modification or repairs during the preceding 12 months. While no public hazard appears to have resulted from the current regulation, it appeared to the Board to be too stringent, and it appeared to remove from the public the option of choosing a home inspector that has performed repairs or modifications on the property. The Board felt that the public would be in no danger as the result of an inspection performed by a regulant, who had also repaired or modified the home, if the specifics of the regulant's work on the property were disclosed before the inspection. The public would have the opportunity to exercise due diligence in

making its hiring decision. An amendment is proposed allowing a regulant to perform an inspection upon property he had repaired or modified after disclosing the specifics of the work performed.

The current regulations also do not allow a regulant to refer a client to another party to make repairs or modifications on a property on which the regulant has performed a certified inspection within the preceding 12 months. Again, no public hazard was found, the standard appeared to be too stringent, and it removed from the public the option of hiring such a regulant after performing the appropriate due diligence. An amendment is proposed to strike the 12-month language and allow the regulant to perform an inspection upon disclosing to the client the repairs or modifications made by the party to which the regulant referred his client.

The Board was concerned that regulants may be entering into contingent agreements that tie compensation or future referrals to specific inspection results or to the sale of the property. The Board felt that such contingent agreements were not in the best interest of the public and proposes an amendment prohibiting such contingent agreements.

The Board received 12 written comments in response to its NOIRA, an unusually large number of comments for NOIRAs published by this Board, and appointed a committee to evaluate the comments. A summary of the comments received and the committee's response, which was adopted by the full Board, is found under the "Public Comment" heading below.

The Board has proposed a number of non-substantive amendments necessary to conform to the DPOR Model Regulations.

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.

The enabling statute mandates that the Board promulgate regulations that protect the public. The preceding section describes the Board’s analysis of a number of alternatives.

- 1) The current compliance and reporting requirements are the least stringent consistent with public protection.

- 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.

Public comment

Please summarize all comments received during public comment period following the publication of the NOIRA, and provide the agency response.

Commenter	Comment	Agency response
Scott E. Bolt 44 Cedar Hill Lane Verona, Virginia 24482 Owner: Class A Builder: Home Builder Partner: B&C Services of VA: Home Inspector President: Kana la'ma Ministries, Inc.: Compounding	* Home Inspectors should have as much experience and knowledge as a Class A Builder * Integrative approach in codes and home	* The home inspection is for the benefit of the client considering purchase. Therefore, while useful, it is not necessary to have the Class A Builder knowledge. * Home Inspectors are not looking for code violations, rather are

<p>Composites Pastor: Open Door Gospel Church</p>	<p>inspection standards are needed.</p> <ul style="list-style-type: none"> * Regulations prohibiting fiduciary relationships. 	<p>looking at the condition of the house for the benefit of their client. The structure would have been required to pass a building code inspection at the time of construction.</p> <ul style="list-style-type: none"> * The Board's current regulations have conflict of interest provisions to protect the client. There is no information presented to suggest that the current standards are inadequate to protect the public.
<p>Jamie R. Wilks VCHI # 3380000351 4017 N. River Road Foster, VA 23056</p>	<ul style="list-style-type: none"> * Should be mandatory licensing/certification * Minimum number of inspections performed prior to certification should be 100, regardless of training hours. * Relevant educational degrees should be considered/included in educational entry requirements. * Courses from the Virginia Building Code Academy (VBCA) should be considered for training/educational experience. * Continuing education requirements should be required for re-certification. 12-20 hours recommended. 	<ul style="list-style-type: none"> * The Board has no statutory authority to mandate that all Home Inspectors be licensed. * The Board is aware of no demonstrated harm to the public resulting from the number of inspections required by the current certification entry standards. * Educational courses covering the subject matter required by the regulations will be counted regardless of whether or not the courses were part of a curriculum that lead to a degree. No degrees have been identified that specifically prepare one to perform the specific tasks necessary; therefore, training in specific relevant subject areas was established as the entry standard. * Virginia Building Code Academy courses are accepted to the extent that they relate to the Board-approved examination. * CPE is not mandated by the Board's statutory authority for Home Inspectors. The Board is concerned that Home Inspectors maintain proficiency and stay current with changes in the industry. For this reason, the Board is proposing a regulation

	<ul style="list-style-type: none"> * Favors continuing education and believes on-line continuing education should be accepted. 	<p>amendment requiring that Certified Home Inspectors undertake only professional assignments for which they are qualified by training or experience. In addition, the Board is proposing an amendment to require 16 hours of CPE during each license period.</p> <ul style="list-style-type: none"> * Distance learning will be accepted for CPE as it will be incumbent upon the certificate holder to keep his knowledge current.
<p>Jeff Bakewell VCHI #338000290 Bakewell Home Inspections, LLC www.Virginia-HomeInspections.com 540-347-2355 bakewell.inspections@gmail.com</p>	<ul style="list-style-type: none"> * New requirements should be grandfathered. No inspector who is currently certified should be de-certified due to new regulations. * Favors continuing education and believes on-line continuing education should be accepted. 	<ul style="list-style-type: none"> * Those certified under the Board's current regulations will remain so under the amended regulations, provided that they keep their certification renewed. Those applying for original certification after the effective date of any amendments finally adopted by the Board must meet the amended requirements. * Distance learning will be accepted for CPE as it is incumbent upon the certificate holder to keep his knowledge current.
<p>Fred Simmermon President Virginia Association of Real Estate Inspectors 804-873-8534</p>	<ul style="list-style-type: none"> * Recommends the regulations encourage new inspectors to ride along or obtain mentoring from established inspectors. Feels "practicing on the public" approach is detrimental to public interest. Suggests 25 such inspections and that they be certified by a notary. 	<ul style="list-style-type: none"> * The Board is concerned that mandating supervised inspections as an entry requirement would place an unreasonable barrier to certification for those in rural or other sparsely populated areas where certified home inspectors are few and far between or may refuse to train a new inspector for fear of losing market share. For this reason, the Board will propose a regulation amendment that will maintain the current entry standards and add an additional entry standard. This additional entry standard will allow one to qualify with 70 contact hours of classroom instruction and completion of 25 home

	<ul style="list-style-type: none"> * Requests regulations prohibiting “preferred vendor programs offered by real estate companies” and the resulting fiduciary relationships. * Add definition of “adjacent” to mean structures, grading, etc., within three feet of the residential building that may affect the building to specify what aspects of the property will be included. * Add a definition of “describe.” * Delete the definition of “fireplace” as it disagrees with Webster’s, the use of the terms “vented or unvented” is inconsistent with what is not required under heating, and mixes solid fuel with gas appliances. * Found no reason to define components like “foundation” and 	<p>inspections under the direct supervision of a certified home inspector who shall certify the applicant’s completion of each inspection and shall be responsible for the inspection. The Board has no statutory authority to require that applications be made under oath, so will not require notarization. The Board may take disciplinary action against any regulant found to have made a misrepresentation on his application.</p> <ul style="list-style-type: none"> * The current regulations establish conflict of interest standards for professional conduct. The Board has no authority over the Virginia Real Estate Board or the standards they set for their regulants. * An amendment will be proposed to define “adjacent” and to make it clear that it applies only to the property being inspected in those circumstances where another property is located within three feet of the inspected property. * The Board agrees but will propose to amend the language in the regulation concerning the content of the inspection report. * The Board appreciates Mr. Simmermon’s comment, but is aware of no hazard or problem created by the existing definition. * The Board appreciates Mr. Simmermon’s comments, but feels that the definition is
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	<p>recommended deletion.</p> <ul style="list-style-type: none"> * Found no use of the term “function” in the regulation beyond the definition and suggests deletion. * Amend the definition of “inspection” to make clear that defects found are to be reported. * Add a definition for “outbuilding” to support his suggestion that outbuildings be added to the contract exclusions provision to make clear what is being excluded. * Add a definition of “representative sample” to clarify how many of a specific component (electrical outlets, kitchen cabinets, etc.) will actually be examined. * Feels the term “residential building” is outdated and suggested an amended definition. * Suggests the word “similarly” be changed to “similar” in the definition of “solid fuel burning appliances.” * Suggests the definition “structural component” should be deleted as it is not used in the regulations. * Suggests that applicants be required to complete 	<p>appropriate as it describes a destructible system that is not further described in the regulation language.</p> <ul style="list-style-type: none"> * The Board agrees and will propose deletion of the definition of “function.” * The Board agrees but will propose to amend the language in the regulation concerning the content of the inspection report. * The Board agrees and will propose the addition of a definition of “outbuilding.” * The Board appreciates Mr. Simmermon’s concern but is aware of no hazard with the current regulation provisions. This can be written into the home inspection contract. It is often difficult to determine how many items, such as electrical receptacles, are present because of furniture or other items blocking one’s observation. * “Residential building” is a term defined in the enabling statute, which the Board has no authority to amend. * “Similarly” is the correct word and the Board will propose no amendment. * The Board agrees and will propose deletion of the definition of “structural component.” * The Board appreciates Mr. Simmermon’s comment but is
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	<p>classroom training before they may begin performing home inspections that will count toward the number required for certification.</p> <ul style="list-style-type: none"> * Suggests that the provision allowing those without the classroom instruction to qualify based on 10 years of home inspection experience be amended to add a requirement of 250 inspections similar in nature to home inspections required by the current regulations. * Suggests a specific amendment to 18VAC15-40-70 C requiring 16 hours of CPE or evidence of membership in a board-approved national inspector association that required continuing education as a condition of continued membership. * Suggests 18VAC15-40-120 B be amended to require the client's address on the home inspection contract except if the address appears on the home inspection report or is unavailable at the time of the inspection. * Suggests that "components" be deleted from 18VAC15-40-120 B 7 because a listing of "systems" and "areas" is required and systems and areas are made up of components. Listing systems should be sufficient to make clear 	<p>aware of no hazard to the public resulting from the current entry standard. No amendment will be proposed.</p> <ul style="list-style-type: none"> * The current regulations became effective on May 1, 2003 and it is unreasonable to expect that anyone could provide evidence of conducting home inspections that are similar in nature to that required by the current regulations before the current regulations came into effect. The Board is proposing an amendment to require those using the 10 years of experience qualification standard to have completed a minimum of 250 home inspections in substantial compliance with the Board's regulations * The Board will propose an amendment requiring 16 hours of CPE during each license period; however, it feels that accepting evidence of association membership would be an improper delegation its regulatory authority. * The Board believes the client's address is more properly placed on the inspection report and will propose an amendment to 18VAC15-40-130 A 2 to this effect. * The Board agrees and will propose to strike the word "component."
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	<p>what is being inspected.</p> <ul style="list-style-type: none"> * Suggests adding “mold,” “lead,” and “asbestos” to the language in 18VAC 15-40-120 B 7 I (home inspection contract) to make clear at the outset whether these items will be included as a part of the home inspection and reported upon in the home inspection report. * Suggests adding to two subdivisions to 18VAC15-40-120 B 7 to require home inspectors to note as exclusions from the home inspections the following: the presence of components involved in manufacturers recalls and the inspection of outbuildings. * Suggests adding language to 18VAC 15-40-130 A 2 to delete the requirement for the client’s telephone number to appear on the home inspection report and to make it optional where to record the client’s address; on the contract or on the inspection report. * Suggests adding to 18VAC15-40-130 B language clarifying that named components will be inspected to the extent that they are readily accessible at the time of the inspection and that the inspection is not intended to be technically exhaustive, unless otherwise stated and the certificate holder is competent to make a technically exhaustive inspection. 	<ul style="list-style-type: none"> * The Board agrees and will propose the suggested amendment. The Board notes that a lawful inspection for the presence asbestos and lead-based paint must be performed by an individual with a license issued by the Board authorizing him to inspect for the presence of asbestos or lead, as appropriate. * The Board agrees and will propose the amendments. * The Board will propose an amendment recommending the words “or representative if available at the time of the inspection” after the word client. The phone number should be corresponding to the name on the report. * The Board will propose amendments to add “readily accessible” and “readily observable defects” to the language.
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	<ul style="list-style-type: none"> * Suggests the following to 18VAC15-40-130: * To B 2 d, add “if readily visible” to the language concerning roof flashings. * To B 2 g, delete “due to size or condition of structure” concerning whether an attic is to be inspected. The result will be that the attic will be inspected unless it is not readily accessible. * To B 3 a, delete “and protective coatings” as they are cosmetic and extremely subjective. * To B 3 c, add “and/or adjacent” to further describe decks, stoops, etc. and add “garages” to the list of attached/adjacent components covered by the regulation language as they are a part of the property value. * To B 3 f, delete the word “immediately” if the term “adjacent” is defined. * To B 4 a, add “or adjacent” to the language to make clear the same components are to be inspected in adjacent garages as well. * To B 4 b, add “associated railings” to the language concerning the inspection of steps, stairways and balconies. 	<ul style="list-style-type: none"> * The Board will propose an amendment to add “if readily visible” to the language. * The Board agrees and will propose an amendment to delete “due to size or condition of structure” from the language. * The Board agrees and will propose an amendment to delete “and protective coatings” from the language. * The Board agrees and will propose an amendment to add “attached or adjacent and on the same property” and “garages” to the language. * The Board agrees and will propose an amendment to delete the word “immediately” from the language. * The Board agrees and will propose an amendment to add “or adjacent” to the language. * The Board agrees and will propose an amendment to add “associated railings” to the language.
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	<ul style="list-style-type: none"> * To B 4 c, add “a representative sample” to the language concerning the inspection of installed cabinets. * To B 4 e, add language concerning safety feature testing of garage doors. * To B 4 f, add “readily accessible and visible flues” to the language describing the parts of a fireplace to be inspected. * To B 5 d, delete “heat” from “heat energy source” and add “readily accessible visible” when describing the parts of a hot water heater to be inspected. * To B 5 e, add “readily accessible” and “for visible leaks” when describing the fuel storage and delivery system. * To B 6 h, add “a representative sample of the” when describing lighting fixtures, etc., to be inspected. 	<ul style="list-style-type: none"> * The Board does not agree. This language can be put in the Home Inspector’s contract if there is a concern on behalf of the Home Inspector. * The Board agrees and will propose an amendment to add; “The automatic safety reverse function of garage door openers shall be tested, either by physical obstruction as specified by the manufacturer, or by breaking the beam of the electronic photo eye but only when, in the opinion of the inspector, the test can be safely performed and will not risk damage to the door, the opener, any nearby structure or any stored items” to the language. * The Board appreciates Mr. Simmermon’s comment, but is aware of no hazard or problem created by the existing language. * The Board agrees with the differentiation between “heat” and “heat energy source” and will propose an amendment to delete “heat” from the current language. Home inspections are limited to that which is “readily accessible visible” and repeating the phrasing here would be of little value. * The Board appreciates Mr. Simmermon’s comment, but is aware of no hazard or problem created by the existing language. * The Board does not agree. This language can be put in the Home Inspector’s contract if there is a concern on behalf of the Home Inspector.
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	<ul style="list-style-type: none"> * To B 6, add a new subsection to provide for the inspection, but not testing, of arc fault circuit interrupters, as these are a new technology being installed in houses. * To B 7 a, add “normal” before “operating controls” to add to clarity by excluding operating controls that may require a service technician. * To B 8 a, delete “installed window/wall” air conditioning and add “including the normal operating controls” to describe air conditioning equipment to be inspected as window/wall air conditioners are personal property. * To B 8 b, delete as operating controls is added to subdivision “a” (above) and access panels and covers are part of the air conditioning equipment provide for in subdivision “a”. * To B 8 c, delete as air conditioning’s energy source in Virginia is always electricity, not gas. * Add subdivision D to make clear that the home inspector cannot inspect certain items when the utilities are turned off, the property is winterized or 	<ul style="list-style-type: none"> * The Board agrees but will propose an amendment to add “Arc fault interrupters should be noted if installed but not tested if equipment is attached to them” to the existing language. * The Board appreciates Mr. Simmermon’s comment, but is aware of no hazard or problem created by the existing language. * The Board agrees and will propose an amendment to delete “window/” from the existing language. * The Board appreciates Mr. Simmermon’s comment, but is aware of no hazard or problem created by the existing language. * The Board appreciates Mr. Simmermon’s comment, but is aware of no hazard or problem created by the existing language. * The Board agrees and will propose an amendment to add Section C. “Systems or components in the home that are turned off, winterized, or otherwise secured so that they do not respond to normal activation using standard
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	<p>otherwise secured so that they cannot be tested.</p> <ul style="list-style-type: none"> * Amend 18VAC15-40-140 A to make accepting any compensation for recommending products or services to clients a ground for disciplinary action. * Amend 18VAC15-40-140 D to prohibit certified home inspectors from entering into any financial relationship with a real estate broker or other third party. * Amend 18VAC15-40-140 to add a new subsection prohibiting a certified home inspector from inspecting properties under a contingent agreement whereby any compensation or future referrals are dependent on reporting findings or on the sale of the property. 	<p>operating controls need not be put into operating condition. The home inspector should indicate in writing why these systems or components were not tested” to the existing language.</p> <ul style="list-style-type: none"> * The Board appreciates Mr. Simmermon’s comment, but is aware of no hazard or problem created by the existing language. * The current regulations establish conflict of interest standards for professional conduct. The Board has no authority over the Virginia Real Estate Board or the standards they set for their regulants. * The Board agrees and will propose an amendment to add “Inspect properties under contingent arrangements whereby any compensation or future referrals are dependent on reported findings or on the sale of a property” to the existing language.
<p>Scott Davis Southeast Home Inspections, Inc. 626 Snug Harbor Lane Newport News, VA 23606 757-930-0606</p>	<ul style="list-style-type: none"> * Asks that we use a system similar to ASHI (American Society of Home Inspectors) - offers on-line courses 	<ul style="list-style-type: none"> * CPE is not mandated by the Board’s statutory authority for Home Inspectors. The Board is concerned that Home Inspectors maintain proficiency and stay current with changes in the industry. For this reason, the Board is proposing a regulation amendment requiring that Certified Home Inspectors undertake only professional assignments for which they are qualified by training or experience. In addition, the Board is proposing an amendment to require 16 hours of CPE during each license period.

	<ul style="list-style-type: none"> * Recommends all Home Inspectors be certified. 	<ul style="list-style-type: none"> * The Board has no statutory authority to mandate that all Home Inspectors be certified.
<p>BOARD MEMBER Fred Heppner Heppner Associates, Inc. 10121 Glenmere Road Fairfax, VA 22032</p>	<ul style="list-style-type: none"> * Suggests adding a definition for “adjacent” as it is a term used, but not defined, in the regulations to distinguish what is to be inspected as opposed to outbuildings that need to be inspected. * Delete the definition of “function” as it is not used in the text of the regulations. * Add “and describe in writing a system or component by its type, composition, or other distinguishing characteristics including a description of any discovered deficiency” to the definition of “inspect.” The regulations do not specify that the inspector has to list defects seen which is an important reason for doing the inspection. * Add definition of “outbuildings” as the term is used in the regulations and requires definition to assure that the public knows which buildings are to be inspected. * Amend the definition of “residential building” to conform to the definition in the building code in use. * Delete the definition of “structural component” as it is not used in the language of the regulations. * Amend 18VAC15-40-30 2 to require 250 home 	<ul style="list-style-type: none"> * An amendment will be proposed to define “adjacent” and to make it clear that it applies only to the property being inspected, should another property be located within three feet of the inspected property. * The Board agrees and will propose deletion of the definition of “function.” * The Board agrees but will propose to amend the language in the regulation concerning the content of the inspection report. * The Board agrees and will propose the addition of a definition of “outbuilding.” * “Residential building” is a term defined in the enabling statute, which the Board has no authority to amend. * The Board agrees and will propose deletion of the definition of “structural component.” * The Board agrees and will propose the amendment.

	<p>inspections in substantial compliance with these regulations in addition to the 10 years experience to qualify for a certification. An applicant that has spent 10 years doing partial home inspections as a municipal plumbing inspector may not have the residential property inspection experience.</p> <ul style="list-style-type: none"> * Require the certificate applicant's business or the applicant's employer to show evidence of having obtained liability insurance to clear up the problem of whose name appears on the insurance documents. * Amend the renewal requirements to require certificate holders to submit evidence of 16 hours of inspection-specific CPE for every renewal period or to provide evidence of membership in a board-approved association that has a continuing education requirement of at least 16 hours. * In the provision requiring disclosure to the client of items excluded from the home inspection, add the words "radon," mold," "lead," and "asbestos" to make clear these items will not be a part of the inspection. * In the provision requiring 	<ul style="list-style-type: none"> * The Board has statutory authority only over home inspectors as individuals and is not empowered to place any requirement on the home inspector's business or employer. * CPE is not currently mandated by the Board's statutory authority for Home Inspectors. The Board is concerned that Home Inspectors maintain proficiency and stay current with changes in the industry. For this reason, the Board is proposing a regulation amendment requiring that Certified Home Inspectors undertake only professional assignments for which they are qualified by training or experience. In addition, the Board is proposing an amendment to require 16 hours of CPE during each license period. * The Board agrees and will propose the suggested amendment. The Board notes that a lawful inspection for the presence asbestos and lead-based paint must be performed by an individual with a license issued by the Board authorizing him to inspect for the presence of asbestos or lead, as appropriate. * The Board agrees and will
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	<p>disclosure to the client of items excluded from the home inspection, add “the inspection of outbuildings” to make it clear that outbuildings will not be included in the inspection.</p> <ul style="list-style-type: none"> * Amend the home inspection report provision to add “if available at the time of inspection.” The client’s current address and telephone number may not be available if the client does not attend the inspection or they may be between residences and have none. The certificate holder should not be held in violation of the regulations over these minor points. * Amend the home inspection report provision to add “readily accessible” and “readily observable” to convey that the inspector is there to report defects. Long written descriptions of installed components that are in working order do not need to be listed, only the defects that matter to the client. * In the provision describing those items to be inspected, add the words “or adjacent” when describing decks, porches, etc., and the word “garages” to make clear that both attached and adjacent garages are to be inspected unless specifically excluded in the inspection contract. * Amend the provision concerning the inspection of garage doors to include language describing the method to be used to 	<p>propose the suggested amendment.</p> <ul style="list-style-type: none"> * The Board will propose an amendment recommending the words “or representative if available at the time of the inspection” after the word client. The phone number should correspond to the name on the report. * The Board will propose an amendment to add the suggested language to the current regulation. * The Board agrees and will propose an amendment to add “or adjacent” and “garages”: to the language. * The Board agrees and will propose an amendment to add “The automatic safety reverse function of garage door openers shall be tested, either by
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	<p>inspect safety features of automatic garage door openers.</p> <ul style="list-style-type: none"> * Amend the provision concerning items to be inspected to include testing of arc fault interrupters providing there is no equipment attached to them. These are new components that may result in damage to installed equipment if tested in an occupied house. * Amend the provision concerning items to be inspected to include a statement of the manufacturer's energy efficiency rating if it is readily available on heating and air conditioning units as this may help clients determine the functionality of the system. * Amend the provision concerning the home inspection report to make clear that systems or components in a home that are turned off, winterized or otherwise secured so as not to respond to normal activation using standard operating controls need not be put into operating condition for the inspection. Many vacant homes have systems or components that cannot be operated and there are 	<p>physical obstruction as specified by the manufacturer, or by breaking the beam of the electronic photo eye but only when in the opinion of the inspector, the test can be safely performed and will not risk damage to the door, the opener, any nearby structure or any stored items" to the language.</p> <ul style="list-style-type: none"> * The Board agrees and will propose an amendment to add "Arc fault interrupters should be noted if installed but not tested if equipment is attached to them" to the existing language. * The manufacturer's energy efficiency rating only addresses the capabilities of the HVAC system installed in the home. It has little or no influence over the actual energy efficiency of the home as the construction, insulation and other similar characteristics actually determine how efficiently any given home utilizes energy. A home inspector has no reliable means of determining the energy efficiency of a structure. * The Board agrees and will propose an amendment to add Section C. "Systems or components in the home that are turned off, winterized, or otherwise secured so that they do not respond to normal activation using standard operating controls need not be put into operating condition. The home inspector should indicate in writing why these systems or components were not tested" to the existing language.
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	<p>no instructions by the home owner indicating why these are off or how to put them into working order.</p>	
<p>Jim Kasterko B-Sure Home Inspection, Inc. Dunkirk, MD 20754 410-286-8088</p>	<p>* Continuing education requirements should be required for certification.</p>	<p>* CPE is not currently mandated by the Board's statutory authority for Home Inspectors. The Board is concerned that Home Inspectors maintain proficiency and stay current with changes in the industry. For this reason, the Board is proposing a regulation amendment requiring that Certified Home Inspectors undertake only professional assignments for which they are qualified by training or experience. In addition, the Board is proposing an amendment to require 16 hours of CPE during each license period.</p>
<p>Claxton Walker & Associates 626-C Admiral Drive, #124 Annapolis, Maryland 21401</p>	<p>* Preferred that the state just require certification in an organization like ASHI rather than licensing (not effective).</p> <p>* Training classes should be required but a person should be enrolled in one while being trained on site by a seasoned inspector. Hands-on experience (apprenticeship) is essential.</p> <p>* As a prerequisite to certification, a training</p>	<p>* The Board is mandated to promulgate home inspector certification regulations. Recognizing the standards of an industry association is specifically addressed in § 54.1-517.2 of the Code of Virginia and has been implemented by the Board through its current regulations.</p> <p>* The Board is aware of no public hazard resulting from the training class and experience requirements of its current regulations. However, the Board is proposing an amendment allowing one to qualify for certification after 25 inspections provided that those inspections are conducted under the direct supervision of a certified home inspector, who shall be responsible for the inspections. The current entry standard for unsupervised inspections remains unchanged.</p> <p>* It is unclear what subject matter would be covered in a class on</p>

	<p>class in basic state laws should be required.</p> <ul style="list-style-type: none"> * Standards of practice and a code of ethics should be required * A Home Inspector has to know the details of dozens of trades. To make the transition from Contractor to Inspector you have to build your knowledge in all the trades. The ideal construction experience, the person their firm looks for, has been working, hands on in the remodeling and new home construction business for at least 10 years and has been a supervisor for at least 5 of those years. Practiced communicators and construction experience make the ideal Home Inspector. At the time of issuance of the license or certification the weaknesses of the prospect need to be identified and the prospect needs to be required to take the action necessary to remove those weaknesses within a certain time frame. A technique for measuring communications skills should be incorporated, oral and written. * Continuing Education of a minimum of 20 hours every two years should be required. 	<p>“basic laws” or what existing public hazard such study would address.</p> <ul style="list-style-type: none"> * No information is provided to suggest that the Board’s current standards of practice and conflict of interest provisions are inadequate to protect the public. * Home inspection requires a specific set of knowledge skills and abilities. Knowledge of construction trades and construction experience is useful but does not, by itself, assure a qualified home inspector. The specific experience recommended describes one path that may lead to being a qualified home inspector, but not the only one. The Board appreciates Mr. Walker’s comments but can see no information suggesting a hazard to the public resulting from its current regulations. * CPE is not currently mandated by the Board’s statutory authority for Home Inspectors. The Board is concerned that Home Inspectors maintain proficiency and stay current with changes in the industry. For this reason, the Board is proposing a regulation amendment requiring
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	<ul style="list-style-type: none"> * Protection of consumer through required disclosure of the limitations of the Home Inspection. * Protection of the Inspector by allowing a limit of liability as long as the standards and ethics have been followed. * A provision requiring that inspections can only be done by Certified Inspectors. Certification should not be optional. * A review of an Inspectors record with the public at the time of renewal with a minimum allowable complaint history. 	<p>that Certified Home Inspectors undertake only professional assignments for which they are qualified by training or experience. In addition, the Board is proposing an amendment to require 16 hours of CPE during each license period.</p> <ul style="list-style-type: none"> * The current regulations require disclosure of the limitations of a home inspection. * Limiting liability would require an amendment to the Code of Virginia, which is beyond the Board's statutory authority. * The Board has no statutory authority to mandate that all Home Inspectors be licensed. * Mr. Walker does not indicate how such a review would be conducted or what records should be consulted at renewal. A mechanism exists to notify the Board's staff of regulants that are not eligible for renewal. The Board is aware of no current hazard resulting from current renewal procedures.
<p>Andy Ling Certified and Licensed Home Inspector ASHI Certified Inspector #204853 EDI Certified EFIS Stucco Inspector and Moisture Analyst #VA 80 ESA Certified Mold Inspector #2236 Virginia State Certified Inspector # 3380 000160 Maryland State Licensed Inspector #3618787</p>	<ul style="list-style-type: none"> * Concerned with matters which hold the certified home inspector to be accountable for any kind of efficacy of electro-mechanical as well as fuel fired appliances, includes the viability of the building envelope. 	<ul style="list-style-type: none"> * A bill to this effect was proposed before the 2008 Session of the Virginia General Assembly but failed. Had the bill passed and been signed into law, the Board would have been mandated to amend its regulations to implement the legislation. The Board plans no regulation amendment concerning this issue. It should be noted that the energy efficiency of any given component is of little value to the client. The actual emergency efficiency of a home depends on many elements of

	<ul style="list-style-type: none"> * Inspectors should only determine, through readily available controls, the functional operation of such components. 	<p>its structure, design, and maintenance. A newly replaced heat pump, for example, may be the most energy efficient available but may add little to the structure's energy efficiency if the air ducts are damaged, there is no insulation, or the windows are of the old double-hung wood design. Determining the energy efficiency requires equipment and training that are well beyond the scope of a home inspection.</p> <ul style="list-style-type: none"> * The Board's current regulations require just that.
<p>Dennis DiVito Apex Home Inspections LLC 366 Mackeys Lane Fairfield, VA 24435 540-460-2580 fax: 540-261-1935 www.apexhomeinspections.biz State Certified Home Inspector # 3380000170 NACHI member #04062693</p>	<ul style="list-style-type: none"> * Does not think we should accept membership in a professional association as a replacement for educational and experience requirements. * Has found the National Home Inspection Exam is the best form of testing. * Contact classroom hours furnish a better training experience than what some of the professional organizations require. * Recommends 15 credit 	<ul style="list-style-type: none"> * The Board is mandated to promulgate home inspector certification regulations. Recognizing the standards of an industry association is specifically addressed in § 54.1-517.2 of the Code of Virginia and has been implemented by the Board through its current regulations. * The Board recognizes the National Home Inspector Examination. * The Board's current regulations require contact classroom hours, rather than distance learning, to be completed to qualify for a certification. However, with the amendments requiring regulants to conduct only inspections that they are competent to conduct and to maintain current knowledge, the Board is proposing that distance learning will be accepted for CPE. Regulants that take convenient CPE rather than choosing courses that build and maintain competency do so at their own peril. * CPE is not currently mandated

	<p>hours of CPE every two years and that the course content be for the basic knowledge needed to perform a home inspection as written in the VA standards, not courses that introduce testing equipment or an introduction to FEMA.</p> <ul style="list-style-type: none"> * Initial certification fee of \$100 and renewal fee of \$50 every two years. * State certification should be made mandatory. 	<p>by the Board’s statutory authority for Home Inspectors. The Board is concerned that Home Inspectors maintain proficiency and stay current with changes in the industry. For this reason, the Board is proposing a regulation amendment requiring that Certified Home Inspectors undertake only professional assignments for which they are qualified by training or experience. In addition, the Board is proposing an amendment to require 16 hours of CPE during each license period.</p> <ul style="list-style-type: none"> * Fees must be established and amended in compliance with § 54.1-113 of the Code of Virginia, which requires the Board’s biennial revenues to be within 10%, plus or minus, of the Board’s actual expenses. * The Board has no statutory authority to mandate that all Home Inspectors be licensed.
<p>Jamison Brown AmeriSpec Home Inspection Services 534-D Wythe Creek Road Poquoson, VA 23662 www.amerispec.net/brown Jamison.brown@gmail.com ASHI member IAEI member ICC member Virginia Certified Home Inspector # 3380000003 Chairman of ASHI’s Committee on Ethical and Professional Practices</p>	<ul style="list-style-type: none"> * Strongly believes in regulation of this industry and believes there is a need to amend entry requirements to include ongoing or continuing education 	<ul style="list-style-type: none"> * CPE is not currently mandated by the Board’s statutory authority for Home Inspectors. The Board is concerned that Home Inspectors maintain proficiency and stay current with changes in the industry. For this reason, the Board is proposing a regulation amendment requiring that Certified Home Inspectors undertake only professional assignments for which they are qualified by training or experience. In addition, the Board is proposing an amendment to require 16 hours of CPE during each license period.
<p>David Burrows Home Inspection Specialists, LLC</p>	<ul style="list-style-type: none"> * Would like to see State Certification mandatory, not voluntary 	<ul style="list-style-type: none"> * The Board has no statutory authority to mandate that all Home Inspectors be licensed.

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.

No family impact has been identified.

Detail of changes

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

If the proposed regulation is intended to replace an emergency regulation, please list separately (1) all changes 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:

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
18VAC15-40-10	None	None	Adds definition of “Adjacent” to specify the physical limits of a home inspection.
Same	None	“function”	The term “function” is proposed for deletion as it is not used in the regulation language.
Same	None	None	Adds a definition of “outbuilding” to describe structures that are more than three feet from the residential building being inspected but close enough to affect a residential building should it burn or collapse.
Same	None	“structural component”	The term “structural component” is proposed for deletion as it is not used in the regulation language.
18VAC15-40-30 (2)	None	Establishes the educational and experience requirements to qualify for a home inspector certification.	A new subpart (2) is added to allow applicants to qualify for certification with 35 contact hours of classroom training and 50 (rather than 100) inspections when those 50 inspections were completed under the direct supervision of a Virginia certified home inspector. Performing inspections under the

			supervision of a regulant will allow an individual to develop the required minimal competency more quickly.
18 VAC 15-40-30 (4)	None	Establishes the educational and experience requirements to qualify for a home inspector certification.	A new subpart (4) is added to allow applicants to qualify for certification with 70 contact hours of classroom training and 25 (rather than 50) inspections when those 25 inspections were completed under the direct supervision of a Virginia certified home inspector. Performing inspections under the supervision of a regulant will allow an individual to develop the required minimal competency more quickly.
18 VAC 15-40-30	None	Establishes an entry standard for applicants who cannot fulfill the classroom instruction requirement but have 10 years of home inspection experience.	Language is added to require an applicant to provide documentation of ten years of experience with a minimum of 250 home inspections completed in substantial compliance with the Board's regulations. The current language allows applicants to "substitute" 10 years of experience with no suggestion as to how many inspections must have been performed during that 10 years to reach minimal competency. The number 250 was arrived at as a reasonable number to expect during 10 years of experience in order to become minimally competent, provided they were inspections performed in substantial accordance with the Board's regulations. Inspections performed using other standards (such as a building official's electrical inspections) will not be viewed as qualifying.
None	18VAC15-40-45	Current requirements are found in the repealed 18VAC15-40-110 (A) which provides for license denial for the same reasons as the Board may discipline a licensee.	The amendment continues the repealed language in a new section which is amended to conform to DPOR model regulations. The amendment has no substantive impact.
None	18VAC15-40-48	Current requirements are found in the repealed provisions of 18VAC15-40-50A and the substance of 18VAC15-40-100A concerning fee requirements.	Both sections of the current regulation contained language concerning fees being nonrefundable and the date used to determine timely receipt. The substance was combined into a single regulation section that applies to all fees and requires payment to be made to the Treasurer of Virginia. The amendment conforms to DPOR model regulations. The amendment has no substantive impact.
18VAC15-40-50	None	Makes fees nonrefundable, establishes the date used	Amended to move language concerning fees to a single section (18VAC15-40-48) and

		to determine timely receipt, and establishes the application fee.	rephrased to continue to establish the application fee at \$25. The amendment has no substantive impact.
None	18VAC15-40-52	Currently the renewal and reinstatement fees are established in the repealed 18VAC15-40-100B.	Amended to move the language concerning renewal and reinstatement fees to a new section to conform to DPOR model regulations. The amendment has no substantive impact.
18VAC15-40-70A	18VAC15-40-80C	Requires certificate renewal applicants to affirm they continue to be properly insured and states that failure to maintain insurance is grounds for renewal, denial, disciplinary action, or both.	Moved the substance of the continued insurance requirement to new 18VAC15-40-80C and provides that causing a renewal application to be submitted is an affirmation that the regulant maintains the required insurance, has completed the CPE requirement, and is in continued compliance with the regulations. The language concerning grounds for disciplinary action is deleted as 18VAC15-40-190 (2) establishes misrepresentation as unworthiness and incompetence.
18VAC15-40-70 B	18VAC15-40-80B	Describes the procedure for applying for a certificate renewal.	Moved the substance to 18VAC15-40-80B, which establishes the procedures for renewal. This conforms to the DPOR model regulations and has no substantive impact.
None	18VAC15-40-72	None	Establishes a requirement for 16 hours of continuing professional education (CPE) every two years as a condition of renewal beginning two years after the amendment's effective date. The technology found in homes is evolving, making periodic training to update one's competence necessary to assure public protection. Many certificate holders undergo a similar CPE requirement in order to maintain professional organization membership. The language establishes standards for CPE subject matter, certification of completion, timeliness, and records maintenance.
18VAC15-40-80A	None	Describes the procedure used to send renewal notices and the certificate holder's obligation should the renewal notice not be received.	The single amendment adds the word "of record" following "last known home address" to clarify that the address used will be the last known address as reflected in the Board's records. The amendment is for clarification and has no substantive impact.
18VAC15-40-70B	18VAC15-40-80B	Describes the procedure for applying for a certificate renewal.	Moved the substance from 18VAC15-40-70B, which establishes the procedures for renewal. This conforms to the DPOR model regulations and has no substantive impact.

18VAC15-40-90A	18VAC15-40-85	Establishes when a late renewal fee is required in addition to the certificate renewal fee.	Moved to the new 18VAC15-40-85 as a single section establishing late renewal requirements. This conforms to the DPOR model regulations and has no substantive impact.
18VAC15-40-90B, C, & D	18VAC15-40-90A, B, & C	Establishes the standards for certificate reinstatement.	The subsections are merely renumbered, except for former C, now new B, which has language added to clarify that continuing professional education must be completed and that the procedures for renewal established in 18VAC15-40-80 must be followed. This conforms to the DPOR model regulations and has no substantive impact.
18VAC15-40-90E	18VAC15-40-105	Describes the status of a reinstated certificate holder prior to reinstatement.	The 18VAC15-40-90E language has been moved to 18VAC15-40-105 with minor rephrasing. This conforms to the DPOR model regulations and has no substantive impact.
18VAC15-40-100A	18VAC15-40-48	Current requirements are found in the repealed provisions of 18VAC15-40-50A and the substance of 18VAC15-40-100A concerning fee requirements.	Both sections of the current regulation contained language concerning fees being nonrefundable and the date used to determine timely receipt. The substance was combined into a single regulation section that applies to all fees and requires payment to be made to the Treasurer of Virginia. The amendment conforms to DPOR model regulations and has no substantive impact.
18VAC15-40-100B	18VAC15-40-52	Currently the renewal and reinstatement fees are established in the repealed 18VAC15-40-100B.	Amended to move the language concerning renewal and reinstatement fees to a new section to conform to DPOR model regulations. The amendment has no substantive impact.
18VAC15-40-100C	None	Currently provides for the establishment of an examination fee as the result of competitive negotiations under the Virginia Public Procurement Act.	The subsection is deleted in its entirety as the Board charges no examination fee. Passing one of three Board-approved examinations is an entry standard that must be met before a certificate may be issued. Applicants must show evidence of having passed a Board-approved examination to qualify for a certificate.
18VAC15-40-110B	None	Empowers the Board to deny certificate renewal or reinstatement if the regulant has not complied with the terms of an agreement, not paid monetary penalties, satisfied sanctions and paid costs imposed by the	The language is repealed in its entirety as the Board has the authority under 18VAC15-40-150 to deny for any failure to comply with its regulations. Agreements for licensure and consent orders contain sanction clauses that go into effect when the terms of an agreement or order are not met. The amendment has no substantive impact.

		Board.	
18VAC15-40-120 B 6	None	Currently requires a home inspection written contract to include a listing of specific items.	The amendment repeals the words “and components” as systems are composed of components and a system inspection report must address the condition of the entire system, including any components needing attention. Some components may not be accessible to inspect and their condition must be inferred from the function of the system as a whole.
18VAC15-40-120 B 7 l	None	Requires certain items to be excluded from the inspection contract to the extent that they are not to be inspected during the inspection.	The amendment adds “asbestos, lead-based paint, mold, [and] radon” to the exclusion language in the inspection contract. Inspection for any of these four items requires specific training or expertise or both. Given the health hazards that may result from exposure to any of them, the public is protected by a specific disclosure and may, if desired, employ properly trained individuals (which may be the certified home inspector) to determine whether these hazards exist. A lawful inspection for the presence asbestos and lead-based paint must be performed by an individual with a license issued by the Board authorizing him to inspect for the presence of asbestos or lead, as appropriate.
None	18VAC15-40-120 B 7 p	None	This is a new provision that requires contracts to state whether the presence of components involved in manufacturers recalls will be inspected and reported upon. The public will be protected by the disclosure and may negotiate with the regulant or contact another party if knowledge of recalls is desired.
None	18VAC15-40-120 B 7 q	None	This is a new provision that requires contracts to state whether outbuildings on the property will be a part of the inspection. Some clients assume that an inspection will include all structures on the property when that is not always the case. The public will benefit by knowing beforehand whether an outbuilding will be inspected.
18VAC15-40-120 B 9	None	Currently requires the signatures of both the regulant and the regulant’s client on the home inspection contract.	Language has been added to empower the client to authorize another person to act as the client’s representative in a contract transaction. Situations occur when the client cannot be present to sign the contract and will designate another to act in his stead. The public as well as the regulant benefits from additional flexibility. The client’s interests are protected through the client’s

			due diligence in selecting a representative.
18VAC15-40-130 A 2	None	Currently requires the name, address, etc., of both the regulant and the regulant’s client on the home inspection report.	This amendment is similar to the amendment above to 18VAC15-40-120 B 9 in that it provides for a client to authorize another to act in his stead. It further adds language relieving the regulant of including information that is not available to him at the time of the inspection.
18VAC15-40-130 B	None	Specifies the minimum standards for a home inspection report.	The amendments mandate that the report be provided in writing and describe the “readily accessible” and “readily observable defects.” This protects both the regulant and the public by specifying the limits of an inspection. The client is less likely to enter into the contract with an unreasonable expectation of the scope of the inspection.
18VAC15-40-130 B 2 d	None	Requires roof flashings to be inspected unless limited in the inspection contract language.	The amendment adds “if readily visible.” Roof flashings are usually at least partially covered by shingles and those defects hidden from view cannot be inspected. The client is less likely to enter into a contract with an unreasonable expectation of the scope of the roof flashing inspection.
18VAC15-40-130 B 2 g	None	Requires the attic, unless not readily accessible, to be inspected unless limited in the inspection contract language.	The amendment repeals “due to size or condition of structure” as an attic may be inaccessible for reasons other than size or condition. If the attic cannot be accessed, it cannot be accessed and the reason is moot. The client is less likely to enter into a contract with an unreasonable expectation of the scope of an attic inspection.
18VAC15-40-130 B 3 a	None	Requires specific aspects of the dwelling exterior to be inspected unless limited in the inspection contract language.	The amendment repeals “protective coatings” as they are cosmetic and extremely subjective in nature. The client is less likely to enter into a contract with an unreasonable expectation.
18VAC15-40-130 B 3 c	None	Requires the inspection of attached decks, porches, etc., unless limited in the inspection contract language.	The amendment adds “or adjacent and on the same property” to cover such structures that may not be attached but close enough to the structure as to reasonably affect the integrity of the property. The client is less likely to enter into a contract with an unreasonable expectation.
18VAC15-40-130 B 3 f	None	Requires the inspection of certain vegetation, grading, retaining walls, etc., unless limited in the inspection contract language.	The amendment repeals “immediately” before “adjacent” as the new definition of “adjacent” sets a specific standard of three feet, making the word “immediately” unnecessary. The client is less likely to

			enter into a contract with an unreasonable expectation.
18VAC15-40-130 B 4 a	None	Requires the inspection of garages, unless limited in the inspection contract language.	The amendment adds the word “adjacent” before garage to make clear that a garage within three feet (as specified in the new definition of “adjacent”) of the structure may affect the integrity of the dwelling and must be inspected unless specifically excluded from the contract. The client is less likely to enter into a contract with an unreasonable expectation.
18VAC15-40-130 B 4 b	None	Requires steps, railings, etc. to be inspected, unless limited in the inspection contract language.	The amendment adds the phrase “and associated railings” to make clear that railings are a part of steps, etc., and are to be inspected. The client is less likely to be injured by a defective railing as the client would expect the condition of the railings to be reported upon.
18VAC15-40-130 B 4 e	None	Requires garage doors to be inspected, unless limited in the inspection contract language.	The amendment adds language concerning the methods to be used to inspect the automatic safety reverse function of garage door openers and relieves the regulant of any obligation to test the safety function if it cannot be performed safely or if the test will cause damage.
18 VAC 15-40-130 B 5 d	None	Requires water heating equipment to be inspected.	The amendment deletes the word “heat” from “heat energy source” as the deleted word is redundant.
None	18VAC15-40-130 B 6 l	None	The amendment adds language requiring arc fault interrupters to be noted as present but not tested if equipment is attached to them. Testing with equipment attached can adversely affect the function of the attached equipment.
18VAC15-40-130 B 8 a	None	Requires window air conditioning equipment to be tested, unless limited in the inspection contract language.	The amendment removes the provision concerning the inspection of window air conditioners as they are personal property rather than a part of the real property. The language continues to require units installed through the wall to be inspected as it is most likely a permanent installation and, therefore, real property.
None	18VAC15-40-130 C	None	The amendment adds a new provision specifying the actions the regulant must take when a home has been winterized. The client will benefit from a full disclosure of the inspection limitations imposed by the winterization.

18VAC15-40-140 A 2	None	Currently prohibits a regulant from performing an inspection on a property to which he has made modifications or repairs during the preceding 12 months.	The amendment allows the regulant to make such inspections if he discloses to his client the specifics of the modifications or repairs he made. The client will then have the option of entering into the contract or seeking another regulant. This will have more impact in the less densely populated areas of the Commonwealth as home inspectors are often involved in repair and modification activities as the demand for home inspections is low.
18VAC15-40-140 A 3	None	Currently prohibits a regulant from referring his client to another party to make repairs to a residence on which he has made modifications within the preceding 12 months.	The amendment allows such inspections upon disclosure to the client, as in the preceding subsection.
None	18VAC15-40-140 A 5	None	The amendment adds a new subsection prohibiting a regulant from performing an inspection under a contingent agreement based on any compensation or future referrals being dependent on the outcome of the inspection or the sale of the property. Such agreements tend to shift the regulant's loyalty from the client to contingent agreement entity. The regulant's loyalty must be to the client and the client's best interest. This provision will make divided loyalty less likely and thereby protect the client.
18 VAC 15-40-140 E	None	Prohibits the regulant from using the home inspection to obtain work in another field.	The amendment changes the word "tool" to "pretext" for clarity.
18VAC15-40-190	None	The opening language establishes the following list of acts to be unworthiness and incompetence in the practice of a home inspector.	The amendment makes clear that unworthiness and incompetence are grounds for disciplinary action. This is a clarification of language.
None	18VAC15-40-190 9	None	The amendment adds a new subsection allowing discipline by the Board should a regulant perform an inspection that he is not competent to perform. The public benefits by the standard for competence set by this subsection and may be protected through disciplinary action taken against regulants who fail to comply.

None	18VAC15-40-190 10	None	The amendment adds a new subsection allowing discipline by the Board should a regulant fail to maintain his proficiency. The public benefits by the standard for competence set by this subsection and may be protected through disciplinary action taken against regulants who fail to comply.
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