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Proposed Regulation Agency Background Document

Agency name	Virginia Board Asbestos, Lead, and Home Inspectors
Virginia Administrative Code (VAC) Chapter citation(s)	18 VAC15-40
VAC Chapter title(s)	Home Inspector Licensing Regulations
Action title	SB 607 Amendment
Date this document prepared	March 13, 2023

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 19 (2022) (EO 19), any instructions or procedures issued by the Office of Regulatory Management (ORM) or the Department of Planning and Budget (DPB) pursuant to EO 19, the Regulations for Filing and Publishing Agency Regulations (1 VAC 7-10), and the *Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code*.

Brief Summary

Provide a brief summary (preferably no more than 2 or 3 paragraphs) of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation). Alert the reader to all substantive matters. If applicable, generally describe the existing regulation.

The Virginia Board for Asbestos, Lead, and Home Inspectors (“the Board”) is amending the Home Inspector Licensing Regulations to comply with the requirements of [Chapter 398](#) of the 2022 Acts of Assembly (SB 607).

The legislation requires the Board to “...update the regulations in 18VAC15-40-130 to require that a home inspection and the report on its findings include a determination of whether the home's smoke detectors are in ‘good working order,’ as defined by the Board.”

This action amends the regulation by (i) adding a definition for “good working order”; (ii) adding provisions to require that a home inspection report include a determination of whether readily accessible smoke alarms are in good working order; and (iii) adding a provision that a home inspector cannot exclude the inspection and assessment of smoke alarms from the home inspection contract. Other technical changes are made. The proposed amendments were developed and recommended by a committee of subject

matter experts with representation including licensed home inspectors, a representative of the Department of Housing and Community Development, a representative of home builders, and other individuals involved in the building industry. The committee’s recommendations were adopted by the Board.

Acronyms and Definitions

Define all acronyms used in this form, and any technical terms that are not also defined in the “Definitions” section of the regulation.

“IBC” means International Building Code.

There are no technical terms used in this form which are not defined in the regulation.

Mandate and Impetus

Identify the mandate for this regulatory change and any other impetus that specifically prompted its initiation (e.g., new or modified mandate, petition for rulemaking, periodic review, or board decision). For purposes of executive branch review, “mandate” has the same meaning as defined in the ORM procedures, “a directive from the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part.”

This regulatory change is the result of a mandate. During the 2022 General Assembly Session, the Assembly passed, and the Governor approved, SB 607 which directs the Board to “...update the regulations in 18VAC15-40-130 to require that a home inspection and the report on its findings include a determination of whether the home's smoke detectors are in ‘good working order,’ as defined by the Board.”

Legal Basis

Identify (1) the promulgating agency, and (2) the state and/or federal legal authority for the regulatory change, including the most relevant citations to the Code of Virginia and Acts of Assembly chapter number(s), if applicable. Your citation must include a specific provision, if any, authorizing the promulgating agency to regulate this specific subject or program, as well as a reference to the agency’s overall regulatory authority.

The agency is the Virginia Board for Asbestos, Lead, and Home Inspectors. Chapter 5 of Title 54.1 of the Code of Virginia enumerates the legal authority for the Board to administer the licensure program for home inspectors. Section 54.1-501 of the Code of Virginia states, in part:

The Board shall administer and enforce this chapter. The Board shall:

7. Promulgate regulations for the licensing of home inspectors not inconsistent with this chapter regarding the professional qualifications of home inspectors applicants, the requirements necessary for passing home inspectors examinations, the proper conduct of its examinations, the proper conduct of the home inspectors licensed by the Board, and the proper discharge of its duties;

In addition, [Chapter 398](#) of the 2022 Acts of Assembly directs the Board to amend its regulation to “...update the regulations in 18VAC15-40-130 to require that a home inspection and the report on its

findings include a determination of whether the home's smoke detectors are in 'good working order,' as defined by the Board."

Purpose

Explain the need for the regulatory change, including a description of: (1) the rationale or justification, (2) the specific reasons the regulatory change is essential to protect the health, safety or welfare of citizens, and (3) the goals of the regulatory change and the problems it is intended to solve.

The General Assembly has charged the Board with the responsibility for regulating those who engage in the practice of home inspection by requiring that such individuals obtain a license in order to perform home inspections on residential buildings for compensation. Home inspections are a common component of residential real estate transactions. The parties to such transactions rely on the expertise of a home inspector to provide an accurate evaluation of the condition of a home that is being purchased. The evaluation provided by a home inspector can have a significant effect on the transaction, particularly if there are substantial defects in the condition of the property. Home inspections performed by individuals who lack sufficient training and expertise expose the public to the risk of harm, which can include financial harm to home purchasers who may have to assume costs after acquiring the property to remedy defects that were not properly identified during the home inspection. Similarly, home inspections and home inspection reports that fail to meet certain minimum standards can deprive the parties to a residential real estate transaction of an accurate evaluation of the condition of a home that is being purchased.

As mandated by the General Assembly, the Board protects the public welfare, in part, by establishing through regulation the minimum qualifications for entry into the profession, as well as the minimum requirements for the provision of home inspection services.

This regulatory change mandated by the General Assembly is intended to provide additional protection to members of the public who utilize the services of a home inspector. By requiring a home inspection and report to include a determination of the working order of smoke alarms in the residential building or new residential structure, it is anticipated that smoke alarms which are not in good working order will be repaired or replaced. It is anticipated that this will help prevent loss of life or serious injury in the event there is a fire.

Substance

Briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both. A more detailed discussion is provided in the "Detail of Changes" section below.

The proposed amendments were developed and recommended by a committee of subject matter experts with representation including licensed home inspectors, a representative of the Department of Housing and Community Development, a representative of home builders, and other individuals involved in the building industry. The committee's recommendations were adopted by the Board.

The "Definitions" section (18VAC15-40-10) is amended by adding definitions for "good working order" and "smoke alarm or smoke detector." "Good working order" means that a smoke alarm (i) is securely attached; (ii) is not physically damaged; and (iii) operation of the test function is successful.

The requirements for a home inspection contract (18VAC15-40-120) are amended to add a provision that the requirements for inspection and testing of smoke alarms cannot be excluded from a home inspection contract.

The requirements for a home inspection report (18VAC15-40-130) are amended to require that a home inspection report must include a determination of whether any smoke alarms that are readily accessible in the residential building or new residential structure are in good working order, as the term is defined in the regulation. A home inspector is not required to test a smoke alarm if the alarm is part of a central alarm system, or security system, that will automatically notify a fire department or other authorities. A home inspection report must state whether a smoke alarm is not readily accessible, or if there are limitations in determining its good working order. The home inspection report must also include an advisory regarding smoke alarms.

Issues

Identify the issues associated with the regulatory change, 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, include a specific statement to that effect.

The expected advantage of the regulatory change to the public is that individuals who are informed about the condition and working order of smoke alarms in a home that is inspected will repair or replace any smoke alarms that are not in good working order. This could potentially avoid the loss of life or serious injury in the event of a fire.

There may be potential disadvantages resulting from the regulatory change. The regulatory change may result in additional costs for home inspections. Under the current regulation, a home inspector is only required to note the presence or absence of smoke detectors¹ in a home inspection report, but is not required to assess their condition or perform any testing related to their functionality. The inspection of smoke alarms to determine their good working order, including operating the smoke alarm test function, would likely cause home inspections to take longer. This may affect the number of inspections a home inspector can perform in a day. In addition, the added requirement may cause home inspectors to spend more time in preparing home inspection reports, as these reports will now have to account for the condition of each smoke alarm in a home. A possible result is that the price of a home inspection may increase. An increase in costs for home inspections may cause some individuals to forgo requesting an inspection during a real estate transaction.

An issue that the regulatory change may not address is whether the operating of a smoke alarm test function is truly determinative of whether a smoke alarm is properly functional. According to some of the public comment received following publication of the previous stage, the only way to properly test whether a smoke alarm works is to test it with smoke. Operating of the test function may only serve to demonstrate the alarm sounds.

Another issue concerns the potential for home inspectors to be subject to sanctions by local authorities for generating “false alarms” as the result of testing smoke alarms. Some smoke alarms are parts of home security systems designed to automatically contact fire and emergency services whenever an alarm activates. To the extent local fire and emergency response resources are caused to be diverted to non-emergency alarms, this may create a potential disadvantage.

Another issue concerns the extent to which a home inspector may be liable in the event of a fire at a home where the home inspector conducted an inspection and made a determination of the good working order of the smoke alarms.

¹ See note in “Detail of Changes” regarding the distinction between “smoke alarms” and “smoke detectors.”

Another issue concerns the actual repair or replacement of smoke alarms that are determined not to be in good working order. To the extent a home inspection determines the presence of smoke alarms in a home that are not in good working order, this regulation does not require the repair or replacement of such smoke alarms.

There are no known advantages or disadvantages to the agency or the Commonwealth.

Requirements More Restrictive than Federal

Identify and describe any requirement of the regulatory change which is more restrictive than applicable federal requirements. Include a specific citation for each applicable federal requirement, and 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 specific statement to that effect.

There are no applicable federal requirements.

Agencies, Localities, and Other Entities Particularly Affected

Consistent with § 2.2-4007.04 of the Code of Virginia, identify any other state agencies, localities, or other entities particularly affected by the regulatory change. Other entities could include local partners such as tribal governments, school boards, community services boards, and similar regional organizations. "Particularly affected" are those that are likely to bear any identified disproportionate material impact which would not be experienced by other agencies, localities, or entities. "Locality" can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulation or regulatory change are most likely to occur. If no agency, locality, or entity is particularly affected, include a specific statement to that effect.

Other State Agencies Particularly Affected

No other state agencies are particularly affected by the regulatory change.

Localities Particularly Affected

No localities are particularly affected by the regulatory change.

Other Entities Particularly Affected

No other entities are particularly affected by the regulatory change.

Economic Impact

Consistent with § 2.2-4007.04 of the Code of Virginia, identify all specific economic impacts (costs and/or benefits) anticipated to result from the regulatory change. When describing a particular economic impact, specify which new requirement or change in requirement creates the anticipated economic impact. Keep in mind that this is the proposed change versus the status quo.

The Virginia Board for Asbestos, Lead, and Home Inspectors proposes to amend the Home Inspector Licensing Regulations to comply with the requirements of Chapter 398 of the 2022 Acts of Assembly (SB 607). This action amends the regulation by adding a definition for good working order of smoke alarms, requiring that a home inspection report include a determination of whether readily accessible smoke

alarms are in good working order and adding a provision that a home inspector cannot exclude the inspection and assessment of smoke alarms from the home inspection contract. Home inspector individuals and licensees who are owners or employees of business entities are considered as small businesses may be affected by this change. There is no direct economic or fiscal impact to other state agencies.

All costs incurred in support of board activities and regulatory operations are paid by the Department of Professional and Occupational Regulation (DPOR) and funded through fees paid by applicants and regulants. All boards within DPOR must operate within the Code provisions of the Callahan Act (§ 54.1-113), and the general provisions of § 54.1-201. Each regulatory program's revenues must be adequate to support both its direct costs and a proportional share of agency operating costs. DPOR allocates costs to its regulatory programs based on consistent, equitable, and cost-effective methodologies. The Board has no other source of income.

Impact on State Agencies

<i>For your agency:</i> projected costs, savings, fees, or revenues resulting from the regulatory change, including: a) fund source / fund detail; b) delineation of one-time versus on-going expenditures; and c) whether any costs or revenue loss can be absorbed within existing resources.	There are no savings and no changes to costs, fees, or revenues of DPOR resulting from this regulatory change.
<i>For other state agencies:</i> projected costs, savings, fees, or revenues resulting from the regulatory change, including a delineation of one-time versus on-going expenditures.	There are no savings and no changes to costs, fees, or revenues of other state agencies resulting from this regulatory change.
<i>For all agencies:</i> Benefits the regulatory change is designed to produce.	There are no benefits to agencies from this regulatory change.

Impact on Localities

If this analysis has been reported on the ORM Economic Impact form, indicate the tables (1a or 2) on which it was reported. Information provided on that form need not be repeated here.

Projected costs, savings, fees, or revenues resulting from the regulatory change.	There are no savings and no changes to costs, fees, or revenues of localities resulting from this regulatory change.
Benefits the regulatory change is designed to produce.	None.

Impact on Other Entities

If this analysis has been reported on the ORM Economic Impact form, indicate the tables (1a, 3, or 4) on which it was reported. Information provided on that form need not be repeated here.

Description of the individuals, businesses, or other entities likely to be affected by the regulatory change. If no other entities will be affected, include a specific statement to that effect.	All individuals licensed as home inspectors and consumers who make use of home inspection services are affected. Buyers and sellers of real estate, and real estate firms could also be affected. No other entities are anticipated to be affected by the change.
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<p>Agency's best estimate of the number of such entities that will be affected. Include an estimate of the number of small businesses affected. Small business means a business entity, including its affiliates, that:</p> <p>a) is independently owned and operated, and;</p> <p>b) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.</p>	<p>As of January 1, 2023, there are 1,137 licensed home inspectors. Many licensed home inspectors are owners or employees of business entities that are considered small businesses.</p>
<p>All projected costs for affected individuals, businesses, or other entities resulting from the regulatory change. Be specific and include all costs including, but not limited to:</p> <p>a) projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses;</p> <p>b) specify any costs related to the development of real estate for commercial or residential purposes that are a consequence of the regulatory change;</p> <p>c) fees;</p> <p>d) purchases of equipment or services; and</p> <p>e) time required to comply with the requirements.</p>	<p>a) Individuals and small businesses may realize additional costs for home inspections due to this change, b) There are no real estate development costs resulting from the change, c) There are no fees related to the change, d) No equipment or services are needed to be purchased from this change, and e) Inspections of smoke alarms to determine good working order, including operating the smoke alarm test function, would likely cause home inspections to take longer, which could cause the inspection cost to the consumer to increase.</p>
<p>Benefits the regulatory change is designed to produce.</p>	<p>The benefit of the regulatory change would be to allow affected individuals to inform the public about the condition and working order of smoke alarms in a home that is inspected. Also, allow the public to repair or replace any smoke alarm that are not in good working order. This would avoid the loss of life or serious injury in the event of a fire. Thus, protecting the health, safety, and welfare of citizens.</p>

Alternatives to Regulation

Describe any viable alternatives to the regulatory change that were considered, and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the regulatory change. 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 regulatory change.

Home inspector licenses are issued to individuals, and not to business entities. However, many licensed home inspectors are likely owners or employees of business entities that meet the definition of "small business" in § 2.2-4007.1 of the Code of Virginia.

This regulatory action is the result of a legislative mandate which requires the Board to amend the regulation. As a result, the agency did not consider any alternatives to the regulatory change.

To the extent the legislation gave the agency discretion in making the regulatory change, such as defining the term "good working order," the agency's review and development of the amendments took into consideration the potential additional burdens that would be placed on regulants. The proposed amendments were determined to impose the least burden, while still fulfilling the objectives of the legislation.

If this analysis has been reported on the ORM Economic Impact form, indicate the tables on which it was reported. Information provided on that form need not be repeated here.

Regulatory Flexibility Analysis

Consistent with § 2.2-4007.1 B of the Code of Virginia, 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) establishing less stringent compliance or reporting requirements; 2) establishing less stringent schedules or deadlines for compliance or reporting requirements; 3) consolidation or simplification of compliance or reporting requirements; 4) establishing 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 regulatory change.

Home inspector licenses are issued to individuals, and not to business entities. However, many licensed home inspectors are likely owners or employees of business entities that meet the definition of "small business" in § 2.2-4007.1 of the Code of Virginia.

This regulatory action is the result of a legislative mandate which requires the Board to amend the regulation. As a result, the agency did not consider any alternative regulatory methods. The legislation did not provide for the exemption of small businesses from the regulatory requirements.

If this analysis has been reported on the ORM Economic Impact form, indicate the tables on which it was reported. Information provided on that form need not be repeated here.

Periodic Review and Small Business Impact Review Report of Findings

If you are using this form to report the result of a periodic review/small business impact review that is being conducted as part of this regulatory action, and was announced during the NOIRA stage, indicate whether the regulatory change meets the criteria set out in EO 19 and the ORM procedures, e.g., is necessary for the protection of public health, safety, and welfare; minimizes the economic impact on small businesses consistent with the stated objectives of applicable law; and is clearly written and easily understandable. In addition, as required by § 2.2-4007.1 E and F of the Code of Virginia, discuss the agency's consideration of: (1) the continued need for the regulation; (2) the nature of complaints or comments received concerning the regulation; (3) the complexity of the regulation; (4) the extent to which the regulation overlaps, duplicates, or conflicts with federal or state law or regulation; and (5) the length of time since the regulation has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the regulation. Also, discuss why the agency's decision, consistent with applicable law, will minimize the economic impact of regulations on small businesses.

This action is not being used to conduct a periodic review or small business impact review.

Public Comment

Summarize all comments received during the public comment period following the publication of the previous stage, and provide the agency's response. Include all comments submitted: including those

received on Town Hall, in a public hearing, or submitted directly to the agency. If no comment was received, enter a specific statement to that effect.

Commenter	Comment	Agency response
<p>Greg Kemp, PE, Kemp Home Inspections, LLC (Comment received by email.)</p>	<p>The commenter questioned what the meaning of “good working order” will be.</p> <p>The commenter noted that smoke detectors cannot be truly tested without smoke, which cannot be used during a home inspection. He cannot ensure good working order of a smoke detector, and will recommend replacing all detectors upon move in.</p>	<p>The Board thanks the commenter and will consider this comment prior to adoption of proposed regulation.</p>
<p>Bob Sisson, ACI, BVI, Inspections by Bob (Comment received by email.)</p>	<p>The commenter noted that smoke alarms have sounders and smoke detectors do not. Smoke detectors are typically used in centralized alarm systems.</p> <p>The commenter relayed his prior experiences in testing smoke alarms/smoke detectors. The commenter stopped using certified smoke in a can due to complaints. The commenter noted challenges in testing alarm systems, including hidden keypads and silent alarms. The commenter indicated he has been warned by emergency responders on multiple occasions about “false alarms.” The commenter also indicated that some older alarms will not reset once they start sounding.</p> <p>The commenter indicated his practice is to note presence, or absence, of detectors, and will note if he sees older, discolored, painted, missing, open, or damaged detectors. He will describe these in the report and disclaim them. The owner, realtor, or buyer may test the detectors.</p> <p>The commenter indicated there would be an “ugly revolt” when inspectors, realtors, and owners are subject to fines because systems must be tested. The commenter indicated that in some</p>	<p>The Board thanks the commenter and will consider this comment prior to the adoption of the proposed regulation.</p>

	<p>jurisdictions, an alarm must be responded to an alarm is triggered even if the alarm is cleared or disabled.</p> <p>The commenter acknowledged the importance of smoke alarms/smoke detectors, but stated implementation needs to consider the reality of what inspectors see in the field.</p>	
<p>R. Sean Troxell, ACI, JD Grewell & Associates, Inc. (Comment received by email.)</p>	<p>The commenter noted that determining the working order of a smoke detector is not possible during a home inspection and would require filling the sensor with smoke. This type of testing is beyond the scope of a home inspection in all jurisdictions and all professional standards.</p> <p>The commenter noted that determination of “good working order” is beyond what a local fire department is capable and willing to do. The pushing of the test button only verifies the alarm is operating, not that the detector is operating.</p> <p>The commenter indicated home inspectors would assume liability as the result of the requirements, and that every house fire injury associated with an inspection would result in litigation.</p> <p>The commenter indicated that home inspectors could be subject to fines due to “nuisance responses” when testing alarms in home security systems that result in a fire department response. The commenter questioned how inspectors are supposed to coordinate inspections with emergency personnel.</p> <p>The commenter stated the amendment was unrealistic, unfair to home inspectors, sets an unrealistic expectation for the public, and would harm the industry and the public.</p>	<p>The Board thanks the commenter and will consider this comment prior to the adoption of the proposed regulation.</p>

	<p>The commenter indicated that the definition of “good working order” should be limited to the proper placement of smoke detectors.</p>	
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Public Participation

Indicate how the public should contact the agency to submit comments on this regulation, and whether a public hearing will be held, by completing the text below.

The Virginia Board for Asbestos, Lead, and Home Inspectors is providing an opportunity for comments on this regulatory proposal, including but not limited to (i) the costs and benefits of the regulatory proposal, (ii) any alternative approaches, (iii) the potential impacts of the regulation, and (iv) the agency’s regulatory flexibility analysis stated in that section of this background document.

Anyone wishing to submit written comments for the public comment file may do so through the Public Comment Forums feature of the Virginia Regulatory Town Hall web site at: <https://townhall.virginia.gov>.

Comments may also be submitted by mail, email or fax to:

Joseph C. Haughwout, Jr.
 Regulatory Administrator
 9960 Mayland Drive
 Perimeter Center, Suite 400
 Richmond, VA 23233
ALHI@dpor.virginia.gov
 (866) 350-5354 (fax)

In order to be considered, comments must be received by 11:59 pm on the last day of the public comment period.

A public hearing will be held following the publication of this stage, and notice of the hearing will be posted on the Virginia Regulatory Town Hall website (<https://townhall.virginia.gov>) and on the Commonwealth Calendar website (<https://commonwealthcalendar.virginia.gov/>). Both oral and written comments may be submitted at that time.

Detail of Changes

List all regulatory changes and the consequences of the changes. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. For example, describe the intent of the language and the expected impact. Describe the difference between existing requirement(s) and/or agency practice(s) and what is being proposed in this regulatory change. Use all tables that apply, but delete inapplicable tables.

If an existing VAC Chapter(s) is being amended or repealed, use Table 1 to describe the changes between the existing VAC Chapter(s) and the proposed regulation. If the existing VAC Chapter(s) or sections are being repealed and replaced, ensure Table 1 clearly shows both the current number and the new number for each repealed section and the replacement section.

Table 1: Changes to Existing VAC Chapter(s)

Current chapter-section number	New chapter-section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
40-10	N/A	<p>Incorporates by reference applicable definitions from §§ 54.1-500 and 54.1-517.2:1 of the Code of Virginia. Adds definitions that are necessary to make the regulation clear and understandable, and provides definitions for other specific terms used throughout the regulation.</p>	<p>Adds a definition for “good working order” which means, with respect to a smoke alarm inspected during a home inspection, that the smoke alarm (i) is securely attached, (ii) is not physically damaged; and (iii) operation of the test function is successful.</p> <p>The legislation required the Board to define the term “good working order.” This definition is based on input from members of the regulatory review committee that developed the proposed amendments for the Board’s consideration. The meaning of the term is designed to fit the intended goal of the legislation.</p> <p>Adds a definition for “smoke alarm” or “smoke detector.” During review and development of this action, it was discovered that the terms “smoke alarm” and “smoke detector” refer to different types of devices in the IBC. A smoke detector is a device that senses particles of combustion, but does not contain control components and an alarm notification appliance. Smoke detectors are typically components of security systems.</p> <p>Most homes have smoke alarms, which are alarms that are responsive to smoke.</p> <p>This amendment defines the term “smoke alarm” based on the definition found in the IBC, which means a single station or multiple station alarm responsive to smoke.</p> <p>The current regulation and the legislation both use the term “smoke detector” when the appropriate term to use is “smoke alarm.” In order to address this inconsistency, the term “smoke detector” when used in the regulation actually refers to “smoke alarm.”</p>

40-120	N/A	<p>This section outlines the minimum standards and requirements for home inspection contracts.</p> <p>Contracts must be in writing, and signed by the parties. Contracts must clearly specify terms, conditions, limitations, and exclusions to the work the home inspector will perform.</p> <p>Contracts must contain certain information pertaining to (i) the home inspector, including name, contact information, and license information; (ii) the client; (iii) the property to be inspected; (iv) cost; and (v) the scope of the home inspection. Contracts must also contain the estimated delivery date of the home inspection report.</p> <p>Contracts must also contain a provision that the home inspection is not an inspection for regulatory compliance, such as compliance with the USBC or local ordinances.</p> <p>The section details several matters that, if not included as part of the inspection, must be disclosed as being exclusions to the contract. These include (i) non-accessible components or systems; (ii) the remaining life of systems or components; (iii) suitability of the property for any specialized use; (iv) market value of the property or marketability; and (v)</p>	<p>Adds a new subsection that provides that the smoke alarm inspection requirements cannot be excluded from a home inspection contract.</p> <p>As provided in statute², a home inspection may be limited in scope as provided in a home inspection contract. The regulation requires that to the extent any items are not covered by a home inspection, they must be noted as exclusions in a home inspection contract.</p> <p>The regulatory review committee was concerned that home inspectors could evade the requirement to determine whether smoke alarms are in good working order by excluding the inspection/determination of smoke alarms from the scope of a home inspection; thereby defeating the purpose of the legislation.</p>
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^{2 3} Section 54.-500 states, in part: "Home inspection" means any inspection of a residential building for compensation conducted by a licensed home inspector. A home inspection shall include a written evaluation of the readily accessible components of a residential building, including heating, cooling, plumbing, and electrical systems; structural components; foundation; roof; masonry structure; exterior and interior components; and other related residential housing components. A home inspection may be limited in scope as provided in a home inspection contract, provided that such contract is not inconsistent with the provisions of this chapter or the regulations of the Board."

		<p>advisability of the purchase of the property.</p> <p>Contracts must also disclose in writing that the inspection is based on upon visual observation of existing conditions at the time of inspection, and are not intended to be construed as a guarantee, warranty, or a form of insurance.</p> <p>In cases where a home inspector recommends a person to a client to perform repairs or modifications to the inspected property, the contract must disclose any financial interest the home inspector has with the person whom the inspector recommends.</p>	
40-130	N/A	<p>This section outlines the minimum standards and requirements for home inspection reports.</p> <p>Home inspection reports must contain (i) certain information pertaining to the licensee, including the licensee’s name, address, and license information; (ii) certain information pertaining to the client; (iii) the address of the home that is inspected; and (iv) the date and time of the inspection, and weather conditions at the time of inspection.</p> <p>The section details the systems and components of a home that, unless limited by the home inspection contract, are to be inspected and included in the home inspection report. The home inspector must describe the composition and characteristics of the readily accessible systems and</p>	<p>Adds a new subsection to require that a home inspection report include a determination of whether readily accessible smoke alarms are in “good working order” as defined in the regulation.</p> <p>A home inspector would not be required to make a determination for any smoke alarms that are not readily accessible, as defined in the regulation. “Readily accessible” means available for access without requiring moving or removing of any obstacles. As provided in statute³, a home inspection only includes an inspection of readily accessible components of a residential building.</p> <p>The new subsection provides that a home inspector is not required to operate the test function of a smoke alarm if the alarm is part of a central system or security system where testing would automatically alert a fire department or other authority. If the home inspector is unable to determine whether testing will cause an automatic alert, the home inspector is not required to operate the test function.</p>

		<p>components, and describe readily observable defects of the same.</p> <p>The section provides that a home inspector is not required to put into operation systems that are turned off, winterized, or secured so as to not respond to normal activation.</p> <p>The section further provides that if a home inspector observes yellow corrugated stainless steel tubing (defined in § 54.1-517.2:1 of the Code of Virginia) in a home built prior to the adoption of the 2006 Virginia Construction Code, the home inspector must include this observation in the inspection report, along with a statement required by § 54.1-517.2:1 of the Code of Virginia.</p>	<p>This provision was added to address concerns about fire departments and other emergency responders responding to what essentially would be a “false alarm” if a home inspector tested an alarm that automatically alerts authorities. These concerns were raised at the regulatory review committee meeting, and similar concerns were also expressed in public comments received.</p> <p>The new subsection provides that if a smoke alarm is not readily accessible, or there are limitations in determining whether it is in good working order, then the home inspection report must state that the smoke alarm is not readily accessible or describe the limitations, as the case may be. Including this provision provides transparency to a home inspector’s client as to what smoke alarms could not be inspected or determined to be in good working order.</p> <p>The new subsection also requires the home inspection report to include a statement that provides an advisory. This statement must advise (i) that it is recommended a home have smoke alarms on each level of the dwelling, and in every bedroom or sleeping area; (ii) that clients should replace any existing smoke alarms that are not in good working order with new ones, and install smoke alarms where smoke alarms may be missing or not properly located; (iii) any test of a smoke alarm during a home inspection only reflects its condition at the time of inspection, and is not a guarantee, warranty, or any form of insurance; (iv) a test performed during the home inspection does not supersede the smoke alarm manufacturer’s testing recommendations; and (v) that clients should follow the manufacturer’s instructions for proper placement, installation, and maintenance of smoke alarms.</p> <p>The advisory statement provision was included to address concerns about potential liability for home inspectors as the result of the requirement to determine whether smoke alarms are in good working order. The advisory statement is derived, in part, from</p>
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			<p>language recommended by the Virginia Association of Real Estate Inspectors for home inspectors to include as part of home inspection reports.</p> <p>In subsection B, the term “smoke detectors” is replaced with “smoke alarms.”</p>
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