



Virginia  
Regulatory  
Town Hall

## Final Regulation Agency Background Document

<b>Agency Name:</b>	15
<b>VAC Chapter Number:</b>	40
<b>Regulation Title:</b>	Virginia Certified Home Inspectors Regulations
<b>Action Title:</b>	Promulgating
<b>Date:</b>	January 22, 2003

Please refer to the Administrative Process Act (§ 9-6.14:9.1 *et seq.* of the *Code of Virginia*), Executive Order Twenty-Five (98), Executive Order Fifty-Eight (99) , and the *Virginia Register Form, Style and Procedure Manual* for more information and other materials required to be submitted in the final regulatory action package.

### Summary

*Please provide a brief summary of the new regulation, amendments to an existing regulation, or the regulation being repealed. There is no need to state each provision or amendment; instead give a summary of the regulatory action. If applicable, generally describe the existing regulation. Do not restate the regulation or the purpose and intent of the regulation in the summary. Rather, alert the reader to all substantive matters or changes contained in the proposed new regulation, amendments to an existing regulation, or the regulation being repealed. Please briefly and generally summarize any substantive changes made since the proposed action was published.*

The regulations establish entry, renewal, and reinstatement requirements for certification by the Board for a voluntary certification program for home inspectors established by House Bill 2174 of the 2001 Session of the Virginia General Assembly. The proposed regulations also establish minimum standards for conducting certified home inspections as well as standards of conduct and practice.

This will be the first set of regulations for certified home inspectors. There are no existing regulations to amend.

The following are the substantive changes in the regulations since the proposed action was published:

- The time limit for accepting a professional home inspector association membership as having met the Board’s entry requirements was eliminated since § 54.1-517.2 of the Code of Virginia places no time restraints for this provision.
- Language was added to allow the certificate holder to perform work which is unrelated to any findings in the inspection report on property on which he performed a home inspection.
- Language was added to prevent someone from inspecting their own repairs or modifications.
- Language was added to allow a certificate holder to disclose any result of the inspection if there appears to be any imminent threat to life or health.
- Language was added to not prevent a certificate holder from performing other tests (i.e., radon) on property he has conducted a home inspection.
- In the listing of required components to be inspected during the certified home inspection, the terms “all” and “every” were replaced with “readily accessible.” All/every component may not be accessible and therefore cannot be inspected. However, these situations should be noted in the certified home inspection report.
- An exception was added to allow the certified home inspector to perform improvements and repairs on a residence which he purchases after conducting a certified home inspection.

**Statement of Final Agency Action**

*Please provide a statement of the final action taken by the agency: including the date the action was taken, the name of the agency taking the action, and the title of the regulation.*

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The Board for Asbestos, Lead, and Home Inspectors adopted the proposed Certified Home Inspectors Regulations as a final regulation on December 17, 2002.

**Basis**

*Please identify the state and/or federal source of legal authority to promulgate the regulation. The discussion of this statutory authority should: 1) describe its scope and the extent to which it is mandatory or discretionary; and 2) include a brief statement relating the content of the statutory authority to the specific regulation. In addition, where applicable, please describe the extent to which proposed changes exceed federal minimum requirements. Full citations of legal authority and, if available, web site addresses for locating the text of the cited authority, shall be provided. If the final text differs from that of the proposed, please state that the Office of the Attorney General has certified that the agency has the statutory authority to promulgate the final regulation and that it comports with applicable state and/or federal law.*

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House Bill 2174 passed by the 2001 Session of the Virginia General Assembly and signed into law by Governor James S. Gilmore III became effective on July 1, 2001. HB 2174 establishes a

voluntary certification program for home inspectors. The legislation mandates that regulations be promulgated for implementation on or before July 1, 2003.

The Board's authority to promulgate the proposed regulations is contained in Section 54.1-201 and Section 54.1-501 of the Code of Virginia. This authority has a delayed implementation date of July 1, 2003.

The imperative form of the verb "shall" is used in the statute making the rulemaking provisions mandatory rather than discretionary.

Subsection 7 of Section 54.1-501 states the Board shall "Promulgate regulations for certification of home inspectors not inconsistent with this chapter 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 web site address for location of the text of the cited authority is: <http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+54.1-501>.

Requirements for certification are established in Section 54.1-517.2 of the Code of Virginia.

"The Board may issue a certificate to practice as a certified home inspector in the Commonwealth to any applicant who has submitted satisfactory evidence that he has successfully:

1. Completed any educational requirements as required by the Board;
2. Completed any experience requirements as required by the Board; and
3. Passed any written or electronic examination offered or approved by the Board.

The Board may issue a certificate to practice as a certified home inspector to any applicant who is a member of a national or state professional home inspectors association approved by the Board, provided that the requirements for the applicant's class of membership in such association are equal to or exceed the requirements established by the Board for all applicants."

The web site address for location of the text of the cited authority is: <http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+54.1-517.2>.

By memorandum dated January 22, 2003, the Office of the Attorney General stated that the Board has the authority to promulgate the final regulations under Sections 54.1-201(5) and 54.1-501 of the Code of Virginia and that it comports with applicable state law.

## Purpose

*Please provide a statement explaining the need for the new or amended regulation. This statement must include the rationale or justification of the final regulatory action and detail the specific reasons it is essential to protect the health, safety or welfare of citizens. A statement of a general nature is not acceptable, particular rationales must be explicitly discussed. Please include a discussion of the goals of the proposal and the problems the proposal is intended to solve.*

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The intent of the planned regulation is to assure potential clients of home inspectors that individuals issued a certification by the Board have met the minimum requirements to properly conduct a “certified home inspection.” Section 54.1-517.1 of the Code of Virginia prohibits persons from referring to an inspection conducted as a “certified home inspection” or holding themselves out as, or use the title of “certified home inspector” unless they have been issued a certification by the Board. Any person who has not been issued a certification by the Board and is offering to provide or conduct a “certified home inspection” through verbal claim, sign, advertisement, or letterhead representing himself as a “certified home inspector” shall be subject to the provisions of Section 54.1-111.

The goal of the proposed regulations is to establish specific criteria for certification, and to establish the minimum standards by which an individual must follow to conduct a “certified home inspection.”

## Substance

*Please identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. Please note that a more detailed discussion is required under the statement of the regulatory action’s detail.*

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The following is a summary of the substance of the proposed regulations.

Section 18 VAC 15-40-10 defines terms used in the proposed regulations.

Section 18 VAC 15-40-20 indicates who must be certified.

Section 18 VAC 15-40-30 outlines the specific entry requirements for certification.

Section 18 VAC 15-40-40 describes other services and situations which may constitute a conflict of interest for a certified home inspector.

Section 18 VAC 15-40-50 gives the Board discretion to waive, on a case-by-case basis, any requirement of the regulations provided it does not lessen the protection of the public health, safety and welfare.

Section 18 VAC 15-40-60 establishes the application fee.

Sections 18 VAC 15-40-70 through 18 VAC 15-40-120 gives requirements, procedures and fees for certification renewal and reinstatement, as well as establishes an examination fee.

Section 18 VAC 15-40-130 indicates the need for a certified home inspection contract and lists the minimum content requirements of same.

Section 18 VAC 15-40-140 lists minimum content requirements of the certified home inspection report and indicates which components must be inspected.

Sections 18 VAC 15-40-150 through 18 VAC 15-40-190 details the standards of conduct and practice for the certified home inspector.

### Issues

*Please provide a statement identifying the issues associated with the final regulatory action. The term "issues" means: 1) the advantages and disadvantages to the public of implementing the new provisions; 2) the advantages and disadvantages to the agency or the Commonwealth; and 3) other pertinent matters of interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, please include a sentence to that effect.*

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The primary advantage to the public of implementing the proposed regulations will be an assurance that persons contracted to conduct a "certified home inspection" have met the minimum requirements to properly conduct such an inspection.

### Statement of Changes Made Since the Proposed Stage

*Please highlight any changes, other than strictly editorial changes, made to the text of the proposed regulation since its publication.*

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18 VAC 15-40-30. Qualifications for certification.

- Subdivision 2. Since the Board does not have the authority to approve instruction courses, "from a board-approved course or courses" was deleted.
- Subdivision 4. Time limits for accepting association membership as having met the Board's entry requirements were eliminated. Also, additional language was added to require that these membership requirements must be at least equal to the Board's entry requirements.
- Subdivision 8. The language was modified to ensure that exam candidates adhere to procedures and conduct established by either the Board or a testing service or both.

18 VAC 15-40-40. Conflict of interest.

- Subsection A. Language was added to be consistent with the language found in subsection 2 of 18 VAC 15-40-190.
- Subdivision A.1. Language was added to allow the certificate holder to perform work which is unrelated to any findings in the inspection report on property on which he performed a home inspection.
- Subdivision A.2. This subdivision was added to prevent someone from inspecting their own repairs or modifications.
- Subsection B. Language was added to allow a certificate holder to disclose any result of the inspection if there appears to be any imminent threat to life or health.
- Subsection D. Additional language was added to ensure that the best interest of the certificate holder's client was foremost.
- Subsection E. Language was added to not prevent a certificate holder from performing other tests (i.e., radon) on property he has conducted a home inspection.

18 VAC 15-40-110. Fees for renewal, reinstatement and examination.

- Subsection C. This subsection was added to ensure that exam fees were consistent with other agency regulations and adhered to procedures established by the Virginia Public Procurement Act.

18 VAC 15-40-130. Certified home inspection contract.

- Subsection A. "And exclusions" was added after "limitations."
- Subdivision B.3. The client's address and telephone number were deleted from the inspection contract requirements since the client will be moving soon and this information will be obsolete.
- Subdivision B.7. The language was corrected by changing "from" to "in."
- Subdivision B.7.h. Public comment requested that the Virginia Uniform Statewide Building Code be specifically listed by name.
- Subdivision B.7.k. "Mold" was added after "wood destroying organisms."

18 VAC 15-40-140. Certified home inspection report.

- Subdivision A.4. "Of the inspection" was added after "to include both start and finish times" to differentiate the time spent inspecting the residence from the time spent writing the report.

- Subdivision B.1.d. This item was expanded so that the method of inspection would be included in the inspection report as well as an explanation as to why the crawl space could not be inspected, if such is the case.
- Subdivision B.1.f. Item “f” was deleted because it was already included under “plumbing system.”
- Subdivision B.2.a. This item was expanded so that the method of inspection would be included in the inspection report as well as an explanation as to why the roof covering could not be inspected, if such is the case.
- Subdivision B.2.f. The term “decking” was deleted since decking and sheathing have the same meaning.
- Subdivision B.2.g. Changed “inaccessible” to “not readily accessible,” a defined term.
- Subdivision B.2.h. “Ventilation” was included with both roof and attic, therefore the term was deleted from this item.
- Subdivisions B.3.b, B.4.a, B.4.d, and B.6.h. In the listing of required components to be inspected during the certified home inspection, the terms “all” and “every” were replaced with “readily accessible.” All/every component may not be accessible and therefore cannot be inspected. However, these situations should be noted in the certified home inspection report.
- Subdivision B.3.d. Added “readily” before “accessible” since this is a defined term.
- Subdivision B.3.f. Added “in contact with or immediately adjacent to the dwelling” added following “any retaining walls.”
- Subdivision B.4.d. Replaced “including hardware” with “but not the operation of associated security locks, devices, or systems.”
- Subdivision B.4.e. Added “permanently mounted and installed” before “garage door operators.”
- Subdivision B.5.e. Added “for visible leaks” to this item.
- Subdivision B.7.c. Added “system” following “heating distribution.”
- Subdivision B.8.a. Replaced the term “window air conditioning equipment” with “installed window/wall air conditioning equipment.”
- Subdivision B.8.d. Added “system” following “cooling distribution.”

18 VAC 15-40-180. Response to inquiry of the board.

- Changed “21 days” to “15 business days.” The industry is more accustomed to business days instead of calendar days. The result is the same, three weeks.

18 VAC 15-40-190. Unworthiness and incompetence.

- Subdivision 2. An exception was added to allow the certified home inspector to perform improvements and repairs on a residence which he purchases after conducting a certified home inspection.

### Public Comment

*Please summarize all public comment received during the public comment period and provide the agency response. If no public comment was received, please include a statement indicating that fact.*

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#### Part I – General

##### **Written Comment:**

**Michael P. Lennon, President  
HomePro Systems, Inc.  
2141 Surey Point Road  
Huntsville, VA 22473**

**Michael Tallmon  
9930 Hampton Road  
Fairfax Station, VA 22039**

The addition of the word certified to home inspector, home inspection, and home inspection report seems to have the potential to communicate unintended things to the consumer public.

##### **Board Response:**

“Certified Home Inspector” and “Certified Home Inspection” are terms defined in the Board’s enabling statutes. The Board takes no action.

##### **E-mail Comment:**

**Mallory C. Anderson  
Executive Director  
National Association of Home Inspectors  
4248 Park Glen Road  
Minneapolis, MN 55416**

[mcanderson@harringtoncompany.com](mailto:mcanderson@harringtoncompany.com)

Can you please define the term “certified home inspection” that is used on page 8 of 27. This term is defined in the original law (HB2174) but should possibly be reiterated here.

**Board Response:**

The Board has been advised to avoid defining terms in regulations that have already been defined in statute. The term in the statute will always prevail over any definition in the regulations. The Board takes no action.

**National Association of Home Inspectors**

Please define “representative number.” NAHI’s definition of “representative number” is “a sufficient number to serve as a typical or characteristic example of the item(s) inspected.”

**Board Response:**

The Board feels the term is clear as proposed and takes no action.

**Michael P. Lennon and Michael Tallmon**

Page 1, line 13: Does the word “client” intimate that the home inspector has a higher duty than they would have to a customer? Will home inspectors have more of a fiduciary responsibility to clients than they would to customers? Mr. Lennon and Mr. Tallmon view home inspections as providing educational services.

**Board Response:**

The Board considered the comment, felt that the word “client” is the most appropriate and decided to take no action.

**Michael P. Lennon and Michael Tallmon**

Page 1, line 21: It would appear than an oil or gas burning furnace or boiler is a fireplace by this wording.

**Board Response:**

The Board carefully considered the comment, determined that the language in the definition, taken as a whole, was sufficient, and decided no action was necessary.

**Michael P. Lennon and Michael Tallmon**

Page 1, lines 25-26: Home inspectors routinely find components and systems which amateurs and home owners have specially fitted or used incorrectly or inappropriately. Would such usage be considered a proper function according to this definition?

**Board Response:**

The Board carefully considered the comment and took no action. The extent to which a “function” is incorrect or inappropriate should be detailed in the certified home inspection report.

**National Association of Home Inspectors**

Page 1, lines 27-28: We would like to suggest that the word “residential” be added prior to the verbiage “inspect or inspection” as noted on page 3 of 27. We also suggest adding more definition with regard to the word “inspection” such as, “in connection with or to facilitate the sale, lease, or other conveyance or the proposed sale, lease or other conveyance of a residential building”.

**Board Response:**

Since these regulations are applicable only to inspections of residential housing consisting of one to four dwelling units, the Board felt that no additional language was needed. Also, an inspection does not need to be related to any sale, lease, or other conveyance of the inspected property.

**Oral and Written Comment:**

**Robert Gwaltney, President**  
**Virginia Association of Real Estate Inspectors (VAREI)**  
**PO Box 381**  
**Oakton, VA 22124**

The Board of Directors of the Virginia Association of Real Estate Inspectors (VAREI) believe the proposed regulations are on the whole sound, but need certain amendments both to refine ways in which the consumer public is protected, and to make them more consistent with practices that are common in the home inspection industry.

Page 1, line 28: Following the definition of “Inspect or inspection,” add “using normal operating controls of energized equipment.” This addition makes clear that the inspector need only operate equipment in a way which the homeowner normally could, with no extraordinary measures; and “energized” specifies that the inspector need not operate anything where the power source has been shut off, since there may be some risk to person or property in energizing such equipment.

**Board Response:**

Since the statutory definition of a “certified home inspection” does not place any restrictions or limitations due to the availability of any power source, such a restriction should not be included in the regulatory definition of inspection. Any power equipment unable to be tested due to a non-functioning power source should be documented and explained in the inspection report.

**Michael P. Lennon and Michael Tallmon**

Page 2, lines 1-3: I recall a portion of a warehouse walled off and apparently occupied by people. There was no proper kitchen, lighting, heating, means of egress, or closet storage. The sewage was apparently exiting to the ground 3 stories below where it made its presence known through odors. Wouldn't this situation fit the definition of a residential building here?

**Board Response:**

The Board carefully considered the comment, determined that the definition was sufficiently specific and took no action.

**Michael P. Lennon and Michael Tallmon**

Page 2, line 4: Wood stoves often have no hearths. Since the sentence reads “a hearth AND fire chamber, wouldn't such a wood stove, therefore, be disqualified by this sentence?”

**Board Response:**

The Board feels the language in the definition, when read as a whole, included a wood-burning stove and takes no action.

**Michael P. Lennon and Michael Tallmon**

Page 2, line 5: Is the word listed defined in this chapter?

**Board Response:**

The Board considered the comment; felt the term “listed” was well understood and needed no definition. The Board takes no action.

**Michael P. Lennon and Michael Tallmon**

Page 2, line 8-9: Consider hurricane clips intended to add tensile strength to a structure when/if wind uplift forces are present. These pieces do not SUPPORT live or dead loads, though they are intended to resist the live forces of such uplifting winds when and if they occur. Shouldn't such components also be considered structural components?

**Board Response:**

Hurricane clips provide the support necessary to resist high wind stress within limits. Their presence supports the integrity of the structure. Their function is clearly one of support and the Board takes no action.

## **VAREI**

Suggested definitions of Energized – 1) The state of receiving energy. This energy may be in the form of electricity, fossil fuel, alternate fuels, or the pressure, or volume of a substance; or 2) the state of activation as a result of receiving energy in some form.

### **Board Response:**

Since the statutory definition of a “certified home inspection” does not place any restrictions or limitations due to the availability of any power source, such a restriction should not be included in the regulatory definition of inspection. Any power equipment unable to be tested due to a non-functioning power source needs to be documented and explained in the inspection report. The Board takes no action.

## **Part II – Entry Requirements**

### **E-mail Comment:**

**Leigh M. Dicks**  
**Executive Director**  
**Virginia Society of Professional Engineers**  
**9291 Laurel Grove Road, Suite 10**  
**Mechanicsville, VA 23116-2969**  
**[VSPE@aol.com](mailto:VSPE@aol.com)**

On behalf of the Virginia Society of Professional Engineers, we emphatically believe that Professional Engineers already licensed by the Commonwealth and who are engaged in the practice of building inspection engineering, need not be required to obtain another certification as a home inspector. Current state law also prohibits Professional Engineers and Architects from practicing outside the scope of his/her area of competence. We would like to see the following language added in the proposed regulations regarding Professional Engineers and Architects who perform home inspections:

“The Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects regulates the conduct of Professional Engineers and Architects licensed in the Commonwealth of Virginia, including their work in home inspections. Professional Engineers and Architects shall be exempt from the provisions of this chapter.”

Licensed Professional Engineers and Architects are typically the only professionals authorized to sign and seal plans and other documents certifying the proper functioning of a

building's structure and systems. Such components of a building typically include, but are not limited to its structure, i.e.: foundation, framing, and roofing, electrical, HVAC, plumbing, fire safety, and other systems.

**Board Response:**

Since only the Board may “certify” a home inspector for the Commonwealth of Virginia, the Board feels that all “certified home inspectors” must meet either the same or equivalent entry requirements. To ensure competency, applicants must pass a written competency examination approved by the Board. As stated in § 54.1-517.1 of the Code of Virginia and 18 VAC 15-40-20 of the proposed regulations, “nothing in this chapter shall be construed to preclude individuals from performing home inspections for hire.” Architects and Professional Engineers may continue to market home inspection services and are likely to do so by stressing their Architecture and Professional Engineering skills. As such, the Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects (APELSCIDLA) is the appropriate regulatory agency for Architects and Professional Engineers who decide to perform home inspections without becoming certified. An individual performing a “certified home inspection” must be answerable for his conduct and performance to the Board for Asbestos, Lead, and Home Inspectors. Architects and Professional Engineers possessing the required abilities should have little trouble obtaining a certification should they decide to do so. The Board takes no action.

**Oral and Written Comment:**

**T. Duncan Abernathy**  
**Director of Government and Industry Affairs**  
**Virginia Society of the American Institute of Architects**  
**15 South Fifth Street**  
**Richmond, VA 23219-3823**

Our goal is to have architects and professional engineers explicitly exempted from these regulations on the basis that their education, training, and experience provide the public protections sought by the state for this type of work. Architects and professional engineers for decades have inspected buildings of all types and sizes within the scope of their expertise. In addition, the Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects already regulates the work performed by architects and professional engineers. We offer the following additional paragraph to Section 18 VAC 15-40-20, Necessity for Certification:

“The Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects, regulates the conduct of architects and professional engineers licensed in the Commonwealth of Virginia, including their work on home inspections. Architects and professional engineers shall be exempt from the provisions of this chapter.”

**Board Response:**

Since only the Board may “certify” a home inspector for the Commonwealth of Virginia, the Board feels that all “certified home inspectors” must meet either the same or equivalent entry requirements. To ensure competency, applicants must pass a written competency examination approved by the Board. As stated in § 54.1-517.1 of the Code of Virginia and 18 VAC 15-40-20 of the proposed regulations, “nothing in this chapter shall be construed to preclude individuals from performing home inspections for hire.” Architects and Professional Engineers may continue to market home inspection services and are likely to do so by stressing their Architecture and Professional Engineering skills. As such, the Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects (APELSCIDLA) is the appropriate regulatory agency for Architects and Professional Engineers who decide to perform home inspections without becoming certified. An individual performing a “certified home inspection” must be answerable for his conduct and performance to the Board for Asbestos, Lead, and Home Inspectors. Architects and Professional Engineers possessing the required abilities should have little trouble obtaining a certification should they decide to do so. The Board takes no action.

**Oral Comment:**

**Michael Tallman**  
**9930 Hampton Road**  
**Fairfax Station, VA**

We have been in the home inspector training business for going on twenty years. We’ve trained thousands of people in the art and craft of being a home inspector. I can tell you that I am an engineer and that there is no architect or engineer who by their formal training, and that training alone, is qualified to perform home inspection in whole or in part.

**Board Response:**

The Board considered the comment, determined that Architects and Professional Engineers must meet the entry requirements to become certified home inspectors, and takes no action.

**Oral and Fax Comment:**

**Jasper A. Mersereau, PE**  
**JA Mersereau & Associates, Inc.**  
**11205 Brewer Road**  
**Richmond, VA 23233**

As rebuttal to Dun Abernathy’s oral comment at the public hearing on October 8, 2002, Mr. Mersereau, speaking as a home inspector and a licensed engineer, feels that licensed Architects and Professional Engineers should not be exempt from the Board’s regulations. Just having an architect’s license or an engineer’s license is no guarantee that they are qualified to perform home inspections. Typically, architects and engineers are not taught in school about problems that develop as homes age. All people who perform certified home

inspections must answer to the Board and meet the minimum entry requirements. To protect the public, it is imperative that the Board retain control of the people performing certified home inspections.

**Board Response:**

The Board considered the comment, determined that Architects and Professional Engineers must meet the entry requirements to become certified home inspectors, and takes no action.

**Oral Comment:**

**Ronnie Fones**  
**PO Box 1568**  
**Warsaw, VA 22572**

Page 2, lines 17-21: Mr. Fones said that “there is nobody out there that has any kind of license or works in any trade that has all the knowledge that you need to be a home inspector unless you go to a school for training by professional home inspectors, who teach you what to look for.”

**Board Response:**

The Board considered the comment, determined that Architects and Professional Engineers must meet the entry requirements to become certified home inspectors, and takes no action.

**Written Comment:**

**Michael P. Lennon, President**  
**HomePro Systems, Inc.**  
**2141 Surey Point Road**  
**Huntsville, VA 22473**

**Michael Tallmon**  
**9930 Hampton Road**  
**Fairfax Station, VA 22039**

Page 2, lines 17-19: How is a “certified home inspector” distinguished from a regular home inspector and how is a “certified home inspection” distinguished from home inspections as we know them today?

**Board Response:**

The distinguishing features are established in the Code of Virginia and the proposed regulations. The Board takes no action.

**Michael P. Lennon and Michael Tallmon**

Page 2, lines 29-34: What criterion will the board use to determine if courses are to be approved? How will the Board assure that it is in compliance with the Sherman Act relative to unfair competition and restraint of trade? Has the Board consulted with the Federal Trade Commission on these matters? Can the instruction be via correspondence course material? Can electronic correspondence course material qualify? Can structured field training qualify?

**Board Response:**

The proposed regulations were reviewed by the Office of the Attorney General, who found no conflict with other law. Courses that address the content areas of the Board's examination will be approved. The Board takes no action.

**Michael P. Lennon and Michael Tallmon**

Page 2, lines 33-34: Is it the intention of the Board to provide training institutions with the content areas of the Board approved examination(s) to ensure that courses are covering same? As an examination providers, I would like my examinations to be considered for board approval. How do I go about that? What will the criterion be? Again, I ask how the Board will comply with the requirements of the Sherman Act?

**Board Response:**

The proposed regulations have been reviewed by the Office of the Attorney General, who found no conflict with other law. Courses and examinations will be examined on a case-by-case basis to determine approval. The Board takes no action.

**E-mail Comment:**

**Robert D. Gregory**  
**391 Green Pastures Drive**  
**Maidens VA 23102**  
**rdgregory@earthlink.net**

The Board has proposed criteria that will set standards for the profession of Certified Home Inspector. I would like the Board to consider recognizing as meeting the examination/experience requirement the certification issued by the Department of Housing and Community Development under Section 36-137 of the Code of Virginia, specifically certification as a Combination Inspector. This certification is issued to those who have completed a series of four validated examinations in the areas of Building, Electrical, Plumbing and Mechanical that are specific to dwelling units.

**Board Response:**

It is not clear from the brief comment how the certification and examination meet the proposed standards. Applicable experience for certification will be determined at the time of application by staff as delegated by the Board on a case-by-case basis. Similarly, any examination other than the Board-approved examination may be considered and reviewed by the Board for equivalency at the time of application. By not listing specific examinations in their regulations, the Board will have much broader latitude in recognizing equivalent examinations. The Board takes no action.

**Written Comment:**

**William G. Meier III**  
**Building Diagnostics Inc.**  
**207 Plaza Street**  
**Leesburg, VA 20176**

Mr. Meier believes that the “primary” qualification for a home inspector should be holding a valid Virginia Contractor License. He also believes that the minimum age should be raised to 21. “To presume that a person with 35/50 hours of classroom training and 10/50 home inspections without a contractor’s license can actually protect an innocent home buyer in the state of Virginia is an insult to those of us who are experienced professionals.”

**Board Response:**

The Board is responsible for establishing minimum entry standards, not setting barriers, financial or otherwise, for anyone desiring to become “certified” in the home inspection industry. Requiring an applicant to pass a written examination prior to application submittal will better ensure that an applicant’s training and experience is sufficient for certification. Additionally, since eighteen is the age of majority in Virginia, the Board can find no justification for raising the minimum age for certification to twenty-one.

**E-mail Comment:**

**Mallory C. Anderson**  
**Executive Director**  
**National Association of Home Inspectors**  
**4248 Park Glen Road**  
**Minneapolis, MN 55416**  
[mcanderson@harringtoncompany.com](mailto:mcanderson@harringtoncompany.com)

Page 2, lines 29-32: We find that 100 and 50 inspections respectively are too burdensome and may restrict entry into the home inspection industry because of the length of time that it would take for an inspector to accomplish this requirement. Because the general public will be encouraged to employ only those inspectors that are “certified”, this requirement may result in the unintended consequence of restricting entry into the industry especially in the

more rural areas where there are fewer real estate transactions. We suggest a fewer number of minimum home inspections as a requirement, such as, 50 and 25 respectively.

**Board Response:**

The Board, after considering this issue at length during the development of the proposed regulations, felt that 50 and 100 are appropriate numbers of inspections to demonstrate adequate experience. The Board takes no action.

**Michael P. Lennon and Michael Tallmon**

Page 2, lines 29-32: This seems to imply that the additional 35 hours of classroom instruction is the equivalent of 50 home inspections. Wouldn't there have to be some specific articulated here to justify this?

**Board Response:**

The Board, after considering this issue at length during the development of the proposed regulations, felt that 35 hours of class room instruction along with 100 inspections; or 70 hours of classroom instruction along with 50 home inspections were an appropriate number instructional hours and inspections to demonstrate adequate education and experience.

**E-mail Comment:**

**James R. Chapman**  
**Cape Charles, VA Building Official &**  
**Chairman Region 8, Virginia Building and Code Officials Association &**  
**Virginia State Building and Code Officials Association Executive Committee &**  
**Instructor for DHCD Code Academy**  
[jchapman@intercom.net](mailto:jchapman@intercom.net)

Page 2, lines 26-32: Consider adding the following to 18VAC 15-40-30, paragraph 2.

- (3). An International Code Council (ICC) or Building Officials & Code Administrators (BOCA) International and Virginia certified Building Official.

Rationale: Building code officials are well tested through the ICC and/or BOCA in all aspects of construction both residential and commercial and are tasked daily with inspecting and approving life safety matters pertaining to structures. They are also required to attend course conducted by the code academy directed through DHCD. Further, building code officials enforce the DPOR regulations by code and are quite familiar with the legal aspects concerning inspections, trade licensing and so forth. Some building code officials and combination inspectors will undoubtedly go on to become home inspectors after retirement or even part-time and their qualifications inherent with their government inspection jobs will exceed that of other types training dictated by this regulation.

**Board Response:**

The inspections mentioned in the comment have building codes as their sole objective. The inspections contemplated by the proposed regulations cover structures that have already, or will shortly before occupation, pass the appropriate building inspection and will focus on the current condition of the structure; those changes in condition made by previous owners/occupants and those brought by the ravages of time. Each applicant for certified home inspector will be reviewed on a case-by-case basis. Section 18 VAC 15-40-50 of the regulations gives the Board the discretion to waive any certification requirement when that waiver in no way lessens the protection of the public health, safety and welfare. However, the burden of proof that demonstrates continued public protection will rest with the individual requesting such a waiver. The Board takes no action.

**E-mail Comment:**

**Emory Rodgers**  
**Virginia Department of Housing and Community Development**

Page 2, line 28 through Page 3, line 4: 18 VAC 15-40-30 2b and 3 – There are now many certified 1&2 family combination inspectors and building officials who do home inspection. They would be grandfathered into the system. Some proposed language that a certified 1&2 family combination inspector or building official along with the required hours of coursework would be deemed equivalent to the home inspector national exam would make sense as an alternate qualification means under the proposed regulations.

**Board Response:**

Any examination other than the Board-approved examination may be considered and reviewed by the Board for equivalency at the time of application. Additionally, 18 VAC 15-40-50 of the regulations gives the Board the discretion to waive any certification requirement when that waiver in no way lessens the protection of the public health, safety and welfare.

**Michael P. Lennon and Michael Tallmon**

Page 3, lines 1-3: Shouldn't there be some minimum number of inspections done per year and done satisfactorily. I can easily see where one man's 10 years of experience could actually be less than another man's one year. Wouldn't those inspections have to be verified in some way?

**Board Response:**

The Board has considered this issue and feels the proposed language is adequate. The Board takes no action.

**Written Comment:**

**Darryl M. Washington**  
**The Washington Group**  
**P.O. Box 1661**  
**Reidsville, NC 27323**

Page 3, lines 5-7: By accepting proof of membership in good standing in a national or state professional home inspectors association to satisfy the entry requirements, will the Board consider membership in non Virginia State organizations such as the North Carolina Licensed Home Inspectors Association.

**Board Response:**

The Board will review each application for certification on a case-by-case basis. The Board may accept proof of membership in good standing in any state professional home inspectors association provided that the requirements for such association membership are equal to or exceeds the entry requirements of the Board's regulations.

**Michael P. Lennon and Michael Tallmon**

Page 3, lines 5-7: What constitutes a national or state professional home inspectors association and what does it take to be approved by the Board?

**Board Response:**

The Board will review each application for certification on a case-by-case basis. The Board may accept proof of membership in good standing in any state professional home inspectors association provided that the requirements for such association membership are equal to or exceeds the entry requirements of the Board's regulations.

**Written Comment:**

**Myron Stuart Hurwitz**  
**Integrity Home Inspection, Inc.**  
**4420 Forest Glen Court**  
**Annandale, VA 22003**

Page 3, lines 5-7: Mr. Hurwitz strongly feels that licensing procedures should be instituted, regulated and implemented by the state and not by a trade association. He feels that there should not be any implication of required membership in such a trade association such as ASHI.

**Board Response:**

The proposed regulations will neither be implemented by any trade association nor require membership in any such association as a certification requirement. During the development

of these regulations, the public's interest has always been considered foremost. As a way to grandfather those individuals who have performed home inspections for many years, § 54.1-517.2 of the Code of Virginia states that the Board may accept proof of membership in good standing in any national or state professional home inspectors association provided that the requirements for such association membership are equal to or exceeds the entry requirements of the Board's regulations. The Board takes no action.

**Written Comment:**

**VAREI**

Page 3, line 5: Change "five years" to "one year." VAREI believes that effective period of five years to be too long.

**Board Response:**

Upon further review of § 54.1-517.2 of the Code of Virginia, the Board decides to eliminate any time limits for accepting association membership as having met the Board's entry requirements. The Board changes the subdivision to read: "The board may accept proof of membership in good standing, in a national or state professional home inspectors association approved by the board, as satisfaction of subdivisions 1, 2, and 3 of this section, provided that the requirements for the applicant's class of membership in such association are equal to or exceed the requirements established by the board for all applicants."

**Written Comment:**

**Thomas E. Murley**  
**Abode Check, LLC**  
**9915 Barnsbury Court**  
**Fairfax, VA 22031**

Page 3, line 4: Mr. Murley urges the Board to adopt the National Home Inspector Examination.

**Board Response:**

At its July 16, 2002 meeting, the Board decided to accept the National Home Inspector Examination administered by the Examination Board of Professional Home Inspectors.

**VAREI**

Page 3, line 6: Following "in good stand," add "at the time of the effective date of the regulations." As VAREI understands the intentions of HB2174 in all the discussions that

were involved in its drafting, the purpose was to provide an initial pool of certified home inspectors by “grandfathering.” Neither the statute nor the proposed regulations actually define the point at which one must have been a qualified member in an approved organization. The proposed regulations could conceivably, for the sake of grandfathering, allow the certification of some organization members who passed an exam some time ago to be certified even if the exam taken was not up to today’s psychometric standards. Without this cut off point, one could theoretically choose such membership as an alternate route to certification even after July 1, 2003.

**Board Response:**

The Board considered the comment and changes the subdivision to read: “The board may accept proof of membership in good standing, in a national or state professional home inspectors association approved by the board, as satisfaction of subdivisions 1, 2, and 3 of this section, provided that the requirements for the applicant’s class of membership in such association are equal to or exceed the requirements established by the board for all applicants.”

**VAREI**

Page 3, line 7: Following “association, add “approved by the Board.” Also, add to the end of the sentence “provided that the requirements for the applicants class of membership in such association are equal to, or greater than, the requirements established by the board for all applicants.” This change makes paragraph 4 consistent with the HB2174 statute. Without these changes, this provision in the regulations would give the impression that an organization which simply calls itself “national” is eligible. Instead, the Board should decide what is a qualified organization, per the statute. They are concerned that inspectors desiring to be certified could be easily confused by this simpler version found in the draft, not having access to the details that the statute provides.

**Board Response:**

The Board agrees and changes the subdivision to read: “The board may accept proof of membership in good standing, in a national or state professional home inspectors association approved by the board, as satisfaction of subdivisions 1, 2, and 3 of this section, provided that the requirements for the applicant’s class of membership in such association are equal to or exceed the requirements established by the board for all applicants.”

**Michael P. Lennon and Michael Tallmon**

Page 3, lines 11-15: To whom does the applicant disclose information about a certificate or license?

**Board Response:**

The information is disclosed to the Board on the application form.

**Michael P. Lennon and Michael Tallmon**

Page 3, lines 16-27: Will the Board actually have the resources and authority to examine the totality of the circumstances? Who will conduct the investigation? What skill sets will be required? How will they be compensated for their time? If this isn't done professionally, wouldn't there be counter claims and appeals?

Mr. Lennon and Mr. Tallmon wanted to know if he would be prevented from obtaining certification for a speeding ticket, jay walking, spitting on the sidewalk, operating a motor vehicle without fastening a seal belt, or getting caught with a radar detector in your car. Is the Board assuming greater authority than the court system by considering a plea of no contendere as a conviction?

**Board Response:**

Such matters are investigated by the Department's Enforcement Division when necessary. Applicants with criminal conviction records must disclose their convictions, provide court records and a report from the state police. The Board will determine on a case-by-case basis whether the applicant is qualified. This determination is made in compliance with § 54.1-204 of the Code of Virginia and the Virginia Administrative Process Act. Traffic infractions are not misdemeanors and need not be disclosed. Speeding, in most cases, is a traffic infraction. Spitting on the sidewalk is a Class 4 misdemeanor and must be disclosed. The Board takes no action.

**Oral Comment:**

**Robert A. Smith**  
**15001 Brockville Drive**  
**Colonial Heights, VA 23834**

Page 3, lines 34-35: Mr. Smith was unsure as to the type of insurance that was required in the proposed regulations.

**Board Response:**

The Board considered the comment, concluded the type of insurance required is clear and takes no action.

**Darryl M. Washington**

Page 3, lines 34-35: I also would like to know the reasoning for the "General Liability" insurance clause in section 18 VAC 15-40-30.9. Is this a type of Omission and Errors insurance or does it serve some other purpose?

**Board Response:**

The Board felt that it was important for the certified home inspector to carry general liability insurance for the protection of both the certificate holder and the client. The more expensive Errors and Omission insurance would not add materially to the public's protection. The Board takes no action.

**VAREI**

Page 3, line 37: Suggest adding "within 12 months of the inspection" to the end of the line. This addition would give a reasonable time limit, but still reduce the risk of conflict. "Within twelve months" can mean before and after the event, as applicable.

**Board Response:**

The Board agrees and implements the suggestion to be consistent with the language on page 10, line 34.

**Michael P. Lennon and Michael Tallmon**

Page 3, line 38-39: What about the cases wherein the home inspector is a joint investor with others and does the inspections and then contributes to designs or repairs?

**Board Response:**

The Board has included this conflict of interest subdivision to prevent a certified home inspector from falsely indicating problems with the residence on the inspection report and indicating to the client the certificate holder's ability to correct those problems. However, the Board agrees to insert "as a result of the findings of the certified home inspection" to the end of subdivision "1."

**William G. Meier III**

Page 3, line 38-39: Does that mean a NEHA certified radon tester cannot mitigate a home they have inspected/tested?

**Board Response:**

The Board has included this conflict of interest subdivision to prevent a certified home inspector from falsely indicating problems with the residence on the inspection report and indicating to the client the certificate holder's ability to correct those problems. However, the Board agrees to insert "as a result of the findings of the certified home inspection" to the end of subdivision "1."

**E-mail Comment:**

**Tom Barber**  
**Tom Barber & Associates**

**21345 Coblee Lane  
Richardsville, VA 22736  
tba98@erols.com**

Page 3, lines 38-39: As a radon mitigation contractor, I would not be able to install any radon mitigation system in any home that I have inspected, as this is classified as a home improvement. Radon testing is separate from home inspections, radon gas cannot be detected without specific testing equipment not associated with a home inspection, accordingly a separate fee is charged for the service beyond any home inspection service fee.

During a home inspection, I inform the buyer of the commendable elements of the home as well as the elements that are in need of repair/replacement. I strongly agree that a home inspector should in no way be involved in the repair/replacement of any element of the home inspection resulting in a conflict of interest or the appearance of any such conflict. Nonetheless, as a licensed contractor, the proposed regulations would eliminate my ability to perform future improvements, if requested, on the home such as an addition of room(s), deck, garage, barn, etc., above and beyond the scope of the home inspection.

**Board Response:**

The Board has included this conflict of interest subdivision to prevent a certified home inspector from falsely indicating problems with the residence on the inspection report and indicating to the client the certificate holder's ability to correct those problems. However, the Board agrees with Mr. Barber and inserts "as a result of the findings of the certified home inspection" to the end of subdivision "1."

**VAREI**

Page 3, line 38: Add "for a fee" following modifications.

**Board Response:**

The Board notes that the statute defines a "certified home inspection" as an inspection for compensation, and therefore, believes the concern is adequately addressed in statute.

**VAREI**

Page 3, line 39: Following paragraph "1," add a new paragraph: "Perform a certified home inspection for a fee after performing repairs or modifications to a residential building." This addition would prevent someone from inspecting their own work.

**Board Response:**

The Board agrees that the addition should be implemented, but without “for a fee” since statute defines a “certified home inspection” as an inspection for compensation. The conflict of interest should be prohibited in both directions.

**Michael P. Lennon and Michael Tallmon**

Page 4, lines 1-2: Home buyers routinely beg us for the names of people who can do work on their houses. It is widely and commonly known that most inspectors do provide names when they feel confident that home buyers will be well served. If this means the complete end to such practices how will that be policed?

**Board Response:**

These situations will be “policed” the same way as any other disciplinary action. The agency receives a complaint about one of its regulants and the Enforcement Division investigates. Evidence of a violation is brought before the Board in compliance with the Administrative Process Act. The Board takes no action.

**Michael P. Lennon and Michael Tallmon**

Page 4, lines 5-7: It is not uncommon for legal representatives of alleged aggrieved parties to demand inspection information. The court itself may request information. Apparently, according to this reading I would not be able to disclose information, even if sworn as an expert witness.

**Board Response:**

This subsection was added to prevent the regulant from disclosing the results of an inspection to any other party who has an interest in the property without the client’s approval. However, the Board decides to add the following sentence to the end of the subsection: “However, the certificate holder may disclose information in situations where there is an imminent endangerment to life and health.”

**Michael P. Lennon**

Page 4, lines 8-10: We have made it a policy that if a certain inspector has inspected property A and that customer rejects the property and another customer wants an inspection on the same property and wants the same inspector to do the work, we revisit the property and bring the original report and reinspect for a discounted fee. This reading seems to forbid that without the permission of the original client.

**Board Response:**

Revealing the contents of the “original” report to another party without the client’s permission would not be in compliance. The second inspection must be a full inspection as elements of the property could have changes. Setting the amount of the inspection fee is up to the regulant. The Board takes no action.

**E-mail Comment:**

**Fred L. Simmermon**  
**Homepro of Tidewater, Inc.**  
**P. O. Box 6213**  
**Norfolk, VA 23508-6213**  
**hptw@infi.net**

Page 4, lines 11-13: 18 VAC 15-40-40, subsection D. “I would guess 60% of the home inspections done in the State come via Realtor referral. Individual real estate offices and entire companies are beginning to exploit this position by charging inspectors to be on a ‘preferred referral list’ or otherwise prohibit inspector brochures from being distributed in their offices. In one case of a large prominent real estate firm operating in the mid-Atlantic with offices all over Virginia, home inspectors are charged \$2,000 to \$3,000 to be on a ‘partner list’ with the company. This type of activity transfers the home inspector’s allegiance from the home buyer to the real estate agent or company regardless of what spin they may put on it. Thus the home inspector who pays the money gets the referral. This association is, of course, not disclosed by the real estate company or the inspection company. In many instances the home inspector is asked to provide his service through the real estate company for a reduced fee. The real estate companies will all say they only refer competent people, but we have all learned about greed over the past couple of years. This type of activity needs to be stopped in the interest of the public. I would like to see Section D interpreted or changed in the interest of clarity and so there are no misunderstandings. Competent inspectors, those carrying the state certification should not be tainted with payoffs and kickbacks. The current language is vague and does not address what has become a real problem. I propose the following language be added to section D: Certificate holders shall not be involved in special relationships, fee pay back schemes, partnerships, or other advertising relationships that may compromise the inspectors’ allegiance to the home buying public.

**Board Response:**

The Boards agrees that the language of subsection “D” should be strengthened. Therefore, the Board adds a second sentence to this subsection: “Additionally, the certificate holder shall not enter into any financial relationship with any party that may compromise the certificate holder’s commitment to the best interest of his client.”

**Oral and Written Comment:**

**Michael Tallman**  
**9930 Hampton Road**  
**Fairfax Station, VA**

Page 4, lines 11-13: Home inspectors or companies are paying thousands of dollars to be able to have the exclusive right to represent themselves as the listed home inspector. There are some very large franchises in the real estate community that the home offices have taken the opportunity to put together marketing programs that are very restrictive of who can participate. It seems to be the home inspection firms that fees for exclusive advertising rights.

**Board Response:**

The Board has no statutory authority over home inspection firms, and takes no action.

**Oral Comment:**

**Bill Conner**  
**14341 Greenwood Church Road**  
**Montpelier, VA 23192**

Page 4, lines 11-13: Mr. Conner said that he opposed any changes to the proposed regulations that would restrict certain marketing activities by home inspectors (i.e., alliances between home inspection businesses and real estate businesses). Government does not need to instruct home inspectors how to market their businesses. By prohibiting certain marketing activities, it may significantly reduce the number of inspector that enters the certification program.

**Board Response:**

The Boards feels that the conflict of interest section need to be strengthened to protect the interest of home inspector's clients and adds a second sentence to subsection "D": "Additionally, the certificate holder shall not enter into any financial relationship with any party that may compromise the certificate holder's commitment to the best interest of his client."

**Robert A. Smith**

Page 4, lines 11-13: Mr. Smith said that home inspectors' marketing should be independent of the realtors. "For the inspector to be effective, he has to be independent of the broker. He should be working for the homeowner and reporting for the homeowner and not the realtor."

**Board Response:**

The Board agrees and adds a second sentence to subsection “D”: “Additionally, the certificate holder shall not enter into any financial relationship with any party that may compromise the certificate holder’s commitment to the best interest of his client.”

**Jasper A. Mersereau, PE**

Page 4, lines 11-13: The home inspector should have an unfettered relationship with his client the homebuyer. The home inspector is no longer an unbiased third party working in the sole behalf of the homebuyer when marketing agreements and preferential lists are allowed between realtors and home inspectors. To allow the home inspector to create any type of fiduciary relationship with a realtor or realtor firm is going to negatively impact the homebuyer’s best interests.

**Board Response:**

The Boards agrees and adds a second sentence to subsection “D”: “Additionally, the certificate holder shall not enter into any financial relationship with any party that may compromise the certificate holder’s commitment to the best interest of his client.”

**Oral Comment:**

**David Lee**  
**2343 Highland Avenue**  
**Charlottesville, VA 22903**

Page 4, lines 11-13: Mr. Lee said that he was uncertain if the conflict of interest was with the individual home inspector or the home inspection firm for whom he works that has an exclusivity alliance a real estate firm.

**Board Response:**

The Board has authority only over the certified home inspector. Action for any violation of the regulations will be taken against the certified individual performing the inspection, not the firm that employs him.

**VAREI**

Page 4, line 11-13: Amend subsection “D” to include “marketing, advertising, or paid endorsement programs which may act to influence the impartiality of the certificate holder.”

**Board Response:**

The Boards agrees that the language of subsection “D” should be strengthened. Therefore, the Board adds a second sentence to this subsection: “Additionally, the certificate holder shall not enter into any financial relationship with any party that may compromise the certificate holder’s commitment to the best interest of his client.”

**Michael P. Lennon and Michael Tallmon**

Page 4, lines 11-13: If an inspection company does inspection work and discovers during the scheduling process that the customer wants to have a radon check as well, we offer to schedule that with a specializing radon contractor and perhaps even place the test devices and get the contract signed by the customer for the radon company. The radon company picks up the devices, does the reading, and forwards the report to the customer. The customer is fully aware that they are dealing with two different companies and signs different contracts and checks accordingly. If the inspection company charges a fee to the radon company for services rendered, would this practice be outlawed by this chapter?

**Board Response:**

This practice would be prohibited.

**VAREI**

Page 4, line 15: At the end of the sentence add “except for additional diagnostic inspections or testing.” This addition would allow certified inspectors to do radon, lead-based paint, and other add-on testing measures that sometimes are generated in the course of an inspection. Conversations between inspector and client sometimes generate interest in other services without compromising integrity. The home inspection is still the primary activity, and not a “tool” for generating other business.

**Board Response:**

The Board agrees that the addition should be implemented.

**Tom Barber**

Page 4, lines 14-15: In my experience as a home inspector, many property buyers are not aware of the risks associated with high radon levels or even that radioactive radon gas exists in homes, until the home inspection phase of the contract. Ignorance, myths, no contract clause, reluctance of seller/real estate agent are just some of the reasons. Whatever the

reason, as a radon professional, it is my duty to inform the buyer of the grave risks and strongly urge testing (even if tested by another company) as well as mitigation action if necessary. Any other action, as previously suggested by other interests, would be gross negligence of public safety. Under this area of the proposed regulations, it is very unclear whether this would be a violation as a certified home inspector.

**Board Response:**

The Board agrees to add to the end of subsection “E”: “except for additional diagnostic inspections or testing.”

**Tom Barber**

Page 4, lines 16-22: 18 VAC 15-40-50. Waiver of the requirements of this chapter. This section of the proposed regulation does not make available to the certified home inspector any means to acknowledge conflict of interest. For the certified licensed home inspector/certified radon measurement/mitigation provider or the certified licensed home inspector/licensed contractor, which are not in the same professional fields or under the same authorities. While means are available to Virginia licensed asbestos inspector/ project designer contractor, though a disclosure form, which are in the same professional field and under the same authority. This would be holding the home inspector to a different standard than an asbestos inspector. Any competent honest professional with the best interest of the client would have no problem with such a disclosure.

**Board Response:**

The Board carefully considered the comment and takes no action.

**Part III – Renewal and Reinstatement of Certificate**

**Written Comment:**

**Michael P. Lennon, President  
HomePro Systems, Inc.  
2141 Surey Point Road  
Huntsville, VA 22473**

Page 4, lines 33-36: Mr. Lennon inquires about the consequences of an inspection company which fails to maintain the appropriate insurance.

**Board Response:**

The Board does not have the statutory authority to certify home inspection firms. For individual certified home inspectors who fail to maintain the appropriate insurance, disciplinary action would be taken should the agency discover that the insurance has lapsed

or the regulant has falsely affirmed that they continue to maintain insurance at the time of renewal.

#### **Part IV – Minimum Standards for Conducting Certified Home Inspections**

##### **Oral and Written Comment:**

##### **VAREI**

Delete the term “Certified” when referencing the home inspection contract and the home inspection report since by statute only the home inspector and the home inspection are “certified.”

##### **Board Response:**

The contract is for the performance of a certified home inspection by a certified home inspector as these latter two terms are defined by law. Calling the contract ad “certified inspection contract” clearly defines what is being contracted for. The Board takes no action.

##### **Written Comment:**

**Roger L. Boswell, CPCA  
Building Official, Fauquier County  
Department of Community Development  
Court and Office Building, Third Floor  
40 Culpeper Street  
Warrenton, VA 20186**

The Fauquier County Office of Building Official receives numerous calls each year from prospective buyers and sellers who had homes inspected by Home Inspectors. These buyers and sellers want the office to verify if the Home Inspector’s recorded building code violations are correct. In some of these cases the office finds Home Inspectors have defined code violations but have not defined a building code for the violations. In other cases, the office finds that Home Inspectors have incorrectly defined violations that are not applicable because the Home Inspectors used the current adopted codes to define violations in older homes that are subject to previous adopted codes.

The office expends much time and labor each year researching codes and housing records for these referenced cases. The staff feels that the time, labor and research necessary to determine the applicable building code in these cases should be the responsibility of the Home Inspectors.

Therefore, the office feels that the referenced regulations should contain language to require Home Inspectors to provide the applicable building code and code section when recording building code violations in homes.

**Board Response:**

A “certified home inspection” consists of an assessment of the readily accessible components of a residential building as a result of a visual inspection. However, certified home inspectors should be familiar with the USBC. In reporting their evaluation of a residential dwelling, it would be beneficial to the client if the home inspector could point out “possible” building code violations that the client could further investigate. Their role is not to act or substitute for a building code official. Additionally, these regulations will only apply to those home inspectors who choose to become certified to conduct certified home inspections. The Board believes that no additional language is needed in this section.

**Written Comment:**

**Dana Horton**  
**671 Poquoson Avenue**  
**Poquoson, VA 23662**

Mr. Horton encourages the Board to adopt the ASHI Standards of Practice and Code of Ethics as part of the regulations.

**Board Response:**

The Board developed a set of standards of practice that protect the public without interfering in commerce any more than absolutely necessary for inclusion in the regulations. The standards of practice advocated by the National Association of Home Inspectors and the standards of practice advocated by the American Society of Home Inspectors were used as reference guides. The Board takes no action.

**E-mail Comment:**

**Stephen A. Giesen**  
**Home Survey, Inc.**  
**6147 Rossiter Ct.**  
**Manassas, Virginia 20112**

Page 6, lines 8-13 and Page 7, line 5: Mr. Giesen feels that the “administrative items” required in subdivision 1-5 and 8 for the home inspection contract should be captured elsewhere in the report. He feels that removing these requirements from the contract would eliminate redundancy since this information is also included in section 18 VAC 15-40-140 (page 7, lines 12-18) as inspection report requirements. “I have hundreds of copies of my contract, as I am sure other inspectors do of their own, and this proposed change would require us to have them reprinted, at a great cost. If you deem it essential that these administrative items be incorporated into the contract, at least grandfather the requirements in for a few years until we can use up on existing stock of contracts.”

**Board Response:**

The contract is a legal document between the certified home inspector and his client. The Board feels that identifying information of both parties as well as the agreed upon cost and delivery date of the report is essential to protect the public. The inspection report is the tangible product for which the inspector was contracted that reports the findings of the inspection. The identifying data which Mr. Giesen named are relevant and therefore must be included in both the contract and the report, with the exception of the fee, method of payment, and delivery date, which are irrelevant to the inspection report. Relevancy outweighs any perception of redundancy. However, the Board agrees to delete “address and telephone number” from subdivision B.3 as a required item of the home inspection contract.

**Written Comment:**

**VAREI**

Page 6, line 5: Add “general” before “limitations” and add “and exclusions” after “limitations.” “General Limitations and Exclusions” is the term typically used by inspectors who are members of the two major national associations. The word “general” distinguishes these from house-specific limitations that may arise out of some limiting condition peculiar to the home during the inspection; such are usually then described in the report itself.

**Board Response:**

Since limitations listed in the inspection contract are specific in nature, the Board feels that the use of the term “general” is inappropriate. However, since exclusions are included on page 6, line 16 through page 7, line 4 of the proposed regulations, the Board agrees to insert “and exclusions” after “limitations.”

**VAREI**

Page 6, line 11: Delete “address, and telephone number.” In a normal home purchase transaction, this data is ephemeral since the client is moving. Sometimes the client’s current address is the home of a relative with whom they are staying.

**Board Response:**

The Board agrees to delete “address and telephone number” from subdivision B.3 as a required item of the home inspection contract.

**Written Comment:**

**Michael P. Lennon, President**  
**HomePro Systems, Inc.**  
**2141 Surey Point Road**  
**Huntsville, VA 22473**

**Michael Tallmon**  
**9930 Hampton Road**  
**Fairfax Station, VA 22039**

Page 6, line 16 through Page 7, line 4: Mr. Lennon and Mr. Tallmon feel that it would be onerous to include these items in the contract. They should be found in the written report. Additionally, these items are normally not part of a home inspection.

**Board Response:**

The Board feels that Mr. Lennon and Mr. Tallmon have misunderstood subdivision “7” which is a suggested listing of items to be excluded from the home inspection contract. Therefore, the Board takes no further action.

**Stephen A. Giesen**

Page 6, line 17: “Change ‘from’ to ‘in.’ You don’t want to exclude the listed items from the contract, rather, they should be listed as exclusions in the inspection contract.”

**Board Response:**

The Board agrees and implements the suggestion.

**E-mail Comment:**

**Mallory C. Anderson**  
**Executive Director**  
**National Association of Home Inspectors**  
**4248 Park Glen Road**  
**Minneapolis, MN 55416**  
[mcanderson@harringtoncompany.com](mailto:mcanderson@harringtoncompany.com)

Page 6, line 25: The term “residential building” be applied to homes over one year old only. Note: Most code enforcement departments normally have authority for one year of date of the permit and a home inspection is not a code compliance inspection.

**Board Response:**

The Board carefully considered the comment and takes no action.

**VAREI**

Page 6, line 29: Insert “and mold” after “organism.” Mold is often not visible, and requires laboratory analysis for conclusive data.

**Board Response:**

The Board agrees and will implement the revision as suggested.

#### **VAREI**

Page 7, line 3: Add an item “p. The interiors of flues.” following “o.” A flue is the interior portion of a chimney that actually conveys the combustion gases and is not normally accessible without special equipment. Flue inspection requires a specialist. This pertains to this proposed amendment as well as others below that also relate to flues.

#### **Board Response:**

Since the interiors of chimney flues are not accessible, and since certified home inspections by definition include only readily accessible components of a residential building, the Board feels that this language is not needed.

#### **E-mail Comment:**

#### **Emory Rodgers, DHCD**

Page 6, line 25, lines 30-31, and page 7, lines 7-10: 18 VAC 15-40-130 7h, 7l, and 7C - In the appropriate place language that serves as a disclaimer or exclusion in the contract and report should specifically say the home inspector and their report isn't intended to be construed as a notice of violation or compliance/non-compliance with the USBC. In 7h it has the exclusion for codes and ordinances, but it might be stated in a more specific manner. I hear from building officials that this is one of their major complaints with home inspectors. Hopefully, VBCOA will comment on this issue and provide some suggested language.

#### **Board Response:**

The Board agrees and will add on page 6, line 25 “including the Virginia Uniform Statewide Building Code,” after “codes.”

#### **Michael P. Lennon and Michael Tallmon**

Page 7, line 5.: What distinguishes a “certified home inspection report” from a home inspection report and how is it confirmed and/or verified?

#### **Board Response:**

A “certified home inspection report” is the report prepared by a “certified home inspector” that details the results of a “certified home inspection” as these latter two terms are defined by statute. It can be confirmed or verified by determining whether the individual preparing the report is a certified home inspector. The Board takes no action.

#### **Michael P. Lennon and Michael Tallmon**

Page 7, line 7.: What distinguishes a “certified home inspection contract” from a regular home inspection contract and how is this to be confirmed and/or verified?

**Board Response:**

A “certified home inspection contract” is the contract between a client and a “certified home inspector” that details what will and will not be done during a “certified home inspection” as these latter two terms are defined by statute. It can be confirmed or verified by determining whether the individual named as the inspector in the contract is a certified home inspector. The Board takes no action.

**Michael P. Lennon and Michael Tallmon**

Page 7, lines 7-8.: What distinguishes a “certified home inspection report” from a regular home inspection report and how will this be confirmed and/or verified?

**Board Response:**

A “certified home inspection report” is the report prepared by a “certified home inspector” that details the results of a “certified home inspection” as these latter two terms are defined by statute. It can be confirmed or verified by determining whether the individual preparing the report is a certified home inspector. The Board takes no action.

**VAREI**

Page 7, line 15: Delete “address, and telephone number.” This data is ephemeral.

**Board Response:**

The Board feels that the client’s address and telephone number at the time of the inspection should be included as part of the written report. Therefore, the Board takes no action.

**VAREI**

Page 7, line 17: Remove the requirement for a stop time. The addition of a stop time adds confusion as to whether the report writing time should be added, or only the actual time to inspect the property.

**Board Response:**

The Board agrees to insert “of the inspection” following “finish times.”

**Michael P. Lennon and Michael Tallmon**

Page 7, line 19 through Page 9, line 28: I have traditionally inspected all of these components but have limited my reporting to those which merited the attention of the home buying customer. Why not agree in the contract that the inspector is looking for things not functioning as intended and when such things are found they will be reported. Otherwise, when things are accessible and visible and found to be functioning as intended, they are not included in the report.

**Board Response:**

The Board has established set of components that must be inspected and their condition described in the inspection report by the certified home inspector while conducting a certified home inspection. The Board takes no action.

**William G. Meier III**

Page 7, line 24: Following “foundation” add “any past/present signs of water entry must be noted.”

**Board Response:**

Since inspecting for evidence of water entry is standard procedure when inspecting a residential foundation, the Board feels that this language is not needed and takes no action.

**VAREI**

Page 7, line 27: Replace “unless restricted by the dimensions of the area” with “the certified home inspector shall describe the method of inspecting the under floor crawl spaces, and if not inspected, the reason why.” The intention of this proposed language is to make the certified inspector more accountable to the client.

**Board Response:**

The suggestion should be implemented, but modified to read: “the method of inspecting the crawl space shall be noted and explained in the inspection report. If the crawl space cannot be inspected, the certificate holder shall explain in the inspection report why this component was not inspected.”

**VAREI**

Page 7, line 29: Delete item “f. Sump pump, when present.” This is included under Plumbing.

**Board Response:**

The Board agrees to the deletion.

**William G. Meier III**

Page 7, line 29: Sump pumps belong under Foundation. A sump pump deals with foundation water, not plumbing.

**Board Response:**

The Board agrees with the comments from the Virginia Association of Real Estate Inspectors and deletes this item since it is included under “plumbing system.”

**VAREI**

Page 7, line 33: Add “the certified inspector shall describe the method of inspecting the roof, and if not inspected, the reason why.” The intention of this proposed language is to make the certified inspector more accountable to the client.

**Board Response:**

The suggestion should be implemented, but modified to read: “the method of inspecting the roof covering shall be noted and explained in the inspection report. If the roof covering cannot be inspected, the certificate holder shall explain in the inspection report why this component was not inspected.”

**William G. Meier III**

Page 8, lines 1 and 7: “Ventilation” is included with both roof and attic.

**Board Response:**

The Board agrees and deletes “and ventilation” from “Attic insulation and ventilation.” on page 8, line 7.

**VAREI**

Page 8, line 5: Add “and” before “sheathing” and delete “and decking.” Sheathing and decking are the same thing.

**Board Response:**

The Board agrees to the deletion.

**National Association of Home Inspectors**

Page 8, line 6: Please replace the word “inaccessible” with “not readily accessible” since inaccessible is not defined in the regulations.

**Board Response:**

The Board agrees and implements the suggestion.

**William G. Meier III**

Page 8, line 7: Add “describe; attic insulation type; amount; estimate R factor; and typical R factor required in local building area.”

**Board Response:**

Since these items are standard procedures when inspecting attic insulation, the Board feels that this language is not needed. The Board takes no action.

**William G. Meier III**

Following page 8, line 7, add a new item: “i. evidence of leakage in attic.”

**Board Response:**

Since inspecting for evidence of leakage in the attic is standard procedure when inspecting the roof covering, roof flashings, and roof penetrations, the Board feels that this language is not needed.

**Michael P. Lennon and Michael Tallmon**

Page 8, line 9: I am required to report the composition and characteristics of the wall flashing. There must be some mistake here. Perhaps this is just a vernacular unknown to me.

**Board Response:**

The Board has used the home inspection industry terminology, and takes no action.

**VAREI**

Page 8, line 10-11: Delete item “b. All doors and windows, but not the operation of associated security locks, devices, or system.” This is included in interior.

**Board Response:**

The condition of the exterior of doors and windows can be different than the condition of the interior of the same component. Therefore, the Board feels that the language in the proposed regulations should remain, but be modified by replacing “All” with “Readily accessible.”

**National Association of Home Inspectors**

Page 8, line 10: The use of the word “all” in 3b is too demanding. NAHI recommends verbiage such as “representative number.”

**Board Response:**

A thorough and complete home inspection should include all doors and windows. If left to the discretion of the inspector to choose a “representative number,” items not tested may not function and would defeat the purpose of the inspection. However, the Board agrees to modify the language by replacing “All” with “Readily accessible.”

**Michael P. Lennon and Michael Tallmon**

Page 8, line 12: I am happy to inspect these items but would prefer not to report their composition and characteristics.

**Board Response:**

Determining the composition and characteristics of these elements is one of the objectives of a home inspection. Inspecting but not reporting would defeat the purpose of the inspection. The Board takes no action.

**VAREI**

Page 8, line 14: Add “readily” before “accessible.” “Readily accessible” is defined in these regulations. “Accessible” is not.

**Board Response:**

The Board agrees to the change.

**Michael P. Lennon and Michael Tallmon**

Page 8, line 15: Is “grade steps” a vernacular?

**Board Response:**

The Board has used the home inspection industry terminology, and takes no action.

**National Association of Home Inspectors**

Page 8, lines 16-17: It is suggested that item 3f be revised to read “Vegetation, trees, grading, drainage, and any retaining walls in contact with or immediately adjacent to the dwelling that may affect the dwelling.” A home inspector should not be responsible for

vegetation/trees that could fall on a house. The purpose of this item primarily is to note whether or not these things are compromising the structural integrity of the dwelling.

**Board Response:**

The Board agrees and implements the suggestion.

**National Association of Home Inspectors**

Page 8, line 20: The use of the word “every” in 4a is too demanding. NAHI recommends verbiage such as “representative number.”

**Board Response:**

A thorough and complete home inspection should include all walls, ceilings, and floors. If left to the discretion of the inspector to choose a “representative number,” items not tested may not function and would defeat the purpose of the inspection. However, the Board agrees to modify the language by replacing “Every” with “Readily accessible.”

**William G. Meier III**

Page 8, line 22: Add “properly secured” after “cabinets” and delete “, including hardware.”

**Board Response:**

Since this is standard procedure when inspecting countertops and installed cabinets, the Board feels that this language is not needed.

**VAREI**

Page 8, line 23: Replace “All” with “Readily accessible.” Also, replace “including hardware” with “but not the operation of associated security locks, devices, or systems.” Often doors and windows are not accessible at all without risk of damage to property, and often keys to locks are not available to the inspectors. Security systems are clearly ‘beyond the scope.’

**Board Response:**

The Board agrees and implements the suggestions.

**VAREI**

Page 8, line 24: Following “Garage doors and” add “permanently mounted and installed.” Garage door openers can come in varying degrees of ‘readiness to operate.’ Certified inspectors should only have to operate those that a homeowner could readily operate using normal controls.

**Board Response:**

The Board agrees to this change.

**VAREI**

Page 8, line 25: Delete “flues.” Same comments are previously expressed.

**Board Response:**

Since the interiors of chimney flues are not accessible, and since certified home inspections by definition include only readily accessible components of a residential building, this language will remain.

**William G. Meier III**

Page 8, line 32: “sump pump” – move back to foundation section.

**Board Response:**

Comment previously addressed.

**VAREI**

Page 9, line 1: Delete “flues.” Same comments as previously expressed.

**Board Response:**

Since the interiors of chimney flues are not accessible, and since certified home inspections by definition include only readily accessible components of a residential building, this language will remain.

**National Association of Home Inspectors**

Page 9, line 3: Add the words “for visible leaks” after “Fuel storage and distribution systems” in item “e” or eliminate item “e” on page 22 of 27. Paragraph E on page 19 of 27 requires the inspector to “inspect the condition of...” If this is applied to fuel storage tanks, the general public may have a false sense of security that the inspector is responsible for inspecting the structural integrity of a fuel storage tank, buried or otherwise.

**Board Response:**

The Board agrees to add “for visible leaks” to subpart e.

**VAREI**

Page 9, line 8: Replace “Service” with “System.” This is the proper term. The grounding referred to is for the protection of the house electrical system, not simply the service.

**Board Response:**

The concern expressed is for proper terminology, not to address potential confusion or ambiguity. Since both primary industry associations (ASHI and NAHI) use the terminology “service grounding,” the language in the proposed regulations will remain.

**Michael P. Lennon and Michael Tallmon**

Page 9, line 9: Depending on definitions you may be requiring the inspector to check the bus bars beneath the circuit breakers. Pretty difficult to do without dismantling the panel!

**Board Response:**

The Board has used the home inspection industry terminology, and takes no action.

**Michael P. Lennon and Michael Tallmon**

Page 9, line 11: Assuming you mean that the GFCI device should be inspected and are not requiring reporting on its composition and characteristics, it would be helpful to specify what type of inspection is desired. There are several ways to test the device but without disassembly, inspection itself is quite difficult. There are operational checks that home inspectors routinely perform but this is limited in what they indicate as well.

**Board Response:**

The Board has used the home inspection industry terminology, and takes no action.

**National Association of Home Inspectors**

Page 9, line 12: The use of the word “all” in 6h is too demanding. NAHI recommends verbiage such as “representative number.”

**Board Response:**

A thorough and complete home inspection should include all fixtures, switches, and receptacles. Any fixture, switch, or receptacle not inspected due to inaccessibility needs to be noted and explained in the inspection report. If left to the discretion of the inspector, items not tested may not function and would be a disservice to the client. However, the Board agrees to modify the language by replacing “All” with “Readily accessible.”

**VAREI**

Page 9, line 12: Replace “All installed” with “Representative number of.” Electrical items are often concealed entirely, or are visible but obstructed by personal property. Further, a light switch may control a receptacle that is hidden and has nothing plugged into it – so one can’t tell if the switch is working or not. ‘Representative number’ is a reasonable approach to this matter. Some things just need to be left to the inspector’s discretion.

**Board Response:**

A thorough and complete home inspection should include all fixtures, switches, and receptacles. Any fixture, switch, or receptacle not inspected due to inaccessibility needs to be noted and explained in the inspection report. If left to the discretion of the inspector, items not tested may not function and would defeat the purpose of the inspection. However, the Board agrees to modify the language by replacing “All” with “Readily accessible.”

**Michael P. Lennon and Michael Tallmon**

Page 9, line 13: I assume that the intent here is for reporting the presence of the AL general lighting circuitry and not inspecting it.

**Board Response:**

The Board has used the home inspection industry terminology, and takes no action.

**William G. Meier III**

Page 9, line 15: “k. Presence of solid aluminum branch circuit wiring. (Why should that be required info, isn’t aluminum acceptable??)”

**Board Response:**

Since this is industry accepted standard procedure when inspecting electrical systems, the Board feels that this language should remain.

**Michael P. Lennon**

Page 9, lines 17-20: There is no requirement to inspect or report on heat exchangers, gas logs, built-in gas burning appliances (which should include the majority of central heating furnaces) grills, stoves, space heaters, solar heating devices, or heating system accessories such as humidifiers, etc.

**Board Response:**

The Board considered this issue and determined that inspecting these elements requires specific knowledge beyond the scope of a certified home inspector. The board takes no action.

**VAREI**

Page 9, line 22: Add “system” following “distribution.” Inspecting the distribution itself requires technical expertise and equipment beyond the normal capacity of home inspectors.

**Board Response:**

The Board agrees and will add the suggested language.

**VAREI**

Page 9, line 23: Delete “flues.” Same comments as previously expressed.

**Board Response:**

Since the interiors of chimney flues are not accessible, and since certified home inspections by definition include only readily accessible components of a residential building, this language will remain.

**VAREI**

Page 9, line 25: Delete “and window.” Window units are considered to be plug-in appliances and not ‘installed’ equipment, and are typically excluded.

**Board Response:**

If window air conditioning units are to be sold with and as part of the residence, they should be tested to see if they are in working order. Should the residence have window units and the inspector is not expected to test the units, this agreement should be specified in the written contract. However, the Board agrees to modify this item to read: “Central and installed window/wall air conditioning equipment.”

**VAREI**

Page 9, line 28: Add “system” following “distribution.” Inspecting the distribution itself requires technical expertise and equipment beyond the normal capacity of home inspectors.

**Board Response:**

The Board agrees and will add the suggested language.

**Part V – Standards of Conduct and Practice**

**E-mail Comment:**

**Emory Rodgers, DHCD**

Page 10, lines 3-8: 18 VAC 15-40-150 – There is language in the contractor’s regulations that violations of the USBC can result in disciplinary action by the SBOC. It would seem logical for including in this section disciplinary action could result when a home inspector failed to exclude or have a disclaimer in the contract or when they wrote their inspection report indicating that there were code violations or items being in compliance/non-compliance with the USBC.

**Board Response:**

Home inspectors should be familiar with the USBC. In reporting their evaluation of a residential dwelling, it would be beneficial to the client if the home inspector could point out “possible” building code violations that the client could further investigate. However, the home inspector should take care not to cite code violations, even if the home inspector is also a building code official since it is not in a home inspector’s scope of work. The Board believes that no additional language is needed in this section.

**Written Comment:**

**Michael Tallmon**  
**9930 Hampton Road**  
**Fairfax Station, VA 22039**

Page 10, lines 20-22: Our term of liability to a customer is limited by the contract, are we to be liable to the Board beyond that term? Is this a loophole to escape liability after 3 years?

**Board Response:**

The Board has established three years as the necessary record retention time period for this documentation. The requirement is to have the information available for investigation to determine compliance. The Board takes no action.

**Written Comment:**

**VAREI**

Page 10, line 24: Add “copies of” after “agents.”

**Board Response:**

This addition is not necessary since the Board’s agents have always accepted copies of reports and documentation after the original has been examined and the copy found to be a true copy. The Board takes no action.

**Written Comment:**

**Michael P. Lennon, President  
HomePro Systems, Inc.  
2141 Surey Point Road  
Huntsville, VA 22473**

**Michael Tallmon  
9930 Hampton Road  
Fairfax Station, VA 22039**

Page 10, lines 24-27: In a previous section the home inspector was forbidden to provide this type of information without first gaining the approval of the client for whom the inspection was done.

**Board Response:**

The Board has full disciplinary authority over its regulated population and must access the cited information to determine compliance. The objective of the entire regulation is to protect the public. Accessing records is the only means available for determining compliance. The Board takes no action.

**VAREI**

Page 10, line 29: Add “business” after “21.” In most transactions in the real estate industry, work days only are counted.

**Board Response:**

The intent of this provision was to provide a reasonable amount of time for a regulant to respond to an inquiry. Therefore, the terminology will be changed to “15 business days.”

**Michael P. Lennon and Michael Tallmon**

Page 10, lines 34-35: Imagine the case where an inspector checks a property and the customer decided to cancel the purchase agreement. The home inspector ends up purchasing the property and undertakes the repairs required.

**Board Response:**

The Board agrees to add “except in cases where the home inspector purchased the residence after he performed the inspection.”

**Michael P. Lennon and Michael Tallmon**

Page 11, lines 3-4: We’re back to speeding tickets, etc.

**Board Response:**

Applicants with criminal conviction records must disclose their criminal convictions, provide court records and a report from the state police. The Board will determine on a case-by-case basis whether the applicant is qualified. This decision must be made in compliance with § 54.1-204 of the Code of Virginia and the Administrative Process Act. Traffic infractions are not misdemeanors and need not be disclosed. Speeding, in most cases, is a traffic infraction that need not be disclosed. Spitting on the sidewalk is a Class 4 misdemeanor and must be disclosed. The Board takes no action.

**Michael P. Lennon and Michael Tallmon**

Page 11, lines 14-15: It would be nice if everyone would act in such a manner as to safeguard the interests of the public. The average citizen frequently performs to less than this standard. Does acquiring a certificate from this Board raise the bar all by itself? What does this really mean and what are the implications?

**Board Response:**

By virtue of his status as a certificate holder, the certified home inspector must comply with the Board's regulations. Whether that is a greater or lesser standard or whether the bar is raised or lowered as a result of the regulation promulgation is an opinion and not pertinent to the Board's efforts. The standards are to be set by the Board in order to protect the public. The Board takes no action.

**Michael P. Lennon and Michael Tallmon**

Page 11, lines 18-19: What administrative body is being referred to as an entity that is capable of finding a certified home inspector guilty of anything?

**Board Response:**

An administrative body could include a government agency from another state that issued a license or certification to an individual to act as a home inspector.

**General Comments****E-mail Comment:**

**Stephen A. Giesen**  
**Home Survey, Inc.**  
**6147 Rossiter Ct.**  
**Manassas, Virginia 20112**

Mr. Giesen agrees that home inspectors should be “certified” in Virginia, but indicates that the proposed regulations are watered-down. He says “that a voluntary program has the impression that the state doesn’t really care if all home inspectors are regulated.”

**Board Response:**

The Code of Virginia establishes the certification program as volunteer. The Board cannot go beyond its authority and require mandatory home inspector certification.

**Town Hall Public Comment:**

**Tamsen M. Mikado**

These regulations will be positive as long as they remain voluntary.

**Board Response:**

The Board thanks Mr. Mikado for his comments.

**E-mail Comment:**

**Mallory C. Anderson**  
**Executive Director**  
**National Association of Home Inspectors**  
**4248 Park Glen Road**  
**Minneapolis, MN 55416**  
[mcanderson@harringtoncompany.com](mailto:mcanderson@harringtoncompany.com)

We would also like to submit that NAHI is a nationally recognized non-profit association of home inspectors that meets all criteria as outlined under item #4 on page 6 of 27 of 18 VAC 15-40. The NAHI CRI (Certified Real Estate Inspector) and Regular Member of NAHI also appear to meet the eligibility requirements. It would be much appreciated if the Virginia Board could provide a written response to this request.

Also, for your information, the NAHI CRI examination has been utilized since 1992 as a membership level competency exam. We respectfully request that the Virginia Board permit NAHI to pursue the submission of this test as an approved, written competency exam as defined in Section 3 on page 6 of 27. We also ask that the Virginia Board provides NAHI with the necessary criteria by which exams are being evaluated and approved, so that NAHI may provide the appropriate documentation for acceptance.

**Board Response:**

NAHI is welcome to apply to the Board for approval.

Letters of support for the comments received from the Virginia Association of Real Estate Inspectors (VAREI) were received from the following individuals. These individuals offered no comments of their own, nor gave any indication of having reviewed the proposed regulations.

Bruce Chinery  
AccuSpec Inspections  
2308 Kenstock Drive  
Virginia Beach, VA 23454

Michael Casey  
1571 Hunton Lane  
Haymarket, VA 20169-1732

Ronald F. Fones  
Quality Inspection Services, Inc.  
PO Box 1568  
Warsaw, VA 22572

Franklin D. (Buddy) Wyker  
Home Inspection Consultants, LLC  
PO Box 640  
Urbanna, VA 23175

Kurt C. Froelich  
2004 Milbank Road  
Richmond, VA 23229

Tom Perkins  
AccuSpec Inspections  
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Virginia Beach, VA 23454

Dwight Denison  
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James P. Hamner, President  
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Drew Howard  
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Dana Horton  
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Daryl W. Gage  
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Greg Caudill, President  
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ABLE Building Inspection, Inc.  
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Goode, VA 24556

Martin Quarles  
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Ivy, VA 22945

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American Home Inspections  
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James A. Chambers, Jr., Owner  
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Wall Home Inspections  
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Fred L. Simmermon  
Homepro of Tidewater, Inc.  
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Matthew E. Utterback  
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Jasper A. Mersereau  
President, Central Virginia ASHI  
11205 Brewer Road  
Richmond, VA 23233

Michael Tallmon  
9930 Hampton Road  
Fairfax Station, VA 22039

### Detail of Changes

*Please detail any changes, other than strictly editorial changes, that are being proposed. Please detail new substantive provisions, all substantive changes to existing sections, or both where appropriate. This statement should provide a section-by-section description - or crosswalk - of changes implemented by the proposed regulatory action. Include citations to the specific sections of an existing regulation being amended and explain the consequences of the changes.*

Since this will be the first set of regulations for home inspectors, there are no changes from existing regulations. The following is a detail of the substantive provisions of the proposed regulations.

Section 18 VAC 15-40-10 defines terms used in the proposed regulations. There is no economic impact.

Section 18 VAC 15-40-20 reiterates §54.1.517.1 of the Code of Virginia requiring persons referred to as “certified home inspectors” or conducting “certified home inspections” to hold a current and valid certification issued by the Board. Economically, the consumer may be charged a higher price for a “certified home inspection” due to the expense to the regulant to obtain certification.

Section 18 VAC 15-40-30 outlines the specific entry requirements for certification.

- Through consultation with industry associations, it is felt that either 35 contact hours of classroom instruction along with having completed 100 home inspections or 70 contact hours of classroom instruction accompanied by 50 home inspections are sufficient educational and experience requirements.
- A provision was added to allow persons who have been conducting home inspections for a minimum of ten years to become certified if they cannot fulfill the classroom instruction requirement.
- As required by the enabling statute, there is an examination requirement.
- The enabling statute allows membership in a national or state professional home inspector association to substitute for the entry requirements provided that membership requirements in such associations are at least equal to the Board's entry requirements.
- Standard language has been added regarding character status.
- By researching the entry requirements of other states' regulatory programs, it was found that several states, including Louisiana, Arizona, Nevada, Pennsylvania, Massachusetts, Rhode Island, Maryland, etc. (<http://www.inspecthomes.org/regulate.htm>), require applicants to carry general liability insurance and errors and omissions insurance. Industry association representatives in Virginia felt the need for regulants to carry a minimum of \$250,000 of general liability insurance as a certification requirement, but not errors and omission insurance.

The applicant will incur expenses for classroom instruction, taking the examination, and obtaining applicable insurance.

Section 18 VAC 15-40-40 describes other services and situations which may constitute a conflict of interest for a certified home inspector to perform or offer to perform other services on the property in which the regulant conducted a certified home inspection. A limitation of twelve months, either before or after the date of the home inspection, has been imposed for these other services. Consumer protection more than out weighs any loss of income by the regulant for these other services.

Section 18 VAC 15-40-50 gives the Board discretion to waive, on a case-by-case basis, any requirement of the regulations provided it does not lessen the protection of the public health, safety and welfare. This is standard language used in other regulations administered by DPOR. There is no economic impact.

Section 18 VAC 15-40-60 establishes the application fee. The Board decided that the application fee should be \$25, which is the same for individuals applying for licenses with the Board's other two regulatory programs, asbestos and lead. This fee is very minimal for the regulant.

Sections 18 VAC 15-40-70 through 18 VAC 15-40-120 gives requirements, procedures and fees for certification renewal and reinstatement, and examination. The procedures for renewal and reinstatement are consistent with those of DPOR's other regulatory programs, and the procedures and fees for examination adhere to procedures established by the Virginia Public Procurement

Act. The fees are consistent with the other programs administered by the Board. Since the enabling statute does not mandate continuing professional education, the Board felt that only a fee should be required for renewal and reinstatement purposes since the regulant has already met the entry requirements. However, it was felt that a two-year time limit was reasonable for reinstatement. Once a certification has been expired for more than two years, the regulant will need to apply as a new applicant. These fees are very minimal for the regulant.

Section 18 VAC 15-40-130 indicates the need for a signed written contract for the protection of both the consumer and the regulant. The contract must include identifying information concerning the client, the property to be inspected, and the regulant, in addition to identifying which areas, systems, and components will be inspected, along with any limitations and exclusions. Costs may be incurred to develop a contract or alter an existing contract. A home inspector could avoid any such costs by choosing to not apply for certification.

Section 18 VAC 15-40-140 lists all identifying information concerning the client, the property to be inspected, and the regulant that must be included on the Certified Home Inspection Report. This section also lists which areas, systems, and components which must be inspected, along with any limitations and exclusions. These areas, systems, and components have been identified by the industry associations as minimum standards. Costs may be incurred to develop an inspection report or alter an existing inspection report. A home inspector could avoid any such costs by choosing to not apply for certification.

Section 18 VAC 15-40-150 gives specific disciplinary authority to the Board. There is no economic impact.

Section 18 VAC 15-40-160 establishes procedures for maintaining current address and name information. This section also establishes a record retention schedule. These procedures are consistent with DPOR's other regulatory programs. Costs may be incurred to retain home inspection records. A home inspector could avoid any such costs by choosing to not apply for certification.

Section 18 VAC 15-40-170 gives the Board authority to review material pertaining to any certified home inspection conducted by a regulant. Costs may be incurred by the regulant for permitting a review of material. A home inspector could avoid any such costs by choosing to not apply for certification.

Section 18 VAC 15-40-180 establishes a specific period of time for the regulant to respond to Board inquiries. Costs may be incurred by the regulant to respond to inquiries. A home inspector could avoid any such costs by choosing to not apply for certification.

Section 18 VAC 15-40-190 lists specific actions taken by the regulant for which the Board may take disciplinary action. Should the Board impose sanctions on the regulant, loss of income or the payment of fines may result.

*Please provide an analysis of the regulatory action that assesses the impact on the institution of the family and family stability including the extent to which 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.*

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No impact on families in Virginia has been identified as resulting from the regulations.