



Virginia Department of Planning and Budget **Economic Impact Analysis**

18 VAC 15-40 Home Inspector Licensing Regulations
Department of Professional and Occupational Regulation
Town Hall Action/Stage: 6003 / 9938
May 12, 2023

The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with § 2.2-4007.04 of the Code of Virginia (Code) and Executive Order 19. The analysis presented below represents DPB’s best estimate of these economic impacts.¹

Summary of the Proposed Amendments to Regulation

As the result of a 2022 legislative mandate, the Virginia Board for Asbestos, Lead, and Home Inspectors (Board) proposes to: define “good working order” for smoke alarms, require home inspectors to determine whether smoke alarms in the home are in good working order if they are readily accessible (with an exception for those that would produce a false alarm to a fire department), include this determination in their home inspection report, and other associated amendments.

Background

The current regulation states that:

In conducting a home inspection and reporting its findings, the home inspector, at a minimum, shall inspect the condition of and shall describe in writing the composition or characteristics of the following readily accessible components and readily observable defects, except as may be limited in the home inspection contract agreement:

¹ Code § 2.2-4007.04 requires that such economic impact analyses determine the public benefits and costs of the proposed amendments. Further the analysis should include but not be limited to: (1) the projected number of businesses or other entities to whom the proposed regulatory action would apply, (2) the identity of any localities and types of businesses or other entities particularly affected, (3) the projected number of persons and employment positions to be affected, (4) the projected costs to affected businesses or entities to implement or comply with the regulation, and (5) the impact on the use and value of private property.

...

6. Electrical system.

...

j. Presence or absence of smoke detectors.

...

That is the only mention of smoke detectors or smoke alarms in the current regulation. Note that it allows components, including smoke detectors, to be excluded from the contract agreement, and thus not included in the inspection and report.

Chapter 398 of the 2022 Acts of Assembly, in its entirety, states that “The Board for Asbestos, Lead, and Home Inspectors (the Board) shall update the regulations in 18VAC15-40-130 to require that a home inspection and the report on its findings include a determination of whether the home's smoke detectors are in "good working order," as defined by the Board.” The legislation makes clear that smoke detectors should not be excluded from the contract agreement. The Board proposes to insert a sentence stating this in the regulation.

During development of this regulation the Department of Professional and Occupational Regulation (DPOR) recognized that the terms “smoke alarm” and “smoke detector” refer to different types of devices in the International Building Code.² A smoke detector is a device that senses particles of combustion, but does not contain control components and an alarm notification appliance. Smoke detectors are typically components of security systems. The current regulation and the legislation both use the term “smoke detector.” DPOR believes that “smoke alarm” is what was intended. Consequently, the Board also proposes to add the following definition to the regulation: “ ‘Smoke alarm’ means a single station or multiple station alarm responsive to smoke or ‘smoke detector’ as used in Chapter 398 of the 2022 Acts of Assembly.” Additionally, the Board proposes to amend “Presence or absence of smoke detectors” to “Presence or absence of smoke alarms.”

Pursuant to Chapter 398, the Board also proposes to define “Good working order” as “with respect to a smoke alarm inspected during a home inspection, that the smoke alarm is securely attached, not physically damaged, and operation of the test function is successful.”

² See https://codes.iccsafe.org/content/IBC2018P6/chapter-2-definitions#IBC2018P6_Ch02_Sec202

Additionally, the Board proposes to amend 18VAC15-40-130 *Home inspection report* by adding a new subsection, which states that “For any smoke alarms that are readily accessible . . . , the home inspection report must include a determination of whether the smoke alarms are in good working order . . .” The proposed text includes an exception for when the smoke alarm is part of a central alarm system or security system in which such testing will automatically alert a fire department or other authority. The proposed new text also requires that if the smoke alarm is not readily accessible, or there are any limitations in determining whether it is in good working order, that this be included in the report. Finally, the proposed new subsection requires that the home inspection report include the following advice to the client and disclaimer language:

It is recommended that a home have smoke alarms on each level of the dwelling and in every bedroom or sleeping area. Clients should replace any existing smoke alarms that are not in good working order with new ones and install smoke alarms where they may be missing or not properly located. Any test of a smoke alarm during a home inspection only reflects its condition at the time of inspection and is not a guarantee, warranty, or any form of insurance. A test performed during the home inspection does not supersede the smoke alarm manufacturer’s testing recommendations. Clients should follow the manufacturer’s instructions for proper placement, installation and maintenance.

Estimated Benefits and Costs

In 2021 the National Fire Protection Association issued a report which found that the risk of dying in reported home structure fires is 55 percent lower in homes that have working smoke alarms than in homes without alarms or those with non-working alarms.³ Additionally, it found that 16 percent of home fire deaths were caused by fires in properties where smoke alarms failed to operate.⁴ Thus, to the extent that the proposed requirements increase the likelihood that homeowners have working smoke alarms, there is the strong potential that fewer Virginians may die in home fires.

DPOR does not have data on the percentage of home inspectors who currently test smoke alarms as part of their inspections. Anecdotally it appears that some provide the service while others do not. For those inspectors who have been choosing to not test smoke alarms, the proposed requirement that the home inspection report include a determination of whether the

³ See <https://www.nfpa.org/News-and-Research/Data-research-and-tools/Detection-and-Signaling/Smoke-Alarms-in-US-Home-Fires>

⁴ Ibid

readily accessible smoke alarms are in good working order would introduce some cost in that: 1) these inspectors would be required to spend time in an activity that otherwise they would not do, and 2) potentially there may be some additional risk of liability in the event of a fire at a home where the home inspector conducted an inspection and made a determination of the good working order of the smoke alarms and the alarms fail during the fire. The potential additional risk of liability may be lessened somewhat by the disclaimer language that is to be required to be in the report. Some of these inspectors may choose to raise the price they charge for inspections in response.

Businesses and Other Entities Affected

The proposed amendments affect the 1,137 licensed home inspectors in the Commonwealth,⁵ their employers, and consumers who make use of home inspection services.

The Code of Virginia requires DPB to assess whether an adverse impact may result from the proposed regulation.⁶ An adverse impact is indicated if there is any increase in net cost or reduction in net revenue for any entity, even if the benefits exceed the costs for all entities combined. As discussed above, the proposed requirement that the home inspection report include a determination of whether the readily accessible smoke alarms are in good working order would produce cost, but since that is directly required by the legislation, no adverse impact is indicated for adding the language to the regulation.

Small Businesses⁷ Affected:⁸

Types and Estimated Number of Small Businesses Affected

The proposed amendments affect small firms that provide home inspection services. DPOR does not have data on the number of small firms that provide home inspection services.

⁵ Data source: Department of Professional and Occupational Regulation

⁶ Pursuant to Code § 2.2-4007.04(D): In the event this economic impact analysis reveals that the proposed regulation would have an adverse economic impact on businesses or would impose a significant adverse economic impact on a locality, business, or entity particularly affected, the Department of Planning and Budget shall advise the Joint Commission on Administrative Rules, the House Committee on Appropriations, and the Senate Committee on Finance. Statute does not define “adverse impact,” state whether only Virginia entities should be considered, nor indicate whether an adverse impact results from regulatory requirements mandated by legislation.

⁷ Pursuant to § 2.2-4007.04 of the Code of Virginia, small business is defined as “a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.”

⁸ If the proposed regulatory action may have an adverse effect on small businesses, Code § 2.2-4007.04 requires that such economic impact analyses include: (1) an identification and estimate of the number of small businesses subject

Costs and Other Effects

For those small home inspection firms that have chosen to not test smoke alarms in their inspections, the proposed requirement that the home inspection report include a determination of whether the readily accessible smoke alarms are in good working order would introduce some cost as described above in the Estimated Benefits and Costs section of this report.

Alternative Method that Minimizes Adverse Impact

As the requirement that produces cost is from the legislation, there are no clear alternative methods that both reduce adverse impact and meet the intended policy goals.

Localities⁹ Affected¹⁰

The proposed amendments do not appear to disproportionately affect any localities or introduce costs for local governments.

Projected Impact on Employment

The proposed amendments are not likely to substantively affect total employment.

Effects on the Use and Value of Private Property

To the extent that the proposed requirements increase the likelihood that homeowners have working smoke alarms, some fires may be detected earlier, potentially allowing for the fires to be put out sooner. This could potentially limit the damage to the property, as well reduce the likelihood of fatalities.

For those home inspection firms that have chosen to not test smoke alarms in their inspections, the proposed requirement that the home inspection report include a determination of whether the readily accessible smoke alarms are in good working order would introduce some

to the proposed regulation, (2) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the proposed regulation, including the type of professional skills necessary for preparing required reports and other documents, (3) a statement of the probable effect of the proposed regulation on affected small businesses, and (4) a description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation. Additionally, pursuant to Code § 2.2-4007.1, if there is a finding that a proposed regulation may have an adverse impact on small business, the Joint Commission on Administrative Rules shall be notified.

⁹ “Locality” can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulatory change are most likely to occur.

¹⁰ § 2.2-4007.04 defines “particularly affected” as bearing disproportionate material impact.

cost as described above in the Estimated Benefits and Costs section of this report. This may have a small negative effect on their value.

The proposal does not affect real estate development costs.