



Virginia
Regulatory
Town Hall

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Proposed Regulation Agency Background Document

Agency name	Board of Corrections
Virginia Administrative Code (VAC) citation	6 VAC 15 -20
Regulation title	Regulations Governing Certification and Inspection
Action title	Amends current certification process in state, local and community correctional facilities and programs.
Document preparation date	1/1/06

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 21 (2002) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

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

This regulation sets forth the process by which local jails, state correctional facilities, residential centers, probations and parole offices and other correctional programs under the authority of the Board of Corrections are monitored for compliance with minimum standards that are designed to endure the health, safety, and welfare of staff and offenders.

This regulation provides for regular inspections, administrative review of audits and an appeals process, and the issuance of variances to serve as a necessary enforcement mechanism that ensures uniform compliance with applicable Board regulations and certifies that facilities and programs are efficient and safe. While the current regulation provides considerable procedural detail in these areas, the Board of Corrections seeks to amend the Regulations Governing Certification and Inspection to reflect current terminology, organizational structure and pre-and post-audit processes; to standardize variance request procedures for local and state operated facilities, and clarify the appeal process.

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly .chapter number(s), if applicable, and (2) promulgating entity, i.e., the agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.

The Office of the Attorney General has confirmed that the Regulations Governing Certification and Inspection (6 VAC 15-20-10 et seq.) is statutorily authorized under COV §53.1-5, Powers and Duties of Board. The first provision of this statute requires the Board to develop and establish program and fiscal standards and goals governing the operation of state, local and community correctional facilities and community correctional services. The fourth provision of this section requires the Board to monitor the activities of the Department and its effectiveness in implementing the standards and goals of the Board. The Regulations Governing Certification and Inspection serve to enforce all facility and program standards promulgated by the Board.

Purpose

Please explain the need for the new or amended regulation by (1) detailing the specific reasons why this regulatory action is essential to protect the health, safety, or welfare of citizens, and (2) discussing the goals of the proposal and the problems the proposal is intended to solve.

The current regulations have been in place in their current form since July 1, 1997. Since that time the Board and the Department of Corrections have determined that revisions of the regulations, through the Administrative Process Act, may be necessary to accommodate new recommendations and to ensure further the health and safety standards of correctional facilities and services in state, local and community correctional facilities.

Substance

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

The Board of Corrections proposes to revise, where necessary, language in 6 VAC 15-20-10 et. seq. to reflect changes to the certification process in state, local and community correctional facilities and programs. This proposal will change the name and structure of the Department of Corrections' "Certification Unit" to the "Compliance and Accreditation Unit", and will identify the Compliance and Accreditation Unit Manager as the individual responsible to the DOC Deputy Director of Administration for managing the Board of Corrections' certification process. The amended regulations will update current on-site audit reporting procedures, and clarify to whom approved action plans are to be sent, and will require local correctional facilities and Community Adult Residential Programs to submit variance requests directly to the Board of Corrections. It will allow a facility or program administrator to request that a denied appeal be forwarded to the next level and require the Compliance and Accreditation staff to submit the denied action plan and a final recommendation to the Board. Changes from 75 days to 60 days, the time allowed for the Compliance and Accreditation Unit Supervisor to submit audit reports to the board.

Issues

Please identify the issues associated with the proposed regulatory action, including:

- 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions;*
- 2) the primary advantages and disadvantages to the agency or the Commonwealth; and*
- 3) other pertinent matters of interest to the regulated community, government officials, and the public.*

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

The primary advantage is that the revised regulation updates and clarifies the process for monitoring and certifying state, local and community correctional facilities and programs. There are no known disadvantages resulting from the proposed revisions to the existing regulation.

Economic impact

Please identify the anticipated economic impact of the proposed regulation.

Projected cost to the state to implement and enforce the proposed regulation, including (a) fund source / fund detail, and (b) a delineation of one-time versus on-going expenditures	No additional costs that exceed current costs for existing personnel and travel expenses are associated with the amended regulation.
Projected cost of the regulation on localities	Costs to localities to receive monitoring and auditing visits in incidental. Then the results of the monitoring or audit visit are reported to the Board for certification action, the locality may opt to send a representative to the Board meeting. This may involve travel costs and the cost of staff time. Costs may not be generalized because attendance at a Board meeting is optional.
Description of the individuals, businesses or other entities likely to be affected by the regulation	This regulation will affect all state, local and community correctional facilities and programs under the authority of the Virginia Board of Corrections.
Agency’s best estimate of the number of such entities that will be affected. Please include an estimate of the number of small businesses affected.	The agency’s best estimate of the number of entities affected by this regulation, defined as state, local and community correctional facilities and programs is 205. This includes 42 state operated facilities and programs; 84 locally operated facilities and programs; 79 community correctional facilities and programs.
All projected costs of the regulation for affected individuals, businesses, or other entities. Please be specific. Be sure to include the projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses.	No small businesses will be affected.

Alternatives

Please describe any viable alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action.

Recommendations for changes to the regulations will require amendments promulgated through the Administrative Processes Act (APA). No alternative exists will effectively clarify and strengthen the certification and inspection process. The amendments, when drafted, will regulate only those necessary areas addressed in the Code of Virginia.

Public comment

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

Commenter	Comment	Agency response
	No Comments Received	

Family impact

Please assess the impact of the proposed regulatory action on the institution of the family and family stability.

The recommendations of the proposed regulatory action will amend internal procedures, which should have no direct impact on families. An indirect impact is that better controlled state, local and community correctional facilities and programs contribute to safer communities.

Detail of changes

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

If the proposed regulation is intended to replace an emergency regulation, please list separately (1) all changes between the pre-emergency regulation and the proposed regulation, and (2) only changes made since the publication of the emergency regulation.

For changes to existing regulations, use this chart:

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
6VAC 15-20-10		Definitions of terminology used in regulation	Revises existing definitions to make regulation language consistent with current terminology used in state, local and community corrections facilities and programs. Corresponding language is revised throughout the regulation.
6 VAC 15-20-30			Changes from certification analyst to Compliance and Accreditation Supervisor who will complete a written notice of postponed compliance audit.
6 VAC 15-20-40			Realigns responsibilities for preparation of annual audit schedules and appointment of certification team members. Deletes the requirement to send, with the prior notification of a compliance audit, a copy of this chapter, a copy of the standards compliance form and a list of compliance documentation required

			during an audit.
6 VAC 15-20-50			Adds the requirement that a facility or program with an approved variance shall provide such documentation to the certification team, and allows the facility or program administrator to introduce additional data having a bearing on the teams findings. Allows the team leader to obtain a consensus of the members regarding the compliance.
6 VAC 15-20-60			Realigns responsibilities in the development, forwarding, and approval of action plans for local and state facilities and programs.
6 VAC 15-20-80			Adds the requirement for local facilities and Community Adult Residential Programs to submit variance requests directly to the Board with the plan of action. Requires other facilities/programs to include with the variance request: the standard that cannot be met, justification for the variance and the time frame for the variance. Realigns responsibilities for forwarding and approval of variance requests.
6 VAC 15-20-90			Realigns responsibilities for appeal review levels for state facilities and programs. Adds that if an appeal is ultimately denied by the Board, the Compliance and Accreditation unit staff will review and confirm the submitted plan of action and present a final recommendation for consideration by the Boar at the following board meeting.
6 VAC 15-30-100		Submission of audit reports to the Board currently is 75 days after the completion of the audit.	Realigns responsibilities for submission of audit reports to the Board. Allows 60 days to forward report after the completion of the audit.
6 VAC 15-20-110			Changes certification unit staff to Compliance and Accreditation Unit Supervisor.
6 VAC 15-20-120			New definition language inserted.
6 VAC 15-20-140			New definition language inserted.
6 VAC 15-20-150			New definition language inserted.
6 VAC 15-20-160			New definition language inserted.
6 VAC 15-20-170			Deletes the 10 day time requirement that a copy of the inspection report is to be mailed to the regional office.
6 VAC 15-20-190			New definition language inserted.
6 VAC 15-20-220			New definition language inserted.
6 VAC 15-20-230			New definition language inserted.