



Final 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
Date this document prepared	1/17/07

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

This regulation sets forth the process by which local jails, state correctional facilities, residential centers probation 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 ensure 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 is amending the Regulations to reflect current terminology, organizational structure and pre/post audit processes; to standardize variance requests for local and state operated facilities, and to clarify the appeal process.

Statement of final agency action

Please provide a statement of the final action taken by the agency including (1) the date the action was taken, (2) the name of the agency taking the action, and (3) the title of the regulation.

The Board of Corrections adopted the final Regulations Governing Certification and Inspection on January 17, 2007.

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 numbers, if applicable, and (2) promulgating entity, i.e., 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 6VAC 15-20-10 et seq. are statutorily authorized under COV §53.1-5, Powers and Duties of the Board.

Purpose

Please explain the need for the new or amended regulation. Describe the rationale or justification of the proposed regulatory action. Detail the specific reasons it is essential to protect the health, safety or welfare of citizens. Discuss 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, through the Administrative Process Act, are necessary to accommodate new recommendations and to further ensure the health and safety standards of correctional facilities and services in state, local and community correctional facilities.

Substance

Please identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. A more detailed discussion is required under the “All changes made in this regulatory action” section.

The Board of Corrections proposes to revise, where necessary, language in 6 VAC 15-20 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 there are no disadvantages to the public or the Commonwealth, please 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.

Changes made since the proposed stage

Please describe all changes made to the text of the proposed regulation since the publication of the proposed stage. For the Registrar’s office, please put an asterisk next to any substantive changes.

Section number	Requirement at proposed stage	What has changed	Rationale for change
6VAC15-20-90	Original Title: Appeal process and schedule	Changed Title: Appeal process for audits/inspections and schedule.	Title revised to more accurately reflect intent of the section.

Public comment

Please summarize all comments received during the public comment period following the publication of the proposed stage, and provide the agency response. If no comment was received, please so indicate.

No public comments were received.

All changes made in this regulatory action

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

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		Certification analyst to complete written notice. Region and central office staff to conduct preparatory audit	Changes from certification analyst to Compliance and Accreditation Supervisor who will complete a written notice of postponed compliance audit. Deletes requirement of central office staff to conduct a preparatory audit of a new facility or

			program during the first six months of operation.
6 VAC 15-20-40		Currently requires a copy of chapter, standards compliance form and compliance documentation to be sent to facility or program administrator.	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		1.New variance documentation requirement 2.Leader to obtain majority vote	1. 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 team’s findings. 2. Allows the team leader to obtain a consensus of the members regarding the compliance.
6 VAC 15-20-60		Required sending Audit findings to Board	Realigns responsibilities in the development, forwarding, and approval of action plans for local and state facilities and programs.
6 VAC 15-20-70		Deputy Director approves, amends, returns plan of action	New definition language inserted. Dep. Director Community Corrections, Deputy Director Operations, and Compliance/Accreditation Unit manager to approve, amend or return to regional director or local facility administrator
6 VAC 15-20-80		Deputies forward all variance requests to the Board	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			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.

Regulatory flexibility analysis

Please describe the agency’s analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) the establishment of less stringent compliance or reporting requirements; 2) the establishment of less stringent schedules or deadlines for compliance or reporting requirements; 3) the consolidation or simplification of compliance or reporting requirements; 4) the establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the proposed regulation.

There are no alternative regulatory methods that will accomplish the goals of this regulation.

Family impact

Please assess the impact of the proposed regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one’s spouse, and one’s children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

There is no direct family impact. Certified facilities and programs foster security and safety, which contributes to overall public safety.