



[townhall.virginia.gov](http://townhall.virginia.gov)

## Notice of Intended Regulatory Action (NOIRA) Agency Background Document

<b>Agency name</b>	Department for the Blind and Vision Impaired
<b>Virginia Administrative Code (VAC) Chapter citation(s)</b>	22VAC45-40
<b>VAC Chapter title(s)</b>	Regulations Governing Vending Facilities in Public Buildings
<b>Action title</b>	Amend Regulations Governing Vending Facilities in Public Buildings
<b>Date this document prepared</b>	4/28/2020

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 14 (as amended, July 16, 2018), the Regulations for Filing and Publishing Agency Regulations (1VAC7-10), and the *Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code*.

### Brief Summary

*Provide a brief summary (preferably no more than 2 or 3 paragraphs) of the subject matter, intent, and goals of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation).*

The Department for the Blind and Vision Impaired (DBVI) seeks to amend 22VAC45-40, Regulations Governing Vending Facilities in Public Buildings, to correct the agency name, incorporate people first language, and align the regulation with current agency practice pertaining to Vending Facilities in Public Buildings.

Additionally, this action revises 22VAC45-40 to reflect language in § 51.5-89 of the Code of Virginia.

### Acronyms and Definitions

Define all acronyms or technical definitions used in this form.

---

**“DBVI” means Department for the Blind and Vision Impaired.**

## Mandate and Impetus

Identify the mandate for this regulatory change and any other impetus that specifically prompted its initiation (e.g., new or modified mandate, petition for rulemaking, periodic review, or board decision). For purposes of executive branch review, “mandate” has the same meaning as defined in Executive Order 14 (as amended, July 16, 2018), “a directive from the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part.”

---

Executive Order 14 (as amended, July 16, 2018) requires that executive branch agencies consider, review, and promulgate regulations annually. As part of the periodic review, DBVI staff determined to amend 22VAC45-40 to reflect the accurate agency name and to align the regulation with agency practice regarding the operation of vending stands in public facilities.

## Legal Basis

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

---

DBVI is the agency initiating this regulatory action. Statutory authority comes from §§ 51.5-65 and 51.5-89 of the Code of Virginia. Section 51.5-65 identifies the functions, duties, and powers of the Commissioner to adopt regulations to carry out the applicable provisions of the chapter. Section 51.5-89 addresses the placement of blind persons in vacancies by DBVI to operate vending stands or other business enterprises in public buildings. At the federal level, legal authority comes from the Randolph-Sheppard Act (P.L. 74-732, as amended by P.L. 83-565 and P.L. 93-516 (20 U.S.C. § 107 et. seq.)).

## Purpose

Describe the specific reasons why the agency has determined that this regulation is essential to protect the health, safety, or welfare of citizens. In addition, explain any potential issues that may need to be addressed as the regulation is developed.

---

Persons who are blind operating vending facilities or other business enterprises in public buildings, their customers, and DBVI benefit from the alignment of the regulation with agency policy and business practice. Updating the regulation to reflect the current agency name ensures that interested stakeholders know which state agency to contact when vending facility or other business enterprise sites, in which persons who are blind have first priority, become available in public buildings. DBVI is unaware of any disadvantages to the public or the Commonwealth resulting from amending the regulation.

## Substance

Briefly identify and explain the new substantive provisions that are being considered, the substantive changes to existing sections that are being considered, or both.

Amendments include:

- Updating the agency name from “Department for the Visually Impaired” to the current name, “Department for the Blind and Vision Impaired.”
- Replacing “will” with “shall” to reflect mandates in § 51.5-89 of the Code of Virginia.
- Incorporating people first language throughout the regulation, including the definition of “persons who are blind.”
- Making grammatical changes to clarify the intent of the regulation.
- Deleting 22VAC45-40-10 (3) to broaden opportunities for persons who are blind to manage vending facilities and other business enterprises in public buildings.

Adding the text “other business enterprises” throughout the regulation to ensure consistency with the first paragraph.

## Alternatives to Regulation

Describe any viable alternatives to the regulatory change that were considered, and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the regulatory change. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in § 2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulatory change.

DBVI did not consider alternatives to amending 22VAC45-40. The amendments are required to update the agency name and to align the regulation with current agency policy and practice. The amendments will result in clearer and more precise requirements that enhance vending stand program stability and implementation.

## Periodic Review and Small Business Impact Review Announcement

If you wish to use this regulatory action to conduct, and this NOIRA to announce, a periodic review (pursuant to § 2.2-4017 of the Code of Virginia and Executive Order 14 (as amended, July 16, 2018)), and a small business impact review (§ 2.2-4007.1 of the Code of Virginia) of this regulation, keep the following text. Modify as necessary for your agency. Otherwise, delete the paragraph below and insert “This NOIRA is not being used to announce a periodic review or a small business impact review.”

DBVI is not using this NOIRA to announce a periodic review or a small business impact review.

## Public Participation

Indicate how the public should contact the agency to submit comments on this regulation, and whether a public hearing will be held, by completing the text below. In addition, as required by § 2.2-4007.02 of the Code of Virginia describe any other means that will be used to identify and notify interested parties and seek their input, such as regulatory advisory panels or general notices.

---

**INSERT:**

The Department for the Blind and Vision Impaired is providing an opportunity for comments on this regulatory proposal, including but not limited to (i) the costs and benefits of the regulatory proposal, (ii) any alternative approaches, and (iii) the potential impacts of the regulation.

Anyone wishing to submit written comments for the public comment file may do so through the Public Comment Forums feature of the Virginia Regulatory Town Hall web site at: <https://townhall.virginia.gov>. Comments may also be submitted by mail, email or fax to Susan K. Davis, 397 Azalea Avenue, Richmond, Virginia 23227, 804-371-3184, (FAX 804-371-3157), [susan.davis@dbvi.virginia.gov](mailto:susan.davis@dbvi.virginia.gov). In order to be considered, comments must be received by 11:59 pm on the last day of the public comment period.

**THEN, INSERT EITHER:**

A public hearing will not be held following the publication of the proposed stage of this regulatory action.