



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

<b>Agency name</b>	Department of Corrections
<b>Virginia Administrative Code (VAC) citation</b>	6 VAC15-28
<b>Regulation title</b>	Regulations for Public/Private Joint Venture Work Programs Operated in a State Correctional Facility
<b>Action title</b>	Revise as necessary 6 VAC 15-28
<b>Date this document prepared</b>	July 28, 2008

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 36 (2006) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

### Purpose

*Please describe the subject matter and intent of the planned regulatory action. Also include a brief explanation of the need for and the goals of the new or amended regulation.*

6VAC 15-28 governs the form and review process for proposed agreements between the Director of the Department of Corrections and a public or private entity to operate a work program in a state correctional facility. These regulations have been in place in their current form since 1995. Since that time there have been several changes to the Code of Virginia related to "work programs and agreements with other entities." The current Code of Virginia section is §53.1-45.1. Given the need for possible amendments, the Board of Corrections has approved a motion to initiate the regulatory amendment 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., 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 determined that the Board of Corrections has the statutory authority to amend 6 VAC 15-28 et. seq., pursuant to §53.1-5 of the Code of Virginia.

## Need

*Please detail the specific reasons why the agency has determined that the proposed regulatory action is essential to protect the health, safety, or welfare of citizens. In addition, delineate any potential issues that may need to be addressed as the regulation is developed.*

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Since this regulation was promulgated, the Code of Virginia §§53.1-45.2 through 45.5 (Creation of Virginia Correctional Enterprises Advisory Board and Appointment of Advisory) has been repealed by Acts 2003, cc. 94 and 854, cl. 2.

## Substance

*Please detail any changes that will be proposed. For new regulations, include a summary of the proposed regulatory action. Where provisions of an existing regulation are being amended, explain how the existing regulation will be changed.*

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Probable amendments to this regulation include deleting committee requirements, including specific organizational/business committee membership, to review proposed agreements between the DOC Director and a public or private entity. The application and approval process for submission of proposed agreements between the DOC and public/private entities will be reviewed and revised as necessary.

## Alternatives

*Please describe all viable alternatives to the proposed regulatory action that have been or will be considered to meet the essential purpose of the action. Also, please describe the process by which the agency has considered or will consider other alternatives for achieving the need in the most cost-effective manner.*

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Amendments will be made in accordance with mandates set forth in current Code of Virginia §53.1-45.1 and those repealed in Code of Virginia §§53.1-45.2 through 45.5. There are no other viable alternatives to the proposed regulatory action.

## Public participation

*Please indicate the agency is seeking comments on the intended regulatory action, to include ideas to assist the agency in the development of the proposal and the costs and benefits of the alternatives stated in this notice or other alternatives. Also, indicate whether a public hearing is to be held to receive comments on this notice.*

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The agency is seeking comments on the intended regulatory action, including but not limited to 1) ideas to assist in the development of a proposal, 2) the costs and benefits of the alternatives stated in this background document or other alternatives and 3) potential impacts of the regulation. The agency is also seeking information on impacts on small businesses as defined in § 2.2-4007.1 of the Code of Virginia. Information may include 1) projected reporting, recordkeeping and other administrative costs, 2) probable effect of the regulation on affected

small businesses, and 3) description of less intrusive or costly alternative methods of achieving the purpose of the regulation.

Anyone wishing to submit written comments may do so by mail, email or fax to **Janice Dow, Policy and Initiative Unit Manager, Department of Corrections, 6900 Atmore Drive, Richmond Virginia 23261, 804-674-3303 x1128, FAX 804 674-3017, [janice.dow@vadoc.virginia.gov](mailto:janice.dow@vadoc.virginia.gov)**. Written comments must include the name and address of the commenter. In order to be considered comments must be received by the last day of the public comment period.

In addition, the agency is seeking information on (1) the continued need for the regulation; (2) the complexity of the regulation; (3) the extent to which the regulation overlaps, duplicates, or conflicts with federal or state law or regulation; and (4) the length of time since the regulation has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the regulation.}

A public hearing will not be held.

### Participatory approach

*Please indicate, to the extent known, if advisers (e.g., ad hoc advisory committees, technical advisory committees) will be involved in the development of the proposed regulation. Indicate that 1) the agency is not using the participatory approach in the development of the proposal because the agency has authorized proceeding without using the participatory approach; 2) the agency is using the participatory approach in the development of the proposal; or 3) the agency is inviting comment on whether to use the participatory approach to assist the agency in the development of a proposal.*

The Department of Corrections is using a participatory approach to amend this regulation and will solicit communications from representatives of the Department of Corrections, the Virginia Correctional Enterprises and involved public/private entities. On technical issues, the agency may consult with experts.

### Family impact

*Assess the potential 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.*

The proposed changes do not strengthen or erode the authority or rights of parents in the education, nurturing and supervision of their children. There will be no impact on economic self-sufficiency, self pride, marital commitment or disposable family income.