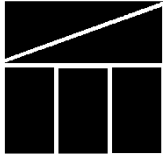


Adverse impact notification sent to Joint Commission on Administrative Rules, House Committee on Appropriations, and Senate Committee on Finance (COV § 2.2-4007.04.C): Yes  Not Needed

If/when this economic impact analysis (EIA) is published in the *Virginia Register of Regulations*, notification will be sent to each member of the General Assembly (COV § 2.2-4007.04.B).



## Virginia Department of Planning and Budget Economic Impact Analysis

---

**6 VAC 15-80 – Standards for Planning, Design, Construction and Reimbursement of Local Correctional Facilities (to be repealed)**

**6 VAC 15-81 – Standards for Planning, Design, Construction and Reimbursement of Local Correctional Facilities (replacement regulation)**

**Department of Corrections**

**Town Hall Action/Stage: 4459/7485**

December 15, 2016

---

### **Summary of the Proposed Amendments to Regulation**

The Board of Corrections (Board) proposes to repeal its regulation that sets standards for constructing local correctional facilities and replace it with a regulation that updates standards to reflect changes in the Code of Virginia, uniform statewide building and fire codes and best building practices for correctional facilities.

### **Result of Analysis**

Benefits likely outweigh costs for these proposed changes.

### **Estimated Economic Impact**

The current regulation governing construction standards of local correctional facilities was promulgated in 1994 and modified in 2009. Since that time, there have been many changes to the Code of Virginia (COV), the uniform statewide building code (USBC) and fire code regulations and to best practice standards for correctional facilities. In order to bring this regulation into conformity with existing requirements in law and in other regulations, the Board now proposes to repeal the current regulation and replace it with a new regulation.

Many of the changes that the Board proposes for the new regulation do not change current building requirements as those requirements are set by either the COV or the USBC and fire code regulations. For instance, Americans with Disabilities Act (ADA) requirements for new construction and renovation of existing buildings are set in the USBC. The Board proposes to harmonize their construction standards with the USBC by providing for ADA accessible cells. Changes such as these that harmonize this regulation with other existing legal requirements will likely not cause any entities to incur any additional costs. Affected entities will benefit from these changes as they remove or change language that conflicts with current law and, therefore, might lead to confusion.

Many other changes that are proposed by the Board are meant to clarify regulatory requirements that may have been incomplete or confusing. For instance, current regulatory language that governs libraries services were written in 1994 and anticipates that such services would include a mobile book cart. Technological changes that allow prisoners to choose from all available books in a facility (rather than just being able to choose from the number of books that would fit on a cart) have made mobile book carts obsolete. The Board now proposes to replace language referencing mobile book carts with language that requires “alternative library services” for prisoners who cannot access a facility’s library. Changes like this that are designed to update and clarify requirements will likely not cause any entity to incur costs. These changes will benefit interested parties as they make the regulation easier to understand.

The Board also proposes numerous substantive changes for the replacement regulation they are promulgating. Specifically, the Board proposes to:

1. Limit value management analyses (VMA)<sup>1</sup> that must currently be done for all building and renovation projects to only those projects that cost \$10 million or more. The Board proposes this change because it has concluded that projects smaller than \$10 million are unlikely to save enough money on account of the VMA to justify the cost. Board staff estimates that this change will save localities completing smaller projects between \$50,000 and \$100,000 because they will not have to pay for a VMA.

---

<sup>1</sup> Value management analyses are studies done of proposed facility design for the purposes of ensuring that the design satisfies functionality requirements and is cost-effective. Such analyses also seek to ensure quality and efficiency for the project.

2. Require that armories in correctional facilities have exhaust systems. Board staff reports that the typical cost for an exhaust system to be installed in an armory is approximately \$1,000. The costs for this change are likely outweighed by the benefit of increased safety that will accrue to correctional facility staff because the exhaust system will vent out any leaking or accidentally dispersed chemical agents (mainly, tear gas).
3. Modify current requirements for prisoner intake areas. Currently, facilities must have one intake bed for every 10 beds of rated prisoner capacity. The Board proposes to keep this ratio for the first 400 bed of design capacity but allow facilities with a rated capacity of greater than 400 beds to only have one intake bed for every 40 beds of rated capacity over the first 400 beds. This change will likely decrease the costs of building or renovating larger facilities although Board staff does not have an estimate for the magnitude of those cost savings.
4. Change the percentage of beds that must be dedicated to each security level. Currently, facilities are required to be 20% maximum security, 40% medium security and 40% minimum security. The Board proposes to change these ratios so that facilities are 30% maximum security, 40% medium security and 30% minimum security. Board staff reports that requiring more maximum security beds, which have larger cells than other security levels, will increase construction costs but that those costs will be partially or completely offset by another proposed change that allows slightly smaller medium security cells. This change will benefit localities as it allows them to house prisoners in more appropriate (and therefore safer) cells.
5. Add exceptions to climate control requirements so that warehouses, industrial spaces and mechanical and electrical spaces will not have to be heated and air conditioned. These exceptions will allow localities that are building or renovating correctional facilities some cost savings because they will not have to build these areas so that they are heated and cooled and will also not have to incur additional ongoing energy costs for heating and cooling these areas.
6. Change requirements for special purpose cells (isolation, medical and segregation cells) so that localities can build 20% of these cells at a less than maximum security level (current standards allow 10% lower security cells). These changes will also allow localities to install flushing floor drains instead of toilets in cells designed for violent or

self-destructive prisoners and build cuff slots in doors for enclosed showers in special purpose housing units. Board staff reports that increasing the percentage of lower security special purpose cells will save localities some building costs. Other changes to special purpose cell requirements are expected to increase both prisoner and staff security.

7. Change recreational space requirements so that facilities must only have 10 square feet of recreational space for each inmate for which the facility is designed up to 480 inmates rather than up to the currently required 500 inmate capacity. Localities that are building or renovating larger facilities will likely see some costs saving from having to build and secure 200 fewer square feet of recreational area.
8. Reduce the number of non-contact visiting spaces (from one per every 12 inmates to one per every 20 inmates) and allow up to 75% of non-contact visitation to be off-site (video) visitation. Board staff reports that the costs of installing and maintaining video equipment will be more than offset by lower staff costs associated with not having to process visitors so that they do not bring in contraband and not having additional guards for contact visits. Changing visitation in this way may also increase staff and inmate security by reducing incidences of potentially dangerous contraband making its way into facilities.
9. Increase the minimum size of kitchen space from a minimum of 10 square feet for each prisoner up to 100 prisoners of rated capacity and three square feet for each prisoner in the rated capacity over 100 to a minimum of 1,500 square feet and three additional square feet for each prisoner over 100 in the rated capacity. The Board also proposes to require that facility kitchen areas include a staff dining or break room. Board staff reports that these changes will increase building costs but the additional kitchen area will allow facilities to better accommodate the multiple menus now required to meet religious, allergy and therapeutic dietary needs. Additionally, having a staff dining or break room will allow localities to better accommodate staff who are not allowed for safety reasons to eat at their workstations.
10. Require facilities with three or more stories to have at least two elevators with secure local control. Board staff reports that this will slightly increase construction/renovation costs for larger facilities but will also provide the benefit of greater operational flexibility and security.

11. Require electronic sound monitoring systems that allow prisoners to notify staff of emergencies, intercoms at security doors and video monitoring of blind spots in corridors, sallyports,<sup>2</sup> building entrances and building exteriors. Board staff reports that these requirements will increase cost but will allow these facilities to comply with the federal Prison Rape Elimination Act and will increase safety for both prisoners and staff.
12. Require that there be at least one plumbing valve to shut off water supplies in each housing unit and additional shut off valves for each special purpose and intake cell. Board staff reports that these changes will increase costs but will also facilitate contraband recovery and reduce nuisance flooding. These changes will also allow staff to limit the areas affected by necessary water cut offs which will reduce prisoner unrest that has the potential to put staff at risk.
13. Require noise abatement material for housing, activity and intake areas. Board staff reports that localities will have control over the type and quality of noise abatement material so the magnitude of costs will vary greatly from project to project. Staff also reports that this change is aimed at increasing security and decreasing the stress that noisy, echoing spaces can cause for both staff and prisoners.
14. Prohibit magnetic locks as they are not secure during power outages and are generally less secure than other available alternatives. Board staff reports that this change is not expected to increase costs for localities.
15. Finally, the Board proposes to prohibit tank-type toilets. Board staff reports that there is a negligible difference between the cost of tank-type toilets and the cost of tankless toilets but that the lids and various rods and levers inside tank-type toilets can be used as weapons. Banning this type of toilet will likely increase staff and prisoner safety.

Although Board staff did not have costs estimates for most of the substantive changes to this regulation, the benefits in increased safety and efficiency for facilities are large enough that they likely exceed those unquantified costs.

---

<sup>2</sup> A sallyport is a secure vestibule constructed of secure walls, a secure ceiling, and secure floor with two or more interlocking secure doors.

**Businesses and Entities Affected**

These proposed regulatory changes will affect localities that build or renovate local correctional facilities either separately or as part of a regional building effort. Currently, there are 75 local correctional facilities in the Commonwealth.

**Localities Particularly Affected**

Localities that build or renovate local correctional facilities will be affected by these proposed regulatory changes.

**Projected Impact on Employment**

These proposed regulatory changes are unlikely to affect employment in the Commonwealth.

**Effects on the Use and Value of Private Property**

These proposed regulatory changes are unlikely to affect the use or value of private property in the Commonwealth.

**Real Estate Development Costs**

Some of these proposed regulatory changes are likely to increase real estate development costs for building local correctional facilities and some of these proposed regulatory changes are likely to decrease real estate development costs for building local correctional facilities.

**Small Businesses:****Definition**

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.”

**Costs and Other Effects**

No small businesses will be adversely affected by these proposed regulatory changes.

**Alternative Method that Minimizes Adverse Impact**

No small businesses will be adversely affected by these proposed regulatory changes.

**Adverse Impacts:****Businesses:**

No businesses will be adversely affected by these proposed regulatory changes.

**Localities:**

Localities in the Commonwealth may see some cost increases for building or renovating local correctional facilities. Any cost increases must be weighed against expected long term cost savings that may occur as well as anticipated benefits in greater efficiency and enhanced prisoner and staff safety.

**Other Entities:**

No other entities are likely to be adversely affected by these proposed changes.

**Legal Mandates**

**General:** The Department of Planning and Budget 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 Number 17 (2014). Code § 2.2-4007.04 requires that such economic impact analyses determine the public benefits and costs of the proposed amendments. Further the report 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.

**Adverse impacts:** Pursuant to Code § 2.2-4007.04(C): 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 within the 45-day period.

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 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.

amh