

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #3

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1988 MAY -9 PM 1:28
OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

**NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE
AND
FILING WITH THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE**

AGENCY: Jail and Prison Standards Commission TITLE NUMBER: 95

CITE AUTHORITY Legislative § 31-20-9

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: 3

TITLE OF RULE BEING PROPOSED: West Virginia Minimum Standards
for Construction, Operation and Maintenance of Holding
Facilities

THE ABOVE PROPOSED LEGISLATIVE RULE HAVING GONE TO A PUBLIC HEARING OR A PUBLIC COMMENT PERIOD IS HEREBY APPROVED BY THE PROMULGATING AGENCY FOR FILING WITH THE SECRETARY OF STATE AND THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE FOR THEIR REVIEW.

William R. Waple

SUMMARY OF
WEST VIRGINIA MINIMUM STANDARDS FOR
CONSTRUCTION, OPERATION AND MAINTENANCE OF
HOLDING FACILITIES

The above named document is a full and comprehensive compilation of standards developed to set guidelines for the issues listed in the title of the document: construction, operation, and maintenance of Holding Facilities. It covers the current requirements of the National Fire Protection Association (NFPA), the Building Official and Code Administrators International (BOCA), the American Correctional Association, the National Sheriffs Association, the West Virginia Department of Health, and existing court precedents deriving from recent lawsuits against several West Virginia county jails. Additionally, the document reflects the input of county and state individuals with professional experience in each of these areas.

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FISCAL NOTE OR ECONOMIC IMPACT OF
"WEST VIRGINIA MINIMUM STANDARDS FOR CONSTRUCTION,
OPERATION, AND MAINTENANCE OF HOLDING FACILITIES"

The specific dollar amount that full implementation of these Holding Facility Standards will have is impossible to develop. The determination to convert a current county jail facility into a local, short-term holding facility is one that will have to be made by each county commission. Several county jails are currently under court order having been found unconstitutional following inmate initiated holdings of constitutional lawsuits. Others have closed due to an inability to come into constitutional compliance with court orders. In the absence of locally developed standards, many state courts have been looking to national standards and court decisions in other jurisdictions for guidance. The resulting orders have mandated numerous, very costly renovations and the development of many new programs.

With the construction of new regional jails, as envisioned in Chapter 31, Article 20 of the West Virginia Code, it was anticipated that individual counties might either close their present jail facility or convert it to a short-term (72 hour) holding facility. The number of facilities so converted and the condition of each at the time of conversion will be the determining factor in final over-all cost. Given court precedent, unwelcome financial outlays will be necessary for each county commission regardless of the direction they take. Holding facilities may be the less expensive way to go for many.

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JUSTIFICATION FOR
WEST VIRGINIA MINIMUM STANDARDS FOR
CONSTRUCTION, OPERATION AND MAINTENANCE OF HOLDING FACILITIES

West Virginia Code § 31-20-9, passed as part of the overall bill establishing the Regional Jail and Prison Authority on April 13, 1985 and in effect July 1, 1985, specifically outlines the duty of the Jail and Prison Standards Commission (which was created in § 31-20-8) to develop the referenced standards. Subsection (1) of § 31-20-9 lists the various issues to be addressed by the Holding Facility Standards, while subsection (2) directs the Commission to ". . . promulgate such rules pursuant to the provisions of chapter twenty-nine - a . . ."

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OPERATION, AND MAINTENANCE OF HOLDING FACILITIES

COMMENT PERIOD

A "Notice of a Comment Period on a Proposed Rule" was filed with the Secretary of State's Office on April 4, 1988. The thirty day comment period was set to, and did, expire at 5:00 p.m. on May 6, 1988.

As no comments were received regarding the Holding Facility Standards, the document is submitted as passed by the Jail and Prison Standards Commission at its last meeting.

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