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Proposed Regulation Agency Background Document

Agency name	Department of Criminal Justice Services
Virginia Administrative Code (VAC) citation(s)	6 VAC20-100
Regulation title(s)	Rules Relating to Compulsory Minimum Training Standards for Correctional Officers of the Department of Corrections, Division of Adult Institutions
Action title	Amend Corrections Officers Compulsory Minimum Training Standards – Performance Outcomes and Minimum Hours Required
Date this document prepared	March 24, 2016 (Revised October 2016)

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 17 (2014) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

Please provide a brief summary (preferably no more than 2 or 3 paragraphs) of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.

The proposed regulatory action identifies the Criminal Justice Service Board as the approval authority for the training categories and the hours of compulsory minimum training standards for the Department of Corrections basic corrections officer training. The Criminal Justice Services Board's Committee on Training (COT) is identified as the approval authority for the performance outcomes, training objectives, criteria and lesson plan guides for the Department of Corrections basic corrections officer training. The proposed language requires the COT conduct a public hearing prior to approving changes to the training standards. Additionally, sixty days prior to the public hearing proposed changes are required to be distributed to all affected parties. The performance objectives have been removed from the regulation to allow changes to the training standards to be made in a timely fashion to meet the evolving needs of the

field while still providing notice and opportunity for public comment to affected individuals and agencies. Requirements for in-service of basic corrections officers and in-service for firearms training have been identified. Proposed language would provide DCJS with the option to suspend or revoke a previously approved training. Currently DCJS' only regulatory authority is to suspend or revoke the certification of the academy.

The existing regulation identifies the individual performance and testing objectives for compulsory minimum training standards for basic corrections officers along with the information regarding the timeline for completing training, grading, and record keeping requirements.

Acronyms and Definitions

Please define all acronyms used in the Agency Background Document. Also, please define any technical terms that are used in the document that are not also defined in the "Definition" section of the regulations.

Committee on Training – (COT) The approval authority for training standards for the Department of Corrections basic corrections officer training.

Curriculum Review Committee (CRC) - The body designated by the COT to review and research proposed revisions to training standards.

Department of Criminal Justice Services- DCJS

Department of Corrections - DOC

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including: 1) the most relevant citations to the Code of Virginia or General Assembly chapter number(s), if applicable; and 2) promulgating entity, i.e., agency, board, or person. Your citation should include a specific provision authorizing the promulgating entity to regulate this specific subject or program, as well as a reference to the agency/board/person's overall regulatory authority.

Department of Criminal Justice Services and the Criminal Justice Services Board

Pursuant to §9.1-102. Powers and duties of the Board and the Department.
The Department, under the direction of the Board, which shall be the policy-making body for carrying out the duties and powers hereunder, shall have the power and duty to:...

...9. Establish compulsory minimum entry-level, in-service and advanced training standards, as well as the time required for completion of such training, for persons employed as deputy sheriffs and jail officers by local criminal justice agencies, correctional officers employed by the Department of Corrections under the provisions of Title 53.1, and juvenile correctional officers employed at a juvenile correctional facility as the term is defined in §66-25.3. ...

9.1-107. Powers and duties of Director.

A. The Director shall be charged with executive and administrative responsibility to (i) carry out the specific duties imposed on the Department under § 9.1-102 and (ii) maintain appropriate liaison with federal, state and local agencies and units of government, or combinations thereof, in order that all programs, projects and activities for strengthening and improving law enforcement and the administration of criminal justice may function effectively at all levels of government. ...

§9.1-112 There is created a permanent Committee on Training under the Board that shall be the policy-making body responsible to the Board for effecting the provisions of subdivisions 2 through 17 of § 9.1-102.

Purpose

Please explain the need for the new or amended regulation. Describe the rationale or justification of the proposed regulatory action. Describe the specific reasons the regulation 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.

In 2012 the Virginia Department of Criminal Justice Services (DCJS) contracted with the National Institute of Corrections in collaboration with the Virginia Department of Corrections (DOC) to conduct a job task analysis to assist DCJS in defining minimum entry level training standards for corrections officers. The job task analysis identified a need for enhanced training requirements. The proposed regulation will revise the minimum entry-level training standards as well as the hours needed for corrections officers' compulsory minimum training standards to address the enhanced training requirements identified by the job task analysis. The performance objectives for the compulsory minimum training standards will be removed from the regulation and individuals will be directed to the DCJS website to view the performance objectives. Additionally, language addressing the approval authority of the Criminal Justice Services Board and the COT will be added to the regulation. These proposed revisions are essential to ensure corrections officers receive the training necessary to protect the health, safety and welfare of inmates housed in Virginia's correctional institutions, as well as that of the corrections officers.

Substance

Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both. A more detailed discussion is provided in the "Detail of changes" section below.

The purpose for this intended regulatory action is to revise and update current regulations governing the compulsory minimum training standards for corrections officers employed by the DOC. Substantive changes include updating outdated language. The new substantive provisions include:

- Adding, revising, deleting definitions for the following terms: academy director, agency administrator, approved training academy, approved training school, corrections officer, Curriculum Review Committee, full time attendance, school director, and satellite facility.
- Identifying the categories that make up the Compulsory Minimum Training Standards along with the required training hours for corrections officers. The performance objectives to be trained on have been removed from the regulation to allow revisions to the training standards to be made in a more expeditious manner while still allowing a forum for public comment through the COT. This includes removal of the language addressing firearms training.
- Adding language that identifies the approval authority for training requirements- The Criminal Justice Services Board shall be the approval authority for the training categories of the compulsory minimum training standards. The COT of the Criminal Justice Services Board shall be the approval authority for the performance outcomes, training objectives, criteria and lesson plan guides that support the performance outcomes.

- Adding language that would provide DCJS with the option to suspend or revoke a previously approved training. Currently DCJS' only regulatory authority is to suspend or revoke the certification of the academy.
- Adding language which references the in-service requirements for corrections officers training and in-service for firearms identified in 6VAC20-30 Rules Relating to Compulsory in-Service Training Standards for Law-Enforcement Officers, Jailors or Custodial Officers, Courtroom Security Officers, Process Service Officers and Officers of the Department of Corrections, Division of Operations.
- Language referencing outdated documents, and adoption and effective dates which are no longer relevant has been removed from the regulation.

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 to private citizens, businesses, and the Commonwealth is increased public safety. The regulation is intended to ensure corrections officers receive the appropriate training prior to assuming responsibility for the security and safety of DOC facilities and inmates. The enhanced training increases the safety of the corrections officers, inmates, and other staff working within DOC operated facilities.

There are no disadvantages to the public, the Commonwealth, or DOC.

Requirements more restrictive than federal

Please identify and describe any requirement of the proposal which is more restrictive than applicable federal requirements. Include a rationale for the need for the more restrictive requirements. If there are no applicable federal requirements or no requirements that exceed applicable federal requirements, include a statement to that effect.

There are no federal requirements addressed within the proposed regulation.

Localities particularly affected

Please identify any locality particularly affected by the proposed regulation. Locality particularly affected means any locality which bears any identified disproportionate material impact which would not be experienced by other localities.

There are no localities particularly affected by the proposed regulation.

Public participation

Please include a statement that in addition to any other comments on the proposal, the agency is seeking comments on the costs and benefits of the proposal and the impacts of the regulated community.

In addition to any other comments, the Department of Criminal Justice Services is seeking comments on the costs and benefits of the proposal and the potential impacts of this regulatory proposal. Also, the agency is 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 for the public comment file may do so by mail, email or fax to Barbara Peterson-Wilson, address: 1100 Bank Street, 12th Floor, phone number: 804-225-4503, fax number: 804-786-0410 and email address: Barbara.Peterson-Wilson@dcjs.virginia.gov. Comments may also be submitted through the Public Forum feature of the Virginia Regulatory Town Hall web site at: <http://www.townhall.virginia.gov>. Written comments must include the name and address of the commenter. In order to be considered, comments must be received by 11:59 pm on the last day of the public comment period.

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

Economic impact

Please identify the anticipated economic impact of the proposed new regulations or amendments to the existing regulation. When describing a particular economic impact, please specify which new requirement or change in requirement creates the anticipated economic impact.

<p>Projected cost to the state to implement and enforce the proposed regulation, including: a) fund source / fund detail; and b) a delineation of one-time versus on-going expenditures</p>	<p>The regulations addressing DCJS compulsory minimum training standards for corrections officers employed by the Department of Corrections have been in effect since January 1, 1988. The costs noted below are related to the proposed amendments which increase training requirements.</p> <p>The cost associated with the amendments to the regulation involves costs associated with ammunition purchases for initial handgun certification and changing from the bobber target to a scoring target. This cost will affect the Academy for Staff Development with the additional anticipated ammunition cost of \$159,213.95 per year and scoring target cost of \$1, 216.60 per year.</p> <p>The cost associated with meals served with an additional week of training added and a regular class size of 35 with 32 classes scheduled will</p>
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	<p>affect the Academy for Staff Development with the anticipated cost range of \$33,096 to \$35,000 annually.</p> <p>The fuel cost associated with travel by participants from the facility to the Academy for the additional week of training is dependent on the market price of fuel at the time participants are scheduled for training.</p>
<p>Projected cost of the new regulations or changes to existing regulations on localities.</p>	<p>There are no costs to localities associated with amending 6VAC20-100.</p>
<p>Description of the individuals, businesses, or other entities likely to be affected by the new regulations or changes to existing regulations.</p>	<p>Amending 6VAC20-100 affects the DOC's institutions, corrections officers and inmates.</p>
<p>Agency's best estimate of the number of such entities that will be affected. Please include an estimate of the number of small businesses affected. Small business means a business entity, including its affiliates, that: a) is independently owned and operated and; b) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.</p>	<p>Amending 6VAC20-100 affects the DOC institutions, corrections officers and inmates.</p> <p>The Virginia Department of Corrections operates 24 Major Facilities, 8 Field Units, 4 Work Centers, and 3 Detention/Diversion Centers housing a total inmate population of approximately 38,761. DOC employs approximately 7,405 corrections officers.</p>
<p>All projected costs of the new regulations or changes to existing regulations for affected individuals, businesses, or other entities. Please be specific and include all costs including: a) the projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses; and b) specify any costs related to the development of real estate for commercial or residential purposes that are a consequence of the proposed regulatory changes or new regulations.</p>	<p>The costs associated with the amendments to the regulation are costs associated with training.</p> <p>The Criminal Justice Services Board's COT voted to approve the enhanced training standards at the December 2014 meeting. DOC has been instructing basic corrections officer training using the new enhanced training requirements since July 2015. The associated costs with enhanced training requirements have been assumed by DOC.</p> <p>There are no costs associated with reporting, recordkeeping, or administrative costs for small business.</p> <p>There are no costs related to the development of real estate for commercial or residential purposes that are a consequence of the proposed regulatory changes.</p>
<p>Beneficial impact the regulation is designed to produce.</p>	<p>This regulation will align DOC training and DCJS mandated training standards to meet needs of employees in bridging employee work-based requirements. The focus is to contribute to employee preparation and understanding of application of new and enhanced training requirements/compliances. The regulation is intended to ensure corrections officers receive the appropriate training prior to assuming responsibility for the security and safety of the inmates residing in DOC facilities. The enhanced training increases the safety of the officer, inmates and other staff working within the facilities.</p>

Alternatives

Please describe any viable alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action. 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 regulation.

There is no viable alternative to the proposal. Section 9.1-102 (9) of the *Code of Virginia* requires DCJS and the Criminal Justice Services Board to establish the compulsory minimum entry-level, in-service, and advanced training standards as well as the time required for the completion of the training for persons employed by the DOC. The proposed amendments to the regulation do not impact small businesses.

Regulatory flexibility analysis

Pursuant to § 2.2-4007.1B of the Code of Virginia, 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 viable alternatives. Section 9.1-102 (9) of the *Code of Virginia* authorizes the Criminal Justice Services Board and DCJS to adopt regulations for the administration of the chapter which includes the requirement to establish the compulsory minimum entry-level, in-service, and advanced training standards as well as the time required for the completion of the training for persons employed by the DOC. The proposed amendments to the regulation do not impact small businesses.

Periodic review and small business impact review report of findings

If you are using this form to report the result of a periodic review/small business impact review that was announced during the NOIRA stage, please indicate whether the regulation meets the criteria set out in Executive Order 17 (2014), e.g., is necessary for the protection of public health, safety, and welfare, and is clearly written and easily understandable. In addition, as required by 2.2-4007.1 E and F, please include a discussion of the agency’s consideration of: (1) the continued need for the regulation; (2) the nature of complaints or comments received concerning the regulation from the public; (3) the complexity of the regulation; (4) the extent to which the regulation overlaps, duplicates, or conflicts with federal or state law or regulation; and (5) 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.

The proposed regulation is not the result of a periodic review or a small business impact review.

Public comment

Please summarize all comments received during the public comment period following the publication of the NOIRA, and provide the agency response.

Commenter	Comment	Agency response

No public comments were received.

Family impact

Please assess the impact of this 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 regulation has no impact on the institution of the family or family stability.

Detail of changes

Please list all changes that are being proposed and the consequences of the proposed changes; explain the new requirements and what they mean rather than merely quoting the proposed text of the regulation. If the proposed regulation is a new chapter, describe the intent of the language and the expected impact. Please describe the difference between existing regulation(s) and/or agency practice(s) and what is being proposed in this regulatory action. If the proposed regulation is intended to replace an emergency regulation, please follow the instructions in the text following the three chart templates below.

For changes to existing regulation(s), please use the following chart:

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change, intent, rationale, and likely impact of proposed requirements
Chapter Title		RULES RELATING TO COMPULSORY MINIMUM TRAINING STANDARDS FOR CORRECTIONAL OFFICERS OF THE DEPARTMENT OF CORRECTIONS, DIVISION OF ADULT INSTITUTIONS	RULES RELATING TO COMPULSORY MINIMUM TRAINING STANDARDS FOR CORRECTIONAL CORRECTIONS OFFICERS OF THE DEPARTMENT OF CORRECTIONS, DIVISION OF ADULT INSTITUTIONS Technical change: The term correctional has been changed to corrections throughout the regulation.
6VAC20-100-10		Defines terms used throughout the regulation	Definitions for the following terms have been added, revised, or deleted to provide clarity throughout the regulation.

			<p>academy director, agency administrator, approved training academy, approved training school, certified training academy, corrections officer, Curriculum Review Committee, Committee on Training, satellite facility, school director</p> <p>The term approved training school has been removed and certified training academy is used in its place in this section and throughout the document.</p>
6VAC20-100-20		<p>Dated Code section cited §9-170 (7)</p> <p>Identifies only full-time corrections officers</p> <p>Identifies the individual topics of instruction and requires 80 hours for correctional officer field training in the institution, 120 hours for basic correctional officer classroom training held at the academy, and 16 hours training in vehicle operation for staff responsible for transporting inmates in vehicles.</p>	<p>Code citation corrected 9.1-102 (9)</p> <p>Adds the term part-time corrections officers. Both full-time and part time corrections officers are required to complete the same training requirements.</p> <p>The individual topics to be trained on have been removed from the regulation to allow revisions to the training standards to be made in a more expeditious manner while still allowing a forum for public comment through the Committee on Training</p> <p>Training categories are listed and the individual training requirements (i.e. performance objectives, criteria and lessons plans can be located on the DCJS website.</p> <p>In 2012 the Virginia Department of Criminal Justice Services (DCJS) contracted with the National Institute of Corrections in collaboration with the Virginia Department of Corrections (DOC) to conduct a job task analysis to assist DCJS in defining minimum entry level training standards for corrections officers. The job task analysis identified a need for enhanced training requirements.</p> <p>Academy training hours (400) are required in addition to field training hours (200). Corrections officers are required to complete a total of 600 training hours.</p>
	6VAC20-100-25		<p>Adding language that identifies the approval authority and process which includes notice provisions for approving revisions to the training requirements-</p>

			<p>The Criminal Justice Services Board shall be the approval authority for the training categories of the compulsory minimum training standards. The Committee on Training of the Criminal Justice Services Board shall be the approval authority for the performance outcomes, training objectives, criteria and lesson plan guides that support the performance outcomes. Prior to approving changes to the performance outcomes, training objectives, criteria or lesson plan guides, the Committee on Training shall conduct a public hearing. Sixty days prior to the public hearing, the proposed changes shall be distributed to all affected parties for the opportunity to comment. Notice of change of the performance outcomes, training objectives, criteria, and lesson plan guides shall be filed for publication in the Virginia Register of Regulations upon adoption, change, or deletion. The department shall notify each certified academy in writing of any new, revised, or deleted objectives. Such adoptions, changes, or deletions shall become effective 30 days after notice of publication in the Virginia Register</p>
6VAC20-100-30		<p>Identifies only full-time Corrections officers</p> <p>Dated Code section cited §9-173</p> <p>Requires every person to meet the compulsory minimum training requirements subsequent to the effective date of the regulation.</p>	<p>Adds the term part-time corrections officers. Both full-time and part time corrections officers are required to complete the same training requirements</p> <p>Code citation corrected 9.1-116</p> <p>Adds language stating corrections officers employed prior to July 1, 2015 are exempt from the compulsory minimum training requirements but must complete in-service requirements.</p>
6VAC20-100-40		<p>Identifies the time required for completion of training.</p>	<p>Language modified to clarify what training was required when an individual separated from correctional officer status.</p>
6VAC20-100-50		<p>Section (C) Identifies timelines for training schools to comply with the training standards.</p>	<p>Adds language to restrict placing an officer on post when in training</p> <p>Section (C) has been deleted. The language is dated and references as far back as 1982 and is no longer relevant.</p>
6VAC20-		<p>A curriculum listing</p>	<p>Requires the subject matter be listed.</p>

<p>100-60</p>		<p>performance objective by number, the instructors, dates, and times for the entire proposed session shall be submitted to the department 30 days prior to the beginning of each such proposed session</p> <p>School directors are required to maintain lesson plans</p> <p>Allows DCJS to suspend or revoke the approval of an approved training school</p> <p>15 days to request a hearing and appeal a suspension or revocation of the approval of a training school</p>	<p>A curriculum listing <u>the subject matter</u>, performance objective by number, the instructors, dates, and times for the entire proposed session shall be submitted to the department within the time limitations established by the department.</p> <p>The language has been modified to require the academy director maintain current lesson plans.</p> <p>Language has been added to allow DCJS to suspend or revoke the certification of a training academy and to suspend or revoke the approval for a previously sanctioned training.</p> <p>Permits the academy additional time to request a hearing and appeal a suspension or revocation. 15 days was changed to 15 working days</p>
<p>6VAC20-100-70</p>		<p>A. Each officer shall comply with the requirements of all the performance objectives set forth in 6VAC20-100-20 and the document entitled, "Performance-Based Training and Testing Objectives for Compulsory Minimum Training for Correctional Officers of the State Department of Corrections, Division of Adult Institutions" (June, 1986). All approved training schools shall utilize testing procedures which indicate that every officer, prior to satisfactory completion of the training school, has met the requirements set forth in each performance objective specified in the document entitled, "Performance-Based Training and Testing Objectives for Compulsory Minimum Training for Correctional Officers of the State Department of Corrections, Division of Adult Institutions" (June, 1986). An officer may be tested and retested as may be necessary within the time limits of 6VAC20-100-40 and</p>	<p>The term approved training school has been changed to certified training academy in this section and throughout the document.</p> <p>There is still a requirement for firearms training identified in 6VAC20-100-20 Category 9 Firearms Training. The specific detailed language related to firearms training requirements has been removed. The specific requirements were removed from the regulation and placed in the Virginia Criminal Justice Services Training Manual and Compulsory Minimum Training Standards located on the Department of Criminal Justice Services' website to allow revisions to the firearms training standards to be made in a more expeditious manner while still allowing a forum for public comment through the COT.</p> <p>DOC reviewed and field tested the proposed course of fire to ensure it met the required training needs of correctional officers. The COT approved the firearms training course.</p> <p>Requires a minimum score of 70% on all tests to set a minimum standard. The academy can require a higher score.</p>

		<p>in accordance with each academy's written policy. An officer shall not be certified as having complied with the compulsory minimum training standards unless all applicable requirements have been met.</p> <p>B. The school director shall submit a grade report on each officer on forms provided by the department.</p> <p>C. The following firearms training will be required for each officer attending an approved school:</p> <ol style="list-style-type: none"> 1. Nomenclature and care of service revolver; 2. Safety (on the firearms range, on duty and off duty); 3. Legal responsibilities and liabilities of firearms; 4. Service revolver (handling, firing principles); 5. Dry firing and application of basic shooting principles; 6. Prequalification shooting (60 rounds, minimum); 7. Basic Correctional Firearms Qualification Course - Minimum 70% qualification required 8. Shotgun Qualification Course - Minimum 80% qualification required 9. Special Weapons Qualification Courses - Minimum 80% qualification required <ol style="list-style-type: none"> a. .223 caliber mini-14 rifle b. AR-15 semi-automatic rifle 	
6VAC20-100-80		Identifies school director as the individual responsible for ensuring trainee compliance with the rules and regulations.	Identifies the academy director as the individual responsible for ensuring trainee compliance with the rules and regulations
6VAC20-100-90		Identifies school director as the individual responsible for compliance with administrative requirements and maintenance of training records.	Identifies the academy director as the individual responsible for compliance with administrative requirements and explains the documentation requirements identifying the correct form. Provides 60 days to submit documentation. Language provides 30 days to submit document.

	6VAC20-95		Notifies individuals there are in-service and annual firearms training requirements and directs individuals to 6VAC20-30 the Chapter which identifies the in-service and firearms training requirements.
6VAC20-100-100		Effective date noted as January 1, 1988.	A new effective date will be inserted at final stage.
6VAC20-100-110		Documents recession of previous rules.	This section will be repealed. It is no longer relevant as the language references an amendment to the regulation that occurred in 1989.