

US EPA ARCHIVE DOCUMENT

1999 Code of Virginia Excerpt

§ 19.2-393 Definitions

An "inspection warrant" is an order in writing, made in the name of the Commonwealth, signed by any judge of the circuit court whose territorial jurisdiction encompasses the property or premises to be inspected or entered, and directed to a state or local official, commanding him to enter and to conduct any inspection, testing or collection of samples for testing required or authorized by state or local law or regulation in connection with the manufacturing, emitting or presence of a toxic substance, and which describes, either directly or by reference to any accompanying or attached supporting affidavit, the property or premises where the inspection, testing or collection of samples for testing is to occur. Such warrant shall be sufficiently accurate in description so that the official executing the warrant and the owner or custodian of the property or premises can reasonably determine from the warrant the activity, condition, circumstance, object or property of which inspection, testing or collection of samples for testing is authorized.

For the purposes of this chapter, "manufacturing" means producing, formulating, packaging, or diluting any substance for commercial sale or resale; "emitting" means the release of any substance, whether or not intentional or avoidable, into the work environment, into the air, into the water, or otherwise into the human environment; and "toxic substance" means any substance, including (i) any raw material, intermediate product, catalyst, final product and by-product of any operation conducted in a commercial establishment and (ii) any biological organism, that has the capacity, through its physical, chemical, or biological properties, to pose a substantial risk to humans, aquatic organisms or any other animal of illness, death or impairment of normal functions, either immediately or over a period of time.

§ 19.2-394 Issuance of warrant

An inspection warrant may be issued for any inspection, testing or collection of samples for testing or for any administrative search authorized by state or local law or regulation in connection with the presence, manufacturing or emitting of toxic substances, whether or not such warrant be constitutionally required. Nothing in this chapter shall be construed to require issuance of an inspection warrant where a warrant is not constitutionally required or to exclude any other lawful means of search, inspection, testing or collection of samples for testing, whether without warrant or pursuant to a search warrant issued under any other provision of the Code of Virginia. No inspection warrant shall be issued pursuant to this chapter except upon probable cause, supported by affidavit, particularly describing the place, things or persons to be inspected or tested and the purpose for which the inspection, testing or collection of samples for testing is to be made. Probable cause shall be deemed to exist if either reasonable legislative or administrative standards for conducting such inspection, testing or collection of samples for testing are satisfied with respect to the particular place, things or persons or there exists probable cause to believe that there is a condition, object, activity or circumstance which legally justifies such inspection, testing or collection of samples for testing. The supporting affidavit shall contain either a statement that consent to inspect, test or collect samples for testing has been sought and refused or facts or

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circumstances reasonably justifying the failure to seek such consent in order to enforce effectively the state or local law or regulation which authorizes such inspection, testing or collection of samples for testing. The issuing judge may examine the affiant under oath or affirmation to verify the accuracy of any matter indicated by the statement in the affidavit.

§ 19.2-395 Duration of warrant

An inspection warrant shall be effective for the time specified therein, for a period of not more than ten days, unless extended or renewed by the judicial officer who signed and issued the original warrant, upon satisfying himself that such extension or renewal is in the public interest. Such warrant shall be executed and returned to the judicial officer by whom it was issued within the time specified in the warrant or within the extended or renewed time. After the expiration of such time, the warrant, unless executed shall be void.

§ 19.2-396 Conduct of inspection, testing or collection of samples for testing; special procedure for dwelling

An inspection, testing or collection of samples for testing pursuant to such warrant may not be made in the absence of the owner, custodian or possessor of the particular place, things or persons unless specifically authorized by the issuing judge upon a showing that such authority is reasonably necessary to effectuate the purpose of the law or regulation being enforced. An entry pursuant to this warrant shall not be made forcibly, except that the issuing judge may expressly authorize a forcible entry where facts are shown sufficient to create a reasonable suspicion of an immediate threat to public health or safety, or where facts are shown establishing that reasonable attempts to serve a previous warrant have been unsuccessful. In the case of entry into a dwelling, prior consent must be sought and refused and notice that a warrant has been issued must be given at least twenty-four hours before the warrant is executed, unless the issuing judge finds that failure to seek consent is justified and that there is a reasonable suspicion of an immediate threat to public health or safety.

§ 19.2-397 Refusal to permit authorized inspection; penalty

Any person who willfully refuses to permit an inspection, testing or collection of samples for testing lawfully authorized by warrant issued pursuant to this chapter shall be guilty of a Class 3 misdemeanor.

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§ 38.2-2200

Required provisions as to insolvency or bankruptcy, and as to when action maintained against insurer

No policy or contract insuring or indemnifying against liability for injury to or the death of any person, or for injury to or destruction of property, shall be issued or delivered in this Commonwealth unless it contains in substance the following provisions or other provisions that are at least equally favorable to the insured and to judgment creditors:

1. That the insolvency or bankruptcy of the insured, or the insolvency of the insured's estate, shall not relieve the insurer of any of its obligations under the policy or contract.
2. That if execution on a judgment against the insured or his personal representative is returned unsatisfied in an action brought to recover damages for injury sustained or for loss or damage incurred during the life of the policy or contract, then an action may be maintained against the insurer under the terms of the policy or contract for the amount of the judgment not exceeding the amount of the applicable limit of coverage under the policy or contract.

SUPREME COURT OF VIRGINIA RULE 2:15

In the Supreme Court of Virginia held at the Supreme Court Building in the City of Richmond on Friday the 4thth day of February, 2000.

It is ordered that the Rules heretofore adopted and promulgated by this Court and now in effect be and they hereby are amended to become effective July 1, 2000.

Amend Rule 2:15 to read as follows:

Rule 2:15. Intervention.

A new party may by leave of court file a pleading to intervene as a plaintiff or defendant to assert any claim or defense germane to the subject matter of the proceeding.

All provisions of these Rules applicable to civil cases, except those provisions requiring payment of writ tax and clerk's fees, shall apply to such pleadings. The parties on whom such pleadings are served shall respond thereto as provided in these Rules.