

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #5

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APR 8 12:10 PM '94

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

**NOTICE OF AGENCY ADOPTION OF A PROCEDURAL OR INTERPRETIVE RULE
OR A LEGISLATIVE RULE EXEMPT FROM LEGISLATIVE REVIEW**

AGENCY: Regional Jail & Correctional Facility Authority TITLE NUMBER: 94CSR3

CITE AUTHORITY: §31-20-10(h)

RULE TYPE: PROCEDURAL INTERPRETIVE

EXEMPT LEGISLATIVE RULE
CITE STATUTE(S) GRANTING EXEMPTION FROM LEGISLATIVE REVIEW

§31-20-10(h)

AMENDMENT TO AN EXISTING RULE: YES , NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 94CSR3

TITLE OF RULE BEING AMENDED: Criteria and Procedures for determination
of cost per day for inmates incarcerated in regional jails operated by
the Authority.

IF NO, SERIES NUMBER OF NEW RULE BEING ADOPTED: _____

TITLE OF RULE BEING ADOPTED: _____

THE ABOVE RULE IS HEREBY ADOPTED AND FILED WITH THE SECRETARY OF STATE. THE
EFFECTIVE DATE OF THIS RULE IS July 1, 1994

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STATE OF WEST VIRGINIA



REGIONAL JAIL and CORRECTIONAL FACILITY AUTHORITY

CAPITOL COMPLEX
307 JEFFERSON STREET
P. O. BOX 50285
CHARLESTON, WV 25305-0285
(304) 558-2110
FAX: (304) 558-2115

GASTON CAPERTON
Governor

April 8, 1994

JACK J. ROOP
Executive Director

Ms. Judy Cooper
Director of Administrative Law
Office of Secretary of State
Building 1, Suite 157K
State Capitol
Charleston, West Virginia 25305

Dear Ms Cooper:

I have enclosed the Final Filing of the amendment of 94CSR3 as adopted by the Regional Jail and Correctional Facility Authority and approved by Secretary of Military Affairs and Public Safety, Joseph J. Skaff, on February 4, 1994.

A period of public comment on this amendment ended on March 31, 1994. No comments were received on these amendments and no changes have been made to this submission since the February filing.

I have enclosed a diskette containing the final filing of 94CSR3 as a WordPerfect 5.1 file.

If there is additional information needed or you have any questions, please feel free to contact me at 558-2110. I certainly appreciate your helpful assistance in the preparation of these amendments.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Frank G. Shumaker".

Frank G. Shumaker
Deputy Director

Enclosures:

94 CSR 3

TITLE 94
PROCEDURAL RULE
REGIONAL JAIL AND CORRECTIONAL FACILITY AUTHORITY

SERIES 3

CRITERIA AND PROCEDURES
FOR DETERMINATION OF COST PER DAY FOR INMATES
INCARCERATED IN REGIONAL JAILS OPERATED BY THE AUTHORITY

§94-3-1. General.

1.1. Scope. - Chapter 31, article 20, section 10, subsection (h) of the West Virginia Code of 1931, as amended, requires the West Virginia Regional Jail and Correctional Facility Authority to develop an operational cost per day for inmates incarcerated in regional jails. The Authority is required to develop criteria and procedures for the development of these operational per diem costs through the mechanism of regulations pursuant to article 3, of chapter twenty-nine-a of the code. Counties are required by the statute to make payments to the regional jail and correctional facility development fund in an amount sufficient to cover the costs of operating such regional jail facilities and to maintain inmates incarcerated therein.

1.2. Authority. - WV Code §31-20-10(h).

1.3. Filing Date: February 4, 1994 .

1.4. Effective Date: July 1, 1994

1.5. Repeal of former rule: This filing represents an amendment of the procedural rule formerly filed on March 5, 1993 and effective on April 4, 1993.

§94-3-2. Application And Enforcement.

2.1. These procedural rules apply to the Regional Jail and Correctional Facility Authority, and to counties, municipalities, the West Virginia Division of Corrections, the United States Marshals Service and any other entity by whose authority inmates are incarcerated and maintained in regional jails operated by the West Virginia Regional Jail and Correctional Facility Authority.

2.2. The enforcement of these regulations rests with the Executive Director of the Regional Jail and Correctional Facility Authority.

§94-3-3. Annual Schedule of Operating Expenditures.

3.1. The Regional Jail and Correctional Facility Authority shall develop and approve a schedule of anticipated operational expenditures for each regional jail. Such schedules shall include funds for personal services and fringe benefits for personnel necessary to the operation of the facility as well as allocations of funds for food, clothing, utilities, supplies, transportation and all other costs necessary to operate and maintain the facility.

3.2. The operational expenditure schedule shall include all costs, both direct and indirect, for operating and maintaining the regional jail.

3.3. The operational expenditure schedule shall not include any costs, either direct or indirect, for the construction, renovation or acquisition of a regional jail.

3.4. The Authority shall develop and approve an operational expenditure schedule for each regional jail on an annual basis, consistent with the state fiscal year.

§94-3-4. Annual Statement of Cost Per Inmate Day.

4.1. The Authority shall, on an annual basis, prepare an estimate of the cost of operating each regional jail and maintaining inmates therein. This estimate of cost will be expressed as the cost of maintaining one (1) inmate for one (1) day. This estimate shall include all costs of operating each regional jail.

4.2. The annual statement of cost per inmate day will be forwarded to both the Sheriff and the county commission of each county, the Commissioner of the Division of Corrections, the United States Marshals Service and the mayor of each municipality served by the regional jail to provide notice of per diem costs and for their use in preparing their own budgets.

4.3. The annual statement of cost per inmate day for each regional jail may be provided, upon request, to any other entity on whose behalf an inmate may be incarcerated in a regional jail.

§94-3-5. Calculation Of Cost Per Inmate Day.

5.1. The Authority shall sum the operational costs of each regional jail and shall divide the total of such anticipated operational expenditures by the total anticipated number of inmate days in each of the regional jails to yield the cost per inmate day as the quotient.

5.1.1. If the Authority has revenue available for use as operational funds, the Authority may apply such revenue to the total of the schedule of operational expenditures before calculating the cost per inmate day. In such case, the net operational costs shall become the dividend.

5.1.2. The anticipated number of inmate days to be provided in a fiscal year shall be the product of the bed capacity of the regional jail multiplied by a capacity factor of ninety percent (90%), multiplied by the number of days in the fiscal year. Provided, that the bed capacity of the regional jails, to be operational in Fiscal Year 1994-1995, shall be defined as follows:

Eastern Regional Jail	120;
Central Regional Jail	192;
South Central Regional Jail	288;
Northern Regional Jail & Correctional Facility	192; and,
Southern Regional Jail	288.

5.1.3. The Authority may, when operational history is available on any regional jail for more than two years, increase the capacity factor described in §5.1.2. to reflect the actual population levels documented for that particular regional jail; provided, that in no event shall the population factor be greater than one hundred per cent (100%) of the bed capacity for the regional jail.

5.2. The Authority shall collect the cost per inmate day from each entity for which an inmate is maintained in a regional jail.

§94-3-6. Preparation And Distribution Of Monthly Statements Of Costs Incurred.

6.1. The Authority shall prepare a monthly statement of charges for each entity for which an inmate is maintained in a regional jail. Each monthly statement of charges will include the name of any inmate maintained in the regional jail, the number of days during the billing month the inmate was maintained, and the total charges for inmate maintenance during the billing month.

6.2. The monthly statements of costs incurred shall be due and payable upon receipt by the responsible entity.

6.3. The Executive Director, on behalf of the Authority, may initiate legal action to collect any debts resulting from the failure of a responsible entity to make prompt payment of billed charges.

§94-3-7. Extraordinary Costs.

7.1. If the actual operational costs exceed the approved schedule of operational expenditures by more than ten per centum (10%) in a line item, a temporary surcharge will be added to the cost per inmate day in an amount sufficient to cover the actual expenditures.

§94-3-8. Settlement Statement.

8.1. At the end of each fiscal year, a settlement statement may be prepared by the Authority.

8.1.1. If collected revenues exceed the total operational expenditures, any remaining balance shall be credited to the responsible entity on the same basis as payments were received.

8.1.2. If collected revenues are less than total operational expenditures, the settlement statement shall reflect a balance due and payable to the Authority from the responsible entity.

8.2. The Authority may, if collected revenues exceed the expenditures in a fiscal year, apply any such excess revenues to the anticipated operational expenditures for the succeeding fiscal year; in such case, the Authority shall treat such revenue as revenue available for use as operational funds as described in §5.1.1. and shall reduce the net amount of the anticipated operational expenditures thereby before calculating the cost per inmate day to be collected from entities which incarcerate inmates in any regional jail.



KEN HECHLER
Secretary of State

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STATE OF WEST VIRGINIA

SECRETARY OF STATE

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Charleston, WV 25305-0770

RECEIVED
APR 29 1994

(Plus all the volunteer
help we can get)
FAX: (304) 558-0900

FRANK G. SUMAKER
TO: Howard Painter

Regional Jail & Correctional
Facility Authority

AGENCY: Regional Jail & Correction

FROM: JUDY COOPER, DIRECTOR, ADMINISTRATIVE LAW DIVISION

DATE: April 28, 1994

THE ATTACHED RULE FILED BY YOUR AGENCY HAS BEEN ENTERED INTO OUR COMPUTER SYSTEM. PLEASE REVIEW, PROOF AND RETURN IT WITH ANY CORRECTIONS. IF THERE ARE NO CORRECTIONS, PLEASE SIGN THIS MEMO AND RETURN IT TO THIS OFFICE. YOU WILL BE SENT A FINAL VERSION OF THE RULE FOR YOUR RECORDS.

PLEASE RETURN EITHER THE CORRECTED RULE OR THIS FORM WITHIN TEN (10) WORKING DAYS OF THE DATE YOU RECEIVED THIS REQUEST. CALL IF YOU HAVE ANY QUESTIONS.

SERIES: 3 TITLE: 94 Regional Jail & Correction

* THE ATTACHED RULE HAS BEEN REVIEWED AND IS CORRECT.

SIGNED: Frank G. Sumaker

TITLE OF PERSON SIGNING: DEPUTY DIRECTOR

DATE: 4-29-94

* THE ATTACHED RULE HAS BEEN REVIEWED AND NEEDS CORRECTING. THE CORRECTIONS HAVE BEEN MARKED.

SIGNED: _____

TITLE OF PERSON SIGNING: _____

DATE: _____

NOTE: IF YOU ARE NOT THE PERSON WHO HANDLES THIS RULE, PLEASE FORWARD TO THE CORRECT PERSON.