

94CSR3

**Criteria and Procedures for
Determination of Cost Per Day For
Inmates Incarcerated In Regional Jails
Operated by the Authority**

Brief Summary of Proposed Amendment to Rule:

The amendment proposed to the per diem calculation rule clarifies the conditions under which the Division of Corrections and the respective counties are responsible for the costs of incarceration for persons sentenced to terms of confinement in state correctional facilities. The amendment makes other minor changes to the rule by adding the United States Bureau of Prisons as a user agency and makes changes in language of section 9 to be consistent with previously approved language.

Statement of Circumstances which require this rule:

There has been confusion and disagreement between the counties and the Division of Corrections as to the time at which the Division of Corrections should assume financial responsibility for the costs of housing persons sentenced to state correctional institutions; this rule seeks to clarify that issue.

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Criteria and Procedures For Determination Of Cost Per Day For Inmates Incarcerated In Regional Jails Operated By The Authority

Type of Rule: Legislative Interpretive X Procedural

Agency WV Regional Jail & Correctional Facility Authority

Address 307 Jefferson Street

P.O. Box 50285

Charleston, West Virginia 25305-0285

1. Effect of Proposed Rule

	ANNUAL FISCAL YEAR				
	INCREASE	DECREASE	CURRENT	NEXT	THEREAFTER
<u>ESTIMATED TOTAL COST</u>	\$ 0	\$ 0	\$	\$	\$
PERSONAL SERVICES					
CURRENT EXPENSE					
REPAIRS & ALTERNATIONS					
EQUIPMENT					
OTHER					

2. Explanation of above estimates:

Proposed rule neither decreases nor increases cost but simply clarifies the responsibility for payment of per diem costs for inmates sentenced to state facilities.

3. Objectives of these rules:

To clarify established rules for determination of per diem cost for regional jails.

Rule Title: Criteria and Procedures For Determination Of Cost Per Day For Inmates Incarcerated In Regional Jails Operated By The Authority

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

None

B. Economic Impact on Political Subdivisions; Specific Industries; Specific groups of Citizens.

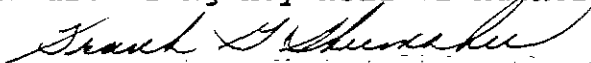
None

C. Economic Impact on Citizens/Public at Large.

None

Date: April 3, 1995

Signature of Agency Head or Authorized Representative



Frank G. Shumaker
558-2110

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FILED

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TITLE 94
PROCEDURAL RULE
REGIONAL JAIL AND CORRECTIONAL FACILITY AUTHORITY
OFFICE OF THE CLERK OF THE SUPREME COURT OF WEST VIRGINIA

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:

1.4. Effective Date:

1.5. Repeal of former rule: This filing represents an amendment of the procedural rule formerly filed on April 8, 1994 and effective on July 1, 1994.

§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, the United States Bureau of Prisons 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, the United States Bureau of Prisons 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. Allocation of costs for inmates sentenced to the division of corrections.

7.1. The county shall be responsible for costs incurred by regional jails for housing and maintaining inmates in regional jails who have not been lawfully sentenced to the custody of the Commissioner of Corrections.

7.2. The county shall be responsible for the costs incurred by the regional jails for housing and maintaining inmates who, prior to sentencing, are waiting transportation to a state correctional facility for a sixty day evaluation period as provided in W. Va. Code, § 62-12-7.

7.3. The Division of Corrections is responsible for the costs incurred by the regional jails for housing and maintaining inmates who have been sentenced to the custody of the Division of Corrections beginning the calendar day following the day the commitment order has been Entered: Provided, that the Circuit Clerk of the county from which the commitment order has been entered shall immediately transmit by facsimile machine an advance copy of the certified commitment order to the Division of Corrections and to the Regional Jail to which the inmate was confined.

7.4. The Division of Corrections is responsible for the costs incurred by the regional jails for housing and maintaining inmates who have been held on a parole violation warrant.

7.5. The Division of Corrections is responsible for the costs incurred by the regional jails for housing and maintaining inmates who have been returned to the regional jail under court order: Provided, however, that the county from which the inmate was charged shall be responsible for the per diem costs in the event that a court of competent jurisdiction shall set aside or vacate the order of commitment to

the division of corrections, from the date of said order or the return of the inmate to the regional jail, whichever is later. The Regional Jail may provide transportation of such inmates from the correctional facility to the regional jail when such transportation can be provided without undue hardship upon the regional jail, its staff or operating budget: Provided, that the order from the court of competent jurisdiction has stipulated that the regional jail is responsible for the transportation of the inmate.

7.6. The costs incurred by the regional jails for housing and maintaining inmates who are being held as a fugitive from justice from another jurisdiction shall be billed to the fugitive's original jurisdiction: Provided, that the costs incurred by the regional jails for housing and maintaining any person who is arrested and confined on the basis of the commission of a new crime shall be billed to the arresting county until such time as the pending West Virginia charges have been properly resolved.

§94-3-78. Extraordinary Costs.

78.1. 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.

§94-3-89. Settlement Statement.

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

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

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

89.2. 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.