

Form #2

FILED
2015 JUN 25 P 4:23

OFFICE WEST VIRGINIA
SECRETARY OF STATE

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

TITLE 64
LEGISLATIVE RULE
BUREAU FOR PUBLIC HEALTH
DEPARTMENT OF HEALTH AND HUMAN RESOURCES

SERIES 51
FEES FOR SERVICES

Brief Summary of Rule: This rule establishes reasonable fees for services provided by the Bureau for Public Health and local boards of health.

Statement of Circumstances: Proposed amendments to the current rule are intended to include fees for services that may be performed by the Bureau for Public Health Laboratory that are not currently reflected in the rule series. The new fees contained in the proposed rule series amendments will not result in any cost to the agency. The rule series is additionally amended to remove language related to document searches addressed by H.B. 2636 (2015 Regular Session).

Identification of Proposed Amendments: Subsection 4.4 is stricken in its entirety. Appendix A - Laboratory Test Fees is amended to add additional Environmental Chemistry Laboratory Service fees; analysis related to Organic Compounds; a special handling fee; and Diagnostic Immunology fees.

Relevant Statutes or Regulations: - *W. Va. Code* §§16-1-4(h), 16-1-11(d), 16-2-11(b)(5) and (6), 16-7-1 *et seq.* and 29B-1-3(5).

QUESTIONNAIRE

(Please include a copy of this form with each filing of your rule: Notice of Public Hearing or Comment Period; Proposed Rule, and if needed, Emergency and Modified Rule.)

DATE: _____

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: (Agency Name, Address & Phone No.) West Virginia Department of Health and Human Resources
Bureau for Public Health
Office of the Commissioner & WV State Health Officer

350 Capitol Street Room 702
Charleston, WV 25301

(304)558-2971

LEGISLATIVE RULE TITLE: FEES FOR SERVICES (64 CSR 51)

1. Authorizing statute(s) citation W. Va. Code §§16-1-4(h), 16-1-11(d), 16-2-11(b)(5) and
(6), 16-7-1 et seq. and 29B-1-3(5).

2. a. Date filed in State Register with Notice of Hearing or Public Comment Period:

b. What other notice, including advertising, did you give of the hearing?

c. Date of Public Hearing(s) *or* Public Comment Period ended:

d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.

Attached _____ No comments received _____

- e. Date you filed in State Register the agency approved proposed Legislative Rule following public hearing: (be exact)

- f. **Name, title, address and phone/fax/e-mail numbers** of agency person(s) to receive all *written correspondence* regarding this rule: (Please type)

Brian J. Skinner, General Counsel and Director, Public Health Regulations
West Virginia Department of Health and Human Resources
Bureau for Public Health
350 Capitol Street Room 702
Charleston, WV 25301
(304) 356-4122 – O
brian.j.skinner@wv.gov

- g. **IF DIFFERENT FROM ITEM 'f'**, please give **Name, title, address and phone number(s)** of agency person(s) who wrote and/or has responsibility for the contents of this rule: (Please type)

3. If the statute under which you promulgated the submitted rules requires certain findings and determinations to be made as a condition precedent to their promulgation:

- a. Give the date upon which you filed in the State Register a notice of the time and place of a hearing for the taking of evidence and a general description of the issues to be decided.

b. Date of hearing or comment period:

c. On what date did you file in the State Register the findings and determinations required together with the reasons therefor?

d. Attach findings and determinations and reasons:

Attached _____

Rule Title: _____

3. Explanation of above estimates (including long-range effect):

Please include any increase or decrease in fees in your estimated total revenues.

These changes will allow the Office of Laboratory Services (OLS) to charge reasonable fees to cover the costs of performing various testing at the OLS and to offer additional testing. OLS will be able to perform said proposed increases in testing without significant increase in the associated cost of providing existing testing at the proposed levels below.

The Diagnostic Immunology section of OLS will begin testing of clients who do not meet the program criteria that permits the OLS to perform said testing without charge to the individual. This occurs when individuals do not meet the required risk factors for no charge testing. These tests will be billed to the individual's insurance company for reimbursement. It is anticipated that approximately \$38,025 will be generated in the first year.

The Environmental Chemistry section currently performs testing of inorganics primarily for water sources (water systems, swimming pools, and other water sources). Through the acquisition of new instrumentation, the section is now able to test multiple inorganic materials within the same sample. This is anticipated to generate an additional \$ 9,920 for parties desiring the testing of additional nonorganics. Also, the section has acquired new equipment to perform organic testing for the first time since 1995. Using an estimated population of 100 samples from approximately 20% of the existing water plants, an estimated revenue is projected at \$179,500.

Total projected revenue increase is anticipated to be \$227,445.

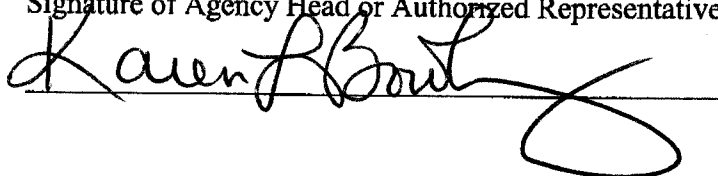
MEMORANDUM

Please identify any areas of vagueness, technical defects, reasons the proposed rule **would not** have a fiscal impact, and/or any special issues **not** captured elsewhere on this form.

Date: _____

June 25, 2015

Signature of Agency Head or Authorized Representative



APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title:

Fees for Service (64 CSR 51)

Type of Rule:

☒ Legislative ☐ Interpretive ☐ Procedural

Agency:

West Virginia Department of Health and Human Resources

Address:

One Davis Square
Charleston, WV 25301

Phone Number:

(304) 558-2971

Email: tim.j.whitener@wv.gov**Fiscal Note Summary**

Summarize in a clear and concise manner what impact this measure will have on costs and revenues of state government.

To allow the Department Of Health and Human Resources' Bureau for Public Health's Office of Laboratory Services to charge reasonable fees for services provided via the Fees for Service rule.

Fiscal Note Detail

Show over-all effect in Item 1 and 2 and, in Item 3, give an explanation of Breakdown by fiscal year, including long-range effect.

FISCAL YEAR			
Effect of Proposal	Current Increase/Decrease (use "-")	Next Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost	0.00	0.00	0.00
Personal Services			
Current Expenses			
Repairs & Alterations			
Assets			
Other			
2. Estimated Total Revenues	0.00	227,445.00	227,445.00

Fees for Service (64 CSR 51)

Rule Title:

TITLE 64
LEGISLATIVE RULE
BUREAU FOR PUBLIC HEALTH
DEPARTMENT OF HEALTH AND HUMAN RESOURCES

SERIES 51
FEES FOR SERVICES

FILED

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OFFICE WEST VIRGINIA
SECRETARY OF STATE**§64-51-1. General.**

1.1. Scope - This rule establishes reasonable fees for services provided by the Bureau for Public Health and local boards of health. This legislative rule does not supersede other rules which establish fees for services not addressed in this rule. This rule should be read in conjunction with the W. Va. Code. The W. Va. Code is available in public libraries and on the Legislature's web page, <http://www.legis.state.wv.us/>.

1.2. Authority - *W. Va. Code* §§16-1-4(h), 16-1-11(d), 16-2-11(b)(5) and (6), 16-7-1 *et seq.* and 29B-1-3(5).

1.3. Filing Date -- ~~July 12, 2013.~~

June 25, 2015

1.4. Effective Date -- ~~August 12, 2013.~~

§64-51-2. Application and Enforcement.

2.1. Application - This rule applies to persons receiving services from the Bureau for Public Health or from local boards of health as created in W. Va. Code §16-2-1, *et seq.* and also applies to the local boards of health.

2.2. Enforcement - This rule is enforced by the Commissioner of the West Virginia Bureau for Public Health or his or her lawful designee.

§64-51-3. Definitions.

3.1. Adoption - The judicial act of creating the relationship of parent and child where it did not exist previously.

3.2. Ambulatory Surgical Facility (ASF) - A facility which provides surgical treatment to patients not requiring hospitalization. This definition does not include the legally authorized practice of surgery by any one or more persons in the private office of any health care provider.

3.3. Asbestos - The asbestiform varieties of serpentinite (chrysotile), riebeckite (crocidolite), cummingtonite-grunerite, anthophyllite, and actinolite-tremolite, which contains more than one (1) percent asbestos by weight.

3.4. Asbestos Abatement - Procedures to control fiber release from asbestos-containing materials. These procedures include removal, encapsulation, enclosure, repair, demolition, renovation, and similar activities.

3.5. Assisted Living Residence - Any living facility, residence or place of accommodation, however named, available for four or more residents, in this state which is advertised, offered, maintained or operated by the ownership or management, whether for a consideration or not, for the express or implied purpose of having personal assistance or supervision, or both, provided to any residents therein who are dependent upon the services of others by reason of physical or mental impairment and who may also require nursing care at a level that is not greater than limited and intermittent nursing care. This term replaces the two terms "Personal Care Home" and "Residential Board and Care Home", previously used in this rule.

3.6. Basic Public Health Services - Those services that are necessary to protect the health of the public. The three areas of basic public health services are communicable and reportable disease prevention and control, community health promotion and environmental health protection.

3.7. Behavioral Health Center - An organization that provides behavioral health services, including all of its locations.

3.8. Behavioral Health Services - An inpatient, residential or outpatient service for the care and treatment of persons with mental illness, developmental disabilities or substance abuse.

3.9. Birthing Center - A type of facility which is a building, house or the equivalent organized to provide facilities and staff to support a birthing service for pregnant women.

3.10. Bottled Water - Any natural or artificial mineral, spring, well, distilled or other water bottled or containerized for use primarily as drinking water.

3.11. Business (or Individual) Providing Vendor Services - Any person proposing to offer or providing services to Registrants in the Radiological Health Program as described in the Bureau's rule, Radiological Health Regulations, 64CSR23, subsections 5.4. and 5.5.

3.12. Certificate of Birth (Birth Certificate) - The government's permanent legal record of the fact of birth of an individual. Information contained within the document is considered to be prima facie evidence of the fact of birth.

3.13. Certificate of Death (Death Certificate) - The government's permanent legal record of the fact of death of an individual. Information contained within the document is considered to be prima facie evidence of the fact of death.

3.14. Certified Copy - A reproduction or abstracted document that is officially endorsed by the custodian of the original document to be an authentic reproduction or abstraction of the original document.

3.15. Commissioner - The Commissioner of the West Virginia Bureau for Public Health.

3.16. Decommissioning - Removal of any source of radioactive material as described in the Bureau's rule, Radiological Health Regulations, 64CSR23, sections 6.59., 11.14.f.2., or 16.23.c. with a dedicated purpose of vacating premises, amendment or cancellation of a registration for possession or storage of radioactive material.

3.17. Delayed Certificate of Birth (Delayed Birth Certificate) - A certificate of birth filed more than one year after the date of birth. Information contained within the document is abstracted from other sources and is not considered to be prima facie evidence of the fact of birth.

3.18. Dental Intraoral Machine - A radiation machine with one or more x-ray tubes used for human intraoral diagnostic imaging, as described in the Bureau's rule, Radiological Health Regulations, 64CSR23, section 7.9.

3.19. Dental Panoramic Machine - Any rotational orthodontic extraoral radiographic device for dental diagnostic imaging.

3.20. Dental Radiation Machine (Other) - Any radiographic device for dental diagnostic imaging, which is not dental intraoral or dental panoramic, such as cephalometric and extraoral tomography with one or more x-ray tubes.

3.21. Drinking Water - Water free from biological, chemical, physical and radiological contaminants which cause disease or harmful physiological effects.

3.22. Emergency Services Consultation - A consultation for radiological health services performed per request for regulatory assistance in the event of an emergency or crisis condition involving a source of radiation. Consultation includes the following per event: investigation, travel time and assessment of incidents or accidents for compliance with the Bureau's rule, Radiological Health Regulations, 64CSR23, involving unusual events such as exposure to ionizing radiation to workers or the public, contamination of persons or the environment, and release, damage, theft or loss of radioactive material.

3.23. End Stage Renal Disease (ESRD) Facility - A facility which is approved to furnish at least one specific ESRD service, e.g., that stage of renal impairment that appears irreversible and permanent, and requires a regular course of dialysis or kidney transplantation to maintain life.

3.24. Food Manufacturing Facility - Any building or group of buildings that manufactures, processes, or packs food for human consumption. This term does not include farms, restaurants or other retail food establishments where food is prepared and served directly to consumers or facilities regulated by the Department of Health and Human Resources rule Grade "A" Pasteurized Milk, 64CSR34.

3.25. Generator - A person whose activity results in the production of low-level radioactive waste requiring long-term storage and disposal.

3.26. Health Programs - Community-oriented strategies and activities devised by a local health department to address an identified community health problem, the solution of which will lower a morbidity or mortality statistic.

3.27. Heirloom Birth Certificate - A presentation quality, oversized, and ornate, certificate of birth suitable for framing and display.

3.28. Hospice - A hospice as defined in W. Va. Code §16-5I-2(c).

3.29. Hospital - A hospital as defined in W. Va. Code §16-5B-1.

3.30. Industrial Radiographic Machine - A radiation machine used for all industrial radiography, other than cabinet radiography and shielded room radiography and other than non-diagnostic or non-therapeutic purposes, such as x-ray devices used to examine the macroscopic structure of materials by nondestructive methods using sources of ionizing radiation or to produce radiographic images, as defined in the Bureau's rule, Radiological Health Regulations, 64CSR23, subdivisions 8.3.5. and 8.3.6.

3.31. Industrial Cabinet X-Ray System - A machine used for industrial radiography conducted in an enclosure or shielded cabinet, such as x-ray devices used primarily for the inspection of carry-on baggage at airline, railroad, and bus terminals, and in similar facilities, as defined in the Bureau's rule, Radiological Health Regulations, 64CSR23, subdivisions 8.3.1. or 8.3.2.

3.32. Industrial High Energy Machine - A radiation producing device such as a particle accelerator or cyclotron, and pulse x-ray machine used for nondestructive testing or other radiation producing devices used for irradiation of materials with energies greater than 250 kilovolts.

3.33. Industrial Radiation Machine (Other) - A radiation machine used for non-human purposes other than those described in this section as: Industrial Radiographic Machine, Industrial Cabinet X-ray System or Industrial High Energy Machine.

3.34. Innovative/Alternative Type Sewage System - A method of sewage disposal for a single family dwelling or establishment for which design standards have been prepared and listed in the Sewage Treatment and Collection System Design Standards, 64CSR47, as an innovative or alternative system.

3.35. Legitimation - Legal process by which the status of legitimacy is conferred to a child whose parents were not married at the time of the child's birth but who subsequently marry each other.

3.36. Local Board of Health - A board of health serving one or more counties or one or more municipalities or a combination thereof created under W. Va. Code §§16-2-1 et seq.

3.37. Low-Level Radioactive Waste - Radioactive waste that:

3.37.a. Is not classified as high-level radioactive waste, spent nuclear fuel, or byproduct material as defined in Section 11e.(2) of the Atomic Energy Act of 1954 (uranium or thorium tailings and waste); and

3.37.b. Is classified as low-level radioactive waste consistent with existing federal law in accordance with the U.S. Nuclear Regulatory Commission rules, as defined in the Bureau's rule, Radiological Health Regulations, 64CSR23, subsection 3.106., and the Low-level Radioactive Waste Policy Act, Public Law 96-573, as amended by Public Law 99-240, effective January 15, 1986.

3.38. Medical Adult Day Care Center - An ambulatory health facility which provides an organized day program of therapeutic, social, and health maintenance and restorative services and whose general goal is to provide an alternative to twenty-four hour long term institutional care to elderly or disabled adults who are in need of these services by virtue of physical and/or mental impairment.

3.39. Medical Diagnostic Machine - A radiographic imaging system with one or more x-ray tubes used for human diagnostic imaging as defined in the Bureau's rule, Radiological Health Regulations, 64CSR23, subsection 3.72. and subdivision 7.2.70, including mobile or fixed radiography, fluoroscopy, computerized tomography, bone density, podiatry, chiropractic or other diagnostic x-ray devices.

3.40. Medical Therapeutic Machine - A machine designed and used for external beam radiation therapy producing x-rays or electrons, as defined in the Bureau's rule, Radiological Health Regulations, 64CSR23, section 7.12.b.61.; or particle accelerators used for human therapy as described in the Bureau's rule, Radiological Health Regulations, 64CSR23, subsection 3.4.

3.41. Municipal Sewer System - A system or group of systems as a whole which receives sewage from more than one (1) dwelling or establishment and is operated and maintained by an incorporated municipality, or public service district or sanitary board.

3.42. Nursing Home - A nursing home as defined in W. Va. Code §16-5C-2(e).

3.43. Paternity Acknowledgment (Declaration of Paternity Affidavit) - A legal instrument executed by an unmarried mother (or in some instances a married mother) and a putative father in which both acknowledge the paternity of their child.

3.44. Permit - As used in this rule, a written document issued by the Commissioner giving a designated person permission to:

3.44.a. Construct, operate, alter or renovate a specific public water system, or bottled water production facility;

3.44.b. Construct, install, extend, alter or operate an approved sewer system or method of sewage disposal, or to collect, remove, transport or dispose of sewage;

3.44.c. Construct, alter, or renovate a recreational water facility or to operate the facility;

3.44.d. Construct, alter, operate or renovate a food manufacturing facility;

3.44.e. Operate a food establishment at state facilities; or

3.44.f. Operate a state institution or state operated school, excluding colleges and universities.

3.45. Person - An individual, partnership, association, syndicate, company, firm, trust, corporation, government corporation, institution, department, division, bureau, agency, federal agency or any other entity recognized by law.

3.46. Presumptive Death Certificate - A certificate of death prepared at the order of a county commission (or other appointed legal entities in other states) under the direction of W. Va. Code §44-9-1, et seq. which provides for the filing of a death certificate of someone presumed and declared dead by the commission.

3.47. Professional Health Services - A health service delivered by a member of a commonly recognized public health care or allied profession including but not limited to physician, dentist, nurse, sanitarian, physical therapist, social worker, physician assistant, nurse practitioner, certified nurse midwife, dietitian, speech therapist, occupational therapist, hearing therapist, or individual with a graduate or undergraduate degree in a profession recognized by third party payors as eligible for reimbursement for services performed.

3.48. Public Sewer System - A sewage collection system or systems with or without treatment facilities and serving more than one (1) dwelling or establishment. Ownership of the system is held by and maintenance performed by a single entity. This definition includes municipal sewer systems.

3.49. Public Water System - A public water system as defined in W. Va. Code §16-1-9a(a).

3.49.a. Community Water System - A public water system which serves at least fifteen (15) service connections used by year-round residents or regularly serves at least twenty-five (25) year round residents.

3.49.b. Non-Community Non-Transient Water System - Any public water system that is not a community water system and that regularly serves at least twenty-five (25) of the same persons over six (6) months per year.

3.49.b.1. Service Connection Equivalent - The average number of individuals served by a non-community non-transient public water supply system divided by 2.4.

3.50. Radiation Machine Facility - Any fixed or mobile facility with one or more radiation machines. (Radiation machines having one or more x-ray tubes).

3.51. Radiation Producing Device - A device or source of radiation as defined in the Bureau's rule, Radiological Health Regulations, 64CSR23, subsection 3.72. (Radiation machines having one or more x-ray tubes).

3.52. Radioactive Material.

3.52.a. Byproduct Radioactive Material [as in the Bureau's rule, Radiological Health Regulations, 64CSR23, subsection 3.16.] - Accelerator produced material [as in the Bureau's rule, Radiological Health Regulations, 64CSR23, subsection 3.5.] or TENORM [as in the Bureau's rule, Radiological Health Regulations, 64CSR23, subdivision 16.3.g.], or

3.52.b. Non-byproduct Radioactive Material - Any radioactive material, other than defined as byproduct material in the Bureau's rule, Radiological Health Regulations, 64CSR23, subsection 3.16., which is technically enhanced naturally occurring radioactive material (TENORM) or accelerator produced.

3.53. Radioactive Material Inspection - Inspection of all activities associated with radioactive material registration.

3.54. Radioactive Material Facility Close-out Survey - A confirmatory survey to assay for levels of radioactive contamination.

3.55. Reciprocity - Reciprocal recognition for out-of-state registration or license to use a radiation-producing device or radioactive material within the State, as defined in the Bureau's rule, Radiological Health Regulations, 64CSR23, subsections 5.11., 11.28. and 16.22.

3.56. Recreational Water Facility - Any natural or artificial body or basin of water which is modified, improved, constructed or installed for the purpose of public swimming or bathing under the control of any person.

3.57. Registration - Registration of any radiation producing device or radioactive material used within the State, as defined in the Bureau's rule, Radiological Health Regulations, 64CSR23, subsection 3.79. and section 5.

3.58. Residential Care Community - A residential care community as defined in W. Va. Code §16-5N-2(k).

3.59. School Radon Testing - The testing of radon levels in public school buildings in all major student occupied areas at or below grade level in accordance with the Air Quality in New Schools Act, W. Va. Code §18-9E-3(b).

3.60. Sewage - Any excreta or liquid waste containing animal, vegetable, or mineral matter in suspension of solution including, but not limited to, waste from water closets, urinals, lavatories, bathtubs, laundry tubs, washing machines, drinking fountains, sinks, kitchen equipment and other sanitary fixtures or facilities.

3.61. Sewage Holding Tank - A watertight receptacle designed and constructed to receive and retain untreated or partially treated sewage on a temporary basis. This does not include septic tanks, portable toilets or privies.

3.62. Sewage System Installer Certification - A process by which a person who installs individual on-site sewer system becomes certified to perform such function under the provisions of the Bureau's rule, Sewage Systems, Sewage Treatment Systems and Sewage Tank Cleaners Regulation, 64CSR9.

3.63. Shielding Plan - Facility design or modification from a qualified expert of calculated barrier thickness and physical protection from sources of radiation for any fixed or mobile radiation machine, as described in the Bureau's rule, Radiological Health Regulations, 64CSR23, subsection 7.4.

3.64. Sliding Fee Scale - A charge for service that uses a scale or standard of cost, wages, fees, or the like that varies according to other factors such as cost of living, level of income, or prices.

3.65. Specimen Collection Kit - A prepackaged group of items used for the acquisition and processing of material to be sent for analytical testing.

3.66. State Facilities - Any of a number of state owned and operated health care facilities including, but not limited to, state hospitals, behavioral health facilities and other similar facilities. This term does not include colleges and universities.

3.67. State Institutions - Any of a number of state owned and operated residential or non-residential institutions, including, but not limited to, juvenile detention centers, regional jails, correctional facilities and state operated schools. This term does not include colleges and universities.

3.68. State Operated School - Any of a number of state owned and operated schools, including, but not limited to, the School for the Deaf and Blind in Romney and the Barboursville School. This term does not include state colleges and universities.

3.69. Water Well - Any excavation or penetration in the ground, whether drilled, bored, cored, driven or jetted that enters or passes through an aquifer for purposes that may include, but are not limited to: a water supply, exploration for water, dewatering or heat pump wells, except that this definition does not include ground water monitoring activities and all activities for the exploration, development, production, storage and recovery of coal, oil and gas and other mineral resources which are regulated under W. Va. Code, Chapters 22, 22A or 22B.

3.70. Veterinary Machine - Any radiation machine with at least one x-ray tube used by a licensed practitioner of veterinary medicine for diagnostic purposes on non-human subjects.

3.71. X-Ray Public Health Screening Application - An application which is submitted for agency approval to conduct healing arts screening as defined in the Bureau's rule, Radiological Health Regulations, 64CSR23, paragraph 7.3.a.11., using diagnostic radiation machines within the State.

§64-51-4. Fees Generally.

4.1. Authority to Assess and Collect Fees - The Commissioner of the Bureau for Public Health and local boards of health may assess and collect fees for the provision of services. Except as specified in subsections 4.2., 5.2. and 9.2. of this rule, the Commissioner and local boards of health may require payment of fees in advance for services. Where the Commissioner has staffed and equipped offices of the Bureau for Public Health to provide the services it is required to perform, the Commissioner may make efficient use of those resources by providing other public health services at reasonable fees established by the Commissioner.

4.2. Exemption from Fees Generally - No individual may be denied health care services because of the inability of the individual to pay for services when services are provided to similarly situated individuals who have the ability to pay for them.

4.3. Fees for Copies of Public Records - Copies of public records which may be disclosed shall be furnished at a charge of fifty cents (50¢) per page on 8½ x 11" or 8½ x 14" paper. Copies of documents produced on larger paper may be furnished at actual cost, which includes but is not limited to materials, operator's time, and transportation and delivery charges. Copying fees may be required to be paid before issuance of the copies.

~~4.4. Fee for Record Searches - Requests for information estimated to require more than ten (10) minutes to search records or to compile may be charged at the rate of fifty dollars (\$50) per hour, and payment may be required before issuance of the information.~~

—4.5. Fee for Location Information - When the service provided is location information of licensees, permit holders, or other persons, the fee shall be at the rate of twenty-five cents (25¢) per location.

§64-51-5. Laboratory Service Fees.

5.1. Laboratory Services for Which a Fee May be Charged - Except as provided in subsection 5.2. of this rule, the Commissioner may charge a fee for each test or group of tests including specimen collection kits, as listed in Appendix A of this rule. The Laboratory may charge for bacteriological and chemical analyses of environmental water samples, clinical specimens, and for the certification of laboratories to conduct drinking water tests.

5.2. Exemption from Laboratory Fees - Fees shall not be charged when:

5.2.a. Laboratory tests are authorized by the Commissioner as part of an epidemiological investigation or the charging of the fee would significantly and adversely affect the public health;

5.2.b. Tests on second or additional specimens are required by the Commissioner because of the inability to make or complete a test, or because the testing operation or procedure is unsatisfactory for any reason;

5.2.c. Specimens are determined to be unsatisfactory for testing at the time of submission; or

5.2.d. The exemption from fees provision of subsection 4.2. of this rule applies.

§64-51-6. Environmental Health Fees.

The Commissioner may charge a fee for each environmental health service listed in Appendix B of this rule.

§64-51-7. Health Facility Fees.

The Department may charge a fee for each service provided to health facilities listed in Appendix C of this rule. The Office of Health Facilities Licensure and Certification has been relocated within the Department of Health and Human Resources. It is under the auspices of the Office of the Inspector General (OIG). When a new rule is promulgated to replace this one with respect to Health Facility Licensure and Certification, the facility definitions in section 3 of this rule and the fee provisions in Appendix C of this rule, of this rule will be repealed.

§64-51-8. Health Statistics Center Fees.

The Commissioner may charge a fee for each service provided as listed in Appendix D of this rule: Provided, that the state registrar may furnish services to state agencies and to organized charities, free of charge, when the services are required before presenting claims to the federal government, or to the state for public assistance, and; provided further, that the state registrar shall make an accurate record of all services provided for the above purposes.

§64-51-9. Fees for Services Provided by Local Boards of Health.

9.1. Services for Which a Local Board of Health May Propose Fees - Except as provided in subsection 9.2. of this section, a local board of health may propose fees for all its services, including but not limited to professional health services, screenings, injections, assessments, counseling done for health-related issues, classes which teach healthy habits, lifestyles, or maintenance of health when there is a preexisting disease condition present, case management on behalf of patients whether in the home, clinic or through written and oral communications by letter or phone, and inspections.

9.2. Exception from Local Board of Health Fees - The public health mission to provide first for general community safety means that fees for service will not be charged to individuals in the following circumstances:

9.2.a. In the case of a community epidemic, natural disaster, civil upheaval, toxic contamination, and other like situations where common good is at issue;

9.2.b. In the case of individuals seeking medical evaluation, treatment or epidemiologic follow-up, including administrative costs, associated with sexually transmitted disease and tuberculosis; or

9.2.c. In the case where the exemption from fees provision of subsection 4.2. of this rule applies.

9.3. Basis for Fees - Local board of health maximum fees may be based on the actual cost of service delivery plus administrative overhead. Administrative overhead may include but is not limited to: 1) salaries and wages; 2) other direct costs; 3) that portion of the general and administrative costs, to include the administrator, secretaries, clerks, financial management and other overhead expenses, which contribute to the delivery of the service, and 4) other relevant factors that support or influence the proposed fees.

9.4. Posting of Proposed Fees - After a local board of health's adoption of a proposed schedule of fees and sliding fee scale, the board shall post, publish or otherwise inform the public living in the area served by the board of the proposal and allow for a thirty (30) day comment period.

9.5. Submission of Proposal for Approval - A local board of health proposing to charge fees shall submit to the Commissioner of the Bureau for Public Health:

9.5.a. A copy of the minutes of the Local Board of Health meeting where the fees were approved and voted on, signed by Board Chair;

9.5.b. A copy of the current and proposed schedule of fees;

9.5.c. A proposed sliding fee scale to be implemented by the local board of health. The sliding fee scale may be based on annual federal poverty level guidelines as published by the Bureau for Public Health for other programs or on an alternative system proposed by a local board of health for providing services at a reduced fee based on an individual's ability to pay;

9.5.d. A copy of the posted notice and a description of the public notice process;

9.5.e. A copy of comments received on the proposed fees; and

9.5.f. A copy of the Local Health Department's response to the comments.

9.6. Annual Fees for Services Reporting Requirements – Local boards of health with approved fee schedules shall submit to the Bureau, within ninety (90) days of the end of the fiscal year, an annual report detailing the revenues generated from fees collected for the year being reported.

9.7. Emergency Fees - Establishment of fees other than in accordance with subsection 9.5. of this rule may be accomplished only upon petition by the local board of health to the Commissioner in response to an emergency.

9.8. Approval or Rejection of Fees of Local Boards of Health by the Commissioner of Public Health - The Commissioner shall approve or reject a local board of health's proposed budget and program plan and fees. If there is a rejection, the local board of health may propose a revision. Upon approval by the Commissioner of the proposed fees, the local board of health shall file the approved fee schedule with the clerk of all the county commissions or municipalities of which the board is a part, or in the case of a combined board of health, the filings shall be with the clerks or recorders of all the participating county commissions and municipalities. After the local board of health has made all the required filings, it may charge the approved fees.

9.9. Notice of Uncompensated Care - Signs shall be prominently displayed in a public health clinic in as many languages as a substantial number of patients speak, as well as signs in pictures for those who do not read, that inform the public that services related to sexually transmitted disease and tuberculosis, and other health care services in the public health clinic may not be denied for inability to pay.

9.10. Local Board of Health Account - All local board of health fees collected together with accounting documentation shall be deposited into an account designated for local board of health purposes. The monies for a municipal board of health shall be deposited with the municipal treasury in the service area. The monies for a county board of health shall be deposited with the county treasury in the service area. The monies for a combined local board of health shall be deposited in an account as designated in the plan of combination.

9.11. Annual Audits - Local boards of health are subject to annual audits and must be in compliance with tax procedures required by the state and shall annually develop a budget for the next fiscal year under W. Va. Code §6-9-7.

§64-51-10. Administrative Due Process.

Those persons adversely affected by the enforcement of this rule desiring a contested case hearing to determine any rights, duties, interests or privileges shall do so in a manner prescribed in the Rules of Procedure for Contested Case Hearings and Declaratory Rulings, 64CSR1. In the case of a request for a hearing on a local board of health fee, the Commissioner may direct the local board of health to conduct the hearing.

Appendix A. Laboratory Service Fees.

1. Fees for Environmental Chemistry Laboratory Service

A. Inorganic Chemicals/Miscellaneous Tests

1. Metals

- a. Analyses for ~~all metals~~ each metal: \$15.00

Analyses may include, but are not limited to, arsenic, barium, beryllium, cadmium, thallium, chromium, nickel, lead, antimony, manganese, selenium, silver, sodium, aluminum, zinc and copper.

- b. Metals Regulatory Package \$60.00

(Parameters divided into EPA regulated groups)

Analyses may include, but are not limited to, antimony, arsenic, barium, beryllium, cadmium, chromium, mercury, nickel, thallium, selenium and sodium.

- c. Metals Secondary Package \$45.00

(Parameters divided into EPA regulated groups)

Analyses may include, but are not limited to, aluminum, iron, magnesium, manganese, silver and zinc

- d. Metals Lead and Copper \$24.00

(%20 discount when ordered together as a package)

2. Mercury by cold vapor \$25.00

3. Analytes by ion chromatography (IC) \$15.00

~~per analyte per each sample~~

- a. Analyses for each anion:

Analyses may include, but are not limited to, fluoride, chloride, chlorite, chlorate, sulfate, nitrate, nitrite, ortho-phosphate, bromide and bromate.

- b. Anions Package (a) \$30.00

(Instrument is capable of performing all tests within a single run)

Analyses may include, but are not limited to, fluoride, chloride, nitrate, nitrite, ortho-phosphate and sulfate.

4. Analytes by ion selective electrode ~~\$10.00~~ \$15.00

Analyses may include, but are not limited to, fluoride and pH.

5. Miscellaneous Individual Tests

- a. Alkalinity (Total) As CaCO₃ \$10.00
- b. Calcium by Titration \$15.00
- c. Calcium Hardness \$10.00
- d. Chloramines \$12.00

e. Chlorine, Free	\$12.00
f. Chlorine, Total	\$12.00
g. Conductivity	\$10.00
h. Dissolved Solids, Total	\$13.00
i. Hardness, Total	\$10.00
j. Hydrogen Sulfide	\$10.00
k. Magnesium by Titration	\$15.00
l. Foaming Agents	\$15.00
m. Nitrate	\$15.00
n. Nitrate + Nitrite	\$15.00
o. Ortho-Phosphate	\$15.00
p. Phosphate, Total	\$16.00
q. Silica	\$15.00
r. Turbidity (NTU)	\$12.00
s. Cyanide	\$25.00
t. Nitrite	\$15.00
u. Wet Chemistry Package	\$30.00
Analyses may include, but are not limited to, alkalinity, calcium calcium hardness, pH, total dissolved solids and total hardness.	
v. Inorganic non Routine Analysis	\$30.00

B. Organic Compounds (Fees Include Sample Preparation)

1. EPA Regulated Volatile Compounds (VOCs)	\$200.00
2. EPA Unregulated Volatile Compounds (VOCs) EPA Unregulated Contaminants per Method Group (Description is applicable to the EPA unregulated contaminant monitoring rule which is categorized by contaminants in a method group - http://water.epa.gov/lawsregs/rulesregs/sdwa/ucmr/ucmr3/methods.cfm)	\$200.00
3. EPA Regulated Synthetic Organic Compounds (SOCs):	
a. Organohalide and /Polychlorinated Biphenyl Packages	\$185.00
<u>Pesticides Package (a)</u>	<u>\$70.00</u>
Analyses may include, but are not limited to, Endrin, Lindane, Heptachlor, Heptachlor epoxide, Methoxychlor, Chordane , Toxaphene, Hexachlorobenzene, and Hexachlorocyclopentadiene	
<u>Pesticides Package (b)</u>	<u>\$70.00</u>
Analyses may include, but are not limited to, Chlordan, Simazine and Toxaphene.	
<u>Pesticides Package (c)</u>	<u>\$70.00</u>
Analyses may include, but are not limited to, PCB Archlor 1016, 1221, 1232, 1242, 1248, 1254 and 1260	
b. Nitrogen-Phosphorous Pesticide Package	\$150.00
Analyses may include, but are not limited to, Alachlor, Atrazine,	

and Simazine

c. Carbamate Pesticides Package	\$150.00
Analyses may include, but are not limited to, Aldicarb, Aldicarb Sulfone, Aldicarb Sulfoxide, Carbofuran, and Oxamyl (Vydate)	
d. Diquat	\$150.00
e. Endothall	\$150.00
f. Glyphosate	\$150.00
g. Esters Package	\$150.00
Analyses may include, but are not limited to, Di (2-ethylhexyl) Adipate and Di (2-ethylhexyl) Phthalate	
h. Benzo (a) pyrene	\$150.00
i. Herbicides Package	\$175.00
Analyses may include, but are not limited to, 2,4-D, 2,4,5 – Tp (Silvex), Pentachlorophenol, Dinoseb, Dalapon, and Picloram	
j. 1,2-Dibromoethane (EDB) and 1,2-Dibromo-3-Chloropropane (DBCP)	\$100.00
4. Disinfection By Products	
a. Trihalomethanes (THMs) Package	\$150.00
Analyses may include, but are not limited to, Bromoform, Chloroform, Bromodichloromethane, and Chlorodibromomethane	
b. Haloacetic Acids (HAAs) Package	\$190.00
Analyses may include, but are not limited to, Bromoacetic Acid, Chloroacetic Acid, Dibromoacetic Acid, Dichloroacetic Acid, and Trichloroacetic Acid	
c. <u>Trihalomethanes and Haloacetic Acids Package</u>	<u>\$184.00</u>
d. <u>DBP Anions Package</u>	<u>\$30.00</u>
<u>Analyses may include, but are not limited to, bromate, bromide, chlorate and chlorite.</u>	
5. EPA Regulated Organics Package, includes Pesticides, PCBs, Carbamates, Diquat, Endothall and Glyphosate	\$845.00
6. Other Organic Tests: * Raw and/or Finished	
a. *Total Organic Carbon (TOC)	\$40.00
b. *Specific Ultraviolet Absorption (SUVA)	\$50.00
7. <u>Organic non Routine Analysis</u>	<u>\$30.00</u>

2. Fees for Environmental Microbiology Laboratory Service

A. Coliform Test	\$15.00
B. Container Rinse Test	\$30.00
C. Heterotrophic Plate Count	\$15.00

3. Sample processing fee

a. <u>Standard</u>	\$5.00
b. <u>Special handling and packaging</u>	\$12.00

(A sample processing fee will be charged for each sample submitted to the OLS for testing with the exception of samples for Fluoride. ~~Sampling containers are supplied at no charge when requested.~~)

4. Fee for Chain of Custody \$15.00

5. Fees for Certification of Laboratories to Conduct Drinking Water Tests: Certification to perform laboratory testing on water to meet state and Environmental Protection Agency requirements under the Safe Drinking Water Act.*

A. Chemical Testing:

1. Inorganic Tests	\$1,000.00
2. Trihalomethanes and Volatile Organic Compounds and Haloacetic Acids	\$1,000.00
3. Herbicides Pesticides and Synthetic Organic Chemicals	\$1,000.00
4. All Other Organic Tests	\$1,000.00

B. Microbiological Testing \$1,000.00

C. New lab application fee (nonrefundable) \$150.00

D. Initial consultation fee prior to initial on-site audit \$500.00

E. Issuance of an updated certificate (for dropped, added or change of status) \$100.00

F. Fee for follow-up on-site audit \$500.00

*Laboratories located outside the borders of West Virginia will be assessed the certification fee for the tests approved and shall pay all reasonable expenses required for an on-site inspection.

6. Fees for Specimen Collection Kits:

A. Blood Lead	\$15.00
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7. The State Hygienic Laboratory may enter into contractual agreements for providing services at a negotiated rate for testing specimens in the conduct of Public Health Investigations, Public Health Interventions and Public Health Risk Assessments.
8. In order to maintain preparedness and assess threats the Lab may charge for testing related to terrorism.

A. Bioterrorism

A reasonable fee established by the Commissioner may be charged in the testing of specimens for the detection of the presence of agents of bioterrorism. Testing may include, but is not limited to, the detection of biological agents causing anthrax, plague, tularemia, botulism, brucellosis, Q fever, or any other suspected agent.

B. Chemical Terrorism

The Commissioner may charge a reasonable fee, based upon an itemization of costs, for the testing of specimens for detection of the presence of agents of chemical terrorism. Testing may include, but is not limited to, the detection of chemical agents such as ricin, cyanide, or any other suspected agent.

9. Fees for Diagnostic Immunology

A. <u>Syphilis tests</u>	\$11.80
B. <u>Rubella antibody</u>	\$19.58
C. <u>HIV Screening - Serum</u>	\$59.11
D. <u>HIV Screening – Oral Fluid</u>	\$59.11
E. <u>Hepatitis C</u>	\$17.93
F. <u>Hepatitis SAB (Post Vaccine)</u>	\$17.93
G. <u>Hepatitis Screen with follow-up testing</u>	\$57.77
H. <u>Respiratory panel</u>	\$567.18
I. <u>Gastrointestinal panel</u>	\$567.18
J. <u>Quanti-Feron</u>	\$84.35
K. <u>GeneXpert for TB</u>	\$47.76
L. <u>PFGE</u>	\$7.12
M. <u>Chlamydia/Gonorrhea</u>	\$143.28
N. <u>Rabies</u>	\$50.00

Appendix B. Environmental Health Services Fees.**1. Water Systems, Sewage Systems and Swimming Pools****A. Construction/Installation Permits**

Public Water System Project	\$300.00
Public Sewer System or Facility Project	\$300.00
Public Swimming Pool Project	\$200.00
Sewage Holding Tank Project	\$1,000.00
On Site Innovative/Alternative Type Sewage System	
Correcting Failure	\$250.00
New Construction	\$400.00
Sewage System Installer Certification and Renewal	\$150.00

B. Water Well Permits (New Construction)	\$150.00
Public Water System	

2. Bottled Drinking Water/Water Vending Machine Permits

A. Distributors, Annually	\$100.00
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B. Producers and Distributors, Annually**C. Facility Size (measured in Gross Sales)**

1. \$0.00 to \$7,499.00	\$35.00
2. \$7,500.00 to \$14,999.00	\$70.00
3. \$15,000.00 to \$24,999.00	\$100.00
4. \$25,000.00 to \$49,999.00	\$200.00
5. \$50,000.00 to \$99,999.00	\$300.00
6. \$100,000.00 to \$499,999.00	\$400.00
7. \$500,000.00 to \$999,999.00	\$500.00
8. \$1,000,000.00 to 4,999,999.00	\$600.00
9. \$5,000,000.00 to 9,999,999.00	\$700.00
10. \$10,000,000.00 to 24,999,999.00	\$800.00
11. \$25,000,000.00 to 49,999,999.00	\$900.00
12. Greater than \$50,000,000.00	\$1,000.00

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D. Vending Machines, Annually	\$100.00
Plus annually per machine	10.00
3. Radiological Registration	
A. Business (or Individual) Providing Vendor Services	\$120.00
B. Radioactive Material	\$120.00
C. Radiation Machine Facility (initial or renewal)	\$120.00
D. Reciprocity	\$120.00
E. X-ray Public Health Screening Application	\$120.00
4. Radiological Inspection	
A. Decommissioning	\$500.00
B. Dental Intraoral Machine per Tube	\$60.00
C. Dental Panoramic Machine per Tube	\$70.00
D. Dental (Other than intraoral or panoramic) per Tube	\$70.00
E. Emergency Services Consultation	\$100.00 per hour
F. Industrial Cabinet X-ray System per Tube	\$70.00
G. Industrial High Energy Machine per Tube	\$120.00
H. Industrial Radiographic Machine per Tube	\$70.00
I. Industrial Radiation Machine (Other) per Tube	\$70.00
J. Medical Diagnostic Machine per Tube	\$70.00
K. Medical Therapeutic Machine per Tube	\$250.00
L. Radiation Machine per Tube (Other than Diagnostic or Therapeutic Machines, used for research or other purposes)	\$70.00
M. Radioactive Material Facility Close-out Survey	\$120.00
N. Radioactive Material Inspection	\$170.00
O. Shielding Plan Review	\$70.00
P. Veterinary Machine per Tube	\$90.00
5. Asbestos Abatement	

A. Training Accreditation		
1. Course Approval		
Per discipline/maximum	\$1000.00 / \$3000.00	
2. Review Course Approval		\$500.00
B. Notification -- Inspection of Projects		
1. Class I: 10-100 linear ft. or 50-200 sq. ft.		\$50.00
2. Class II: more than 100 and less than or equal to 1000 linear ft. or more than 200 and less than or equal to 2000 sq. ft.		\$200.00
3. Class III: greater than 1000 linear ft. or greater than 2000 sq. ft.		\$500.00
4. Class IV: Annual Industrial Facility		\$1500.00
6. Annual Low-Level Radioactive Waste Generator or Storage Fee		\$12,500.00
7. School Radon Testing		
A. Test fee per sampling point		\$10.00
B. Bureau staff time per hour		25.00
8. Food Manufacturing Facility Permit (Annual, Expires 6-30)		
A. Facility Size (measured in Gross Sales)		
1. \$0.00 to \$7,499.00		\$35.00
2. \$7,500.00 to \$14,999.00		\$70.00
3. \$15,000.00 to \$24,999.00		\$100.00
4. \$25,000.00 to \$49,999.00		\$200.00
5. \$50,000.00 to \$99,999.00		\$300.00
6. \$100,000.00 to \$499,999.00		\$400.00
7. \$500,000.00 to \$999,999.00		\$500.00
8. \$1,000,000.00 to 4,999,999.00		\$600.00
9. \$5,000,000.00 to 9,999,999.00		\$700.00
10. \$10,000,000.00 to 24,999,999.00		\$800.00
11. \$25,000,000.00 to 49,999,999.00		\$900.00

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12. Greater than \$50,000,000.00	\$1,000.00
9. Food Establishment Permits at State Facilities (Annual, Expires 6-30)	
A. Seating Capacity	
1. 0 – 20	\$100.00
2. 21 – 50	\$200.00
3. 51 – 80	\$300.00
4. 81 and over	\$400.00
10. State Institution Permits (Annual, Expires 6-30)	
A. Juvenile Detention Centers, by capacity	
1. 0 – 50	\$50.00
2. 51 – 100	\$100.00
3. 101 and over	\$150.00
B. Regional Jails, by capacity	
1. 0 – 200	\$100.00
2. 201 – 400	\$150.00
3. 401 – 600	\$200.00
4. 601 and over	\$250.00
C. Correctional Centers, by capacity	
1. 0 – 100	\$100.00
2. 101 – 300	\$150.00
3. 301 – 500	\$200.00
4. 501 – 700	\$250.00
5. 701 – 900	\$300.00
6. 901 and over	\$400.00
D. State Operated Schools (Does not include Colleges and Universities)	\$50.00

Appendix C. Health Facility Fees.**1. Site Inspections for New Construction or Major Renovation**

A. Hospitals	\$475.00
B. Ambulatory Surgical Facility	\$400.00
C. Nursing Homes	\$475.00
D. Assisted Living Residence	\$250.00
E. Residential Care Community	\$250.00
F. Behavioral Health Center Locations	\$250.00
G. Medical Adult Day Care Centers	\$200.00

2. Architect's Review of Plans

A. Hospitals	
New Hospitals and Major Additions	\$850.00
Minor Additions and Renovations	\$300.00
B. Ambulatory Surgical Centers	\$200.00
C. Nursing Homes	
New Home and Major Additions	\$750.00
Minor Additions and Renovations	\$200.00
D. Assisted Living Residence - 17 beds and larger	
New Home and Major Additions	\$500.00
Minor Additions and Renovations	\$250.00
E. Assisted Living Residences 4 - 16 beds	
New Homes and Major Additions	\$300.00
Minor Additions and Renovations	\$200.00
F. Residential Care Community	\$500.00
G. Behavioral Health Center Group Homes	\$200.00
H. End Stage Renal Disease (ESRD)	\$200.00
I. Hospice	
New Hospice and Major Additions	\$500.00
Minor Additions and Renovations	\$250.00
J. Birthing Center	\$200.00
K. Overtime Review Requested by Facility (per hour)	\$50.00

L. Medical Adult Day Care	\$150.00
3. Building Inspection of New Projects Prior to Opening	
A. Hospitals	
New Hospital and Major Additions	\$850.00
Minor Additions and Renovations	\$500.00
B. Ambulatory Surgical Facility	\$400.00
C. Nursing Homes	
New Home and Major Additions	\$750.00
Minor Additions and Renovations	\$400.00
D. Behavioral Health Center Locations	\$400.00
E. End Stage Renal Disease (ESRD)	\$400.00
F. Hospice	
New Hospice and Major Additions	\$650.00
Minor Additions and Renovations	\$300.00
G. Birthing Centers	\$400.00
H. Medical Adult Day Care Centers	\$300.00
I. Assisted Living Residences	\$400.00

Appendix D. Health Statistics Center Fees.

1. Fees for services:

- A. Preparation of a new certificate of birth due to adoption or legitimation. This does not include one certified copy. No Charge
- B. Amendment of a certificate following a legal name change, by court order. This does not include one certified copy. \$10.00
- C. Amendment of a certificate subsequent to acceptance of a child support enforcement order or a court ordered determination of paternity. This does not include a certified copy. No Charge
- D. Amendment of a birth certificate after acceptance of a paternity acknowledgment. This does not include a certified copy. No charge within 1 year of birth
\$10.00 after the 1st year
- E. Preparing and filing a delayed certificate of birth or death. This does not include one certified copy. \$15.00
- F. Additional handling charge for non-routine, expedited service and all special delivery, priority, or express mail that requires special attention. Express shipping charges extra at cost. \$5.00 for regular mail
\$10.00 for next day service
- G. Preparing and filing a presumptive death certificate. This does not include one certified copy. No Charge
- H. Amending a birth or death certificate. This does not include one certified copy. No charge within one year of event
\$10.00 after the 1st year of event
- I. Manually preparing an abstracted document from the original on file for certification, upon demand by the customer. This does not include a certified copy of the abstracted certificate. \$10.00
- J. Preparing an heirloom birth certificate from the original document. \$30.00
- K. A fee may be charged for special services not specified in this Appendix. The fee shall be the actual cost for providing the service as determined by the State Registrar.
- L. The State Registrar may waive a fee for service for good cause, including requests from legitimate charities and those on behalf of indigent persons.