

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #2

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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

AGENCY: West Virginia Division of Culture & History TITLE NUMBER: 82

RULE TYPE: Procedural; CITE AUTHORITY W. Va. Code 29-1-6

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: 6

TITLE OF RULE BEING PROPOSED: Archives and History Library Services
and Fee Guidelines

IN LIEU OF A PUBLIC HEARING, A COMMENT PERIOD HAS BEEN ESTABLISHED DURING WHICH ANY INTERESTED PERSON MAY SEND COMMENTS CONCERNING THESE PROPOSED RULES. THIS COMMENT PERIOD WILL END ON Monday, 8 April 1996 AT 5:00 p.m. ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS.

Archives and History

The Cultural Center

1900 Kanawha Boulevard East

Charleston, WV 25305-0300

THE ISSUES TO BE HEARD SHALL BE LIMITED TO THIS PROPOSED RULE.

Frederick W. Armstrong

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

4.00



WEST VIRGINIA DIVISION OF
CULTURE AND HISTORY

M E M O R A N D U M

TO: Secretary of State

FROM: Fredrick H. Armstrong *Fredrick H. Armstrong*
Director, Archives and History

DATE: 29 February 1996

SUBJECT: Procedural Rule Filing for Public Comment

Procedural Rule Title 82 Culture and History Series 6 Archives and History Library Services and Fee Guidelines compiles and places before the public at large many accumulated patron researchers guidelines, rules, charges and fees for accessing and obtaining information and copies from the collections maintained by the Archives and History Library located in The Cultural Center. With the exception of the ten dollar (\$10.00) research fee to out-of-state residents, all rules have been in place for three or more years.

These rules and guidelines are specific as to how patrons gain access to the library and collections, the manner in which they research various collections, how they credit materials copied from these collections and the charges for copies made.

The Archives and History Commission, the oversight body for Archives and History, approved the research fee for out-of-state residents at its 27 January 1995 meeting and has approved the filing of this procedural rule. Upon the completion of the public comment period the rules will be modified or revised if necessary. The research fee for out-of-state residents will then be publicized as broadly as possible for implementation 1 July 1996. We anticipate no additional expenditure of financial or personnel resources to continue the operation of these rules.

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Archives and History Library Services and Fee Guidelines

Type of Rule: Legislative Interpretive Procedural

Agency West Virginia Division of Culture & History

Address Archives and History Section, The Cultural Center
1900 Kanawha Boulevard East
Charleston, WV 25305-0300

1. Effect of Proposed Rule

	ANNUAL FISCAL YEAR				
	INCREASE	DECREASE	CURRENT	NEXT	THEREAFTER
ESTIMATED TOTAL COST	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0
PERSONAL SERVICES	0	0	0	0	0
CURRENT EXPENSE	0	0	0	0	0
REPAIRS & ALTERATIONS	0	0	0	0	0
EQUIPMENT	0	0	0	0	0
OTHER	0	0	0	0	0

2. Explanation of above estimates: No expenses will be incurred in this process. The rules submitted here, with the exception of the ten dollar out-of-state research fee approved by the Archives and History Commission, have been established over the operating period of Archives and History and are currently in use. The attached rules are submitted for the purpose of codification only.

3. Objectives of these rules: It is the purpose of these rules to codify the established operational practices of Archives and History.

Rule Title: Archives and History Library Services and Fee Guidelines

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

There will be no identifiable economic impact on state government.

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

There will be no identifiable economic impact on political subdivisions; specific industries; or specific groups of citizens.

C. Economic Impact on Citizens/Public at Large.

There will be no identifiable economic impact on West Virginia residents. Out-of-state residents will be required to pay a ten dollar fee for each research letter processed. All other Library services and fee guidelines affecting the public have been in place for at least three years.

Date: 29 February 1996

Signature of Agency Head or Authorized Representative

Fredrick H. Armstrong
Director, Archives + History

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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

82CSR6

TITLE 82
PROCEDURAL RULE
CULTURE AND HISTORY

SERIES 6
ARCHIVES AND HISTORY LIBRARY SERVICES AND FEE GUIDELINES

§82-6-1. General.

1.1. Scope. - These procedural rules set forth policies and procedures concerning the availability to the public of all records and informational materials generated, developed, or held by Archives and History.

1.2. Authority. - W. Va. Code §29-1-6

1.3. Filing Date. -

1.4. Effective Date. -

§82-6-2. Definitions.

2.1. *Specialized Collections* consist of any one of the following Archives and History collections: Archives collections, Manuscript collections, Special collections, Photograph collections, Audiovisual Archives, Maps, State Documents, rare books, and other materials requiring staff assistance.

2.2. *Research Inquiries* are requests for information submitted in writing to Archives and History.

2.3. *Emergency requests* are research inquiries involving the immediate health and well-being of a patron, such as documentation necessary for acquiring or sustaining health benefits.

2.4. *Rush requests* are research inquiries needed on an immediate basis, but not involving the health and well-being of a patron. These inquiries typically will be responded to within two days.

2.5. *Special requests* are large copy orders requiring in excess of one-half hour per day to complete.

§82-6-3. Public Availability and Use.

3.1. Availability of records.

Archives and History's administrative/office records are available to the greatest extent possible in keeping with the spirit and intent of the Freedom of Information Act. Requestors should address their requests to the State Archivist. The person making the request need not have a particular interest in the subject matter, nor provide justification for the request except to the extent necessary to determine the requestor's category for fee assessment purposes as explained in section 1-7. The FOIA requirement that records be available to the public refers only to records in existence when the request is submitted. The act does not require an agency to compile or create information or records in response to an FOIA request.

3.2. Applying exemptions.

The Freedom of Information Act need not be invoked to obtain access to accessioned collections. Archives and History will restrict access to a collection or a portion of a collection on which restrictions have been placed by the donor. To obtain access to a restricted collection, patrons are required to apply directly to the donor. Archives and History will not withhold a record unless there is a compelling reason to do so.

3.3. Records of other agencies.

In some instances, Archives and History maintains on deposit, but does not accession, the records of other state government agencies. If Archives and History receives a request to make available current records on deposit, it shall refer the request to the agency concerned for appropriate action.

§82-6-4. Hours of Use.

Hours for the Archives and History Library are determined by the regular operating hours of The Cultural Center.

§82-6-5. Availability of Records and Donated Historical Materials.

5.1. General provisions.

Researchers will normally use documents in the Archives and History library room. Original documents will not normally be made available when microfilm, photocopies, or other alternative copies of the documents are available.

5.2. Research procedures and rules.

5.2.1. All patrons are to sign the guest book at the

registration desk.

5.2.2. Patrons are to pull books and materials in the library and microfilm in the microfilm storage room. Materials may be used in these rooms only and may not be removed. Call slips, with all requested information printed legibly, must be submitted at the desk for materials not shelved in these rooms. Patrons are not to reshelve any materials but are to return them to designated areas.

5.2.3. The use of pens is prohibited.

5.2.4. Patrons are to limit the number of books at their work area to three (3) and the number of reels of microfilm to no more than two (2). Other restrictions apply for Specialized Collections.

5.2.5. Smoking, eating, and drinking are prohibited in all library and collections areas.

5.2.6. Arrangement of the materials is to be retained and all materials are to be treated with great care so as to avoid marking, folding, or damaging in any way.

5.2.7. During the last one-half hour of operation, no materials are to be pulled from the closed stacks or copies made. During the last one-half hour of operation, the microfilm room will be closed.

5.2.8. All photocopying and microfilm copying is done by staff.

5.2.9. Staff is available at the reference desk to assist patrons at all times.

5.2.10. Patrons are responsible for their personal property. Archives and History assumes no responsibility for lost or stolen personal belongings or property.

5.2.11. All bags and packages are inspected at departure.

5.2.12. Use of the microfilm readers is on a first-come, first-served basis. When other researchers are waiting to use a microfilm reader, a two-hour limit is placed on using a reader and readers are assigned according to order of list.

5.2.13. Damaged materials must be reported immediately to the Archives and History staff.

5.2.14. Use of mechanized copying equipment by patrons is prohibited in the library. Such equipment includes but is not limited to cameras, photocopiers, and computer scanners.

5.2.15. Patrons will not apply self-adhesive removable notes, tape, paper clips, staples, or similar objects to any items in the collections.

5.3. Use of Specialized Collections.

5.3.1. To provide quality access to the Specialized Collections, researchers should make an appointment with Archives and History staff at least one week in advance and provide information on research topic.

5.3.2. In order to use the Specialized Collections, researchers must complete an application form, which will be kept on file by Archives and History. Refer to Form #1.

5.3.3. Conditions for the use of photographic copies. Refer to Form #2 and Form #4.

5.3.4. Conditions for the use of moving images footage. Refer to Form #3 and Form #4.

5.3.5. When material from the Specialized Collections is used in a publication, broadcast, film, exhibition, etc., credit will be given as follows: "West Virginia State Archives." When a specific collection name is provided by Archives and History, that name will also appear in the credit line.

§82-6-6. Requests for Services.

6.1.1. Research inquiries must be submitted in writing to the Archives and History Library and will be limited to two (2) specific requests. Each inquiry is limited to one-half hour of staff time. If extensive research is required beyond the one-half hour, a list will be provided of individuals who conduct genealogical and historical research for a fee.

6.1.2. All research inquiries, regardless of how they are submitted, are assigned and responded to in the order of the date of receipt, with the exception of emergency requests and rush requests.

6.1.3. Rush requests may be placed by phone or facsimile transmission, but must be accompanied by a signed form guaranteeing payment prior to any work on the order. This form may be sent by facsimile transmission, mail, or special delivery. Rush requests may be denied if previous staff commitments preclude the completion of said request in the time specified.

§82-6-7. Fees.

7.1. Library fees.

7.1.1. A fee of ten dollars (\$10.00) must accompany each and every out-of-state research inquiry. This fee is non-refundable and must be paid in advance. This entitles patrons to two dollars and fifty cents (\$2.50) in copy work and postage and handling. If additional costs are incurred, patrons will be billed. The fee may be adjusted for primary and secondary school students.

7.1.2. There is no advance research fee for in-state research inquiries. In-state patrons are charged for copy work and postage and handling, with a minimum charge of two dollars and fifty cents (\$2.50).

7.1.3. If emergency requests can be filled, they will be assessed a ten dollar (\$10.00) fee plus the cost of any special handling if requested. Emergency requests are limited to single specific requests. Such requests are subject to review and restrictions.

7.1.4. Rush requests will be assessed a twenty-five dollar (\$25.00) fee plus the cost of copy work and postage and handling. If this is an out-of-state request, an additional ten dollars (\$10.00) will be charged. If the response is to be returned by facsimile transmission, a facsimile fee will also be assessed (see section 7.1.12.). Rush requests are limited to single specific requests. Such requests are subject to review and restrictions.

7.1.5. Special requests will be assessed a fee of fifteen dollars (\$15.00) per hour for all copy work exceeding the first half hour plus the cost of copy work and postage and handling.

7.1.6. The photocopying cost for all 8½" x 11" and 8½" x 14" paper is twenty-five cents (\$.25) per sheet. The cost for 11" x 17" paper is fifty cents (\$.50) per sheet.

7.1.7. The microfilm reader/printer cost is fifty cents (\$.50) per sheet.

7.1.8. Vital Registration birth and death certificates are two dollars and fifty cents (\$2.50) per copy.

7.1.9. Certification of each and every item is two dollars and fifty cents (\$2.50) for each use of the seal.

7.1.10. Oversized items which can be copied on the Capitol Complex cost two to four dollars (\$2.00-\$4.00) per exposure. Oversized items which must be copied off the Capitol Complex will be assessed a fifteen dollar (\$15.00) fee plus copying

and postage and handling costs.

7.1.11. Submission of a claim for a Union Civil War medal must be accompanied by a fifteen dollar (\$15) non-refundable payment, which includes the soldier's service record or copies of other records necessary for verification up to two dollars and fifty cents (\$2.50) in cost, the verification process, notification of acceptance or rejection, return of documentation, and certified mailing of the medal to successful claimants.

7.1.12. Only responses to emergency requests and rush requests will be sent via facsimile transmission. The following facsimile transmission fees will be added to the costs of those requests:

Long-distance	
1-5 pages	\$ 5.00
6-10 pages	10.00

Local	
1-5 pages	\$ 3.00
6-10 pages	5.00

7.2. Photograph fees.

7.2.1. All fees must be paid prior to reproduction or use of photographs.

7.2.2. Reproduction fees. Refer to Form #5.

7.2.3. Use fees. Refer to Form #6.

7.2.4. Reciprocal arrangements are considered for state agencies, organizations, institutions, or individuals who are donors to or supporters of Archives and History.

7.3. Audiovisual Archives fees.

7.3.1. All fees must be paid prior to transfer, duplication, or use of moving images or audio.

7.3.2. Transfer and duplication fees. Refer to Form #7.

7.3.3. Use fees. Refer to Form #8.

7.3.4. Reciprocal arrangements are considered for state agencies, organizations, institutions, or individuals who are donors to or supporters of Archives and History.

7.4. *West Virginia History*

West Virginia History, the state journal of history, biography, bibliography, and genealogy, costs twelve dollars (\$12) per year in the United States and fifteen dollars (\$15) per year outside the United States.

7.5. Payment of fees

Fees may be paid in cash, by check, or money order. Remittances from outside the United States must be made by international money order, payable in U.S. dollars or a check drawn on a U.S. bank.

Form #1

**LIBRARY REGISTRATION FORM
WEST VIRGINIA STATE ARCHIVES**

Name _____

Affiliation _____

Street Address _____

City _____ State ____ Zip _____

Home Phone _____ Business Phone _____

Purpose of Research (check all that apply)

- | | |
|---|---|
| <input type="checkbox"/> 01 State agency operations | <input type="checkbox"/> 02 Legislation |
| <input type="checkbox"/> 03 Genealogy | <input type="checkbox"/> 04 Military history |
| <input type="checkbox"/> 05 Student paper | <input type="checkbox"/> 06 Graduate thesis |
| <input type="checkbox"/> 07 Community history | <input type="checkbox"/> 08 Historic preservation |
| <input type="checkbox"/> 09 Archaeology | <input type="checkbox"/> 10 Printed publication |
| <input type="checkbox"/> 11 Illustrations | <input type="checkbox"/> 12 Legal proceedings |
| <input type="checkbox"/> 13 Property title search | <input type="checkbox"/> 14 Exhibit |
| <input type="checkbox"/> 15 Instructional use | <input type="checkbox"/> 16 Audiovisual Archives |
| <input type="checkbox"/> 17 Other (please specify): _____ | |

DECLARATION:

I have received a copy of the Archives and History Library rules and agree to abide by them. For any publication, broadcast, film, exhibition, etc., in which this material is used, I will give credit as follows: "West Virginia State Archives." When a specific collection name is provided by Archives and History, that name will also appear in the credit line.

Signature_____
Date

Information given on this form is for statistical and security purposes only. It is not divulged to outside parties.

FORM #2

CONDITIONS FOR THE USE OF PHOTOGRAPHIC COPIES
WEST VIRGINIA STATE ARCHIVES

1. Permission is granted for the use of photograph(s) from the West Virginia State Archives (WVSA) for a non-exclusive, one time, one edition, one language use only. To make any additional use of the photograph(s) in another format requires the written permission of the WVSA and may be subject to additional fees. Further use of the photograph(s) must be applied for in writing prior to re-publication, re-broadcast, or re-exhibition.
2. Credit will be given as follows: "West Virginia State Archives." When a specific collection name is provided by the WVSA, that name will also appear in the credit line. In printed materials, the credit line will appear on the same or facing page as the photograph(s). In all other formats, the credit line will be included on the film within the credit section. With exhibitions, the credit line will be displayed within the exhibit area. Exceptions must be requested in advance.
3. A complimentary copy of any published work or videotape must be provided to the WVSA.
4. Copyrighted material will not be copied without the written permission of the copyright holder. Applicants assume all responsibility for questions of copyright and invasion of privacy that may possibly arise in the reproduction and in the use they make of the images reproduced.
5. Others must not be permitted to reproduce the photographic copy or any facsimile of it.
6. Photograph(s) shall not be donated to other archival institutions without the written permission of the WVSA.
7. The WVSA reserves the right to limit the number of photographic copies; to restrict the use or reproduction of rare or valuable material; to make special quotations on material involving unusual difficulty in copying; and to charge a higher copying fee than specified.
8. All fees incurred by the applicant must be paid in full to the WVSA before rights will be granted to use any photograph(s).
9. Any exceptions or additions to the above conditions will appear on, and be considered part of, this agreement.
10. Failure to comply with the above conditions may result in prosecution or restricted use of the WVSA collections.

FORM #3

CONDITIONS FOR THE USE OF MOVING IMAGES FOOTAGE
WEST VIRGINIA STATE ARCHIVES

1. Permission is granted for the use of moving images footage from the West Virginia State Archives (WVSA) for a non-exclusive, one time, one edition, one language use only. The footage will not be used in other media or formats without the written permission of the WVSA and may be subject to additional fees. Further use of the footage must be applied for in writing prior to re-broadcast or re-exhibition. The applicant will not reproduce any still images from the footage for any use.
2. It is the applicant's responsibility to obtain all required releases from persons whose voices or likenesses appear in the footage or from their estates, and from the owners of any music contained in the footage. The applicant shall pay any fees and other payments required in connection with the releases and furnish the WVSA with copies of all such releases.
3. The applicant will indemnify, defend, and hold the WVSA and its officers, directors, agents, employees, representatives, and associates harmless from and against any and all costs, damages, liabilities, and expenses, including reasonable fees arising out of any claim whatsoever regarding use of the footage. At the request of the WVSA, the applicant will agree to defend any such claim at its own expense, which will include the obligations to pay residuals or any other amounts that may be due.
4. Copyrighted material will not be copied without the written permission of the copyright holder. Applicants assume all responsibility for questions of copyright and invasion of privacy that may possibly arise in reproducing and in the use they make of the images reproduced.
5. Credit will be given as follows: "West Virginia State Archives." When a specific film or collection name is provided by the WVSA, that name will appear in the credit line.
6. A complimentary copy of the final videotape will be provided to the WVSA.
7. The WVSA must receive a copy of all promotional materials involving WVSA materials. These must be approved by the WVSA prior to their use.
8. The applicant will not copy, duplicate, or otherwise use the film or videotape copies of the footage except as provided in the "Intended Use" section of this agreement.

9. Film or videotape shall not be donated to other archival institutions without the written permission of the WVSA.

10. The WVSA is and will remain the owner of the copyright of the footage. The rights authorized in this agreement will not be assigned or sublicensed to any third party. No waiver of any of the terms of this agreement will be valid without the written permission of the WVSA.

11. All fees incurred by the applicant must be paid in full to the WVSA before rights will be granted to use the footage.

12. Any exceptions or additions to the above conditions will appear on, and be considered part of, this agreement.

13. Failure to comply with the above conditions may result in prosecution or restricted use of the WVSA collections.

Form #4

PERMISSION FOR USE OF PHOTOGRAPHS AND MOVING IMAGES
WEST VIRGINIA STATE ARCHIVES

Use is _____ Non-Profit _____ Commercial

Intended use of the image(s):

Images will be used for:

___ Printed publication	___ Exhibition	___ Film
___ Video	___ Television	___ Filmstrip
___ Private use	___ Other: _____	

List of image(s):

<u>Description</u>	<u>Cost</u>
--------------------	-------------

Mailing Charges:
Total Due:

Signature below indicates the attached conditions for the use of image(s) have been read, approved, and agreed to:

Signed _____ Date _____

Printed Name _____ Title _____

Permission for reproduction by:

_____ Fee Paid \$ _____

Form #5

PHOTOGRAPH REPRODUCTION FEES
WEST VIRGINIA STATE ARCHIVES**Black and White (B&W) prints**

	<u>Negative exists</u>	<u>No Negative</u>
B&W 8x10 (14-28 days)	\$ 7.00	\$10.00
(8-14 days)	10.00	13.00
(less than 7 days)	14.00	17.00
B&W 11x14 (14-28 days)	14.00	17.00
(8-14 days)	20.00	23.00
(less than 7 days)	25.00	28.00
B&W 16x20 (14-28 days)	20.00	23.00
(8-14 days)	30.00	33.00
(less than 7 days)	40.00	43.00

Special cropping and/or retouching: \$5.00 additional per print

Sepia or brown toning: \$3.00 additional per print

Color prints (Note: Color prints cannot be reproduced in-house. Therefore, the final cost is determined by the prices charged by private vendors.)

	<u>Negative exists</u>	<u>No Negative</u>
Color 8x10 (Merrill's)	\$10.00	\$15.00
Color 11x14 (Merrill's)	20.00	25.00
Color 16x20 (Kodak)	50.00 (est.)	55.00

Slides

Copying 1-35	(7-14 days)	\$25.00
	(less than 7 days)	35.00
Slide to slide duplication	(7-14 days)	25.00
	(less than 7 days)	35.00

Special orders

Prints larger than 16x20, panoramics, etc., are not reproduced in-house and will be quoted on an individual basis depending on price charged to the WVSA by private vendors.

Reciprocal arrangements are considered for state agencies, organizations, institutions, or individuals who are donors to or supporters of the WVSA.

Form #6

PHOTOGRAPH USE FEES
WEST VIRGINIA STATE ARCHIVES

	<u>Cost per image</u>
Educational and/or non-profit printed publication, television broadcast, film, or CD-ROM	\$15.00
Educational and/or non-profit video	25.00
Commercial printed publication, television broadcast, film, or CD-ROM	30.00
Commercial video	50.00

Reciprocal arrangements are considered for state agencies, organizations, institutions, or individuals who are donors to or supporters of the WVSA.

Form #7

AUDIOVISUAL ARCHIVES TRANSFER & DUPLICATION FEES
WEST VIRGINIA STATE ARCHIVES

<u>Tapes</u>	<u>Cost</u>
VHS tape (120 minutes)	\$ 5.00
¾" tape stock	20.00
 <u>Duplication</u>	
¾" video tape (includes tape stock)	45.00/hr (\$45 minimum)
½" VHS tape (includes tape)	20.00/1st hr + 5.00/each add'l hr (\$20 minimum)
Audiotape (includes tape)	7.50/30 min (\$7.50 minimum)
 <u>Transfer</u>	
Film to ¾" video tape	70.00/1st hr (includes tape stock) + 25.00/each add'l 30 min (does not include tape stock) (\$70 minimum)
 <u>Other Services</u>	
Video editing	25.00/30 min on equipment (\$25 minimum)
Microfilming documents	60.00/roll

Note: Every effort is made to turn requests around in two to four weeks. Orders needed in less than two weeks may be negotiated at higher rates.

Reciprocal arrangements are considered for state agencies, organizations, institutions, or individuals who are donors to or supporters of the WVSA.

Form #8

AUDIOVISUAL ARCHIVES USE FEES
WEST VIRGINIA STATE ARCHIVES**Educational and/or non-profit television
broadcast or film**

	<u>Cost per second</u>
Local viewing area or market	\$ 2.00
State viewing area or market	3.00
National viewing area or market	10.00
Worldwide viewing area or market	15.00

Commercial television broadcast or film

Local viewing area or market	3.00
State viewing area or market	5.00
National viewing area or market	20.00
Worldwide viewing area or market	25.00

Home video distribution 20.00

CD-ROM, videodisc, and/or on-line applications 15.00

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