

John D. Rockefeller IV
Governor



L. Clark Hansbarger, M.D.
Director

State of West Virginia

DEPARTMENT OF HEALTH
CHARLESTON 25305

Notice

Legislative Rule: Fee-for-Permit Rule, Chapter 16-2A
Series I, (1983)

The above titled legislative rule is hereby submitted to
the Legislative Rule-Making Review Committee.

A handwritten signature in cursive script, reading "L. Clark Hansbarger".

L. Clark Hansbarger, M. D.
Secretary
West Virginia Board of Health

FILED IN THE OFFICE OF
A. JAMES MANCHIN
SECRETARY OF STATE

THIS DATE 11-24-82
Administrative Law Division

Entered

John D. Rockefeller IV
Governor



L. Clark Hansbarger, M.D.
Director

State of West Virginia

DEPARTMENT OF HEALTH

CHARLESTON 25305

Certification

Legislative Rule: Fee-for-Permit Rule, Chapter 16-2A,
Series I, (1983)

The above titled legislative rule constitutes the official rule approved by the West Virginia Board of Health on November 19, 1982 and filed pursuant to law in the Office of the Secretary of State, State of West Virginia.

A handwritten signature in cursive script, reading "L. Clark Hansbarger".

L. Clark Hansbarger, M. D.
Secretary
West Virginia Board of Health

Entered

DATE: November 22, 1982
TO: Legislative Rule-Making Review Committee
FROM: Health Department
SUBJECT: INFORMATION TO BE SUPPLIED TO THE COMMITTEE
RULES: Fee-for-Permit, Legislative Rule, Chapter 16-2A, Series I (1983)

INFORMATION REQUIRED

1. Please give the citation of the statute which authorizes your promulgation of these rules.

Chapter 16, Article 2A, Section 6

2. 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:
(29A-3-5)|

- 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.

n/a

- b. Was the hearing held on the date scheduled and were all interested parties permitted to be heard?

n/a

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

n/a

d. Is the transcript of all evidence received preserved and available for public inspection and copying?

n/a

3. For all rules promulgated:

a. When did you file the rules in the State Register together with notice of a hearing time, date and location? (29A-3-5)

October 15, 1982

b. Did you give at least 30 days notice and no more than 60 days notice? (29A-3-7)

yes

c. What other notice, including advertising, did you give of the hearing? (29A-3-5)

Posted at all county health departments, courthouses,

Capitol News Service

d. Was the hearing held on the scheduled date? If not, why not?

yes

e. Was the opportunity given for all interested parties to submit data, objections, suggested amendments, views, evidence or arguments?

yes

f. List all persons who appeared at the hearing and what type of comment they made about the proposed rules (for, against, suggested and amendments). Please attach a copy of the minutes of the hearing.

No attendance

g. On what date did you file in the State Register notice of your action on the proposed rules together with the text of such rules?

· Notice of Agency Approval - 11/24/82

Notice of Submission to LRMRC - 11/24/82

Approved text - 11/24/82

Signature of department head, board chairman or executive secretary.

(Please attach additional sheets if necessary)

HO original

PROPOSED

WEST VIRGINIA LEGISLATIVE RULE
BOARD OF HEALTH

Fees for Permits

FILED IN THE OFFICE OF
A. JAMES MANCHIN
SECRETARY OF STATE

~~THIS DATE~~ 10/15/82
October 14, 1982

WEST VIRGINIA LEGISLATIVE RULES
BOARD OF HEALTH

Fees for Permits

Chapter 16-2A
Series I
(1983)

INDEX

	Page
Section 1. General	1
Section 2. Application and Enforcement	1
Section 3. Definitions	1
Section 4. Options to Charges for Permits	3
Section 5. Permits and Fees	3
Section 6. Prorating of Fixed Expiration Date Permit Fees	5
Section 7. Severability	5
Section 8. Administrative Due Process	5

WEST VIRGINIA LEGISLATIVE RULE
BOARD OF HEALTH

Chapter 16-2A
Series I
(1983)

FILED IN THE OFFICE OF
A. JAMES MANCHIN
SECRETARY OF STATE
THIS DATE 10/15/82

Subject: Fees for Permits

Section 1. General

1.1. Scope - These legislative rules establish the fees for permits issued by a county, municipal or combined board of health.

1.2. Authority - These legislative rules are issued under the authority of and are related to Chapter 16, Article 2A, Section 6 of the West Virginia Code of 1931, as amended.

1.3. Filing Date - These legislative rules were promulgated on the day of 19 , and were filed on the day of 19 , in the Secretary of State's office.

1.4. Effective Date - These legislative rules became effective on the day of , 19 .

Section 2. Application and Enforcement

2.1. Application - These legislative rules apply to any county, municipal or combined board of health which charges a fee for the issuance of such permits as covered by these legislative rules.

2.2. Enforcement - The enforcement of these legislative rules is vested with the director of the West Virginia department of health or his lawful designee.

Section 3. Definitions

3.1. Developed Site - A mobile home location prepared for placement and hookup of a mobile home.

3.2. Fixed Expiration Date - An annual date at which time all permits of the same type expire. The fixed expiration date for each of the permits covered by this rule are derived from the state code or the rule which authorizes the issuance of the particular permit.

3.3. Food Service Establishment - Any fixed or mobile restaurant; coffee shop; cafeteria; short-order; soda fountain; tavern; bar; cocktail lounge; delicatessen; nightclub; roadside stand; industrial feeding establishment; private, public, or nonprofit organization or institution routinely serving food; catering kitchen; commissary or similar place in which food or drink is prepared for sale or service on the premises or elsewhere; and any other eating or drinking establishment or operation where food is served or provided for the public with or without charge.

3.4. Mobile Food Unit - A vehicle-mounted food service establishment designed to be readily moveable.

3.5. Organized Camp - Any area, place, parcel, or tract of land on which facilities are established or maintained to provide an outdoor group living experience for children or adults, or where one or more permanent or semi-permanent structures are established or maintained as living or sleeping quarters for children or adults, and operated for educational, social, recreational, religious instruction or activity, physical education or health, or vacation purposes either gratuitously or for compensation, provided, that this definition shall not be construed to include a hunting, fishing, or other camp privately owned and used exclusively for the personal pleasure of the owner.

3.6. Potentially Hazardous Food - Any food that consists in whole or

part of milk or milk products, eggs, meat, poultry, fish, shellfish, edible crustacea, or other ingredients, in a form capable of supporting rapid and progressive growth of infectious or toxigenic micro-organisms. The term does not include clean, whole, uncracked, odorfree shell eggs or foods which have a pH level of 4.6 or below or a water activity (aw) value of 0.85 or less.

3.7. Temporary Food Service Establishment - A food service establishment that operates at a fixed location for a period of time of not more than 14 consecutive days in conjunction with a single event or celebration and required by law to have a permit.

3.8. Tent and Travel Trailer Campground - A tract or parcel of land maintained, offered or used for camping and parking of recreational house trailers. Wilderness camping areas are not included in this definition.

Section 4. Options to Charges for Permits

4.1. Any county, municipal or combined board of health may charge a fee for the issuance of a permit covered by these rules.

4.2. Any county, municipal or combined board of health may charge for whichever permits listed and are not required to charge for all permits listed. The amount of each fee listed represents the maximum amount which shall be charged. Any county, municipal or combined board of health may charge any dollar amount up to the maximum. Provided, that a county, municipal or combined board of health shall not change the formulas utilized in Sections 5 and 6.

Section 5. Permits and Fees

5.1. Child Care Center Permit - \$35 per permit. Fixed expiration date - December 31.

5.2. Mobile Home Park Permit - Two (2) to ten (10) developed sites - \$30; \$1.00 per developed site above ten (10). Fixed expiration date - December 31.

5.3. Vending Machine Permit - Potentially hazardous food only, \$15 per machine. Fixed expiration date - June 30.

5.4. Mobile Food Unit Permit - Potentially hazardous food only, \$20 per unit. Fixed expiration date - June 30.

5.5. Bathing Beach and Swimming Pool Permit - \$50 per permit. Fixed expiration date - December 31.

5.6. Organized Camp Permit - \$75 per permit. Fixed expiration date - January 1.

5.7. Tent and Travel Trailer Campground - \$35 per permit. Fixed expiration date - March 31.

5.8. Individual On-Site Sewage Disposal Systems and Innovative Alternate Type Sewage Systems (excluding pit privies) - \$50 per permit for new systems.

5.9. Sewage Tank Cleaning Truck Permit - \$25 per truck. Fixed expiration date - December 31.

5.10. Milk Transfer Station Permit - \$50 per permit. Fixed expiration date - June 30.

5.11. Temporary Food Service Establishment Permit - \$10 per unit. Fixed expiration date - June 30.

5.12. Food Service Establishment -

<u>Seating Capacity</u>	<u>Fee per permit</u>
0-35	\$50
36-75	\$75
76 & over	\$100

Fixed expiration date - June 30.

5.13. Hotel Permit -

<u>Number of Rooms</u>	<u>Fee per permit</u>
0-35	\$50
36-75	\$75
76 and over	\$100

Fixed expiration date - June 30.

Section 6. Prorating of Fixed Expiration Date Permit Fees - The fee charged for an annual permit with a fixed expiration date shall be prorated according to the following formula:

less than 3 months	3 months to less than 6 months	6 months to less than 9 months	9 months to less than 12 months
25% of annual fee	50% of annual fee	75% of annual fee	100% of annual fee

Section 7. Severability - If any provisions of these rules or the application thereof to any person or circumstances shall be held invalid, such invalidity shall not affect the provisions or the application of these rules which can be given effect without the invalid provisions or application, and to this end the provisions of these rules are declared to be severable.

Section 8. Administrative Due Process - Those persons adversely affected by the enforcement of these legislative rules desiring a contested case hearing

to determine any rights, duties, interests or privileges shall do so in a manner prescribed in the West Virginia Procedural Rules, Board of Health, Chapter 16-1, Series I, 1981, Rules of Procedure for Contested Case Hearings and Declaratory Rulings. The aforementioned procedural rules are incorporated herein by reference.

WEST VIRGINIA BOARD OF HEALTH
RULE ABSTRACT

TITLE: Fee-for-Permit Rule

TYPE: Legislative Rule

AUTHORITY AND RELATED CODE: 16-2A-6

NUMBER: 16-2A, Series I

SCOPE: Establish fees for permits issued by a county municipal or combined board of health.

APPLICATION: Any county, municipal or combined board of health which charges a fee for the issuance of such permits covered by the rule.

COMMENTS: This rule was mandated by the passage of House Bill 1130 in 1982 providing the option for local boards of health to charge for permits and that the fees be established through regulation by the State Board of Health.

CONTACT PERSON IN REGULATORY SERVICES DIVISION: Rich O. Hartman,
Staff Assisnat, Regulatory Services Division 348-2411

RESPONSIBLE OFFICE, DIVISION AND CONTACT PERSON: Environmental
Health, General Environmental Health Division, Ed DeBarr, Chief
348-2967

FISCAL NOTE FOR PROPOSED RULES

Rule No. 16-2A, Series I Subject Fee-For-Permit

Type of Rule: Legislative Interpretive Procedural

Agency Health Department Address 1800 Washington Street, East
Charleston, WV 25305

Authorized Representative Robert Wheeler, P.E. Phone 348-2970

1. Effect of Proposed Rule	ANNUAL		FISCAL YEAR		
	Increase	Decrease	Current	Next	Thereafter
Estimated Total Cost	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0
Personal Services					
Current Expense					
Repairs and Alterations					
Equipment					
Others					

2. Explanation of above estimates. No cost to State Health Department since rule applies only to local health departments.

3. Date 9-14-82 Agency Health Department

Signature of Agency Head

L. Clark Hansbarger
 L. Clark Hansbarger, M. D., Director

Signature of Authorized Representative

Robert Wheeler

FILED IN THE OFFICE OF
 A. JAMES MANCHIN
 SECRETARY OF STATE
 THIS DATE 10/15/82

STATEMENT OF ECONOMIC IMPACT OF PROPOSED RULES OR REGULATIONS

Agency Health Department

Rule No. 16-2A, Series I

Subject Fee-For-Permit

1. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government. \$0

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

Those counties which decide to charge fees will realize income increases. The estimate annual income for an urban county will be approximately \$25,000 and for a rural county approximately \$12,000. This is if all permits are charged.

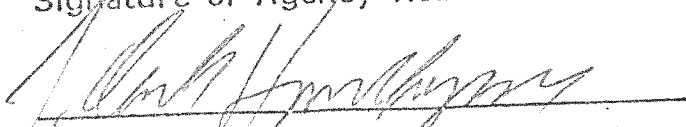
C. Economic Impact on Citizens/Public at Large.

In those counties which charge for permits, the impact will of course be on those persons seeking permits listed in the rule.

Date 9-14-82

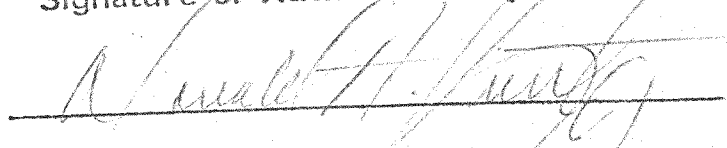
Agency Health Department


Signature of Agency Head



L. Clark Hansbarger, M. D., Director

Signature of Authorized Representative





PUBLIC HEARING ATTENDANCE RECORD

In re Public Hearing on Legislative Rule Fee For Permit Rule
Chapter 16-2A, Series I, (1983) ; 10:00 a.m. Monday November 15,
1982, Bld. #3 Room 522, 1800 Washington St. E. Charleston, W.Va.
Hearing Moderator- Richard O. Hartman, Staff Assistant, Reg. Serv.Div.

P L E A S E P R I N T

Name No one attended - no comment received

Address Hearing closed at 10:30 am

Representing Richard O. Hartman - Hearing Moderator

Do you wish to make a comment? yes _____ no _____

Name _____

Address _____

Representing _____

Do you wish to make a comment? yes _____ no _____

Name _____

Address _____

Representing _____

Do you wish to make a comment? yes _____ no _____

P L E A S E P R I N T