

**STATEMENT OF CIRCUMSTANCES
FEES FOR SERVICES RULE 64CSR 51**

This is a revision of an existing rule from 1991 establishing fees for some services provided by the Bureau for Public Health through its various offices. In this period cost and diversity of services have increased dramatically making it necessary to charge new fees for new services and increase existing fees. There are three areas of significant change: the State Hygienic Laboratory, Office of Environmental Health Services and the Office of Health Facility Licensure and Certification.

BRIEF SUMMARY

This legislative rule establishes reasonable fees for a wide variety of services provided by the Bureau for Public Health and local boards of health.

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Fees for Services Rule, 64csr51

Type of Rule: Legislative Interpretive Procedural

Agency: Division of Health
Department of Health and Human Resources

Address: Building 3, Capitol Complex
Charleston, W. Va. 25305

1. Effect of the Proposed Rule	ANNUAL		FISCAL YEAR		
	Increase	Decrease	Current	Next	Thereafter
Estimated Total Cost	\$	\$		\$296,508	\$273,658
Personal Services				\$231,130	\$231,130
Current Expense				\$39,528	\$39,528
Repairs & Alterations					
Equipment				\$25,850	\$3,000
Other					
Revenue				\$1,891,947	\$1,891,947

2. Explanation of above estimates.

See Attached Spreadsheet for Numeric Breakdown by Appendices A through D

Appendix A - Laboratory Service Fees

1. Fees for Environmental Chemistry Laboratory Service

A. Inorganic Chemicals/Miscellaneous Individual Tests

Test data for FY 2002, the most recent full year data available indicates billings for these categories totaling \$7,601. Calculation of these tests at proposed fees amounts would indicate that the same tests at proposed fees amounts would equal \$14,738, for an increase of \$7,137. No projected increase in cost due to the rule is expected.

B. Organic Compounds (Fees Include Sample Preparation)

No test data currently available. Organic testing is not currently performed, however, we plan to initiate these test procedures in the very near future to meet the need for chemical terrorism testing and EPA Drinking Water requirements.

2. Fees for Environmental Micro Lab Service

A. Water Tests

For FY 2002 the Office of Laboratory Services (OLS) completed 15,065 water tests. At the current fee of \$10 per test, these tests totaled \$150,650. At the proposed fee of \$15, the same number of tests would total \$225,975 or an increase of \$75,325. There is no anticipated increase in costs due to the rule.

B. Giardia-Cryptosporidium

No test data currently available. It is anticipated that these tests will be required in the near future to meet Safe Drinking water regulations. The numbers of water samples received for this testing will depend upon these EPA regulatory requirements.

3. Fees for Certification of Laboratories to conduct Drinking Water tests

FY 2002 certification data indicates that 85 categories were certified at the current fee of \$500, totaling \$42,500. At the proposed fee of \$800 these 85 certifications would have totaled \$68,000, or an increase of \$25,500. Changes which have been implemented in EPA regulations over the past 12 years have increased the time required to certify laboratories thus increasing the cost to OLS.

4. Fees for Specimen Collection Kits

A. Newborn Screening Kits

The OLS plans to change the billing methodology for NBS from funding by the Office of Maternal, Child and Family Health to billing hospitals and birthing centers for Specimen Collection Kits. We anticipate increased costs in establishing an accounts receivable tracking system for this change in source of funding. A 0.5 FTE Office Assistant II to manage this tracking system including preparation of test kits and invoices for mailing would total \$8,000 in salary, fringe benefits of \$5,081 and office supplies of \$1,000. A computer, printer and appropriate software would total an estimated \$2,000. A fee of \$28 per birth (FY 2002 WV births = 21,005) would increase revenue by \$50,879 to help offset estimated annual program costs of \$563,071.

B. Blood Lead

The OLS has currently discontinued Blood Lead testing, however, we would establish a fee of \$15 in the event that testing again becomes feasible.

5. Contractual Agreements

A. Bioterrorism

This fee is established in the event that the Bureau for Public Health or an outside agency acting on behalf of OLS negotiates a contract with another entity for testing. For example, in 2001 the Association of Public Health Laboratories, on behalf of State Public Health Laboratories, negotiated a contract with the United State Postal Service for a specific fee for Bioterrorism testing.

B. Chemical Bioterrorism

See 5.A above

Appendix B. - Environmental Health Services Fees

Estimate of Costs

Environmental Engineering Division (EED)— FTE Engineer III (\$50,000), 2 FTE Environment Resource Specialist III (\$70,000), 1 FTE Office Assistant III (\$25,000), and ½ FTE Accounting Technician (\$12,500). Fringe benefits total \$57,030, current expenses are \$30,775, and equipment is \$18,000.

Public Health Sanitation (PHS)— Current expense will be \$1,000 and equipment of \$1,850

Radiology, Toxics and Indoor Air (RTIA)— 1/10 FTE Office Assistant (\$2,800) and 1/10 FTE Accounting Technician (\$2,800).

Estimate of Revenue

EED— This rule will help to generate an estimated additional \$1,350,000 in revenue annually to provide funds for operational costs of public water systems surveillance program.

PHS— This rule will generate an estimated additional \$32,000 in revenue annually for Public Health Sanitation.

RTIA— The proposed changes in the Fees for Service Rule are estimated to generate an estimated additional \$237,500 in revenue annually.

Appendix C. - Maximum Health Facility Fees

The Office of Health Facility Licensure and Certification (OHFLAC) expects an estimated 39% increase in revenue with the passage of the increased fees for health facility site inspections, plan review and building inspections. Revenue for fiscal year 2002 was \$24,220 and revenue for fiscal year 2003 is \$18,115 through March 24, 2003. OHFLAC expects the volume of services to remain constant and revenue would increase from \$24,220 to \$33,666 per fiscal year or an annual increase of \$9,446.

Appendix D. - Epidemiology and Health Promotion

2. Explanation of above estimates.

Please note that the estimates of both cost and revenue are “high” estimates. The \$3,000 in personal services and \$672.00 of current expense is budgeted for overtime for existing staff. Equipment is budgeted at \$4,000 for a new base model personal computer and laser printer for the production of abstracted documents. Essentially, all first year expenses will be related to the introduction of an abstraction process. “Abstracting” documents is the process of re-typing information from an original document on file onto a new document. This process consumes more time and resources than current batch photocopy production methods. Due to the age and condition of early documents and the occasional need for more professional looking documents, Vital Registration will begin to “abstract” documents on an as-needed basis. In the future, abstract style documents that can be created from electronic files will not incur the abstracting charge. Also, abstraction is necessary for the creation of heirloom style documents and is included in the charge for that service. There is \$1,000 in current expense for the purchase of abstract style stock documents.

The revenue estimate includes \$5,600 for the amendment of birth certificates subsequent to the acceptance of paternity acknowledgments received one or more years after the birth of the child, \$10,000 for the processing of adoptions, \$7,320 for the processing of delayed birth certificates, \$5,400 for the creation of abstracted and heirloom documents, \$50,000 for expedite fees, and \$25,840 for other miscellaneous amendments and corrections. The last item is highly variable but should be the highest that can be expected.

3. Objectives of this rule:

Appendix A. - Laboratory Service Fees

The main objective of this rule is to revise fees that were established in 1991 and to add tests that were not being done at that time. The second objective is to provide revenue to the OLS to offset increases in test costs which have occurred over the last 12 years.

Appendix B. - Environmental Health Services Fees

EED— The objective is to establish a Public Water System technical services operating permit fee.

PHS— The objective is to establish (1) a self sufficient septic tank installer certification program which can be maintained and posted on the internet. The information will be accessed via the Office of Environmental Health Services Web Page. This will make the latest information concerning certified septic Tank installers available to the public. (2) To increase Home Aeration Unit (HAU) fees to support new construction.

RTIA— To add (1) term limited registration fees for all registrants; (2) to revise existing fees for inspection services, replacing an outdated inadequate fee structure to support revised regulations pertaining to the control of all sources of radiation; (3) add fees for services previously provided at no cost to registrants in the Radiological Health Program resulting in increased program operational costs, and (4) a fee to allow emergency response to unusual events or acts of terrorism involving radioactive material.

Appendix C. - Maximum Health Facility Fees

To increase fees to health facilities involved in building projects for site inspection, plan review and building inspections to cover OHFLAC's costs incurred while providing these services.

Appendix D. - Epidemiology and Health Promotion

The objective of this rule is to create a fee schedule for services which are time and resource consuming. In most other states, these services are performed for remuneration. Most of the excess of revenues over expenses of \$95,488 will be used to help offset increased salary and benefit expenditures due to recent reclassification of employees and begin a "life-cycle" approach for replacing computer equipment.

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

Appendix A. - Laboratory Service Fees

The change in Newborn Screening (NBS) billing methodology will rectify a potential audit exception due to funding current testing with Maternal Child Health Block Grant dollars. The fee increase will allow the OMCFH to utilize their MCH Block Grant funds for other activities within OMCFH.

Appendix B. - Environmental Health Services Fees

EED— This rule will help to generate an estimated \$1,350,000 to provide funds for operational costs of public water systems surveillance program.

PHS— This rule will generate \$32,000/yr for the Public Health Sanitation Division

RTIA— The proposed changes in the fees for service rule are estimated to generate approximately \$237,500 of annual revenue.

Appendix C. - Maximum Health Facility Fees

State health facilities involved in building projects would incur increased costs for site inspections, plan review and building inspections.

Appendix D. - Epidemiology and Health Promotion

Due to recent reclassification of practically all staff which resulted in higher pay grades (and thus higher salaries and costs for benefits), monies had to be diverted that could have been used for automation and modernization. Without significant technological improvement, services to the public, other DHHR divisions, federal, state, and local governments, and to private industry will suffer. Even with these additional revenues, a fee increase for certified copies may be necessary to maintain basic operations and implement new information technology. With implementation of the fee schedule, receipts can be put into immediate use, better estimates of overall revenues can be ascertained, and basic services will be uninterrupted.

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

Appendix A. - Laboratory Service Fees

Hospitals will add billing for NBS tests to private insurance companies, Public Employees Insurance Agency and Medicaid.

Appendix B. - Environmental Health Services Fees

EED— This rule will place operational permits fee on all public water supply systems ranging from \$750/yr to approximately \$150,000/yr, dependent upon system size.

PHS— Septic Tank installers will be required to pay an initial and renewal fee of \$150 every 5 years for their certificate.

RTIA— Registrants with radiation machines or radioactive materials can expect a ten percent (10%) increase in fees annually for inspections conducted once every two to three years. Fees to allow response to any unusual event or act of terrorism involving a source radioactive material would prevent the spread of contamination resulting in excessive decontamination costs or disposal costs.

Appendix C. - Maximum Health Facility Fees

Health facilities involved in building projects would incur increased costs for site inspections, plan review and building inspections

Appendix D. - Epidemiology and Health Promotion

The implementation of the fee schedule should not have a negative monetary effect on any of the groups above. Circuit Clerk and County Clerk offices would have to inform customers of the cost of services, but they would not be responsible for collection and transmission of any fees unless they wished to consider that as a service to their customers and constituency.

C. Economic Impact on Citizens/Public at Large.

Appendix A. - Laboratory Service Fees

Billings of Newborn Screening fees to hospitals will increase costs to the public at large. Individuals, public water systems, swimming pools and others ordering water tests will experience increased costs. Private labs will see increased costs for

laboratory certification.

Appendix B. - Environmental Health Services Fees

EED— The fee of \$0.25/Month may be passed to the customer.

PHS— Any fee/fees may be passed on to the septic tank installer's customers, and Home Aeration Units (HAU) may be passed on to the customers who construct new homes.

RTIA— No impact is expected for the public at large.

Appendix C. - Maximum Health Facility Fees

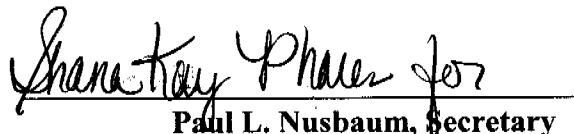
Consumers of services from these health facility providers may be impacted to the extent these costs are passed on to them.

Appendix D. - Epidemiology and Health Promotion

The fee schedule should not place an undue burden on any individual citizen. The fees are quite modest (most are \$10) given the work to be performed and the gravity of most situations that require the work to be performed. Indigent citizens will be accommodated at no charge if the service needs to be performed before submission of certificates to a state or federal welfare or benefits agency. It should be noted that the majority of the revenue expected to be collected from "expedite fees" will come from residents of other states who were born in West Virginia and who wish to place their order by telephone and request rush processing.

Date: 07/31/03

Signature of Agency Head or Authorized Representative:



Paul L. Nusbaum, Secretary

Department of Health and Human Resources

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: August 1, 2003

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: (Agency name, Address & Phone No.) Martha Barnitt

Department of Health and Human Resources

State Capitol Complex, Building 3, Room 206; Charleston, WV 25305

Telephone: (304) 558-5598

LEGISLATIVE RULE TITLE: Fees for Services Rule

1. Authorizing statute(s) citation: WV Code §§ 16-1-4(h) and 29B-1-3(5).

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

June 26, 2003

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

Notice of the proposed rule was filed with the Secretary of State and sent to laboratories, water utilities, hospitals, clinics, and local health departments among others in the health care industry.

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

July 28, 2003

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

Attached X No comments received _____

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

August 1, 2003

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

Martha Barnitt

Policy Development & Regulatory Affairs - - DHHR

Building 3 - Room 206

Charleston, West Virginia 25305 Tel: 558-5598 Fax: 558-7075

- 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):

Commissioner's Office

Bureau for Public Health

350 Capitol Street, Suite 702

Charleston, West Virginia 25301 Tel: 5582971

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 a hearing for the taking of evidence and a general description of the issues to be decided.

N/A

b. Date of hearing or comment period:

N/A

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

N/A

d. Attach findings and determinations and reasons:

Attached N/A

TITLE 64
WEST VIRGINIA ADMINISTRATIVE RULES
LEGISLATIVE RULES
BUREAU FOR PUBLIC HEALTH

FILED

2003 AUG -1 P 3:40

SERIES 51
FEES FOR SERVICES

OFFICE WEST VIRGINIA
SECRETARY OF STATE

§64-51-1. General.

1.1. **Scope** - This legislative rule establishes reasonable fees for services provided by the ~~division of health~~ 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 §§~~16-1-21, 29-1H-6 and 29B-16-3~~ 16-1-4(h), 16-1-11(d), and 29B-1-3(5)

1.3. **Filing Date** - ~~April 16, 1991.~~

1.4. **Effective Date** - ~~May 1, 1991.~~

1.5. **Public Hearing** - ~~June 22, 1990.~~

1.6. **Final Approval** - ~~This rule was approved by the director of the division of health on January 4, 1991.~~

§64-51-2. Application and Enforcement.

2.1. **Application** - This rule applies to persons receiving services from the ~~division of health~~ bureau for public health or from local boards of health as created in W. Va. Code §§~~16-2-1 et seq. or 16-2A-1 et seq.~~ and also applies to such local boards of health.

2.2. **Enforcement** - This rule is enforced by the ~~director~~ commissioner of the West Virginia ~~division of health~~ 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.

~~3.1.~~ **3.2. Ambulatory Surgical Facility** - 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.

~~3.2:~~ 3.3. **Asbestos** - The asbestiform varieties of serpentinite (chrysotile), riebeckite (crocidolite), cummingtonite-grunerite, anthophyllite, and actinolite-tremolite, and which material contains more than one (1) percent asbestos by weight.

~~3.3:~~ 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** - An assisted living residence as defined in W. Va. Code § 16-5D-2(a)(1).

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.

~~3.4:~~ 3.7. **Behavioral Health Center** - An organization that provides behavioral health services, including all of its locations.

~~3.5:~~ 3.8. **Behavioral Health Services** - ~~Those services intended to help individuals gain or regain the capacity to function adaptively in their environment, to care for themselves and their families, and to be accepted by society. This includes services to individuals with emotional or mental disorders, alcohol or drug abuse problems, and mental retardation or other developmental disabilities. 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.

~~3.6:~~ 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 64-CSR-23.5.4 and 23.5.5.

3.12. **Certificate of Birth (Birth Certificate)** - The legal record of the birth of an individual that is permanently maintained by the recording government with jurisdiction over the place of birth.

3.13. **Certificate of Death (Death Certificate)** - The legal record of the death of an individual that is permanently maintained by the recording government with

jurisdiction over the place of death.

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

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 64-CSR-23.6.59, 23.11.14.f.2, or 23.16.23.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 64-CSR-23.7.9.

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.

~~3.7. **Director** - The director of the West Virginia division of health.~~

~~3.8.~~ 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 64-CSR-23 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 by the bureau 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 transplanation to maintain life.

~~3.9:~~ **3.24. Generator** - A person whose activity results in the production of low-level radioactive waste requiring long-term storage and disposal.

~~3.10:~~ **3.25. 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.

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

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

~~3.11:~~ **3.28. Hospital** - Any institution, place, building or agency in which an accommodation of five (5) or more beds is maintained, furnished or offered for the hospitalization of the sick or injured. A hospital as defined in W. Va. Code § 16-5B-1.

3.29. 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 64-CSR-23.8.3.5 and 23.8.3.6.

3.30. 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 64-CSR-23.8.3.1 or 23.8.3.2.

3.31. 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.

3.32. 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.

~~3.12:~~ **3.33. 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.

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

~~3.13.~~ 3.35. **Local Board of Health** - A county, municipal, or combined board of health created under A board of health serving one or more counties or one or more municipalities or a combination thereof created under WV Code §§16-2-1 et seq. or 16-2A-1 et seq.

~~3.14.~~ 3.36. **Low-Level Radioactive Waste** - Radioactive waste that:

~~3.25.a.~~ Is neither high-level waste or transuranic waste, nor spent nuclear fuel, nor by-product material as defined in Section 11(e)(2) of the Atomic Energy Act of 1954 (42 U.S.C. §2014(e)) as amended; and

~~3.25.b.~~ Is classified by the federal government as low-level waste, consistent with existing law; but does not include waste generated as a result of atomic energy defense activities of the federal government, as defined in Public Law 96-573 (42 U.S.C. §2021b), or federal research and development activities.

3.36.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

3.36.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 64-CSR-23.3.106 and the low-level radioactive waste policy act, Public Law 96-573, as amended by Public Law 99-240, effective January 15, 1986.

3.37. **Medical Diagnostic Machine** - A radiographic imaging system with one or more x-ray tubes used for human diagnostic imaging as defined in 64-CSR-23.3.72 and 23.7.2.70, including mobile or fixed radiography, fluoroscopy, computerized tomography, bone density, podiatry, chiropractic or other diagnostic x-ray devices.

3.38. **Medical Therapeutic Machine** - A machine designed and used for external beam radiation therapy producing x-rays or electrons, as defined in 64-CSR-23.7.12.b.61; or particle accelerators used for human therapy as described in 64-CSR-23.3.4.

~~3.15.~~ 3.39. **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.

~~3.16: 3.40. **Nursing Home** - Any institution, residence or place, or any part or unit thereof, however named, 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 providing accommodations and care, for a period of more than twenty-four (24) hours, for three (3) four (4) or more persons who are ill or otherwise incapacitated and in need of extensive on-going nursing care due to physical or mental impairment or which provides services for the rehabilitation of persons who are convalescing from illness or incapacitation: A nursing home as defined in W. Va. Code § 16-5C-2(e).~~

~~3.41. **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.~~

~~3.17: 3.42. **Permit** - As used in this rule, a written document issued by the ~~director~~ commissioner giving a designated person permission to:~~

~~3.42.a. Construct, operate, alter or renovate a specific public water system, or bottled water plant;~~

~~3.42.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; or~~

~~3.42.c. Construct, alter or renovate a swimming pool recreational water facility or to operate such facility.~~

~~3.18: 3.43. **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.~~

~~3.19: **Personal Care Home** - Any institution, residence or place, or any part or unit thereof, however named, 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 providing accommodations and personal assistance, for a period of more than twenty-four (24) hours, to three (3) or more persons who are dependent upon the services of others by reason of physical or mental impairment but who do not require extensive, on-going nursing care.~~

3.44. Presumptive Death Certificate - A certificate of death prepared at the order of a county commission (or other authorized legal entity in another state) under the direction of W. Va. Code §44-9-1, et seq. (or comparable authority in another state) that provides for the filing of a death certificate of someone presumed and declared dead by the commission (or the entity of another state).

~~3.20.~~ 3.45. Professional Health Services - Therapeutic interventions of assessment, counseling, screening, diagnosis or treatment of health problems by physicians, physician's assistants, dentists, registered nurses, dieticians, health educators, master's prepared social workers or other currently licensed health care professionals in the state of West Virginia who are employed by the local health department. 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 health care services performed.

~~3.24.~~ 3.46. 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.

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

3.47.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.

3.47.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.

3.47.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.

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

3.49 Radiation Producing Device - Device or source of radiation as defined in 64-CSR-23.3.72. (Radiation machines having one or more x-ray tubes).

3.50 Radioactive Material -

3.50.a. Byproduct Radioactive Material [64-CSR-23.3.161] - Accelerator produced material [64-CSR-23.3.5] or TENORM [64-CSR-23.16.3.g], or

3.50.b. Non-byproduct Radioactive Material - Any radioactive material, other than defined as byproduct material in 64-CSR-23.3.16, which is technically enhanced naturally occurring radioactive material (TENORM) or accelerator produced.

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

3.52 Radioactive Material Facility Close-out Survey - Confirmatory survey to assay for levels of radioactive contamination.

3.53 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 64-CSR-23, sections 5.11, 11.28 and 16.22.

3.54. 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.

3.55. Registration - Registration of any radiation producing device or radioactive material used within the State, as defined in 64-CSR-23.3.79 and 23.5.

~~3.23. Residential Board and Care Home - Any institution, residence or place, or any part thereof, however named, which is advertised, offered, maintained or operated by the ownership or management, whether for consideration or not, for the express or implied purpose of providing accommodations for a period of more than twenty-four (24) hours, to no fewer than three (3) and no more than eight (8) persons who are dependent upon the services of others by reason of physical or mental impairment but who are capable of self-preservation and do not require nursing care.~~

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

3.57. 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, WV Code §18-9E-3(b).

~~3.24.~~ 3.58. Sewage - Any excreta or liquid waste containing animal, vegetable, or mineral matter in suspension or 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.

~~3.25:~~ 3.59. 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.

3.60. Sewage System Installer Certification - A process by which a person who installs individual on-site sewer system becomes certified, by examination, to perform such function under the provisions of 64-CSR-5.

3.61. 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 64-CSR-23.7.4.

~~3.26:~~ 3.62. Sliding Fee Scale - A set of varying amounts (percentages of the maximum fee) to be charged for services to individuals receiving varying levels of income. 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.

~~3.27. Swimming Pool~~ - Any artificial basin, chamber, or tank used or intended to be used by the public for swimming, diving or recreational type bathing. The term "swimming pool" does not include baths where the main purpose is cleaning the body, nor individual type therapeutic tubs or tanks. Swimming pools are classified according to the following:

a. ~~Recirculation Type~~ - A pool from which the water is withdrawn, treated, and returned to the pool;

b. ~~Fill and Draw Type~~ - A pool to which water is added, used for a period, then discarded; and

c. ~~Flow Through Type~~ - A pool to which water is added continuously thereby replacing and causing water to overflow to waste.

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

~~3.28:~~ 3.64. 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.

3.65. 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.

3.66. X-Ray Public Health Screening Application - An application which is submitted for agency approval to conduct healing arts screening as defined in 64-CSR-23.7.3.a.11 using diagnostic radiation machine(s) within the State.

§64-51-4. Fees Generally.

4.1. Authority to Assess and Collect Fees - The ~~director~~ commissioner of the ~~division of health bureau for public health~~ and local boards of health may assess and collect the fees listed in the ~~appendices to this rule~~ for the provision of services. Except as specified in Sections 4.2, 5.2 and 9.2 of this rule, the ~~director~~ 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 based upon an itemization of costs.

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 may be furnished at a charge of twenty-five cents (25¢) 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 and Compilation of Information - Requests for information estimated to require more than ten (10) minutes to search records or to compile may be charged at the rate of ~~twenty-five dollars (\$25)~~ fifty dollars (\$50) per hour, and payment may be required before issuance of the information.

4.5. Fee for Address Label Location Information Printing - When the service provided is ~~printing mailing labels~~ location information of licensees, permit holders, or other persons, the fee shall be at the rate of ~~ten cents (10¢)~~ twenty-five cents (25¢) per ~~label~~ location.

§64-51-5. Laboratory Service Fees.

5.1. **Laboratory Services for Which a Fee May be Charged** - Except as provided in Section 5.2 of this rule, the director commissioner may charge a fee for each test or group of tests including specimen collection kits, as listed in Appendix A 64-51-4 of this rule. The Laboratory may charge for bacteriological and chemical analyses of environmental potable water samples, raw and finished milk samples, clinical specimens, and may charge the fees listed in Appendix A 64-51-1 of this rule. 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 director 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 director 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 of fees provision of Section 4.2 of this rule applies.

§64-51-6. Environmental Health Fees.

The director commissioner may charge a fee for each environmental health service listed in Appendix B 64-51-2 of this rule.

§64-51-7. Health Facility Fees.

The director commissioner may charge a fee for each service provided to health facilities listed in Appendix C 64-51-3 of this rule.

§64-51-8. Epidemiology and Health Promotion Fees [Reserved].

The commissioner may charge a fee for each service provided as listed in Appendix D. Provided, that the state registrar may furnish services to state agencies and to organized charities, free of charge, when such services are required before presenting claims to the federal government, or to the state for public assistance, and an accurate record shall be made of all such services provided.

§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 below, 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 Section 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; and 3) that portion of the general and administrative costs, to include the administrator, secretaries, clerks, ~~financial management~~ ~~depreciation~~ and other overhead expenses, which ~~contributes~~ contribute to the delivery of the service.

9.4. Fee Proposals By Local Boards of Health - A local board of health proposing to charge fees under this rule shall approve ~~a budget plan and program document including:~~ an annual program plan and budget for the current fiscal year which includes:

9.4.a. Proposed health programs as defined in Section ~~3.40~~ 3.25 of this rule;

9.4.b. An accounting of fee collections in the previous fiscal year and in the current fiscal year, and projected fee collections in the remainder of the current fiscal year and during the next fiscal year;

9.4.c. A proposed schedule of fees; and

9.4.d. A proposed sliding fee scale to be implemented by the local board. The sliding fee scale may be based on annual federal poverty level guidelines as published by the ~~division of health~~ 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. 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 such proposal and allow for a thirty (30) day comment period.

9.6. Submission of Proposal for Approval - A local board of health proposing to charge fees shall submit to the ~~director~~ commissioner of the ~~division of health~~ bureau for public health:

9.6.a. A budget ~~plan~~ and program ~~plan document~~ including the information required in Section 9.4 of this rule;

9.6.b. A copy of the posted notice of such proposed fees and a description of the public notice process;

9.6.c. A copy of comments received on the proposed fees; and

9.6.d. A response to such comments.

9.7. Emergency Fees - Establishment of fees other than in accordance with Section 9.6 of this rule may be accomplished only upon petition by the local board of health to the ~~director~~ commissioner in response to an emergency.

9.8. Approval or Rejection of Fees of Local Boards of Health by the ~~Director of Health Commissioner of Public Health~~ - The ~~director~~ commissioner shall approve or reject a local board of health's budget ~~plan~~ and program ~~plan document~~ and fees proposed. If there is a rejection, the local board of health shall be allowed to propose a revision. ~~Approval by the director of the proposed fees shall be in the form of an order filed with the secretary of state as an appendix to this rule, and the local board of health may charge the approved fees upon such filing. The director shall provide a copy of such order to the local board of health. 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 commission or municipality 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 Free 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 will be deposited ~~with the treasurer of the county or municipality and used only for funding local board of health programs.~~ 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. The monies for a county board of health shall be deposited with the county treasury. 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 must 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 ~~Protested~~ Contested Case Hearings and Declaratory Rulings, 64 CSR 1. In the case of a request for a hearing on a local board of health fee, the ~~director~~ commissioner may direct the local board of health to conduct the hearing.

~~§64-51-11. Severability - The provisions of this rule are severable. If any provisions of this rule are held invalid, the remaining provisions shall remain in effect.~~ **Inflation adjustment** - The commissioner may annually approve an increase of the fees for services established or authorized in this rule, reflective of increases in the consumer price index.

Appendix A. 64-51-1. Laboratory Service Fees.

1. Fees for Environmental Chemistry Laboratory Service

A. Inorganic Chemicals/Miscellaneous Individual Tests

Arsenic	\$10.00
Barium	10.00
Cadmium	10.00
Chromium	10.00
Lead	10.00
Selenium	10.00
Silver	10.00
Mercury	12.00
Iron	12.00
Manganese	12.00
Copper	12.00
Zinc	12.00
Sodium	12.00
Calcium	12.00
Magnesium	12.00
Surfactants	12.00
Potassium	12.00
Aluminum	12.00
Nitrate	10.00
Fluoride	8.00
Alkalinity Methyl Orange/ Phenolphthalein	4.00
Chlorides	4.00
Hardness	4.00
pH	4.00
Total Dissolved Solids	4.00
Sulfates	12.00
Conductivity	8.00
Chlorine Residual: Free	8.00
Chlorine Residual: Total	8.00
Hydrogen Sulfide	12.00
Turbidity	5.00

~~B. Tests to meet Environmental Protection Agency
Minimum inorganic compliance requirements for public
water supplies: arsenic, barium, cadmium, chromium,
fluoride, lead, mercury, selenium, silver, and
nitrates~~

~~\$100.00~~

~~C. Tests to meet West Virginia Secondary contaminants compliance requirements for public water supplies: pH, copper, manganese, sodium, aluminum, alkalinity, hardness, iron~~ \$72.00

~~D. Tests for Organic Chemicals~~

~~Pesticides: Endrin, Lindane, Methoxychlor, and Toxaphene~~ \$175.00

~~Herbicides: 2,4-Dichlorophenoxyacetic Acid (2,4D) and 2-(2,4,5-Trichlorophenoxy) Propionic Acid (2,4,5-TP/Silvex)~~ \$175.00

~~2. Fees for Environmental Microbiology Laboratory Service Water Specimens~~ \$10.00

~~3. 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~~ \$500.00

~~2. Trihalomethanes and Volatile Organic Compounds~~ 500.00

~~3. All Other Organic Tests~~ 500.00

~~B. Microbiological Testing~~ \$500.00

*Laboratories located outside the borders of West Virginia will be assessed the certification fee for the test(s) approved and will be required to pay all reasonable expenses required for an on-site inspection:

1. Metals by Graphite Furnace Atomic Absorption Per Metal Per Each Sample \$14.00

Analyses may include, but are not limited to, arsenic, beryllium, cobalt, cadmium, thallium, chromium, nickel, lead, antimony, molybdenum, tin, selenium, silver,

aluminum, vanadium, copper.

2. Metals by Flame Atomic

Absorption

Per Metal Per Each Sample

\$15.00

Analyses may include, but are not limited to, iron, manganese, sodium, and zinc.

3. Metals by Inductively Coupled

Plasma (ICP)

Per Metal Per Each Sample

\$12.00

Analyses may include, but are not limited to, boron, titanium, cerium, silicon, potassium, calcium, magnesium, barium, and lithium.

4. Metals By Inductively Coupled

Plasma - Mass Spectrophotometry (ICP/MS)

Per Metal Per Each Sample

\$8.00

Analyses may include, but are not limited to, aluminum, antimony, arsenic, barium, beryllium, cadmium, chromium, cobalt, copper, lead, manganese, mercury, molybdenum, nickel, selenium, silver, thallium, thorium, uranium, vanadium, zinc.

5. Metals by Cold Vapor

Per Metal Per Each Sample

\$25.00

Analyses may include, but are not limited to, mercury.

6. Analytes by Ion Chromatography (IC)

Per Metal Per Each Sample

\$15.00

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

7. Analytes by Ion Selective Electrode

\$9.00

Analytes may include, but are not limited to, Fluoride, pH and Cyanide

8. Miscellaneous Individual Tests

Alkalinity (Total) As CaCO3

\$10.00

Calcium

\$15.00

Calcium Hardness

\$10.00

Chloramines

\$12.00

<u>Chlorine, Free</u>	<u>\$12.00</u>
<u>Chlorine, Total</u>	<u>\$12.00</u>
<u>Conductivity</u>	<u>\$10.00</u>
<u>Dissolved Solids, Total</u>	<u>\$13.00</u>
<u>Hardness, Total</u>	<u>\$10.00</u>
<u>Hydrogen Sulfide</u>	<u>\$15.00</u>
<u>Magnesium By Titration</u>	<u>\$12.00</u>
<u>Methylene Blue Active Substances</u>	<u>\$12.00</u>
<u>Ortho-Phosphate</u>	<u>\$15.00</u>
<u>Phosphate, Total</u>	<u>\$16.00</u>
<u>Silica</u>	<u>\$15.00</u>
<u>Turbidity (NTU)</u>	<u>\$12.00</u>

B. Organic Compounds (Fees Include Sample Preparation)

<u>1. EPA Regulated Volatile Compounds (VOCs)</u>	
<u>Chlorinated Hydrocarbons Package</u>	<u>\$150.00</u>
<u>Brominated Hydrocarbons Package</u>	<u>\$100.00</u>
<u>2. EPA Unregulated Volatile Compounds (VOCs)</u>	<u>\$200.00</u>
<u>3. EPA Regulated Synthetic Organic Compounds (SOCs)</u>	
<u>Chlorinated Pesticides/Polychlorinated</u>	
<u>Biphenyl (PCB Screen) Package</u>	<u>\$185.00</u>
<u>Nitrogen-Phosphorous Pesticide Package</u>	<u>\$150.00</u>
<u>Carbamate Pesticides Package</u>	<u>\$150.00</u>
<u>Diquat</u>	<u>\$150.00</u>
<u>Endothall</u>	<u>\$150.00</u>
<u>Glyphosate</u>	<u>\$150.00</u>
<u>Esters Package</u>	<u>\$150.00</u>
<u>Includes Di (2-ethylhexyl) Adipate and</u>	
<u>Di (2-ethylhexyl) Phthalate</u>	<u>\$150.00</u>
<u>Benzo (a) pyrene</u>	<u>\$150.00</u>
<u>Herbicides Package</u>	<u>\$175.00</u>
<u>Disinfection By Products</u>	
<u>Trihalomethanes (THMs) Package</u>	<u>\$150.00</u>
<u>Haloacetic Acids (HAAs) Package</u>	<u>\$190.00</u>
<u>4. Total EPA Regulated Organics, includes</u>	
<u>Pesticides, PCBs, Carbamates, Diquat, Endothall</u>	
<u>and Glyphosate</u>	<u>\$845.00</u>
<u>5. Other Organic Tests</u>	
<u>Total Organic Carbon (TOC)</u>	<u>\$ 40.00</u>

	<u>Specific Ultraviolet Absorption (SUVA)</u>	<u>\$ 50.00</u>
2.	<u>Fees for Environmental Microbiology Laboratory Service</u>	
	<u>Water Tests</u>	<u>\$15.00</u>
	<u>Giardia</u>	<u>\$500.00</u>
	<u>Cryptosporidium</u>	<u>\$500.00</u>
3.	<u>Fees for Certification of Laboratories to Conduct Drinking Water Tests:</u>	
	<u>Certification to perform laboratory testing on water to meet state and Environmental Protection Agency requirements under the Safe Drinking Water Act.*</u>	
	<u>A. Chemical Testing</u>	
		<u>\$800.00</u>
	1. <u>Inorganic Tests</u>	<u>\$800.00</u>
	2. <u>Trihalomethanes and Volatile Organic Compounds</u>	<u>\$800.00</u>
	3. <u>All Other Organic Tests</u>	<u>\$800.00</u>
	<u>B. Microbiological Testing</u>	<u>\$800.00</u>

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

4. Fees for Specimen Collection Kits
- | | | |
|--|--------------------------|----------------|
| | <u>Newborn Screening</u> | <u>\$15.00</u> |
| | <u>Blood Lead</u> | <u>\$15.00</u> |
5. 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.
6. In order to maintain preparedness and assess threats the State Hygienic Laboratory is authorized to charge for testing related to terrorism.
- A. Bioterrorism
A reasonable fee based upon an itemization of costs may be charged by the Commissioner for 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

A reasonable fee based upon an itemization of costs may be charged by the Commissioner for the testing of specimens for the 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.

Appendix B.64-51.2: 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	450.00
<u>On Site Innovative/Alternative Type Sewage System</u>	
<u>Correcting Failure</u>	<u>150.00</u>
<u>New Construction</u>	<u>300.00</u>
<u>Sewage System Installer Certification and Renewal</u>	<u>150.00</u>

B. Water Well Permits (New Construction)

Public Water System	\$150.00
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2. Bottled Drinking Water/Water Vending Machine Permits

A. Producers and Distributors, Annually	\$100.00
B. Vending Machines, Annually	\$100.00
Plus per machine	10.00

3. ~~Diagnostic X-Ray Machine~~ Radiological Registration

A. Hospital: First tube/each additional tube	\$225.00/\$20.00
B. Dental: First tube/each additional tube	-55.00/20.00
C. Other (e.g., ambulatory healthcare facilities, ambulatory surgical facilities, mobil mobile vans, schools, offices of chiropractors, physicians, podiatrists and veterinarians):	
 First tube/each additional tube	175.00/20.00

A. Business (or Individual) Providing Vendor Services \$120.00

B. Non-byproduct Radioactive Material \$120.00

<u>C. Radiation Machine Facility (initial or renewal)</u>	<u>\$120.00</u>
<u>D. Reciprocity</u>	<u>\$120.00</u>
<u>E. X-ray Public Health Screening Application</u>	<u>\$120.00</u>
<u>4. Radiological Inspection</u>	
<u>A. Decommissioning</u>	<u>\$500.00</u>
<u>B. Dental Intraoral Machine per Tube</u>	<u>\$60.00</u>
<u>C. Dental Panoramic Machine per Tube</u>	<u>\$70.00</u>
<u>D. Dental (Other than intraoral or panoramic) per Tube</u>	<u>\$70.00</u>
<u>E. Emergency Services Consultation</u>	<u>\$100.00 per hour</u>
<u>F. Industrial Cabinet X-ray System per Tube</u>	<u>\$70.00</u>
<u>G. Industrial High Energy Machine per Tube</u>	<u>\$120.00</u>
<u>H. Industrial Radiographic Machine per Tube</u>	<u>\$70.00</u>
<u>I. Industrial Radiation Machine (Other) per Tube</u>	<u>\$70.00</u>
<u>J. Medical Diagnostic Machine per Tube</u>	<u>\$70.00</u>
<u>K. Medical Therapeutic Machine per Tube</u>	<u>\$250.00</u>
<u>L. Radiation Machine per Tube (Other than Diagnostic or Therapeutic Machines, used for research or other purposes)</u>	<u>\$70.00</u>
<u>M. Radioactive Material Facility Close-out Survey</u>	<u>\$120.00</u>
<u>N. Radioactive Material Inspection</u>	<u>\$170.00</u>
<u>O. Shielding Plan Review</u>	<u>\$70.00</u>
<u>P. Veterinary Machine per Tube</u>	<u>\$90.00</u>
<u>4.5. Asbestos Abatement</u>	
<u>A. Training Accreditation</u>	

Course Approval	
Per discipline/maximum	\$1000.00/\$3000.00
Review Course Approval	500.00
B. Notification - Inspection of Projects	
Class I: 10-100 linear ft. or 50-200 sq. ft.	\$50.00
Class II: 101-1000 linear ft. or 201-2000 sq. ft. <u>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.</u>	200.00
Class III: greater than 1000 linear ft. or <u>greater than 2000 sq. ft.</u>	500.00
Class IV: Annual Industrial Facility	1500.00
5.6. Annual Low-Level Radioactive Waste Generator or <u>Storer Storage Fee (Maximum)</u>	\$12,500.00
7. <u>School Radon Testing</u>	
<u>Test fee per sampling point</u>	<u>\$10.00</u>
<u>Bureau staff time per hour</u>	<u>25.00</u>

Appendix C.64-51-3. Maximum Health Facility Fees.

1. Site Inspections for New Construction or Major Renovation

A. Hospitals		\$300.00 <u>\$475.00</u>
B. Ambulatory Surgical Centers <u>Facilities</u>		250.00 <u>400.00</u>
C. Nursing Homes		300.00 <u>475.00</u>
D. Personal Care Homes <u>Assisted Living Residence</u>	250.00	
E. Residential Board and Care Homes		<u>150.00</u>
E. <u>Residential Care Community</u>		<u>250.00</u>
F. Behavioral Health Center Locations		150.00 <u>250.00</u>

2. Architect's Review of Plans

A. Hospitals		
New Hospitals and Major Additions		\$500.00 <u>850.00</u>
Minor Additions and Renovations		<u>300.00</u>
B. Ambulatory Surgical Centers <u>Facilities</u>		\$300.00 <u>200.00</u>
C. Nursing Homes		
New Home and Major Additions		\$350.00 <u>750.00</u>
Minor Additions and Renovations		<u>200.00</u>
D. Personal Care Homes <u>Assisted Living Residence - 17 beds and larger</u>		
New Home and Major Additions		\$250.00 <u>\$500.00</u>
Minor Additions and Renovations		\$150.00 <u>\$250.00</u>
E. Residential Board and Care Homes		<u>\$150.00</u>
<u>Assisted Living Residences 4 - 16 beds</u>		
New Homes and Major Additions		<u>\$300.00</u>
Minor Additions and Renovations		<u>\$200.00</u>
F. <u>Residential Care Community</u>		<u>500.00</u>
F. G. <u>Behavioral Health Center Group Homes</u>		\$150.00 <u>200.00</u>
H. <u>End Stage Renal Disease (ESRD)</u>		<u>200.00</u>
I. <u>Hospice</u>		
<u>New Hospice and Major Additions</u>		<u>500.00</u>
<u>Minor Additions and Renovations</u>		<u>250.00</u>

<u>J. Birthing Center</u>	<u>200.00</u>
G. <u>K. Overtime Review Requested by Facility (per hour)</u>	50.00
3. <u>Building Inspection of New Projects Prior to Opening</u>	
A. Hospitals	\$300.00
<u>New Hospital and Major Additions</u>	<u>850.00</u>
<u>Minor Additions and Renovations</u>	<u>500.00</u>
B. Ambulatory Surgical Centers <u>Facilities</u>	250.00 <u>400.00</u>
C. Nursing Homes	300.00
<u>New Home and Major Additions</u>	<u>750.00</u>
<u>Minor Additions and Renovations</u>	<u>400.00</u>
D. Personal Care Homes	250.00
E. Residential Board and Care Homes	150.00
<u>New Home and Major Additions</u>	<u>500.00</u>
<u>Minor Additions and Renovations</u>	<u>200.00</u>
F. D. Behavioral Health Center Locations	150.00 <u>400.00</u>
<u>E. End Stage Renal Disease (ESRD)</u>	<u>400.00</u>
F. Hospice	
<u>New Hospice and Major Additions</u>	<u>650.00</u>
<u>Minor Additions and Renovations</u>	<u>300.00</u>
G. <u>Birthing Centers</u>	<u>400.00</u>

Appendix D. ~~64-51.4~~. Epidemiology and Health Promotion.
Fees [Reserved]

1. Fees for services:

- A. Preparation of a new certificate of birth due to adoption or legitimation which does not include one certified copy. \$10.00
- B. Amendment of a certificate following a legal name change, by court order, which 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 which does not include one certified copy. No Charge
- H. Amending a birth or death certificate which 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. Does not include a certified copy of the abstracted certificate.

\$10.00J. Preparing an heirloom birth certificate from the original document.\$30.00K. A fee may be charged for special services not specified above. The fee shall be the actual cost for providing the service as determined by the State Registrar.**Appendix 64-51-5. Local Board of Health Fees:**

- Appendix 5.1. — Barbour County Board of Health [Reserved]
- 5.2. — Beckley-Raleigh Board of Health
- 5.3. — Berkeley County Board of Health [Reserved]
- 5.4. — Boone County Board of Health [Reserved]
- 5.5. — Braxton County Board of Health [Reserved]
- 5.6. — Brooke County Board of Health
- 5.7. — Cabell-Huntington Board of Health [Reserved]
- 5.8. — Clay County Board of Health
- 5.9. — Doddridge County Board of Health [Reserved]
- 5.10. — Fayette County Board of Health [Reserved]
- 5.11. — Gilmer County Board of Health [Reserved]
- 5.12. — Grant County Board of Health
- 5.13. — Greenbrier County Board of Health
- 5.14. — Hampshire County Board of Health [Reserved]
- 5.15. — Hancock County Board of Health
- 5.16. — Hardy County Board of Health [Reserved]
- 5.17. — Harrison-Clarksburg Board of Health [Reserved]
- 5.18. — Jackson County Board of Health
- 5.19. — Jefferson County Board of Health [Reserved]
- 5.20. — Kanawha-Charleston Board of Health
- 5.21. — Lewis County Board of Health [Reserved]
- 5.22. — Lincoln County Board of Health
- 5.23. — Logan County Board of Health [Reserved]
- 5.24. — Marion-Fairmont Board of Health [Reserved]
- 5.25. — Marshall County Board of Health
- 5.26. — Mason County Board of Health
- 5.27. — McDowell County Board of Health
- 5.28. — Mercer County Board of Health
- 5.29. — Mid-Ohio Valley Board of Health
- 5.30. — Mineral County Board of Health
- 5.31. — Mingo County Board of Health
- 5.32. — Monongalia County Board of Health
- 5.33. — Monroe County Board of Health

- ~~5.34. Morgan County Board of Health [Reserved]~~
- ~~5.35. Nicholas County Board of Health~~
- ~~5.36. Pendleton County Board of Health~~
- ~~5.37. Pocahontas County Board of Health [Reserved]~~
- ~~5.38. Preston County Board of Health~~
- ~~5.39. Putnam County Board of Health [Reserved]~~
- ~~5.40. Randolph-Elkins Board of Health~~
- ~~5.41. Summers County Board of Health~~
- ~~5.42. Taylor-Grafton Board of Health [Reserved]~~
- ~~5.43. Tucker County Board of Health [Reserved]~~
- ~~5.44. Upshur-Buckhannon Board of Health [Reserved]~~
- ~~5.45. Wayne County Board of Health [Reserved]~~
- ~~5.46. Webster County Board of Health [Reserved]~~
- ~~5.47. Wetzel-Tyler Board of Health~~
- ~~5.48. Wheeling-Ohio Board of Health~~
- ~~5.49. Wyoming County Board of Health [Reserved]~~

COMMENTS AND RESPONSES
64 CSR 51 - Fees for Services

From West Virginia American Water

Comment

§64-51-11 - on Inflation Adjustment: Company states opposition to automatic adjustment based on Consumer Price Index.

Response: This is an efficient way to provide funding to maintain standards of service. To further clarify, the proposed revision of this regulation is the first in approximately ten years. Since the inception of the fees, inflation has increased the cost of running state programs. As the current fees have remained static, the ability to adequately provide mandated state services has dwindled. To assure that the state has the ability, particularly with the forecast of continuing state general revenue reductions, it has been proposed to allow fees to increase along with inflation. More frequent, smaller incremental cost increases are generally more acceptable than infrequent, large increases.

Comment

Appendix B.1. C. - Public Water System Technical Services Operating Permit Fee: Company does not see customer benefit without more background data.

Response: In response to comments, the Department has reconsidered and is withdrawing the Operating Permit fee from the rule and will not charge that fee as authorized by the current emergency rule.

From West Virginia Rural Water Association

Comment

Appendix B.1.C. : The Operating Permit fee will result in increased administrative costs for collection, bookkeeping, and processing the associated paper work.

Response: In response to comments, the Department has reconsidered and is withdrawing the Operating Permit fee from the rule and will not charge that fee as authorized by the current emergency rule.

Comment

Appendix B.1.C. - Public Water Systems Surveillance Program: The nature and need for such a program is not described.

Response: The rule in question is specifically a "fee schedule" for services as authorized by §16-1-11 (a). The intent is to:

[COULD YOU REWORD a) to sound more like a service to the customer rather than doing it for OUR benefit? – since it is "fees for SERVICES" that we are asking]

a.) Provide an adequate and continuing funding source to assure continued implementation

of the federal Safe Drinking Water Act. USEPA is continually developing new rules and mandates that require regulatory implementation and oversight; and
b.) Assure that BPH has sufficient resources to maintain state primacy for operation of the federal program along with the attendant USEPA grant funding for program and revolving loan funds amounting to \$8 million in the drinking water treatment revolving fund and \$889,000 in public water system surveillance funds.

With the new emphasis at the state and the national levels concerning homeland security and terrorist activity, it is only prudent that a system be developed that can provide emergency notification and priority information for water treatment and use in the event of either terrorist activity or natural disaster.

Comment

§64-51-11 - Consumer Price Index: Company does not support or agree with.

Response: See previous response to Consumer Price Index comments.

From West Virginia Section, American Water Works Association

Comment

Appendix B.1.C. - Public Water System Technical Services Operating Permit Fee:

The Association is opposed to the fee and say the collection of the fee would be burdensome.

Response: In response to comments, the Department has reconsidered and is withdrawing the Operating Permit fee from the rule and will not charge that fee as authorized by the current emergency rule.

Comment

Appendix B. 1. C.: To pass the fee on to the customer would require PSC approval which could be costly.

Response: See previous response.

Comment

§64-51-11 - Consumer Price Index: Company expressed concern with the language in this section.

Response: See response to previous comment about Consumer Price Index.

From South Putnam Public Service District

Comment

Appendix B.1.C.: While the Bureau apparently sees this fee as a simple matter of pennies...

Response: In response to comments, the Department has reconsidered and is withdrawing the Operating Permit fee from the rule and will not charge that fee as authorized by the current emergency rule.

Comment

Appendix B.1.C.:

Does WV need surveillance program for drinking water programs?

Response: Yes, it is necessary to provide this service to maintain and improve quality – particularly for small systems in rural and economically-challenged areas of the state. Many of these systems serve one of the state’s major industries - tourism. These facilities include food service establishments, hotels, motels, campgrounds, parks, ski areas, and other recreational facilities, many having their own water systems or dependent on small community systems. West Virginia hosted 23 million visitors in 2002.

From West Virginia Municipal League

Comment

Appendix B.1.C.: The rule imposes new fees on water utilities and their customers. We believe that all “new” fees should be authorized by statute and not “created” in rules.

Response: WV Code §16-1-11(a) gives the Commissioner of the Bureau for Public Health the authority to assess and charge reasonable fees necessary for the provision of services.

Comment

Appendix B.1.C.: The per connection fee is nothing more than a new tax to fund the Department of Health and should be represented as such.

Response: In response to comments, the Department has reconsidered and is withdrawing the Operating Permit fee from the rule and will not charge that fee as authorized by the current emergency rule.

General Comment: While service fees are becoming more and more popular with governments, the governmental entity assessing the fee should take full responsibility for collecting those fees.

Response: See previous comment.

General Comment: For too long cities have been mandated to act as collection agencies to fund state mandated programs.

Response: See previous comment.

§64-51-11: The rule grants broad authority to the Commissioner of Public Health to approve annual increases reflective of the CPI. This broad discretion is given without

further legislative insight and defined only as an inflation factor.

Response: See response for previous comment about the Consumer Price Index.



P.O. Box 1906 • Charleston, WV 25327 • (304) 353-6334 • FAX (304) 353-6331

Thomas W. Holbrook
Director of Water Quality
E-mail: tholbrook@amwater.com

July 28, 2003

FAXED 3:15 P.M.
TO: 304-558-1035

Commissioner of Bureau for Public Health
350 Capitol Street, Room 702
Charleston, WV 25301

Re: Comments on WV Rule 64CSR51- Fees for Services

The West Virginia American Water Company is providing the following comments on the West Virginia Department of Health and Human Resources – Bureau for Public Health “Fees for Services” as filed as an emergency rule with the Secretary of State’s office on June 26, 2003.

Introduction

The Bureau for Public Health is required to implement new programs to maintain state primacy for the Safe Drinking Water Act as well as numerous other health related programs. In addition recent cutbacks in funding has resulted in the need to implement additional funding sources.

The West Virginia American Water Company is the largest provider of public water within the state and operates nine treatment facilities which serve 164,000 customers in over 150 communities throughout the state. New drinking water regulations as well as increases in funding sources impact operating expenses of the company which in turn can affect customer rates.

Comment One – Inflation Adjustment (64-51-11)

The annual adjustment of fees as determined by the Commissioner based on the Consumer Price Index is not acceptable. It does not allow for comment before any increase is adopted. Also, there is not necessarily any correlation between inflation as measured by the CPI and actual cost increases experienced by the Department of Health and Human Resources.

Commissioner of Bureau for Public Health

Page 2

**Comment Two – Appendix B–1C Public Water System Technical Services
Operating Permit Fee**

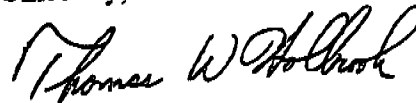
The proposed fee of \$0.25 per month per service connection would generate an additional expense to WVAWC customers is the amount of \$450,000 - \$500,000 per year (\$3.00 per customer/per year). The Company does not see where the customer receives additional benefits from these increases and opposes these additional fees without more background data. What additional services will the WVBPH be providing to the customer?

The “**Fiscal Note For The Proposed Rule**” states that for the EED – the fee of \$0.25/month may be passed on to the customer. The fiscal note fails to recognize that West Virginia Public Service Commission approval would be required before a utility can pass the fee on to its customers and that there is no guarantee that the Commission would allow a pass through. The fiscal note also fails to recognize the significant expense the utility would incur in filing a petition to request PSC approval.

The West Virginia American Water Company appreciates the opportunity to comment on the WV DHHR – Bureau for Public Health’s rule. Our comments are intended to promote the development of appropriate funding sources that are both necessary and cost effective to the consumer.

Please contact me if you have any questions on these comments.

Sincerely,



Thomas W. Holbrook

TWH/ja



West Virginia Rural Water Association

168 Midland Trail, Suite #2
Hurricane, WV 25526
(304) 562-8585
(304) 562-7177

Telecopy Cover Sheet

Transmit to Telecopier No.: 558-1035

Please deliver the following transmittal to:

TO: Commissioner's Office

FROM: Michael McNulty

DATE: 7-28-03 TIME: 4:10 pm

RE: Proposed Rule

TOTAL PAGES, INCLUDING THIS COVER SHEET: 2

FAXED BY: _____

Comments/Special Information: _____



West Virginia Rural Water Association

168 Midland Trail, Suite #2 • Hurricane, WV 25526 • 304/562-8585

July 25, 2003

Commissioner's Office
Bureau for Public Health
350 Capitol Street – Room 702
Charleston, WV 25301

Re: Proposed Rule; Title 64 Series 51

Dear Commissioner:

On behalf of the 260 Public Service District and Municipal utility members of the West Virginia Rural Water Association ("WVRWA"), I would like to take this opportunity to comment on the referenced proposed rule changes.

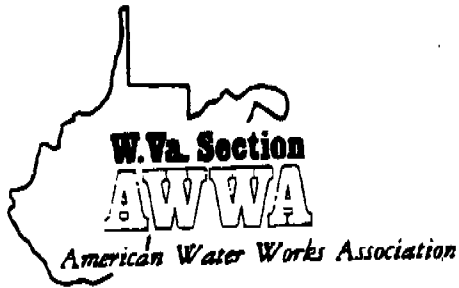
The proposed rule does not contain detailed justification for either the increase in fees for laboratory services or the new \$0.25 per connection fee. Should the connection fee be approved by the Legislature, WVRWA will immediately petition the Public Service Commission to allow such an increase to be treated as any other utility tax and be directly assessed to the customers. Additionally, this fee will result in increased administrative costs for collection, bookkeeping, and processing the associated paperwork.

This rule proposes that \$1,350,000 of public funds be raised by the water connection surcharge to fund a "public water systems surveillance program." The nature of and need for such a program is not described. WVRWA recommends that these matters be clearly defined within the proposed rule.

The proposed rule contains language that would allow the Commissioner to increase fees, without legislative oversight, that would be "reflective of an increase in the consumer price index." WVRWA does not support increasing fees without the explicit approval of the West Virginia Legislature.

Sincerely,

Michael W. McNulty
Executive Director
MWM/s



June 28, 2003

FACSIMILE

Commission of the Bureau of Public Health
350 Capitol Street, Room 702
Charleston, West Virginia 25301

Dear Commissioner:

The West Virginia Section of the American Water Works Association represents approximately 276 members throughout the State of West Virginia. The West Virginia Section is a part of the American Water Works Association that is the largest organization of water professionals representing more than 156,000 water purveyors in the world. AWWA advances public health, safety, and welfare by uniting the efforts of the full spectrum of the drinking water community. West Virginia AWWA would like to offer comments on the new "per connection" and new permit fees set forth in Legislative Rules Title 64 CSR 51/Fees for Services Rule.

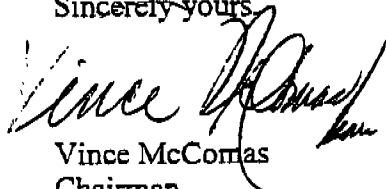
The Association's members are reviewing the bill and will offer additional comments during the legislative rule-making process. However, for the purposes of meeting the comment period, the Association would offer the following comments:

- (1) The Association members are opposed to this new fee. The collection of this fee would be burdensome and costly to our smaller systems to manage.
- (2) The fiscal note for the proposed rule indicates the \$0.25 per month/per customer fee may be passed on to the customer. This could not be done without first applying to the West Virginia Public Service Commission for its approval. This could be a costly item for the utility to incur in filing a petition to request the PSC to approve the pass through.
- (3) The language dealing with the automatic annual adjustment of fees based on the Consumer Price Index is of great concern to the Association. This

language grants broad authority to the Commissioner of Public Health. This broad discretion is given without further legislative oversight and defined only as an inflation adjustment.

We look forward to working with the Bureau of Public Health staff in formulating effective rules that benefit our industry.

Sincerely yours,



Vince McComas
Chairman
WV Section AWWA

Faint, illegible text, possibly a stamp or header.



South Putnam Public Service District

P. O. Box 147 • Scott Depot, WV 25560-0147
(304) 757-6551 • Fax: (304) 757-6558

25 July 2003

Commissioner's Office
WV Department of Health & Human Resources
Bureau for Public Health
350 Capitol Street, Room 702
Charleston, WV 25301-3712

RE: Legislative Rules Title 64
CSR51/Fees for Service Rule

Dear Commissioners:

On behalf of the 8,000 water system customers of the South Putnam Public Service District, I am submitting the District's comments on the municipal fee provision of the proposed rules. While the Bureau apparently sees this fee as a simple matter of pennies, we find this rule to be an obnoxious attempt at a substantial tax on our customers.



The burden of this tax is substantial and is a clear message that the Bureau of Health does not comprehend the burden that the water system and citizens of our State are facing.



To South Putnam, this tax [pennies] will amount to a tax of approximately \$24,000 per year. This clearly is not pennies and these funds will provide for more benefit to the quality of drinking water for our customers if utilized for our testing and water quality endeavors.



The 25 pennies included as a part of our comments, which represents the monthly tax on each customer, is provided to assure that the Bureau has a sound feel for the weight of this burden you are proposing to place on the citizens of West Virginia. For the customers of South Putnam, the weight of this letter will be magnified nearly 100,000 times. For the citizens of West Virginia, the weight of this letter will be magnified nearly 9,000,000 times.



We support the efforts of the Bureau, however must register our strongest objections to your proposal to burden our customers and the citizens of West Virginia with such a heavy tax. Do the citizens of West Virginia really need a 1.6 million dollar surveillance program of our drinking water systems? A tax is a tax is a tax, no matter what cover you put on it, what color you say it is, or how you try to hide it.

Sincerely,

A handwritten signature in cursive script that reads "Fred D. Stottlemyer".

Fred D. Stottlemyer
General Manager

FDS/rjc



cc: Governor Bob Wise



7/24/03 : Copy to
Paul
Sharon
John
Ann
Martha
Barb
©

July 24, 2003

Commissioner's Office
Bureau for Public Health
350 Capitol Street, Room 702
Charleston, WV 25301

Re: Legislative Rules Title 64 CSR51/Fees for Services Rule

The WV Municipal League, representing the 234 municipalities in West Virginia, is commenting on the new "per connection" and new permit fees being established within the above mentioned rule. The rule in its entirety will be distributed to members for their comments and will be represented before the Rule Making Review Committee at the appropriate time. In the mean time, we submit the following observations.

First, the rule imposes new fees on water utilities and their customers. We believe that all "new" fees should be authorized by statute and not "created" in rules. The per connection fee is nothing more than a new tax to fund the Department of Health and should be represented as such. While service fees are becoming more and more popular with governments, the governmental entity assessing the fee should take full responsibility for those fees. The adoption of new or increased fees in regulatory rules amounts to nothing less than a new or increased state tax on citizens. If the state chooses to tax its citizens, then the agency authorized to assess the fee should be responsible for billing and collection. For too long cities have been mandated to act as collection agencies to fund state mandated programs. It is time that state government stops writing checks on municipal checking accounts without accepting responsibility for the action.

Further, the rule grants broad authority to the Commissioner of Public Health to approve annual increases reflective of the CPI. This broad discretion is given without further legislative oversight and defined only as an inflation adjustment. Any fee increases contained in rules should be brought before the Rule Making Review Committee of the Legislature.

In closing, the League recommends and requests that appropriate amendments be made to address the concerns of our member municipalities and the citizens they serve.

Sincerely,

Lisa Dooley
Executive Director

MAYOR RAYMOND PEAK
President, Hurricane
COUNCILOR DAVID KATES
Vice President
MAYOR JAMES HERRICK
Clarksburg
Secretary
New Martinsville
MAYOR EMMETT PUGH, III
Treasurer
Beckley
MAYOR TERRY GREAVER
Clarksburg
MAYOR CATON HILL, JR.
Philippi
MAYOR JOE TIMMS
Bridgeport
MAYOR JIMMY COLOMBO
Parkersburg
MAYOR TONY PAESANO
Follansbee
MAYOR NICK SPARACHANE
Wheeling
MAYOR NICK FANTASIA
Fairmont
MAYOR DANNY JONES
Charleston
MAYOR JIM KNORR
Buckhannon
MAYOR RICHARD MILAM
St Albans
MAYOR OLLIE HARVEY
Ripley
MAYOR BILL RITCHIE
Ravenswood
MAYOR GEORGE KAROS
Martinsburg
MAYOR DAVID FELINTON
Huntington
MAYOR CLEO MATTHEWS
Hinton
MAYOR ROBERT PERKINSON, JR.
Bluefield
MAYOR BARBARA HICKMAN
Oak Hill
MAYOR RON LIVELY
Princeton
MAYOR EDDIE LONG
Smithers
MAYOR DAVID NOHE
Vienna
MAYOR STANLEY ADKINS
Summersville
COUNCILOR TOM MAINELLA
Fairmont
MAYOR CLAIR ROSEBERRY
Ravenswood
COUNCILOR JAMES JARRELL
Whitesville
COUNCILOR JAMES MIRASOLA
Follansbee
COUNCILOR FRANK SCAFELLA
Morgantown
COUNCILOR ED ROEDERSHEIMER
Parkersburg
CLERK SUZAN SINGLETON
Glen Dale
CLERK JANICE JONES
Wheeling
CITY MANAGER DAVE MILLS
Ranson
MAYOR DEAN HARRIS
Immediate Past President
Weirton
Past Presidents
COUNCILOR JAMES HUNT
Clarksburg
MAYOR LYDIA MAIN
Masonstwon
MAYOR TERRY WILLIAMS
Spencer
MAYOR THOMAS ESPOSITO
Logan
MAYOR RITCHIE ROBB
South Charleston
MAYOR DAVE HAMILL
Ranson
TREAS./RECORDER NANCY SHOBE
Parliamentarian, Buckhannon
COUNCILOR TOM FLYNN
Chaplain, Clarksburg
LISA DOOLEY
Executive Director

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