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1986 NOV 28 PM 3:11

STATE OF WEST VIRGINIA
DEPARTMENT OF NATURAL RESOURCES
CHARLESTON 25306

OFFICE OF THE
SECRETARY OF STATE

ARCH A. MOORE, JR.
Governor

November 28, 1986

RONALD R. POTESTA
Director

MICHAEL A. FOTOS
Deputy Director

NOTICE OF AGENCY ADOPTION

RULE TITLE: Awarding of Matching Grants for
Local Litter Control Programs

RULE TYPE: Interpretive

The attached rule constitutes the official rule adopted by the West Virginia Department of Natural Resources on the 28th day of November 1986 and filed with the West Virginia Secretary of State.



Ronald R. Potesta
Director



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DEPARTMENT OF NATURAL RESOURCES
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RONALD R. POTESTA
SECRETARY OF STATE

RONALD R. POTESTA
Director

MICHAEL A. FOTOS
Deputy Director

The Honorable Ken Hechler
Secretary of State
Capitol Complex, Suite 157-K
Charleston, West Virginia 25305

Re: Filing of Adopted Rules (Awarding
of Matching Grants for Local Litter
Control Programs, Series 42B) by the
Department of Natural Resources

Dear Mr. Hechler:

Enclosed please find for your filing a copy of adopted
interpretive rules of the Department of Natural Resources.
Please note that these rules were originally proposed as
Series 21B. Title 47, the compilation of Department
regulations, has since been renumbered; Series 21B became 42B
and has been so renumbered in this filing.

If you have any questions, please contact Mr. Jeffrey E.
Herrold, Director's Office of Regulatory Affairs, at
348-2761.

Sincerely,

Ronald R. Potesta
Director

RRP/jhb

Enclosures

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Awarding of Matching Grants for
Local Litter Control Programs

Type of Rule: Legislative X Interpretive X Procedural

Agency: Department of Natural Resources

Address: 1800 Washington Street East, Charleston, West Virginia 25305

1. Effect of Proposed Rule (Estimated Total Cost)	ANNUAL		Current \$	FISCAL YEAR	
	Increase \$	Decrease \$		Next \$	Thereafter \$
Personal Services					
Current Expense					
Repairs and Alterations					NO CHANGE
Equipment					
Other					

2. Explanation of Above Estimates:

West Virginia Code §20-7-25 stipulates that half of the money collected from litter law violators be distributed as matching grants for local litter control programs. This is not appropriated state money and would have no effect on Department budgets.

3. Objectives of These Rules:

The proposed rules establish procedures for awarding matching grants for local litter control programs.

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government:

None. One-half of the money collected from violators can be spent for administrative costs (non-appropriated special revenue).

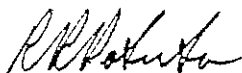
B. Economic Impact on Political Subdivisions; Specific Industries; Specific Groups of Citizens:

Collections from litter violators are not great enough to have a material impact on local government cleanup efforts.

C. Economic Impact on Citizens/Public at Large:

None at this time. However, should income from this source dramatically increase, the control of litter could have a major positive impact on tourism.

Date: October 16, 1986



Ronald R. Potesta
Director

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PREAMBLE FOR INTERPRETIVE RULES RELATING TO
MATCHING GRANTS FOR LITTER CONTROL

PROGRAM: Litter Control

REGULATIONS: Awarding of Matching Grants for Local Litter Control Programs, Interpretive Rules, Series 42B

AUTHORITY: West Virginia Code, Chapter 20, Article 7, Section 25(b) and Chapter 29A, Article 3

ACTION: Adopted Rules

TOPIC: The awarding of matching grants for the implementation and administration of local litter control programs.

SUMMARY: The Department is adopting rules concerning the awarding of matching grants for local litter control programs. Under Section 20-7-25(b) of the West Virginia Code, the Director must annually expend at least fifty percent of the money credited to the Litter Control Fund in the previous fiscal year by awarding matching grants to local governments for the initiation and administration of local litter control programs. Procedural rules (Series 42A) establish the procedures to be followed and forms to be used by local governments in applying for a matching grant. Interpretive rules (Series 42B) provide guidance concerning the use of grant monies.

A public hearing was held on Tuesday, November 18, 1986 in Charleston. Comments were received until the close of business on Friday, November 21, 1986. The public hearing was attended by four interested individuals, including a member of the West Virginia House of Delegates. One substantive comment was received concerning the proposed rules:

Section 2.10

Comment: One commenter asked that the definition of litter in these rules be broadened to "any man-made or man-used product which is discarded or abandoned."

Response: The definition of litter in these rules was taken verbatim from West Virginia Code §20-7-24, the West Virginia Litter Control Program. The Department neither holds the authority nor perceives a need to broaden the definition formulated by the Legislature.

The Department is today adopting these rules as they were proposed on October 16, 1986 with one change. Since the time of proposal, the compilation of Department regulations (Title 47) has been renumbered. Under the new numbering format, proposed Series 21A and 21B became Series 42A and 42B and have been so renumbered in this rule adoption.

*Title 47
procedural rules*

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~~WEST VIRGINIA ADMINISTRATIVE REGULATIONS~~
Department of Natural Resources
Series 42A

NOV 23 PM 3:10

Awarding of Matching Grants for Local Litter Control Programs
Procedural Rules

Section 1. Scope and Authority *General*

1.1 Scope and Purpose. The purpose of these rules is to establish procedures for obtaining matching grants for the implementation and administration of local litter control programs.

W.V. Code § 20-7-25(b) and 29A-3
1.2 Authority. These rules are promulgated under authority of the West Virginia Code, Chapter 20, Article 7, Section 25(b) and Chapter 29A, Article 3.

1.3 Effective Date. These rules will be effective on December 29, 1986.

1.4 Filing Date. These rules were filed on November 28, 1986.

Section 2. Definitions

Unless the context dictates otherwise, the following words and their meanings as used in these rules are defined below.

2.1 Applicant means the local government(s) applying for a grant or the local government(s) receiving a grant after approval by the Department.

2.2 Application means Form LC-G-1 for use by single program applicants or Form LC-G-2 for use by cooperative program applicants.

2.3 Cooperative Program means a program involving two or more local governments and coordinated by one of the participating local governments.

2.4 Coordinator means the individual who is responsible for coordinating the implementation and administration of a cooperative program.

2.5 Department means the West Virginia Department of Natural Resources.

2.6 Director means the Director of the West Virginia Department of Natural Resources.

2.7 Grant means matching grant funds allocated to an approved program applicant by the Department pursuant to Section 20-7-25(b) of the West Virginia Code.

- 2.8 Grant Period means July 1 of a calendar year through June 30 of the subsequent calendar year unless otherwise specified on the Notice of Approval, Form LC-G-3.
- 2.9 Litter means all waste material including, but not limited to, any garbage, refuse, trash, disposable package, container, can, bottle, paper, ashes, cigarette or cigar butt, carcass of any dead animal or any part thereof, or any other offensive or unsightly matter, but not including the wastes of primary processes of mining, logging, sawmilling, farming, or manufacturing.
- 2.10 Litter Control Fund means the fund created pursuant to Section 20-7-26 of the West Virginia Code.
- 2.11 Local Government means a county commission as defined in Section 7-1-1 of the West Virginia Code or a municipal corporation as defined in Section 8-1-2(a)(1) of the West Virginia Code.
- 2.12 Local Litter Control Program means a program sponsored by a local government for the purposes stated in its application.
- 2.13 Resolution means a resolution adopted by a local government that authorizes the creation of a local litter control program.

Section 3. Application Procedures

- 3.1 All applications for grants will be completed and submitted to the Office of Conservation Education/Litter Control, Department of Natural Resources, Room 711, 1800 Washington Street, East, Charleston, WV 25305. Applications must be postmarked not later than May 31 for consideration in the next grant period.
- 3.2 All applications will be submitted with a signed resolution authorizing the application, made by the governing body or bodies of the applicant, and an estimated budget for the applicant's proposed litter control program.
- 3.3 All applications will be signed by the individual whose name appears in the resolution as being authorized to apply for a grant.

Section 4. Application Review and Approval

- 4.1 All applications will be reviewed by the Grant Approval Committee, which will be composed of three persons appointed by the Director. Applications will be approved or disapproved by the Director upon the recommendation of the Committee.

- 4.2 In approving applications and determining the amount of the awarded grant, the Director will give special consideration to the amount of money credited to the Litter Control Fund that has been collected from the area served by the applicant's proposed program through convictions pursuant to Section 20-7-26 of the West Virginia Code.
- 4.3 If an application is approved, the applicant will be notified in writing on a Notice of Approval, Form LC-G-3, on or before October 1 of the grant period. If an application is disapproved, the applicant will be so notified in writing.
- 4.4 The amount of the grant will be stated on the Notice of Approval. Grant checks will be sent directly to the applicant; in the case of a cooperative program, the check will be sent to the program coordinator.

Section 5. Performance and Accounting Reports

- 5.1 The applicant will keep account records for the program detailing expenditures of grant monies. The applicant will file a Performance and Accounting Report, Form LC-G-4, with the Department on or before June 20 of the grant period.
- 5.2 The coordinator of a cooperative program will keep account records for that program detailing expenditures of grant monies. The coordinator will file a Performance and Accounting Report, Form LC-G-4, with the Department on or before June 20 of the grant period.
- 5.3 Subsequent grants to an applicant will not be approved or funded until the performance and accounting report is received by the Department.

Section 6. Litter Control Grant Forms

- 6.1 Application Form LC-G-1 (Appendix A) will be completed by single program applicants and filed in accordance with Section 3 of these rules.
- 6.2 Application Form LC-G-2 (Appendix B) will be completed by cooperative program applicants and filed in accordance with Section 3 of these rules.
- 6.3 A Resolution Authorizing an Application for a Matching Fund Grant for Litter Control (Appendix C) will be completed by single program applicants and filed in accordance with Section 3 of these rules.

- 6.4 A Resolution Authorizing a Cooperative Program Application for a Matching Fund Grant for Litter Control (Appendix D) will be completed by each local government participating in a cooperative program and filed in accordance with Section 3 of these rules.
- 6.5 A Notice of Approval Form LC-G-3 (Appendix E) will be completed by the Department and mailed to approved applicants in accordance with Section 4 of these rules.
- 6.6 A Performance & Accounting Report Form LC-G-4 (Appendix F) will be completed by all applicants and filed in accordance with Section 5 of these rules.

*09 Ed. Note: Appendix A-F are omitted.
They are available from the
Secretary of State's office
on the Department of
Natural Resources

*Title 47
Interpretive Rules*

FILED

~~WEST VIRGINIA ADMINISTRATIVE REGULATIONS~~

Department of Natural Resources

Series 42B

Awarding of Matching Grants for Local Litter Control Programs
Interpretive Rules

Section 1. Scope and Authority *General*

1.1 Scope and Purpose. The purpose of these rules is to provide interpretations and guidance concerning the awarding of matching grants for local litter control programs.

W.Va. Code 420-7-25 and 29A-7
1.2 Authority. These rules are promulgated under the authority of the West Virginia Code, Chapter 20, Article 7, Section 25 and Chapter 29A, Article 3.

1.3 Effective Date. These rules will be effective on December 29, 1986.

1.4 Filing Date. These rules were filed on November 28, 1986.

Section 2. Definitions

Unless the context dictates otherwise, the following words and their meanings as used in these rules are defined below.

2.1 Applicant means the local government(s) applying for a grant or the local government(s) receiving a grant after approval by the Department.

2.2 Application means Form LC-G-1 for use by single program applicants or Form LC-G-2 for use by cooperative program applicants.

2.3 Cooperative Program means a program involving two or more local governments and coordinated by one of the participating local governments.

2.4 Coordinator means the individual who is responsible for coordinating the implementation and administration of a cooperative program.

2.5 Department means the West Virginia Department of Natural Resources.

2.6 Director means the Director of the West Virginia Department of Natural Resources.

2.7 Grant means matching grant funds allocated to an approved program applicant by the Department pursuant to Section 20-7-25(b) of the West Virginia Code.

- 2.8 Grant Period means July 1 of a calendar year through June 30 of the subsequent calendar year unless otherwise specified on the Notice of Approval, Form LC-G-3.
- 2.9 In-kind Services means any personnel, equipment, supplies, or other items for a local litter control program supplied or obtained by the applicant with funds or by methods other than the use of grant monies.
- 2.10 Litter means all waste material including, but not limited to, any garbage, refuse, trash, disposable package, container, can, bottle, paper, ashes, cigarette or cigar butt, carcass of any dead animal or any part thereof, or any other offensive or unsightly matter, but not including the wastes of primary processes of mining, logging, sawmilling, farming, or manufacturing.
- 2.11 Litter Control Fund means the fund created pursuant to Section 20-7-26 of the West Virginia Code.
- 2.12 Local Government means a county commission as defined in Section 7-1-1 of the West Virginia Code or a municipal corporation as defined in Section 8-1-2(a)(1) of the West Virginia Code.
- 2.13 Local Litter Control Program means a program sponsored by a local government for the purposes stated in its application.
- 2.14 Resolution means a resolution adopted by a local government that authorizes the creation of a local litter control program.

Section 3. Applicability

- 3.1 Grants may be used by eligible local governments, singly or in cooperative groups, in a local litter control program.
- 3.2 Grants will be made for a period not greater than one calendar year. Subsequent grants may be obtained by an applicant through submission of a revised application to the Department.
- 3.3 Grants will be awarded on a one-to-one matching basis. For each dollar budgeted by an applicant for a local litter control program, the Department will award up to one dollar in matching grant funds upon approval of the application. The Department reserves the right to limit the amount of a grant in accordance with the amount of money in the Litter Control Fund available for distribution as matching grants.

Section 4. In-Kind Services

- 4.1 Credit will given for in-kind services when determining the amount of local government funding to be matched by a grant.
- 4.2 Volunteer services will be valued at the minimum hourly wage unless the applicant can demonstrate that such services would normally be valued above that wage in the area served by the applicant's program.
- 4.3 Donated equipment will be valued at its fair market value prorated over the life of the grant.

Section 5. Authorized Uses of Grant Funds

- 5.1 Grants may be used for the initiation, continuation, or expansion of a local litter control program but may not be used in any way to replace local funds currently budgeted or being used to maintain and operate a local litter control program during the grant period.
- 5.2 Authorized uses of grants monies in an approved local litter control program may include the following:
 - 5.2.1 Enforcement of antilitter statutes.
 - 5.2.2 Expenses incurred in traveling to Department sponsored or approved workshops, conferences, or other meetings.
 - 5.2.3 Implementation and administration of the approved litter control program.
 - 5.2.4 Implementation of local litter cleanup campaigns.
 - 5.2.5 Public informational and educational programs, such as those which increase public awareness or solicit public support in promoting citizen responsibility toward reducing litter.
 - 5.2.6 Purchase of equipment which will specifically serve to fulfill litter control program objectives.
 - 5.2.7 Research or development of local solid waste recycling programs.
 - 5.2.8 Surveys and evaluation studies made for the purpose of identifying and prioritizing local littering problems.
 - 5.2.9 Other relevant items upon the approval of the Department.

Section 6. Unauthorized Uses of Grant Funds

- 6.1 Grant monies may not be used for expenditures not related to litter prevention, elimination, or control.
- 6.2 Grant monies should not be used for the following:
 - 6.2.1 To fund beautification projects such as landscaping (tree or shrub purchases) or the removal of roadside vegetation.
 - 6.2.2 To purchase lawn, tree, or shrub maintenance equipment.
 - 6.2.3 To purchase equipment routinely used to collect or transport solid waste.
 - 6.2.4 To fund landfill operations or management.
 - 6.2.5 To buy office furniture, to buy office equipment, or to decorate or renovate an office.
 - 6.2.6 To pay for professional consultation or production in the development of litter control films, slide shows, or similar programs.

Section 7. Grant Withdrawal and Penalty

- 7.1 The Department reserves the right to withdraw a grant upon determination of unsatisfactory program compliance with either these rules or the specifications in the program application.
- 7.2 A failure to commence program activities within ninety days after receiving a notice of approval from the Department may result in the cancellation of the grant.
- 7.3 An applicant shall be responsible for the payment to the State of West Virginia of two times the total sum of a grant not properly used or accounted for pursuant to these rules. Such total sum shall constitute a debt owed by the applicant or its successors or assignees by appropriate legal action. At its option, the Department may proceed against any local government participating in a cooperative program for the total sum owed by the applicant or its successors or assignees, or may hold each local government participating in a cooperative program individually liable to the State of West Virginia for its pro rata share of the total liability.
- 7.4 The Department reserves the right to conduct an on-site inspection or audit of an applicant's program records during or after the grant period.

Section 8. Nondiscrimination Provision

8.1 During the performance of the program described in the application, the applicant will not discriminate against any employee or individual applying for employment because of race, religion, color, sex, handicap, or national origin.

Section 9. Unexpended Funds

9.1 All unexpended funds remaining at the end of the grant period will be handled as follows:

9.1.1 If the applicant applies for a grant for the subsequent grant period, and the Department approves said application, unexpended funds will be netted against the amount for which the applicant is eligible to receive.

9.1.2 If the applicant does not apply for a grant for the following grant period, unexpended funds will return to the control of the Department.

Section 10. Reduction of the Litter Control Fund

10.1 Grants allocated under these rules are dependent upon the availability of funds collected pursuant to Chapter 20-7-25 of the West Virginia Code. In the event that those funds are diminished by legislative action, the Department will adjust the amount of each grant issued accordingly.