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by the

Division of Natural Resources

Office of Conservation Education and Litter Control

**All changes are shown by strike-throughs for deleted
language and underline for new language**

August 1, 1995

TECHNICAL CHANGES TO
TITLE 58 CSR 43

Recycling Assistant Fund Grant Program - 58 CSR 43

1. 58 CSR 43 is changed to 58 CSR 5 and renumbered accordingly throughout the rule.

FILED

**TITLE 58
BUREAU OF COMMERCE
DIVISION OF NATURAL RESOURCES**

AUG 1 4 15 PM '95

**SERIES 43 5
RECYCLING ASSISTANCE FUND GRANT PROGRAM**

**OFFICE OF WEST VIRGINIA
SECRETARY OF STATE**

§58-43 5-1. General.

1.1. **Scope and Purpose.** - This rule sets out guidelines and procedures for providing assistance grants to municipalities, counties and others planning and implementing recycling programs, related public education programs, and recycling market procurement efforts.

1.2. **Authority.** - West Virginia Code §20-11-5a(h)(1).

1.3. **Filing Date.** - April 26, 1995.

1.4. **Effective Date.** - June 1, 1995.

§58-43 5-2. Definitions.

2.1. **"Director"** means the director of the Division of Natural Resources, his or her, authorized representative.

2.2. **"Instrumentality"** means an agency authorized by state law, but for the purposes of this rule, does not include political subdivisions of the state.

2.3. **"Municipality"** means an incorporated community.

2.4. **"Other Interested Party"** means private enterprise and non-profit organizations.

2.5. **"Recycling Market Procurement"** means developing markets for the materials generated by collection through a curbside or dropoff recycling program.

2.6. **"Recyclable Materials"** includes, but is not limited to, steel and bi-metal cans, aluminum, glass, paper, plastic, tires, white goods and yard waste.

2.7. **"Source Separated"** means materials separated from general solid waste at the point of origin for the purpose of reuse and recycling but does not mean sewage sludge.

2.8. **"White Goods"** means bulky appliances such as stoves, hot water heaters, sinks, washers, dryers, refrigerators, and dishwashers.

2.9. The terms as defined in the Solid Waste Management Regulations, 47 C.S.R. 38, are adopted for use, where applicable, in this rule.

§58-43 5-3. Grants Available From Recycling Assistance Fund Grant Program.

3.1 The recycling assistance fund grant program provides grants to assist municipalities, counties and others in:

- planning and implementation of recycling programs;
- public education programs related to recycling; and
- recycling market procurement efforts.

3.2 Recycling Assistance Fund grant proposals that are in compliance with the criteria of section 3.1 of these rules will be evaluated on a competitive basis considering each proposal's objectives towards maximizing the following factors:

- 3.2.1.** conservation of limited natural resources
- 3.2.2.** public education regarding litter control
- 3.2.3.** recycling of valuable materials
- 3.2.4.** extending the useful life of solid waste landfills
- 3.2.5.** reducing the need for new landfills.

3.3 The following types of grants are available:

3.3.1. Local Government Recycling Feasibility Study and Planning Grant - The grant is for researching the feasibility of community/county/regional recycling programs including market development and entails submittal of a detailed comprehensive plan. A professional service may be utilized to assist in planning and/or implementing a comprehensive recycling program.

3.3.2. Recycling Promotion and Collection Drive Grant - The grant is available to state agencies, other instrumentalities of the state and private colleges in the absence of a municipal, or county recycling program, as provided for in West Virginia Code § 20-11-6. The grant is for the purpose of implementing recycling programs consisting of source separation, collection and transportation activities; and may include a school project, drop-off collection bins, and special events which increase public awareness of recycling and its benefits.

3.3.3. Local Government Recycling Grant - The grant is for the implementation of municipal, county and regional recycling programs, and must emphasize the integration of source reduction and recycling. A comprehensive solid waste management and siting plan developed by the local or regional solid waste authority must be approved by the West Virginia Solid Waste Management Board to qualify for the grant.

3.3.4. Office Paper Recovery Grant - In the absence of a municipal and/or countywide recycling program, a state agency or instrumentality of the state may apply for assistance to plan and implement an office wastepaper recovery program in government, school, and local offices (on a county or greater level). Funds are available for paper collection equipment, transportation, education, publicity and promotion.

3.3.5. Recycling Market Development Grant - The grant is available to state, regional, county or local governments to assist in developing markets for materials collected and/or processed.

§58-43 5-4. Grant Program Priority and Other Criteria.

4.1. All West Virginia municipalities, county commissions, county and regional solid waste authorities, state agencies and instrumentalities of the state are eligible to apply for recycling assistance funding as provided for in subsections 3.3.1 through 3.3.5. of this rule. The recycling assistance fund grant review committee will give priority to those communities, counties, state agencies, state instrumentalities and private colleges required to implement recycling programs as a result of a county referendum or pursuant to the provisions of West Virginia Code §§ 20-11-5 and 20-11-6. If a county has adopted a recycling program by referendum vote, the program must be consistent with the provisions of West Virginia Code § 20-11-5(c). If the county has one or more municipalities each with a population greater than 10,000, the municipality's recycling program must at a minimum be consistent and coordinated with the county's recycling program. Grant proposals must meet the following criteria:

4.1.1. Municipalities with populations over 10,000:

4.1.1.a. Proposals for funding under subsection 3.3.1 of this rule must have work elements that are at a minimum consistent with the provisions of subsections (a) and (b) of West Virginia Code § 20-11-5.

4.1.1.b. Proposals for funding under subsection 3.3.3 of this rule must document that the plan to be implemented has been approved by the solid waste management board. Grant proposals shall include, but not be limited to the following:

4.1.1.b.A. source separation of at least three recyclable materials;

4.1.1.b.B. collection and transportation of materials to a processing center; and

4.1.1.b.C. public education regarding recycling

4.1.2. A county government required pursuant to West Virginia Code § 20-11-5(e) to implement a comprehensive recycling solid waste program shall at a minimum develop a program that is in compliance with the provisions of West Virginia Code § 20-11-5(c).

4.1.3. Special funding proposals for five or more communities or two or more counties combining their efforts to provide a countywide or multi-county recycling program must have a comprehensive recycling plan(s) which has been approved by the solid waste management board.

4.2. Municipalities under 10,000; absence of a municipal program; other interested parties

4.2.1. Municipalities with a population under 10,000 may implement a curbside or drop-off recycling program that includes public education, providing transportation of recyclable materials to a processing center, and integration of other materials into the program such as cardboard and yard waste.

4.2.2. In the absence of either a municipal or a countywide recycling program, all agencies and instrumentalities of the state, primary and secondary schools, private colleges and universities are eligible to receive grants under subsections 3.3.2., 3.3.4. and 3.3.5. of this rule. Grant proposals shall include, but not be limited to the following:

4.2.2.a. source separation of at least two recyclable materials;

4.2.2.b. collection and transportation of materials to a processing center; and

4.2.2.c. public education regarding recycling.

4.2.3. Other interested parties may apply for grants provided that grant proposals are consistent with one or more of the objectives listed under section 3.1 of this rule, and include, but are not limited to the recycling activities listed under subsection 4.2.2. of this rule.

~~§58-43~~ 5-5. Use of Grant Funds.

Recycling assistance grants may be used to:

5.1. Enhance the self-sufficiency of recycling in counties or communities by initiation of new or expanded recycling programs providing:

5.1.1 Supplemental wages of personnel directly involved with administration or operation of recycling activities; rent or purchase of recycling equipment, including items such as curbside containers or drop-off boxes; collection and transportation of recyclables; recycling promotion; and recycling market procurement efforts.

5.2. Recycling assistance funds may be used for:

5.2.1 Personnel - Funding is limited to the salary costs associated with a recycling manager, coordinator, or laborers. No more than \$20,000 may be used from grant funds for the wages and/or benefits of a recycling manager, coordinator, and/or laborers.

5.2.2. Travel - Educational recycling conference expenses are limited to outside of the program boundaries and are allowable for: airfare or mileage, meals, lodging, parking and registration fees. Costs are limited to \$1,000 per grant.

5.2.3. Supplies - Funding is allowed for general office supplies, and other supplies, such as collection bags or household bins used for the collection/storage of recyclables.

5.2.4. Equipment - Funding is limited to processing equipment, material handling or storage equipment, scales, and safety equipment used in recycling activities. Equipment is to remain in grantee's name and may be leased, but not transferred to a third party.

5.2.5. Recycling Vehicle Expense - Funding is limited to the lease/purchase, maintenance, fuel, mileage and insurance for a truck or van used in approved recycling activities. Transporting materials to market using the program's vehicle and labor is an approved recycling activity.

5.2.6. The following other costs are allowed:

5.2.6.a. Funding for printing is limited to costs associated with educational materials on recycling such as pamphlets, posters, flyers, etc;

5.2.6.b. Funding for advertising is limited to costs associated with the production and/or placement of recycling advertising in newspaper, radio, business cards, and other advertising related to development and implementation of a recycling program;

5.2.6.c. Funding for promotion items is limited to costs associated with promotional items such as awards, decals, patches, buttons, magnets, and costs associated with the rental of a fair booth and/or exhibit space for creating public awareness;

5.2.6.d. Funding for professional services to assist in planning and implementation of recycling projects including feasibility studies; and

5.2.6.e. Funding for development work directed towards recycling market procurement.

5.3. Costs not allowed under a recycling assistance grant are:

5.3.1. The purchase or long term lease of dumpsters or other containers, or their servicing, when they are not part of an approved recycling activity.

5.3.2. Land acquisition.

5.3.3. Costs for office equipment including such items as desks, chairs, telephone, typewriters, files, and photocopying equipment.

5.3.4. Street sweepers or their equivalents.

5.3.5. Entertainment costs (banquets, parties, etc.).

5.3.6. Alcoholic beverages, in-state lunches, and all gratuities.

5.3.7. Beautification projects (plantings, mowing, weeding, etc).

5.3.8. Computer hardware/software, Provided that, the director may waive or modify this constraint where appropriately justified by the applicant.

5.3.9. Expenditure of grant funds for any type of lobbying expense.

§58-43 5-6. General Conditions Applicable to Grants.

6.1. The following general conditions apply to municipalities, counties, state agencies, and instrumentalities of the state applying for funding under the recycling assistance fund grant program:

6.1.1. The applicant must be an eligible local, and/or county government, state agency or state instrumentality with an expressed commitment to recycling as a long-term solid waste management strategy. This commitment must be in the form of a formal resolution or ordinance from the local governing body, or a formal policy or regulation from a state agency or state instrumentality.

6.1.2. The proposed recycling project must be a logical extension of the applicant's current solid waste management services and/or authority to manage solid waste through recycling.

6.1.3. The proposed project must be designed to affect a significant and measurable reduction in the municipal solid waste stream. All grant proposals must include analysis and projection of materials that will be diverted from the solid waste currently being landfilled and the costs and/or savings that will directly result from the proposed project.

6.1.4. All municipal or county proposals must plan to involve all or a substantial percentage of the community's residents located in the project area and should include a plan to provide public education regarding the recycling program.

6.1.5. Projects proposed for funding must be designed to collect and recycle at least three items with respect to municipal and county programs and two items with respect to state agency and state instrumentality programs. These items shall be those that are typically discarded with household solid waste (i.e., newspaper, aluminum, steel and bi-metal cans, glass bottles and jars, and number 1 and 2 plastic containers).

6.1.6. Project proposals must include a plan to identify markets able to handle the projected volumes of materials to be collected.

6.1.7. The proposal must clearly demonstrate that the municipality, county, state agency or state instrumentality will be directly involved in the planning, administration, implementation, monitoring and evaluation of the project. The overall operation and coordination of the project must be conducted directly by an agency of local or state government, or one of its instrumentalities.

6.1.8. Grant funds may be utilized by local and state governments or state instrumentalities for recycling projects in which a private "for profit" business or a not-for-profit organization is contracted to provide a service, or services, only so long as the bid for such services is in accordance with the appropriate local or state government competitive bidding process.

6.1.9. Grant funds may not be used to replace existing personnel, equipment or funding which is currently being provided by the local government.

6.2. The following general conditions apply to non-profit organizations and private enterprise applying for funding under the recycling assistance fund grant program:

6.2.1. The proposed project must be designed to affect a significant and measurable reduction in the municipal solid waste stream.

6.2.2. The project may provide recycling market procurement efforts.

6.2.3. The project must be consistent with one or more of the objectives listed under section 3.1 of this rule, and include, but is not limited to the recycling activities listed under subsection 4.2.2. of this rule.

§58-43 5-7. Schedule of Grants Available.

7.1. Schedule for one applicant:

<u>Type of Grant</u>	<u>Maximum Grant</u>
Municipality over 10,000 population.	\$100,000
Community/Municipality under 10,000.	\$ 50,000
County or Regional Solid Waste Authority.	\$100,000
State agency/state instrumentality/school.	\$ 50,000
Office Paper Recovery.	\$ 50,000
Recycling Feasibility Study/Planning.	\$ 20,000
Recycling Market Development	\$ 20,000
Other Interested Party	\$ 20,000

7.2. Schedule for cooperatives - For a cooperative recycling effort of five or more communities, or two or more counties the maximum grant available will be the maximum for the type of political subdivision times the number of subdivisions involved.

§58-43 5-8. Criteria for Developing a Grant Proposal.

8.1. The grant proposal should demonstrate the relationship to, and support of, the hierarchy established under West Virginia Code § 20-9-1, i.e., source reduction; recycling, reuse and resource recovery; and landfilling.

8.2. All proposals shall be coordinated with the county or regional solid waste authority in which the proposed project is located to avoid duplication, ensure coordination of solid waste programs, and maximize the market for recyclables.

8.3. The proposal must contain a policy statement and/or resolution or ordinance as required by the provisions of this rule and must outline the materials to be source separated and recycled. The list of recyclable material may be adjusted according to whether the generator is residential, commercial or other type of establishment.

8.4. The proposal must include a public information program to ensure receipt of good clean quality materials.

8.5. The proposal must provide for a collection system.

8.6. The proposal must contain provisions where required to ensure compliance with West Virginia Code §20-11-1, including incentives and penalties.

8.7. The proposal must demonstrate cost effectiveness and self-sufficiency of the proposed project.

8.8. To the degree possible all proposals should demonstrate the type of in-kind services to be provided by the grantee.

8.9. The proposal should discuss the economic development aspects of the project, i.e.: job creation.

8.10. The proposal must set forth any other type of grant assistance received, including the dollar amount, type of project, etc., for recycling and/or solid waste management.

§58-43 5-9. Recycling Assistance Fund Grant Review Committee.

9.1. All grant proposals will be reviewed by a recycling assistance fund grant review committee, composed of the following: a member of a county or regional solid waste authority, and a representative of business or industry, to be appointed by the Director; the Executive Director of the Solid Waste Management Board; the Director of the West Virginia Development Office; the Director of the Division of Environmental Protection; the Director of the Division

of Natural Resources. For the purpose of conducting business, four (4) members of the recycling assistance fund grant review committee are required for a quorum. The Director may vote to break tie votes of the committee. Approved grants meeting the program's criteria will be submitted to the Director of the Division of Natural Resources for final approval and awarding.

9.2. The Division of Natural Resources through the recycling assistance fund grant review committee reserves the right to reject any and all proposals. Applicants not selected for grants will be notified by the Division of Natural Resources as soon as possible after award decisions have been made. Unsuccessful applicants will be given the opportunity to discuss their proposals with appropriate staff.

§58-43 5-10. Submittal of Grant Applications; Awarding of Grants; Financial Management; Unexpended Funds and Termination of Grant.

10.1. All recycling assistance fund grants are for a one year period beginning the first of January with a final report due January 31 of the following year. Subject to the approval of the Director, an extension for finalizing the current project may be granted upon written request showing justification for the extension; however, subsequent extensions must be approved by the recycling assistance committee.

10.2 Complete recycling assistance fund grant applications must be submitted to the Division of Natural Resources prior to the first day of August each year. The Division of Natural Resources will notify grant applicants in relation to funding of their proposal during the first full week in November with grant award letters issued no later than the first week of January the following year.

10.3 Unless a grant applicant specifically requests and can demonstrate a need for a larger portion of the awarded grant to initiate the project, all grant funds will disburse on the following schedule: 30% at the time of grant award with subsequent payments of 30% to be made every four months upon receipt of a quarterly report. The final payment shall be 10% and shall be withheld until receipt of the final report, as provided for in section eleven (11) of this regulation.

10.4 The grantee must retain and make available upon request by the Division of Natural Resources for a period of three years, or until audited, whichever occurs sooner, all financial records, supporting documents, statistical records, and all other records as they relate to the application, acceptance and use of the grant funds. The provisions of West Virginia Code § 12-4-14 apply to all recycling assistance fund grants. The grantee shall provide the Division of Natural Resources with a copy of the grantee's independently audited financial records that cover the entire grant period.

10.5. All unexpended grant funds remaining at the end of 90 days following submission of the final report required in section 11 of this rule shall return to the recycling assistance fund grant program.

10.6. If, through any cause, the grantee fails to fulfill in a timely and proper manner its obligation as proposed in the grant application, and as accepted and approved by the Division of Natural Resources, the Division of Natural Resources will terminate payment of remaining grant funds.

10.7 The grantee must comply with all applicable federal, state and local laws, codes, ordinances, rules and regulations. Failure to comply with grant guidelines could result in withdrawal of the grant award and/or future consideration of funds.

10.8. The grantee must deposit grant funds immediately upon receipt in a separate interest bearing account.

10.9. Grantees with an outstanding grant are not eligible for the next cycle of grants.

§58-43 5-11. Site Visits and Reports Required.

11.1. Grantees must submit a final report on or before January 31, or within 30 days of completion of the project, whichever comes first. The report must provide a detailed summary of the implementation of the project and the degree to which objectives were achieved. The final report must include the following:

11.1.1. An evaluation of successes and failures encountered in implementing the original proposal's work tasks;

11.1.2. An evaluation of the operating costs and community support for the project;

11.1.3. An analysis of the economic development achievements, such as job creation;

11.1.4. An analysis of the project including: total volume (tons) of waste diverted from the solid waste stream, the estimated cost per ton to recycle that volume, the estimated revenue per ton of recycled material, and the estimated savings from recycling in lieu of landfilling.

11.2. A progress status report and expenditure statement must be submitted by all grantees to the Division of Natural Resources every quarter containing a brief narrative of accomplishments (including individual volumes of material recycled), projections for the next report period and detailed grant expenditures for the past three months.

11.3. The Division of Natural Resources will periodically conduct site visits with grant recipients. These visits will be conducted to provide assistance, to review progress, and to discuss any problems encountered in project implementation. Site visits present important opportunities for direct, on-site communication between the Division of Natural Resources and grant recipients, and may include inspections from the Division of Environmental Protection and site visits from the West Virginia Solid Waste Management Board.

§58-43 5-12. Equal Employment Opportunity.

12.1. To implement the recycling assistance fund grant, grantee agrees:

12.1.1. That it will not discriminate against any employee or applicant for employment because of race, color, age, religion, sex, or national origin; and

12.1.2. That all solicitations or advertisements for employees placed by or on behalf of grantee shall state that all qualified applicants will receive consideration for employment without regard to race, color, age, religion, sex, or national origin.

§58-43 5-13. Certification Regarding Drug-Free Workplace Requirements.

The Drug-Free Workplace Act of 1988, Title V-D Public Law 100-690, Federal Register, Volume 54, No. 19, and West Virginia Code § 60A-2-201 requires that all state governments, federal contractors, and federal and state grant recipients maintain a drug-free workplace. The Act is implemented through additions to the Debarment and Suspension regulations, published in the Federal Register on January 31, 1989. The certification form must be completed and accompany the grant application.

§58-43 5-14. Submission of Application.

14.1. The application for a recycling assistance fund grant must contain in addition to a description of the proposed project, an estimated budget with justification, certification regarding drug-free workplace, and where required, a resolution or ordinance authorizing the submission of application.

14.2. The original and one copy of the application should be mailed to: West Virginia Division of Natural Resources, 1900 Kanawha Boulevard, East, Building 3, Room 732, Charleston, West Virginia 25305-0665.

14.3. Questions about the West Virginia Recycling Assistance Fund Grant Program or the grant application process, should be directed to the Conservation Education and Litter Control Section of the Division of Natural Resources, at (304) 558-3370.

§58-43 5-15. Severability.

If any provisions of this rule or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the rule, and to this end the provisions of the rule are declared severable.