



WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

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Office of West Virginia
Secretary Of State

**NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE AND FILING WITH THE LEGISLATIVE RULE-
MAKING REVIEW COMMITTEE**

AGENCY: State Emergency Response Commission TITLE-SERIES: 55-02
RULE TYPE: Legislative Amendment to Existing Rule: No Repeal of existing rule: No
RULE NAME: 55-02 Emergency Planning Grant Program

PRIMARY CONTACT

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CITE STATUTORY AUTHORITY: 15-5A-5(k)

EXPLANATION OF THE STATUTORY AUTHORITY FOR THE LEGISLATIVE RULE, INCLUDING A DETAILED SUMMARY OF THE EFFECT OF EACH PROVISION OF THE LEGISLATIVE RULE WITH CITATION TO THE SPECIFIC STATUTORY PROVISION WHICH EMPOWERS THE AGENCY TO ENACT SUCH RULE PROVISION:

15-5A-5(k) authorizes the commission to establish an emergency planning grant program and requires rules to be promulgated which establish the method of awarding such grants. The provisions of this rule were previously promulgated in Series 1. This splits out this program so that the scope of the rule is clear.

IS THIS FILING SOLELY FOR THE SUNSET PROVISION REQUIREMENTS IN W. VA. CODE §29A-3-19(e)? No

IF YES, DO YOU CERTIFY THAT THE ONLY CHANGES TO THE RULE ARE THE FILING DATE, EFFECTIVE DATE AND AN EXTENSION OF THE SUNSET DATE? No

DATE eFiled FOR NOTICE OF HEARING OR PUBLIC COMMENT PERIOD: 7/13/2020

DATE OF PUBLIC HEARING(S) OR PUBLIC COMMENT PERIOD ENDED: 8/12/2020

COMMENTS RECEIVED: No

(IF YES, PLEASE UPLOAD IN THE COMMENTS RECEIVED FIELD COMMENTS RECEIVED AND RESPONSES TO COMMENTS)

PUBLIC HEARING: No

(IF YES, PLEASE UPLOAD IN THE PUBLIC HEARING FIELD PERSONS WHO APPEARED AT THE HEARING(S) AND TRANSCRIPTS)

RELEVANT FEDERAL STATUTES OR REGULATIONS: No

WHAT OTHER NOTICE, INCLUDING ADVERTISING, DID YOU GIVE OF THE HEARING?

Notice to stakeholders.

SUMMARY OF THE CONTENT OF THE LEGISLATIVE RULE, AND A DETAILED DESCRIPTION OF THE RULE'S PURPOSE AND ALL PROPOSED CHANGES TO THE RULE:

The provisions of this rule were previously promulgated in Series 1. This splits out this program so that the scope of the rule is clear.

STATEMENT OF CIRCUMSTANCES WHICH REQUIRE THE RULE:

This carries over existing language into a stand alone rule.

SUMMARIZE IN A CLEAR AND CONCISE MANNER THE OVERALL ECONOMIC IMPACT OF THE PROPOSED LEGISLATIVE RULE:

A. ECONOMIC IMPACT ON REVENUES OF STATE GOVERNMENT:

N/A

B. ECONOMIC IMPACT ON SPECIAL REVENUE ACCOUNTS:

N/A

C. ECONOMIC IMPACT OF THE LEGISLATIVE RULE ON THE STATE OR ITS RESIDENTS:

N/A

D. FISCAL NOTE DETAIL:

Effect of Proposal	Fiscal Year		
	2020 Increase/Decrease (use "-")	2021 Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost	0	0	0
Personal Services	0	0	0
Current Expenses	0	0	0
Repairs and Alterations	0	0	0
Assets	0	0	0
Other	0	0	0
2. Estimated Total Revenues	0	0	0

E. EXPLANATION OF ABOVE ESTIMATES (INCLUDING LONG-RANGE EFFECT):

This rule is neutral in fiscal impact.

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENT IS TRUE AND CORRECT.

Yes

Stacy L Nowicki-Eldridge -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.

TITLE 55
LEGISLATIVE RULE
STATE EMERGENCY RESPONSE COMMISSION

SERIES 2
EMERGENCY PLANNING GRANT PROGRAM

'55-2-1. General.

1.1. Scope. -- This rule establishes the procedures for applying for, and awarding Emergency Planning Grants.

1.2. Authority. -- W. Va. Code '15-5A-5(k).

1.3. Filing Date. --

1.4. Effective Date. --

1.5 Sunset Provision. -- This rule shall terminate and have no further force or effect on XXXXXX

'55-2-2. Grant Application Deadline Dates.

2.1. Emergency planning grant applications shall be received by the SERC no later than the thirtieth day of June of the grant year. Applications received after the established date shall not be considered for funding.

2.2. A mid-year report shall be submitted to the SERC by the first day of July of each grant year and shall include a report of the actual eligible expenditures incurred and a report of the activities accomplished under the grant through the thirty-first day of May of the grant year.

2.3. Amended applications to change grant requests must be received by the SERC no later than the first day of July of the grant year and shall indicate actual expenditures incurred by the LEPC and include a revised LEPC Emergency Response Plan as part of the justification for the requested change in the grant request. Requests for increased grant awards may only be approved by the SERC if sufficient revenue is available.

2.4. Any LEPC approved by the SERC may apply for an annual emergency planning grant. The following eligibility criteria apply to issuance of grants:

2.4.1. No later than January 1, 1993, the LEPC shall have completed and submitted:

2.4.1.a. An approved Local Emergency Planning Committee Hazardous Materials plan and updated, if required;

2.4.1.b. Met at least quarterly in the preceding year; and

2.4.1.c. Conducted at least one hazardous materials emergency response exercise during the preceding grant period and at least one hazardous material emergency response exercise (tabletop) each grant period.

2.5. Any LEPC making application shall complete the required information on the forms prescribed by the SERC.

'55-2-3. Award of Grants.

3.1. All grant periods shall be on a calendar year beginning the first day of January of each year.

3.2. Final Grant and Reductions in Grand Awards. In order to be eligible for the full grant award, the LEPC must have incurred eligible expenses of at least the grant amounts and must have completed the required work activities as outlined in the grant proposal. If the LEPC fails to complete the required work activities, the final grant award and final payment of the grant shall be reduced.

3.2.1. The value of the grant is calculated as follows:

3.2.1.a. Work activities associated with planning shall be worth up to 70% of the grant;

3.2.1.b. Work activities associated with Local Emergency Planning Committee administration shall be worth up to 30% of the grant; and

3.2.1.c. Exercises shall be worth up to the maximum allowable amount for the type of exercise conducted.

3.3. The following shall constitute eligible costs for purposes of the grant program:

3.3.1. Personnel costs, including salary and fringe benefits, travel reimbursement for developing, reviewing and updating emergency response plans and for administration of the LEPC are eligible.

3.3.2. Copying, printing, postage costs associated with developing, reviewing, updating and publishing of emergency response plans and associated LEPC operations are eligible.

3.3.3. Each LEPC is eligible for funding during the grant year for certain costs of conducting hazardous materials emergency response exercises as determined by the SERC.

3.4. Requests for the first payment (up to twenty-five percent (25%) of the grant award) shall be made if the grant application is approved.

3.5. Second payment requests (up to twenty-five percent (25%) of the grant application) must be received by the SERC no later than the first of July of each grant year and shall include actual expenditures incurred by the LEPC through the thirty-first of May of the grant year. No second payments will be made for requests received after the first of July; those requests will be considered as part of the final close-out of the grant.

3.6. Grant close-out including reimbursement requests and certification of expenses must be received by the SERC no later than the first day of March of the next grant year. Payment will be made based on actual eligible documented expenditures and completed LEPC Emergency Response Plan submission. If the required close-out information is not received by the SERC by the first day of March 1 and:

3.6.1. If no request for a second payment has been received, the SERC shall assume that the LEPC has had no eligible expenditures during the grant period and any payment shall be considered to be an overpayment, or

3.6.2. If a request for a second payment has been received, the SERC shall assume that the eligible expenditures reported on the request for second payment are the LEPC's total final eligible expenditures.