

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #2

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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

AGENCY: Dept. Commerce, Labor & Environmental Resources, Division of Natural Resources TITLE NUMBER: 58

RULE TYPE: Legislative; CITE AUTHORITY § 20-11-5a(h)(1)

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: SERIES 43

TITLE OF RULE BEING AMENDED: TITLE 58 - RECYCLING ASSISTANCE FUND GRANT PROGRAM

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: _____

TITLE OF RULE BEING PROPOSED: _____

IN LIEU OF A PUBLIC HEARING, A COMMENT PERIOD HAS BEEN ESTABLISHED DURING WHICH ANY INTERESTED PERSON MAY SEND COMMENTS CONCERNING THESE PROPOSED RULES. THIS COMMENT PERIOD WILL END ON July 12, 1994 AT 5:00 pm.

ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS: Maxine Scarbro, Division of Natural Resources, Conservation Education/Litter Control, Capitol Complex, Bldg. 3, Room 732, Charleston, West Virginia 25305-0665

THE ISSUES TO BE HEARD SHALL BE LIMITED TO THE PROPOSED RULE.



Charles B. Felton, Jr., Director
Division of Natural Resources

8.00

ATTACH A BRIEF SUMMARY OF YOUR PROPOSAL



DEPARTMENT OF COMMERCE, LABOR & ENVIRONMENTAL RESOURCES
OFFICE OF THE SECRETARY

State Capitol, Room M-146
Charleston, West Virginia 25305-0310
Telephone: (304) 558-0400
Fax No.: (304) 558-4983

GASTON CAPERTON
Governor

THOMAS J. GILLOOLY
Acting Cabinet Secretary

June 7, 1994

Mr. Charles B. (Chuck) Felton, Jr.
Director
Natural Resources
Bldg. 3, Room 669
Charleston, West Virginia 25305

Re: Proposed Exempt Legislative Rule, Title 58, Series 43,
Recycling Assistance Fund Grant Program

Dear Chuck:

Pursuant to West Virginia Code Section 5F-2-2(a)(12), I hereby consent to the proposal of the rule specified above.

You may attach a copy of this letter to your filing with the Secretary of State as evidence of my consent.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Thomas J. Gillooly".

Thomas J. Gillooly
General Counsel and
Acting Secretary

TJG/ss

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STATE OF WEST VIRGINIA
DEPARTMENT OF COMMERCE, LABOR AND ENVIRONMENTAL RESOURCES
DIVISION OF NATURAL RESOURCES

State Capitol Complex
Building 3, Room 669
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305-0660
TDD 558-1439 TDD 1-800-354-6087
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GASTON CAPERTON
Governor

CHARLES B. FELTON, JR.
Director

JOHN M. RANSON
Cabinet Secretary

MEMORANDUM

TO: Thomas J. Gillooly, Acting Secretary
Department of Commerce, Labor
and Environmental Resources

FROM: Charles B. Felton, Jr., Director
Division of Natural Resources

DATE: June 3, 1994

SUBJECT: Division Approval of Proposed Rules and Request for
Department Consent to File.

=====

The proposed rule amendment listed on the enclosed "MEMORANDUM OF CONSENT" has my approval to be proposed pursuant to the West Virginia Administrative Procedures Act. Your approval is requested.

Charles B. Felton, Jr., Director
Division of Natural Resources

**TITLE 58
DEPARTMENT OF COMMERCE, LABOR AND
ENVIRONMENTAL RESOURCES
DIVISION OF NATURAL RESOURCES**

**SERIES 43
RECYCLING ASSISTANCE FUND GRANT PROGRAM**

PREAMBLE TO A PROPOSED RULE

- AGENCY:** Department of Commerce, Labor, and Environmental Resources; Division of Natural Resources.
- REGULATION:** Title 58, Series 43, "Recycling Assistance Fund Grant Program."
- ACTION:** Filing of an amendment to Existing Rule and Notice of a Thirty Day Public Comment Period.
- SUMMARY:** The existing rule sets out the procedures and guidelines for providing Recycling Assistance Fund Grants to those who are required by law or who wish to plan and implement a recycling program.

Written comments received prior to 5:00 p.m.
July 12, 1994 will be accepted. Written comments should
be sent to:

Maxine Scarbro
Division of Natural Resources
Conservation Education/Litter Control
Capitol Complex, Bldg. 3, Room 732
Charleston, WV 25305-0665

**TITLE 58
DEPARTMENT OF COMMERCE, LABOR AND
ENVIRONMENTAL RESOURCES
DIVISION OF NATURAL RESOURCES**

**SERIES 43
RECYCLING ASSISTANCE FUND GRANT PROGRAM**

PREAMBLE TO A PROPOSED RULE

AGENCY: Department of Commerce, Labor, and Environmental Resources; Division of Natural Resources.

REGULATION: Title 58, Series 43, "Recycling Assistance Fund Grant Program."

ACTION: Filing of an amendment to Existing Rule and Notice of a Thirty Day Public Comment Period.

**STATEMENT OF
CIRCUMSTANCES:**

The proposed amendment to existing rule reflects changes required in order to make grant application and implementation procedures more specific, and to make changes in citations necessitated by the Division of Environmental Protection reorganization bill.

Written comments received prior to 5:00 p.m. July 12, 1994 will be accepted. Written comments should be sent to:

Maxine Scarbro
Division of Natural Resources
Conservation Education/Litter Control
Capitol Complex, Bldg. 3, Room 732
Charleston, WV 25305-0665

FISCAL NOTE FOR PROPOSED RULE

Rule Title: Recycling Assistance Fund Grant Program 58 C.S.R. 43

Type of Rule: Legislative Interpretive Procedural

Agency: Division of Natural Resources

Address: Building 3, State Capitol Complex, Charleston, West Virginia

| 1. Effect of Proposed Rule | ANNUAL | | FISCAL YEAR | | |
|----------------------------|-------------|----------|-------------|-------------|-------------|
| | Increase | Decrease | Current | Next | Thereafter |
| Estimated Total Cost | \$2,400,000 | \$ | \$2,400,000 | \$2,402,500 | \$2,435,000 |
| Personal Services | \$ 150,000 | | \$ 150,000 | \$ 150,000 | \$ 180,000 |
| Current Expenses | \$ 138,000 | | \$ 138,000 | \$ 140,000 | \$ 142,000 |
| Repairs & Alterations | \$ 2,000 | | \$ 2,000 | \$ 2,500 | \$ 3,000 |
| Equipment | \$ 10,000 | | \$ 10,000 | \$ 10,000 | \$ 10,000 |
| Other | \$2,100,000 | | \$2,100,000 | \$2,100,000 | \$2,100,000 |

2. Explanation of above estimates: The above estimates are based on 50% of the special revenue deposited in the Recycling Assistance Fund as provided for in W. Va. Code § 20-11-5a. In general it is expected that about 10% of these funds will be used to cover program administrative costs and the balance provided in assistance grants.

3. Objectives of this rule: Set out procedures and guidelines for providing assistance grants to municipalities, counties and others planning and implementing recycling programs.

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government. Funds for program administration and assistance grants are derived from special revenue funds provided for in the W. Va. Recycling Act. General revenue funds are not involved.

B. Economic Impact on Political Subdivisions; Specific Industries; Specific groups of citizens. While this rule can provide assistance grants to those planning and implementing recycling programs; there is the potential, at least for the first few years, of recycling program costs exceeding assistance grants for those entities required by law to implement a recycling program.

C. Economic Impact on Citizens/ Public at Large. Funds to generate the special revenue are derived from fees placed on the disposal of solid waste, which are passed on to those that generate the solid waste.

Date:

Signature of Agency Head or Authorized Representative

Charles B. Felton, Jr., Director, Division of Natural Resources

558-2754

~~TITLE 58~~ ~~TITLE 47~~
DEPARTMENT OF COMMERCE, LABOR AND
ENVIRONMENTAL RESOURCES
DIVISION OF NATURAL RESOURCES

SERIES 43
RECYCLING ASSISTANCE FUND GRANT PROGRAM

~~FILED AS AN EMERGENCY RULE APRIL 13, 1992~~
~~EFFECTIVE JUNE 9, 1993~~

§58-43-1. ~~§47-43-1.~~ General.

1.1. Scope and Purpose. - This regulation provides guidelines for awarding grants to assist municipalities, counties and other interested parties in the planning and implementation of 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. - June 30, 1993

1.4. Effective Date. - June 30, 1993

§58-43-2. ~~§47-43-2.~~ Definitions.

2.1. "Co-mingled" means those source separated recyclable materials that are aggregated into a container(s) to facilitate collection and transportation to a facility for further processing.

2.2. "Director" means the director of the West Virginia Division of Natural Resources or his authorized representative.

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

2.4. "Materials Recovery Facility" means ~~a facility for processing of source separated materials, and may include co-mingled source separated materials;~~ any solid waste facility at which source-separated materials or materials recovered through a mixed waste processing facility are manually or mechanically shredded or separated for purposes of reuse and recycling, but does not include a composting facility.

2.5. "Municipality" means an incorporated community.

2.6. "Recycling Market Procurement" means developing markets for the materials generated by programs funded from the Recycling Assistance Fund Grant Program.

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

2.8. ~~"Source-separated" means the removal of recyclable materials at the point of solid waste generation from that waste which is to be landfilled.~~
"Source-separated materials" 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.

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

~~§58-43-3. §47-43-3.~~ **Grants Available From Recycling Assistance Fund Grant Program.**

3.1. The Recycling Assistance Fund Grant program provides grants to assist municipalities, counties and other interested parties in:

3.1.1. Planning and implementation of recycling programs;

3.1.2. Public education programs related to recycling; and

3.1.3. Recycling market procurement efforts.

3.2. Recycling Assistance Fund grant proposals that are in compliance with the criteria of section 3.1 of these regulations will be evaluated on a competitive basis considering each proposal's objectives towards maximizing the following factors; conservation of limited natural resources, reduction of litter, recycling of valuable materials, extending the useful life of solid waste landfills, and reducing the need for new landfills throughout the state.

3.3 The following types of grants are available:

3.3.1. Local Government Recycling Feasibility Study and Planning Grants - This grant is to be used to investigate the feasibility of, and to prepare detailed, comprehensive planning for, community/county recycling programs. A professional service may be utilized to plan and implement a comprehensive recycling program.

3.3.2. Recycling Promotion and Collection Drive Grants - This type 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 § 20-11-6 of the state code. Such grants are for the purpose of implementing recycling programs consisting of at a minimum source separation, collection and transportation activities. This grant may also include such activities as a school project, drop-off bins, special events which will help to increase public awareness of recycling and its benefits.

3.3.3. Local Government Recycling Operation Grants - This grant is for the implementation of municipal, county and regional recycling programs. These grants must emphasize the integration of recycling into local, comprehensive, Solid Waste Management Board approved, solid waste management plans developed by the local or regional solid waste authorities.

3.3.4. Office Paper Recovery Programs - In the absence of a municipal and/or county-wide recycling program, any state agency or instrumentality of the state may apply for assistance to plan and implement on a county or greater level an office wastepaper recovery program in government, school, and local offices. Funds are available for such activities as paper collection equipment acquisition, transportation to a processing center, program publicity and promotional activities.

3.3.5. Other Interested Party (including private enterprise) Recycling Program Grants and Nonprofit Recycling Center Operation Grants.

3.3.6. Recycling Market Development Grants - This Grant is available to State, regional, county or local governments to assist in developing markets for materials produced or expected to be produced in recycling programs.

§58-43-4. ~~§47-43-4.~~ Grant Program Priority and Other Criteria.

4.1. All West Virginia municipalities, county commissions, and county and regional solid waste authorities are eligible to apply for recycling assistance funding as provided for in subsections 3.3.1, 3.3.3 and 3.3.6 of this regulation. However, priority for funding will be given 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 §§ 20-11-5 and 20-11-6 of the state code. In those instances where a county by referendum has adopted a recycling program that is consistent with the provisions of § 20-11-5(c) of the state code, and the county contains one or more municipalities each with a population greater than 10,000, then such municipality's recycling program must at a minimum be consistent and coordinated with the county's recycling program. Such program funding proposals must meet the following appropriate criteria:

4.1.1. For municipalities with populations over 10,000:

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

4.1.1.b. Proposals for funding under subsection 3.3.3 of this regulation must contain as part of the application documentation that the plan to be implemented has been approved by the solid waste management board.

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

4.1.3. Municipalities with populations under 10,000 may plan and implement the collection and transportation of recyclable materials featuring curbside or drop-off collection systems; public education about recycling; and/or integration of other materials into the recycling program, such as cardboard, household composting, used oil, and yard waste.

4.1.4. Special funding proposals for five or more communities or two or more counties combining their efforts to provide a county-wide or multi-county recycling program must have a comprehensive recycling plan(s) which has been approved by the West Virginia Solid Waste Management Board.

4.2. In the absence of either a municipal or a comprehensive county recycling program, all agencies and instrumentalities of the state, primary and secondary schools, and private colleges and universities shall be eligible to receive grants under subsections 3.3.2, 3.3.4 and 3.3.6 of this regulation. Grant proposals shall include, but not be limited to the following:

4.2.1. Source separation of at least two recyclable materials; and

4.2.2. Collection and transportation of source separated materials.

4.3. Other interested parties, including private enterprise and non-profits which may at a minimum apply for grants under subsection 3.3.5 of this regulation, may be eligible to receive recycling assistance fund grants, provided grant proposals are consistent with one or more of the objectives listed under section 3.1 of this regulation, and includes, but is not limited to the recycling activities listed under subsection 4.2 of this regulation.

§58-43-5. ~~§47-43-5.~~ Use of Grant Funds.

Recycling assistance grants may be used to:

5.1. Enhance the self-sufficiency of recycling in counties or communities through initiation of new, or support of, on-going recycling activities.

5.2. Supplement wages of personnel directly involved with administration or operation of recycling activities; rent or purchase of recycling equipment, including but not limited to such items as curbside containers, or drop-off boxes; collection and transportation of recyclables; development and implementation of recycling program plans and related enforcement programs; recycling promotion and public education; and recycling market procurement efforts.

5.2.1. Allowable costs for Recycling Assistance Fund grants are:

5.2.1.a. Personnel - Limited to the salary costs associated with a recycling manager or coordinator and laborers. No more than \$20,000 of Recycling Assistance Fund grant monies may be used for the wages/benefits of a recycling manager/coordinator and/or laborers.

5.2.1.b. Travel - 1) Recycling workshop expenses are limited to expenses outside of the program boundaries and are allowable for items such as airfare or mileage, meals, lodging, parking and registration fees for attending recycling meetings, workshops and conferences. These costs are limited to a maximum of \$1,000 per year per grant from the Recycling Assistance Fund grant monies, and 2) recycling vehicle expenses which are limited to the lease/purchase, maintenance, fuel, mileage and insurance for truck or van used in approved recycling activities. Shipping materials to market using the program's vehicles and labor is an approved recycling activity.

5.2.1.c. Supplies - General office supplies; and other supplies such as collection bags or household bins used for the collection/storage of recyclables.

5.2.1.d. Equipment - Limited to processing equipment, material handling equipment, material storage equipment, scales, and safety equipment used in recycling activities.

5.2.1.e. Other - 1) Printing/production which is limited to costs associated with the production of educational materials on recycling such as pamphlets, booklets, posters, flyers, etc; 2) Advertising which 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; 3) Promotion items which are limited to costs associated with promotional items such as awards, decals, patches, buttons, magnets, and costs associated with the rental of fair booth and exhibit space for recycling awareness; 4) Professional services to assist in planning and implementation of recycling projects including feasibility studies; and 5) Development work directed towards recycling market procurement.

5.2.2. Costs not allowed under a recycling assistance fund grant are:

5.2.2.a. Purchase or long term lease of dumpsters or other containers or their servicing when not part of an approved recycling activity.

5.2.2.b. Land acquisition.

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

5.2.2.d. Street sweepers or their equivalents.

5.2.2.e. Entertainment costs (banquets, parties, etc.).

5.2.2.f. Alcoholic beverages, in-state lunches, and all gratuities.

5.2.2.g. Beautification projects (plantings, mowing, weeding, etc).

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

5.2.2.i. Expenditure of grant funds for any type of lobbying expense is strictly prohibited.

§58-43-6. §47-43-6: 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/ordinance from the local governing body or a formal policy/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 an 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 in the project area and should include a plan to provide public education about 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.

~~6.1.10. The proposed project must be limited to the collection, processing and market development of recyclable materials and NOT for the manufacture of products from recyclable materials.~~

6.2. The following general conditions apply to non-profit organizations and other interested parties applying for funding under the Recycling Assistance Fund Grant Program.

§58-43-7. ~~§47-43-7.~~ **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 <u>County or Regional Solid Waste Authority</u> | \$ 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 |
| Non-profit organization and Other interested party parties, including non-profit organization, private enterprise. | \$ 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.

§58-43-8. ~~§47-43-8.~~ **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; 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. Implementation of proposals must contain a policy statement, regulation or ordinance as required by the provisions of this regulation that outlines 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. All proposals must include a public information and education component to ensure receiving good clean quality materials.

8.5. The proposal must provide, where appropriate, for a collection system.

8.6. Where required by the West Virginia Recycling Act the proposal must contain provisions to ensure compliance with the ordinance, including incentives and penalties.

8.7. All proposals 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 grantee.

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

8.10. All proposals 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.

§58-43-9. ~~§47-43-9.~~ 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, to be appointed by the Director; the Executive Director of the Solid Waste Management Board; the Director of the ~~Economic Development Office~~ West Virginia Development Office; the Director of the Division of Environmental Protection; the Director of the Division of Natural Resources; and a representative of business or industry, to be appointed by the ~~Director~~ Director. For the purpose of conducting business, four (4) members of the Recycling Assistance Fund Grant Review Committee shall be 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 as soon as possible after award decisions have been made. Unsuccessful applicants will be given the opportunity to discuss their proposals with appropriate staff.

~~§58-43-10. §47-43-10.~~ 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 each year. extensions may be granted upon written request of the grantee which must set forth reasons necessary for the extension, subject to the approval of the WV Division of Natural Resources Director. Subsequent extensions must be reviewed by the Recycling Assistance Committee.

10.2. Complete recycling assistance fund grant applications must be submitted to the West Virginia Division of Natural Resources prior to the first day of August each year. ~~However, municipalities with populations greater than 10,000 should make application as soon as possible, but no later than the first day of August, so that they may meet the time frames provided for in the West Virginia Recycling Act.~~ Projects submitted must be ready to go upon approval.

10.3. Notification to grant applicants relative to funding of their proposal will be made during the first full week in November each year with grant award letters issued ~~by~~ no later than the first of January the following year.

10.4. 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 be disbursed 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..

10.5. The grantee must retain and make available upon request by the West Virginia 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 § 12-4-14 of the West Virginia State Code apply to all Recycling Assistance Fund Grants. A copy of the grantee's independently audited financial records that cover the entire grant period shall be provided to the West Virginia Division of Natural Resources.

10.6. All unexpended grant funds remaining at the end of 90 days following submission of the final report required in section 11 of this regulation shall be returned to the recycling assistance fund grant program.

10.7. 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 West Virginia Division of Natural Resources, payment of remaining grant funds will be terminated.

10.8. 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 grant award and/or future consideration of funds.

10.9. Grant funds must be set up in a separate account, and checks deposited immediately upon receipt.

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

§58-43-11. ~~§47-43-11.~~ Site Visits and Reports Required.

11.1. A final report must be submitted on or before January 30, 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 recycling grantees to the DNR 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 and grant recipients, and may include inspections from the Division of Environmental Protection and site visits from the West Virginia Solid Waste Management Board.

§58-43-12. ~~§47-43-12.~~ Equal Employment Opportunity.

12.1. In implementing 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.

12.1.2. 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.

§58-43-13. ~~§47-43-13.~~ Certification Regarding Drug-Free Workplace Requirements.

Certification is required by the Drug-Free Workplace Act of 1988 and 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.

§58-43-14. ~~§47-43-14.~~ Submission of Application.

14.1. All applications for a recycling assistance fund grant must contain in addition to a description of the proposed project, an estimated budget, Certification Regarding Drug-Free Workplace, and where required a resolution authorizing the submission of application.

14.2. Applications should be mailed to: West Virginia Recycling Assistance Fund Grant Program, 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 West Virginia Division of Natural Resources, at (304) ~~348-3370.~~ 558-3370.

§58-43-15. ~~§47-43-15.~~ Severability.

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

WEST VIRGINIA DIVISION OF NATURAL RESOURCES
WV RECYCLING ACT GRANTS PROGRAM

GRANT APPLICATION

Submission Date: _____

Name of Applicant Organization Contact Person

Street or Box Number City State Zip Code

Office Telephone Home Telephone Federal Ident. No. (FEIN)

Type of Grant Request:

| | |
|----------------------------------------|-------|
| Recycling Feasibility Study/Planning | _____ |
| Recycling Promotion & Collection Drive | _____ |
| Office Paper Recovery | _____ |
| Implementation/Operations: | |
| Municipality Over 10,000 | _____ |
| Municipality Under 10,000 | _____ |
| County | _____ |
| Cooperative (subsection 7.2) | _____ |

\$ _____
Total Amount of Project

\$ _____
Amount Requested From DNR

~~Signature of Applicant Official~~
Chairman of Solid Waste Authority or
Mayor of Municipality or
President of County Commission
Name (typed):

~~Signature of Project Manager~~
Name (typed):

Position/Title:

Position/Title:

Address & Telephone No.:

Address & Telephone No.:

Social Security Number:

Social Security Number:

NOTE: Application Must Be Accompanied By A Certified Resolution Authorizing The Submission Of Application.

Application is being made in the absence of a municipal and/or county recycling program.
 YES NO

Is a solid waste facility permit required from the Division of Environmental Protection, Office of Waste Management?
 YES NO

Is a certificate of need required from the Public Service Commission
 YES NO

Is a certificate of siting approval required from the county or regional solid waste authority?
 YES NO

PROPOSAL NARRATIVE: (Must be a complete description of proposed project, what is to be accomplished and how, with list of materials to be collected and source separated. Limit to two pages. Attach additional pages as necessary.)

WEST VIRGINIA DIVISION OF NATURAL RESOURCES
WV RECYCLING ACT GRANTS PROGRAM

ESTIMATED BUDGET

Applicant's Name: _____

Applicant's Address: _____

Project Manager's Name: _____

Telephone Number: _____

LINE ITEM

ESTIMATED BUDGET

Personnel Services:

Travel:

Supplies:

Equipment:

Other:

TOTAL ESTIMATED BUDGET \$ _____

Signature of Authorized Person

Date

(Explanation of costs allowable under the above line items may be found in section 5 of these regulations.)

WEST VIRGINIA DIVISION OF NATURAL RESOURCES
WV RECYCLING ACT GRANT PROGRAM

PROGRESS REPORT

Quarter Ending: _____

Name of Organization

Street or Box No.

City

County

Zip Code

Project Title: _____

Give brief narrative of accomplishments during the past 3 months: _____

Give brief description of projections for the next 3 months: _____

Provide number of pounds of recyclable material collected during the past three months:

Aluminum Cans: _____

Tires: _____

Steel/BI-Metal Cans: _____

White Goods: _____

Paper: _____

Yard Waste: _____

Glass: _____

Other: _____

Plastic: _____

Comments: _____

EXPENDITURES FOR THE QUARTER

| <u>Line Item</u> | <u>Grantee Share of Expenditures</u> | <u>Grant Funds Expended</u> |
|--------------------|--------------------------------------|-----------------------------|
| Personnel services | \$ | \$ |
| Travel | \$ | \$ |
| Supplies | \$ | \$ |
| Equipment | \$ | \$ |
| Other | \$ _____ | \$ _____ |
| Total | \$ | \$ |

I certify that the above expenditures were made in carrying out the purposes and objectives of the WV Recycling Act and that such expenditures are true costs of the approved grant project.

Authorized Person

Date

**WEST VIRGINIA DIVISION OF NATURAL RESOURCES
WV RECYCLING ACT GRANTS PROGRAM**

FINAL REPORT

This form must be completed with the final report attached and postmarked no later than 30 days following the end of the grant period. MAIL TO: WV Recycling Program, WV Division of Natural Resources, Building 3, Room 732, Charleston, WV 25305-0665.

Name of Applicant Organization _____

Name of Project Manager _____

Street or Box No. _____ City _____ County _____ Zip Code _____

Office Telephone _____ Home Telephone _____ Federal Identification No. (FEIN) _____

Title of Recycling Project _____

Starting Date _____ Ending Date _____ Total Months of Project _____

Signature of Grant Applicant _____

Name (typed):

Position/Title:

Address & Telephone No.:

Social Security Number: _____

Signature of Project Manager _____

Name (typed):

Position/Title:

Address & Telephone No.:

Social Security Number: _____

Date Final Report Mailed: _____

Attach to this form the following:

- 1) Accounting of grant funds received and expended.
- 2) Detailed narrative summary of the implementation of the recycling project, written to provide others insights for starting similar projects. Provide an evaluation of successes and failures encountered in implementing the original proposal's work tasks. Include a composite of individual volumes of recycled materials collected.
- 3) Include a detailed technical evaluation of major equipment used in project, including discussions on operating costs, performance characteristics, and strong and weak points.
- 4) Give an analysis of economic development achievements, such as job development.

**WEST VIRGINIA DIVISION OF NATURAL RESOURCES
WV RECYCLING ACT GRANT PROGRAM**

**RECYCLING FEASIBILITY STUDY/PLANNING
GRANT APPLICATION**

DATE
Deadline: *AUGUST 1*

Applicant Name: _____

Address: _____ Telephone #: _____

Check appropriate category:

- Municipality over 10,000 _____
- County Commission _____
- County Solid Waste Authority _____
- Regional Solid Waste Authority _____
- Regional Planning Council _____

Requests a Feasibility Study/Planning Grant in the amount of \$ _____ to be used for the purpose of developing direction for a recycling program which will include a system for source separation, collection and marketing of recyclable materials. A copy of the feasibility study will be made available to the West Virginia Division of Natural Resources and the West Virginia Solid Waste Management Board upon completion of the study.

It is further understood that in order for a Feasibility Study/Planning applicant to apply for an implementation grant, a complete application that includes forms RG-1 Grant Application; RG-2 Estimated Budget; Resolution approval by governing body; and Drug-Free Workplace Requirement must be provided to the Division of Natural Resources by *August 1*. If additional time is needed to complete the Feasibility Study and prepare application for implementation, contact the DNR for an extension.

Signature of Applicant Official

Position/Title

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING _____ TO FILE AN APPLICATION AND ENTER INTO AGREEMENT WITH THE WEST VIRGINIA DIVISION OF NATURAL RESOURCES FOR THE PURPOSE OF ACQUIRING FUNDS THROUGH THE WEST VIRGINIA RECYCLING ACT GRANT PROGRAM PURSUANT TO THE WEST VIRGINIA RECYCLING ACT OF 1991.

WHEREAS, millions of dollars are spent in West Virginia each year to remove unsightly and unsanitary litter from along streets, roads, waterways, recreational places and other public areas; and

WHEREAS, _____ recognizes the existence of a litter problem within the boundaries of the _____ and the need to address the problem at the local level; and

WHEREAS, the West Virginia Recycling Act of 1991 provides, through the Division of Natural Resources, Conservation Education and Litter Control Section for the allocation of funds in the form of grants for the purposes of initiating and/or expanding recycling programs.

NOW, THEREFORE, BE IT RESOLVED BY _____ COUNTY OF THE STATE OF WEST VIRGINIA:

SECTION 1. That the _____ hereby endorses and supports a Litter Prevention and Recycling Program for the _____ and authorizes the implementation of said program, if approved, as indicated in its application.

SECTION 2. That the _____ is hereby authorized to apply for and, if awarded, enter into agreement with the Division of Natural Resources to administer a grant and implement said program, and that _____ is (are) authorized to sign said agreement.

SECTION 3. That the _____ hereby requests the Division of Natural Resources, Conservation Education and Litter Control Section to consider and fund its application project.

SECTION 4. That it is found and determined that all formal actions of this _____ concerning and relating to the adoption of this resolution were adopted in an open meeting of this _____ and that all deliberations of this _____ and of any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements.

RESOLUTION NO. _____ ADOPTED ON _____, 19____

Signature

Title Solid Waste Authority Member

Signature

Title Solid Waste Authority Member

Signature

Title Solid Waste Authority Member

WITNESSED: _____
Clerk or Authorized Person

GROUPS OTHER THAN SOLID WASTE AUTHORITIES

Signature

Title

Signature

Title

Signature

Title

WITNESSED: _____
Clerk or Authorized Person

CERTIFICATION REGARDING DRUG-FREE WORKPLACE REQUIREMENTS

This certification is required by the Drug-Free Workplace Act of 1988 (Pub. L 100-690, Title V, Subtitle D) and is implemented through additions to the Debarment and Suspension regulations, published in the Federal Register on January 31, 1989.

An organizational applicant certifies that it will provide a drug-free workplace by:

- (a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
- (b) Establishing a drug-free awareness program to inform employees about--
 - (1) the dangers of drug abuse in the workplace;
 - (2) the grantee's policy of maintaining a drug-free workplace;
 - (3) any available drug counseling, rehabilitation, and employee assistance programs; and
 - (4) the penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
- (c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);
- (d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will--
 - (1) abide by the terms of the statement; and
 - (2) notify the employer of any criminal drug statute conviction for a violation occurring in the workplace not later than five (5) days after such conviction;
- (e) Notifying the agency within ten (10) days after receiving notice under subparagraph (d) (2) from an employee or otherwise receiving actual notice of such conviction;
- (f) Taking one of the following actions, within 30 days of receiving notice under subparagraph (d) (2), with respect to any employee who is so convicted--
 - (1) taking appropriate personnel action against such an employee, up to and including termination; or
 - (2) requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;
- (g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).

Place of Performance: The applicant shall insert in the space provided below the site(s) for the performance of work done in connection with the specific grant: (street address, city, county, state, zip code). _____

An applicant who is an individual certifies that, as a condition of the grant, he or she will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the grant.

This assurance is given in connection with any and all financial assistance from the West Virginia Division of Natural Resources after the date this form is signed. This includes payments after such date for financial assistance approved before such date. The applicant recognizes and agrees that any such assistance will be extended in reliance on the representations and agreements made in this assurance, and the United States shall have the right to seek judicial enforcement of this assurance. This assurance is binding on the applicant, its successors, transferees, and assignees, and on the authorized official (or individual applicant, as appropriate) whose signature appears below.

Organization Name Award Number

Name and Title of Authorized Representative

Signature Date