

**WEST VIRGINIA
SECRETARY OF STATE**

KEN HECHLER

ADMINISTRATIVE LAW DIVISION

Form #2

FILED

JUN 3 8 51 AM '98

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

AGENCY: Bureau of Commerce Division of Natural Resources TITLE NUMBER: 58

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

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 5

TITLE OF RULE BEING AMENDED: Recycling Assistance Fund
Grant Program

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: _____

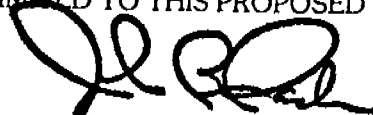
TITLE OF RULE BEING PROPOSED: _____

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 6, 1998 AT 4:30 p.m.

ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS.

West Virginia Division of Natural Resources
Conservation Education and Litter Control
1900 Kanawha Boulevard East
Building 3 Room 732
Charleston, WV 25305

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



Authorized Signature

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

\$6.00

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

**SERIES 5
RECYCLING ASSISTANCE GRANT PROGRAM**

**PREAMBLE TO A PROPOSED RULE
SUMMARY OF PROPOSED RULE**

AGENCY: Bureau of Commerce; Division of Natural Resources

REGULATION: Title 58, Series 5, "Recycling Assistance 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 Grants to those who are required by law or who wish to plan and implement a recycling program.

The proposed amendment incorporates language from Senate Bill 602 which was passed during the 1998 Legislative session. Also, the proposed changes include naming DNR as first lienholder on all equipment purchased with grant, equipment not productively used for 180 days shall revert back to DNR, unexpended funds remaining on March 31 shall be returned, and increases grant amount for non-profit/other interested party from \$20,00 to \$50,000 and other technical changes.

Written comments received prior to 4:30 p.m., July 6, 1998, will be accepted. Written comments should be sent to:

Emily Fleming, Administrator
WV Division of Natural Resources
Conservation Education and Litter Control
1900 Kanawha Boulevard East
Building 3, Room 732
Charleston, West Virginia 25305

**STATEMENT OF CIRCUMSTANCES WHICH REQUIRE THE
PROPOSED AMENDMENT**

The proposed amendment incorporates language from Senate Bill 602, passed March 14, 1998, effective June 11, 1998, which excludes persons who collect, haul or dispose of solid waste and do not participate in the collection and payment of the solid waste assessment fee from receiving grants. The proposed rule requires DNR to be named as first lienholder on all equipment purchased with grants. Also, requires equipment which is not productively used for 180 days to revert back to DNR. Establishes procedures for Private Sector grants, changes in maximum grant amounts, and time extensions. The proposed amendment require that all unexpended funds remaining as of March 31 of the following year be returned to DNR. Other technical changes are contained in the proposed amendment.

FISCAL NOTE FOR PROPOSED RULE

Rule Title: RECYCLING ASSISTANCE GRANT PROGRAM 58-C.S.R. 43

Type of Rule X Legislative Interpretive Procedural

Agency Division of Natural Resources

Address Capitol Complex

Building 3, Room 732

Charleston, WV 25305

1. Effect of Proposed Rule

	ANNUAL			FISCAL YEAR	
	INCREASE	DECREASE	CURRENT	NEXT	THEREAFTER
ESTIMATED TOTAL COST			\$2,700,254	\$2,804,515	\$2,739,000
PERSONAL SERVICES			160,340	176,313	180,000
CURRENT EXPENSE			150,000	252,500	250,000
REPAIRS & ALTERATIONS			2,000	3,000	3,000
EQUIPMENT			2,800	9,000	6,000
OTHER			2,385,114	2,363,702	2,300,000

2. Explanation of above estimates:

The changes in the rule will not increase or decrease the amount of revenue required to operate the Grant Program. The figures shown above reflect the budgets for the program for fiscal years 1997 and 1998 and the estimated costs during 1999. The above estimates are based on 50% of the special revenue deposited in the Recycling Assistance Fund as provided for in WV Code 20-11-5a. In general it is expected that about 16% of these funds will be used to cover program administrative costs and the balance provided in assistance grants.

3. Objectives of these rules:

Set out procedures and guidelines for providing assistance grants to municipalities, counties, businesses, and others planning and implementing recycling programs.

Rule Title: RECYCLING ASSISTANCE GRANT PROGRAM 58 C.S.R. 43

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 WV Recycling Act. General revenue funds are not involved.

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

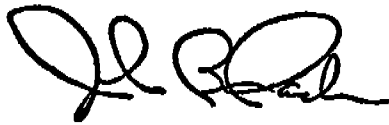
This rule allows political subdivisions and private businesses to apply for grant funds to implement recycling programs. By doing this, it eases the economic burden of these entities to operate such programs and allows them to redirect revenues into other aspects of their operation, such as jobs or expansion. The amendment incorporates language passed during the 1998 Legislative session which will exclude persons who collect, haul or dispose of solid waste and do not participate in the collection and payment of the solid waste assessment fee from receiving grants. Two municipalities which will be impacted are Huntington and Morgantown. Others could be impacted but are not known at this time.

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: June 3, 1998

**Signature of Agency or
Authorized Representative:**



JOHN B. RADER, DIRECTOR

FILED

JUN 3 8 51 AM '98

OFFICE OF WEST VIRGINIA¹
SECRETARY OF STATE

TITLE 58

BUREAU OF COMMERCE

DIVISION OF NATURAL RESOURCES

SERIES 5

RECYCLING ASSISTANCE FUND GRANT PROGRAM

§58-5-1. General.

1.1. Scope and Purpose.-This rule sets out guidelines and procedures for providing assistance grants to counties, 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.

1.4. Effective Date.

§58-5-2. 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 nonprofit organizations.

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

2.6. "Recyclable Materials" includes, but is not limited to steel and bimetal 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 include 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.

§58-5-3. Grants Available From Recycling Assistance 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 which promote 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, and Office Paper Recovery Grant-

The grant is available to ~~state agencies, other instrumentalities~~ and of the state and private colleges in the absence of a county, municipal, or county state 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 school projects, drop-off collection bins, paper collection equipment 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 county, municipal, county and regional recycling programs, and must shall 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 shall be approved by the West Virginia Solid Waste Management Board to qualify for the grant.

~~3.3.4 Office Recycling Recover 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 recover 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:~~

3.3.54. 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.

§58-5-4. 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 grants as provided for in subsections 3.3.1 through 3.3.54. 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 shall 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 program must shall at a minimum be consistent and coordinated with the county's recycling program. Grant proposals must shall meet the following criteria:

4.1.1. Municipalities with populations over 10,000:

4.1.1.a. Proposals for funding grants under subsection 3.3.1 of this rule must shall 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 grants under subsection 3.3.3. of this rule ~~must~~ shall 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~~ programs which promote 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~~ shall 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 recyclable 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.; and 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 programs which promote 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.

4.2.4. Persons responsible for collecting, hauling or disposing of solid waste who do not participate in the collection and payment of the solid waste assessment fee imposed by West Virginia Code §20-11-5a in addition to all other fees and taxes levied by law for solid waste generated in this state which is destined for disposal, shall not be eligible to receive grants.

§58-5-5. Use of Grant Funds:

Recycling assistance grant may be used to:

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

5.1.1. Supplemental wages of personnel directly involved with administration or operation or 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 grant shall be used for:

5.2.1. Personnel - Funding Grant is limited to the salary costs associated with a recycling manager, coordinator, or laborers. No more than a total of \$20,000 may be used from grant funds for the combined 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 Grant 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 Grant 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. All equipment shall revert back to the Division of Natural Resources if the recycling program dissolves. During the three (3) year lien period, at the discretion of the Director, equipment which has not been productively used for 180 days shall revert back to the Division of Natural Resources.

5.2.5. Recycling Vehicle Expense - Funding Grant 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 Printing - Grant is limited to costs associated with educational materials on recycling such as pamphlets, posters, flyers, etc.;

5.2.67.b. Funding for advertising Advertising - Grant 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;

5.2.68.c. Funding for promotion items Promotional Items - Grant 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;

5.2.69.d. Funding for professional services Professional Services - Grant is to assist in planning and implementation of recycling projects including feasibility studies; and

5.2.610.e. Funding for development work Development Work - Grant is 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. Cost 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.

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

6.1. The following general conditions apply to counties, 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~~ shall be an eligible ~~local, and/municipal~~ or county government, ~~state agency and/or state instrumentality~~ with an expressed commitment to recycling as a long-term solid waste management strategy. This commitment ~~must~~ shall 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~~ shall 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~~ shall be designed to affect a significant and measurable reduction in the municipal solid waste stream. All grant proposals ~~must~~ shall 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 county or municipal ~~or county~~ proposals ~~must~~ shall 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 shall** 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 shall** include a plan to identify markets able to handle the projected volumes of materials to be collected.

6.1.7. The proposal **must shall** clearly demonstrate that the county, 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 shall** be conducted directly by an agency of local or state government, or one of its instrumentalities.

6.1.8.a. 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.

6.1.8.b. The applicant shall solicit sealed bids for all construction-related contracts or purchases which have an estimated value of over five thousand dollars (\$5,000). Any attempts by the applicant to segregate the project into sections having an estimated value of less than \$5,000 may

be cause for termination of grant.

The bids shall be obtained by public notice as a Class II legal advertisement in compliance with the provision of W. Va. Code, §59-3-2. This notice shall be published by the applicant in the newspaper with the largest circulation serving the general area twice within fourteen days preceding the final date of submitting bids. The applicant shall have available upon request for review by the Division of Natural Resources or its designated representative, bid documentation and other evidence of compliance with these procedures.

The applicant shall comply with the requirements of W. Va. Code, §5G-1-1 et seq., in regard to obtaining architectural or engineering services, if such services are needed.

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. All grant recipients shall hold the title to equipment listing the West Virginia Division of Natural Resources as first lienholder for a period of three (3) years. The lien shall apply to equipment purchased with West Virginia Division of Natural Resources grant in whole or part. A copy of the title shall be submitted to the West Virginia Division of Natural Resources at the address shown in section 14.2 of this rule. The grant recipient shall assume risk of loss.

6.1.11. Public and private sector grants involving equipment shall have subsequent on-site inspections each year for a period of three (3) years. Once this period has expired the state will no longer have an attachment.

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 shall 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 shall 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.

6.3. Private Sector Grant Guidelines:

6.3.1 Applicant shall demonstrate through a narrative their past performance in recycling.

6.3.2. All equipment specifications shall be a part of the grant application and include seller's name and price.

6.3.3. All equipment purchases shall be done by public bid.

6.3.4. Maximum amount of grant is \$50,000.

6.3.5. Quarterly reports shall be submitted showing totals of all recyclables whether or not they relate directly to the grant.

6.3.6. All private sector grants shall be subject to the rules and regulations in the general grant guidelines. Where there is a contradiction, the private sector rules shall apply.

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

7.1. Schedule for one applicant:

Type of Grant

Maximum Grant

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 or school.	\$ 50,000
<u>Recycling Promotion, Collection Drive</u>	
<u>and Office Paper Recovery.</u>	\$ 50,000
Recycling Feasibility Study/Planning.	\$ 20,000
Recycling Market Development.	\$ 20,000
<u>Non-Profit /Other Interested Party.</u>	\$-20,000 <u>50,000</u>

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.

§58-5-8. 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 ~~§20-9-122-C-4~~, i.e., source reduction; recycling, reuse and resource recovers; and landfilling.

8.2. All proposals applicants shall be coordinated consult 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. This written consultation shall be attached to and become a part of the grant application. Submission of written consultation is the responsibility of the applicant.

8.3. The proposal must ~~shall~~ contain the following:

~~8.3.a.~~ a ~~policy~~Policy statement and/or resolution or ordinance as required by the provisions of this rule, ~~and~~

~~8.3.b.~~ must ~~outline~~Outline of 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.

~~8.4:8.3.c.~~ The proposal must include a ~~public~~Public information program to ensure receipt of good clean quality materials.

~~8.5:8.3.d.~~ The proposal must provide for Description of a collection system.

~~8.6:8.3.e.~~ The proposal contain ~~provisions~~Provisions where required to ensure compliance with West Virginia Code §20-11-1, including incentives and penalties.

~~8.7:8.3.f.~~ The proposal must ~~demonstrate~~Projection of cost effectiveness and self-sufficiency of the proposed project.

~~8.8:8.3.g.~~ To the degree possible all proposals must demonstrate Documentation of 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.

~~8.10:8.3.h.~~ The proposal must set forth Documentation of any other type of grant assistance received, including the dollar amount, type of project, etc., for recycling and/or solid waste

management.

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

§58-5-9. 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 or such other person(s) to whom the agency Director has delegated authority or duties. 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~~ within a reasonable time after award decisions have been made. Unsuccessful applicants will be given the opportunity to discuss their proposals with appropriate staff.

§58-5-10. Submittal of Grant Applications; Awarding of Grants; Financial Management;

Unexpended Funds Grant 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~~ for approval on or before March 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 shall be submitted to the Division of Natural Resources prior to the first day of August each year. The Division of Natural Resources will notify all 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 grants 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 fourth quarterly report, as provided for in section eleven (11) of this regulationrule.

10.4. The grantee must shall 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 provision 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 of the 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 programs of March 31 of the following year shall be returned.

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. The grantee shall return any amount of the grant used for unauthorized expenditures. Authorized expenditures are those outlined in the original budget that was approved by the grant review committee.

10.7. The grantee ~~must~~ shall 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 ~~fund~~grants.

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

10.9. Grantees with an outstanding a current grant are not eligible for the next cycle of grants. A delinquent final report shall cause ineligibility for future grants.

10.10. A request for a change in budget will only be granted if it does not materially alter the original grant proposal approved by the grant review committee AND the adjustment is a result of conservative spending allowing any excess to be rebudgeted. (Example: Budgeted \$20,000 for

purchase of baler. Baler costs \$18,000. The extra \$2,000 may be rebudgeted upon approval.) All requests shall be made in writing.

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

11.1. Grantees ~~must shall~~ submit a final report for approval on or before January 31, or ~~within 30 days of completion of the project, whichever comes first~~ March 31 of the following year.

The report ~~must shall~~ 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.

11.1.5. A complete accounting of the grant funds expended for the entire year shall be included in the final report.

11.2. A progress status report and expenditure statement ~~must shall~~ 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 communications 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.

§58-5-12. 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.

§58-5-13. 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 shall be completed and accompany the grant application.

§58-43-14. Submission of Application.

14.1. The application for a recycling assistance fund grant must shall contain in addition to a description of the proposed project, an estimated budget with justification, certification regarding

drug-free workplace, copy of written consultation with the county or regional solid waste authority, application checklist, and where required, a resolution or ordinance authorizing the submission of application. Incomplete applications shall not be considered; they will be marked "incomplete" and returned for resubmittal within a reasonable time period.

14.2. The original and one copy of the application must shall be mailed to: West Virginia Division of Natural Resources, 1900 Kanawha Boulevard, East, Building 3, Room 732, Charleston, West Virginia 25305-0665, no later than August 1 of the year prior to the grant year.

~~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.~~

~~§58-5-15. Severability:~~

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





DIVISION OF NATURAL RESOURCES

Capitol Complex, Building 3, Room 732
1900 Kanawha Boulevard East
Charleston, WV 25305-0665
Telephone (304) 558-3370
Fax (304) 558-6207
TDD (304) 558-1439
TDD 1-800-354-6087

Cecil H. Underwood
Governor

John B. Rader
Director

MEMORANDUM

TO: Judy Cooper, Director
Administrative Law Division
Secretary of State's Office

FROM: John B. Rader, Director *JBR/ET*
Division of Natural Resources

SUBJECT: Revision to Title 58-Series 5
Recycling Assistance Grant Program

DATE: May 29, 1998

Attached is the proposed rule changes for Title 58-Series 5, Recycling Assistance Grant Program.

If you have any questions, please contact me at 558-3370.

EF/vsh

cc: Emily Fleming
James Hill
Becky Payne



DIVISION OF NATURAL RESOURCES

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1900 Kanawha Boulevard East
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Cecil H. Underwood
Governor

John B. Rader
Director

MEMORANDUM

TO: Debra Graham, Chief Counsel
Legislative Rule Making Committee
Secretary of State's Office

FROM: John B. Rader, Director *JBR/ST*
Division of Natural Resources

SUBJECT: Revision to Title 58-Series 5
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