

**WEST VIRGINIA  
SECRETARY OF STATE  
KEN HECHLER  
ADMINISTRATIVE LAW DIVISION**

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OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

Form #2

Extension of Sept. 11, 1997

**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 Sept. 11 1997 AT 5:00 P.M.

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

Emily Fleming, Administrator  
Conservation Education/LC  
1900 Kanawha Blvd. East  
Building 3, R-732  
Charleston, WV 25305

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

*Rebecca B. DeWitt*

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

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

**SERIES 5  
RECYCLING ASSISTANCE FUND GRANT PROGRAM**

**PREAMBLE TO A PROPOSED RULE**

- AGENCY:** Bureau of Commerce; Division of Natural Resources
- REGULATION:** Title 58, Series 5, "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.  
September 11, 1997 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



Administration  
(304) 558-3315  
FAX (304) 558-2768

Law Enforcement  
(304) 558-2783  
FAX (304) 558-1170

Parks and  
Recreation  
(304) 558-2764  
FAX (304) 558-0077

Wildlife  
Resources  
(304) 558-2771  
FAX (304) 558-3147

Conservation  
Education and  
Litter Control  
(304) 558-3370  
FAX (304) 558-2768


Public  
Information  
(304) 558-3380  
FAX (304) 558-2768

Real Estate  
Management  
(304) 558-3225  
FAX (304) 558-3680

*Wonderful  
West Virginia  
Magazine*  
(304) 558-9152  
FAX (304) 558-2768

**MEMORANDUM**

**TO:** Judy Cooper  
Secretary of State's Office

**FROM:**  Emily Fleming, Administrator  
Division of Natural Resources  
Conservation Education and Litter Control

**SUBJECT:** Revision to Preamble to Proposed Rule  
Title 58-Series 5  
Recycling Assistance Fund Grant Program

**DATE:** August 22, 1997

Please find revised copy of the above referenced Preamble to Proposed Rule, Title 58-Series 5, as follows:

Written comments received prior to 5:00 P.M. September 11, 1997 will be accepted.

In addition, please find enclosed revision to NOTICE OF COMMENT PERIOD ON A PROPOSED RULE, Title 58, Series 5, as follows:

Extension of September 11, 1997 at top of page on form 2.



**WEST VIRGINIA**  
**SECRETARY OF STATE**  
**KEN HECHLER**  
**ADMINISTRATIVE LAW DIVISION**

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OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

Form #2

**NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE**

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

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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 Aug. 28, 1997 AT 5:00 P.M. ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS.

Emily Fleming, Administrator  
Conservation Education/LC  
1900 Kanawha Blvd. East  
Building 3, R-732  
Charleston, WV 25305

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

*Robert A. Deussen*

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

\$7.20



Administration (304) 558-3315 FAX (304) 558-2768	Law Enforcement (304) 558-2783 FAX (304) 558-1170	Parks and Recreation (304) 558-2764 FAX (304) 558-0077	Wildlife Resources (304) 558-2771 FAX (304) 558-3147	Conservation Education and Litter Control (304) 558-3370 FAX (304) 558-2768	Public Information (304) 558-3380 FAX (304) 558-2768	Real Estate Management (304) 558-3225 FAX (304) 558-3680	Wonderful West Virginia Magazine (304) 558-9152 FAX (304) 558-2768
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**MEMORANDUM**

**TO:** Mr. Ken Hechler  
Secretary of State

**FROM:** Robert Reintsema, Commissioner  
Bureau of Commerce  
Division of Natural Resources

**SUBJECT:** Division Approval of Proposed Rules

**DATE:** June 30, 1997

The attached rule amendment has my approval to be proposed as additions to Recycling Assistance Fund Grant Program Legislative Rules pursuant to the West Virginia Administrative Procedures Act. Your approval is requested.

All changes are shown by strike-throughs for deleted language and underlined for new language. The proposed rule change was submitted in October, 1996; however, the agency made the decision not to submit it for legislative action at that time.

Please call Emily Fleming, Administrator, Conservation Education and Litter Control section should there be questions.

Enc.

RR/pjc



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

**SERIES 5  
RECYCLING ASSISTANCE FUND GRANT PROGRAM**

**PREAMBLE TO A PROPOSED RULE**

- AGENCY:** Bureau of Commerce; Division of Natural Resources
- REGULATION:** Title 58, Series 5, "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 30, 1997 will be accepted. Written comments should be  
sent to:

Emily Fleming, Administrator  
WV Division of Natural Resources  
Conservation Education & Litter Control  
1900 Kanawha Blvd. East  
Building 3, Room 732  
Charleston, WV 25305

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

**The proposed rule changes the Recycling Assistance Fund Grant Program to Recycling and Litter Control Assistance Fund Grant Program. This will allow grants to be funded for litter control projects that involve recycling. The rule requires the ownership of all equipment which is purchased by grant funds to revert back to Division of Natural Resources if the recycling program dissolves. The rule establishes procedures for Private Sector grants, change in budgets and time extensions. Other technical changes are contained in the proposed rule.**

FISCAL NOTE FOR PROPOSED RULE

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

Type of Rule:     X Legislative                   Interpretive                   Procedural

Agency:     Division of Natural Resources

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

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1. Effects of Proposed Rule.

	ANNUAL		FISCAL YEAR		
	Increase	Decrease	Current	Next	Thereafter
ESTIMATED TOTAL COST			\$2,700,254	\$2,804,515	\$2,739,000
PERSONNEL SERVICES			160,340	176,313	180,000
CURRENT EXPENSES			150,000	252,500	250,000
REPAIRS AND 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 and litter control programs.

Rule Title: Recycling and Litter Control Assistance Fund 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 or litter control projects. 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.

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:

7/7/97

Signature of Agency Head or Authorized Representative

Robert M. Bumpson

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OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

**TITLE 58**  
**BUREAU OF COMMERCE**  
**DIVISION OF NATURAL RESOURCES**  
**SERIES 5**

**RECYCLING AND LITTER CONTROL 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, and litter control projects in coordination with recycling.

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 non-profit organizations.

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

program.

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

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

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

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

2.10. "Litter Control" projects shall involve recycling activities.

**§58-5-3. Grants Available From Recycling and Litter Control Assistance Fund Grant Program.**

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

~~planning and implementation of recycling and litter control~~  
programs;

public education programs related to recycling and litter control; and  
recycling market procurement efforts.

3.2. Recycling and Litter Control 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. litter control projects involving recycling activities

3.2.3.4. recycling of valuable materials

3.2.4.5. extending the useful life of solid waste landfills

3.2.5.6. 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.~~

3.3.2.1. Recycling Promotion, and Collection Drive, and Office Paper

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

3.3.2.2. Local Government Recycling and Litter Control 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.

~~3.2.4. Office Paper Recovery Grant - In the absence of a municipal and/or countywide recycling program, a state agency or instrumentality of the state may apply for assistance to plan and implement an office wastepaper recovery program in government, school, and local offices (on a county or greater level). Funds are available for paper collection equipment, transportation, education, publicity and promotion.~~

**3.3.53 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 and litter control assistance funding as provided for in subsections ~~3.3.1 through 3.3.52~~ of this rule. The recycling and litter control 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 recycling 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 under subsection ~~3.32.1~~ 2.1 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 under subsection ~~3.3.3~~ 2.2 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 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 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 ~~3.3.2-2.1-3.3.4.~~ 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~~ related to recycling and litter control.

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

**§58-5-5. Use of Grant Funds.**

**Recycling and litter control** assistance grants may be used to:

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

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

**5.2. Recycling and litter control assistance funds may be used for:**

**5.2.1. Personnel - Funding is limited to the salary costs associated with a recycling manager, coordinator, or laborers. No more than 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 is allowed for general office supplies, and other supplies, such as collection bags or household bins used for the collection/storage of recyclables.**

**5.2.4. Equipment - Funding is limited to processing equipment, material handling or storage equipment, scales, and safety equipment used in recycling activities. Equipment is to remain in grantee's name and may be leased, but not transferred to a third party. All equipment shall revert back to the Division of Natural Resources if the recycling program dissolves.**

**5.2.5. Recycling Vehicle Expense - Funding is limited to the lease/purchase, maintenance, fuel, mileage and insurance for a truck or van used**

in approved recycling activities. Transporting materials to market using the program's vehicle and labor is an approved recycling activity.

**5.2.6. The following other costs are allowed:**

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

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

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

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

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

**5.3. Costs not allowed under a recycling and litter control assistance grant are:**

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

**5.3.2. Land acquisition.**

**5.3.3. Costs for office equipment including such items as desks,**

chairs, telephone, typewriters, files, and photocopying equipment.

5.3.4. Street sweepers or their equivalents.

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

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

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

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

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

#### **§58-5-6. 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 and litter control assistance fund grant program:

6.1.1. The applicant ~~must~~ shall be an eligible ~~local, and/city 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.

6.14 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.

6.15. 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).

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

6.17. 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.

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

appropriate local or state government competitive bidding process.

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

6.2. The following general conditions apply to non-profit organizations and private enterprise applying for funding under the recycling and litter control 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.

6.2.4. All written materials funded by the grant or produced in cooperation with activities of the grant shall contain a line crediting the West Virginia Division of Natural Resources.

**6.3. Private Sector Grant Guidelines:**

6.3.1. Funds shall be restricted to one time only to applicant or business entity.

6.3.2. Funds shall be used for the purchase of non-vehicular recycling equipment only.

6.3.3. Applicant shall demonstrate through the narrative their past performance in recycling.

6.3.4. Applicant shall provide a copy of proper licenses, e.g. business, social security, workers compensation, tax department, and independent

auditor's report for the past three years if available.

6.3.5. Twenty percent (20%) of grant funds available shall be designated for private sector grants.

6.3.6. Business entity/proprietor shall hold the title to equipment listing the West Virginia Division of Natural Resources as lienholder for a period of five years. 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 business shall assume risk of loss.

6.3.7. Public and private sector grants involving equipment purchase shall have "spot check" audits for a period of five (5) years; once this period has expired the state will no longer have an attachment.

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

6.3.9. When feasible, all equipment purchases shall provide public bids.

6.3.10. Maximum amount of grant is \$20,000. Funds shall be disbursed in a lump sum at the beginning of the grant period.

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

6.3.12. All private sector grants shall be subject to the rules and regulations in the general grant guidelines under section 6.2. Where there is a contradiction, the private sector rules shall apply.

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

7.1. Schedule for one applicant:

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

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

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

8.2. All ~~proposals~~ 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. A copy of such written consultation shall be attached to and become a part of the grant application.

8.3. The proposal ~~must~~ shall contain a policy statement and/or resolution

or ordinance as required by the provisions of this rule and ~~must~~ shall outline the materials to be source separated and recycled. The list of recyclable material may be adjusted according to whether the generator is residential, commercial or other type of establishment.

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

8.5. The proposal ~~must~~ shall provide for a collection system.

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

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

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

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

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

**§58-5-9. Recycling and Litter Control Assistance Fund Grant Review Committee.**

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

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

10.1. All recycling and litter control 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 1 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~~ shall be approved by the recycling and litter control assistance committee.

10.2 Complete recycling and litter control assistance fund grant

applications ~~must~~ shall be submitted to the Division of Natural Resources prior to the first day of August each year unless there are extenuating circumstances on the part of the applicant as determined by the grant review committee. 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 grant funds will disburse on the following schedule: 30% at the time of grant award with subsequent payments of 30% to be made every four months upon receipt of a quarterly report. The final payment shall be 10% and shall be withheld until receipt of the ~~final~~ fourth quarterly report, as provided for in section eleven (11) of this regulation. Exception to be the private sector as outlined in section 6.3.10. of this rule.

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 provisions of West Virginia Code §12-4-14 apply to all recycling and litter control assistance fund grants. The grantee shall provide the Division of Natural Resources with a copy of the grantee's independently audited financial records that cover the entire grant period.

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

10.6. If, through any cause, the grantee fails to fulfill in a timely and

proper manner its obligation as proposed in the grant application, and as accepted and approved by the Division of Natural Resources, the Division of Natural Resources will terminate payment of remaining grant funds. The grantee shall return any grant funds 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 funds.

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. An outstanding final report can 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.

10.11. A time extension to expend grant funds will only be granted if the grantee can show that a reasonable amount of progress has been made in the current year by use of grant funds. An extension will not exceed 30 days. Requests for time extensions 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 1 of the following year. The report ~~must~~ shall provide a detailed summary of the implementation of the project and the degree to which objectives were achieved. The final 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

communication between the Division of Natural Resources and grant recipients, and may include inspections from the Division of Environmental Protection and site visits from the West Virginia Solid Waste Management Board.

11.4. Grants involving equipment shall have "spot check" audits for a period of five (5) years; once this period has expired the state will no longer have an attachment.

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

12.1. To implement the recycling and litter control 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.

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

14.1. The application for a recycling and litter control 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 ~~should~~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.

14.3. Questions about the West Virginia Recycling and Litter Control 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 circumstance is held invalid, such invalidity shall not affect other provisions or applications of the rule, and to this end the provisions of the rule are declared severable.