

**WEST VIRGINIA  
SECRETARY OF STATE**

**KEN HECHLER**

**ADMINISTRATIVE LAW DIVISION**

Form #2

MAILED  
JUN 30 2 45 PM '99  
OFFICE OF THE 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: 20-7-25 and 29A-3

AMENDMENT TO AN EXISTING RULE: YES  X  NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 6

TITLE OF RULE BEING AMENDED: LITTER CONTROL 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 30, 1999 AT 5:00 p.m.

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

Emily Fleming, Chief  
Environmental Resources Section  
1900 Kanawha Blvd., E.  
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

\$3.00

**DATE:** June 29, 1999  
**TO:** LEGISLATIVE RULE-MAKING REVIEW COMMITTEE  
**FROM:** Emily Fleming, Administrator  
Division of Natural Resources  
Conservation Education and Litter Control

**LEGISLATIVE RULE TITLE:** Litter Control Grant Program

1. **Authorizing statute(s) citation** 20-7-25 and 29A-3

2. **a. Date filed in State Register with Notice of Hearing or Public Comment Period**

June 30, 1999

**b. What other notice, including advertising, did you give of the hearing?**

Letters to interested parties

Statewide news release

**c. Date of Public Hearing(s) or Public Comment Period ended:**

July 30, 1999

**d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.**

Attached \_\_\_\_\_ No comments received \_\_\_\_\_

**e. Date you filed in State register the agency approved proposed Legislative Rule following public hearing: (be exact)**

Not Applicable

**f. Name, title, address and phone/fax/e-mail numbers of agency person(s) to contact to receive all written correspondence regarding this rule:**

Emily Fleming, Chief, Capitol Complex, Building 3, Room 732, Charleston, WV

25305, 558-3370, (fax) 558-6207, eflemin@dnr.state.wv.us

Jim Hill, State Recycling Coordinator, Capitol Complex, Building 3, Room 732,

Charleston, WV 25305, 558-3370, (fax) 558-6207, jhill@dnr.state.wv.us

**3. If the statute under which you promulgated the submitted rules requires certain findings and determinations to be made as a condition precedent to their promulgation:**

**a. Give the date upon which you filed in the State Register a notice of the time and place of a hearing for the taking of evidence and a general description of the issues to be decided.**

Not Applicable

**b. Date of hearing:** Not Applicable

**c. On what date did you file in the State Register the findings and determinations required together with the reasons therefor?**

Not Applicable

**d. Attach findings and determinations and reasons:**

TITLE 58  
BUREAU OF COMMERCE  
DIVISION OF NATURAL RESOURCES

SERIES 6  
LITTER CONTROL GRANT PROGRAM

SUMMARY OF AGENCY APPROVED RULE

AGENCY: Bureau of Commerce; Division of Natural Resources

REGULATION: Title 58, Series 6, "Litter Control Grant Program"

ACTION: Filing of Agency Approved Rule

SUMMARY: The agency approved rule sets out the procedures and guidelines for providing Litter Control Grants to those who are required by law or who wish to plan and implement a litter control program.

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

The proposed amendment allows funding for the costs incurred in razing unsightly structures and limits the amount of each grant awarded. Also, requires the grantee to submit a final performance and financial report to show evidence of accomplishments made as a result of grant funds.

Other technical changes are contained in the proposed amendments.

## FISCAL NOTE FOR PROPOSED RULE

Rule Title: LITTER CONTROL GRANT PROGRAM 58 C.S.R. 43

Type of Rule  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			\$12,800	\$12,400	\$12,500
PERSONAL SERVICES					
CURRENT EXPENSE					
REPAIRS & ALTERATIONS					
EQUIPMENT					
OTHER			\$12,800	\$12,400	\$12,500

### 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 1999 and 2000 and the estimated costs during 2001. The above estimates are based on 50% of the special revenue deposited in the Litter Control Grant Fund as provided for in WV Code 20-7-25.

### 3. Objectives of these rules:

Set out procedures and guidelines for providing assistance grants to municipalities and counties planning and implementing litter control programs.

**4. Explanation of overall Economics Impact of Proposed Rule.**

**A. Economic Impact on State Government:**

Funds for program, administration and assistance grants are derived from special funds provided for in the Litter Control Fund. General revenue funds are not involved.

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

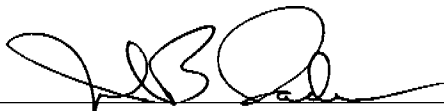
This rule allows political subdivisions to apply for grant funds to implement litter control. By doing this, it eases the economic burden of these entities to operate such programs and allows them to redirect revenues into other aspects of their operation, such as jobs or expansion.

**C. Economic Impact on Citizens/Public at Large:**

Funds to generate the special revenue are derived from fines collected from litter violations.

Date: \_\_\_\_\_

**Signature of Agency or  
Authorized Representative:**



\_\_\_\_\_  
**JOHN B. RADER, DIRECTOR**

**WEST VIRGINIA ADMINISTRATIVE REGULATIONS**  
**Division of Natural Resources**  
**Series 6**  
**Awarding of Matching Grants for Local Litter Control Programs**  
**Interpretive Rules**

FILED

JUN 30 2 48 PM '99

DEPT. OF NATURAL RESOURCES  
SECRETARY OF STATE

**§58-6-1. General.**

1.1. Scope. The purpose of these rules is to provide interpretations and guidance concerning the awarding of matching grants for local litter control programs.

1.2. Authority. -- W.Va. Code §20-7-25 and §29A-3

1.3. Filing Date. --

1.4. Effective Date. --

**§58-6-2. Definitions.**

Unless the context dictates otherwise, the following words and their meanings as used in these rules are defined below.

2.1. "Applicant" means the local government(s) applying for a grant or the local government(s) receiving a grant after approval by the Division.

2.2. "Application" means Form LC-G-1 for use by single program applicants of Form LC-G-2 for use by cooperative program applicants.

2.3. "Cooperative Program" means a program involving two or more local governments and coordinated by one of the participating local governments.

2.4. "Coordinator" means the individual who is responsible for coordinating the implementation and administration of a cooperative program.

2.5. "Division" means the West Virginia Division of Natural Resources.

2.6. "Director" means the director of the West Virginia Division of Natural Resources.

2.7. "Grant" means matching grant funds allocated to an approved program applicant by the Division pursuant to W.Va. Code §20-7-25(b) of the West Virginia Code.

2.8. "Grant Period" means July 1 of a calendar year through June 30 of the subsequent calendar year, unless otherwise specified on the Notice of Approval, Form LC-G-3.

2.9. "In-kind Services" means any personnel, equipment, supplies, or other items for a local

litter control program supplied or obtained by the applicant with funds or by methods other than the use of grant moneys.

2.10. "Litter" means all waste material including, but not limited to, any garbage, refuse, trash, disposable package, container, can, bottle, paper, ashes, cigarette or cigar butt, carcass of any dead animal or any part thereof, or any other offensive or unsightly matter, but not including the wastes of primary processes of mining, logging, sawmilling, farming, or manufacturing.

2.11. "Litter Control Fund" means the fund created pursuant to §20-7-26 of the West Virginia Code.

2.12. "Local Government" means a county commission as defined in W. Va. Code §7-7-1 or a municipal corporation as defined in §8-1-2(a)(1) of the West Virginia Code.

2.13. "Local Litter Control Program" means a program sponsored by a local government for the purposes stated in its application.

2.14. "Resolution" means a resolution adopted by a local government that authorizes the creation of a local litter control program.

### **§58-6-3. Applicability.**

3.1. Grants may be used by eligible local governments, singly or in cooperative groups, in a local litter control program.

3.2. Grants will be made for a period not greater than one (1) calendar year. Subsequent grants may be obtained by an applicant through submission of a revised application to the Division.

3.3. Grants will be awarded on a one-to-one matching basis. For each dollar budgeted by an applicant for a local litter control program, the Division will award up to one (\$1) dollar in matching grant funds upon approval of the application. The Division reserves the right to limit the amount of a grant in accordance with the amount of money in the Litter Control Fund available for distribution as matching grants.

3.4. Grant awards will be limited to a maximum amount of \$3000.00.

### **§58-6-4. In-kind Services.**

4.1. Credit will be given for in-kind services when determining the amount of local government funding to be matched by a grant.

4.2. Volunteer services will be valued at the minimum hourly wage unless the applicant can demonstrate that such services would normally be valued above that wage in the area served by the applicant's program.

4.3. Donated equipment will be valued at its fair market value prorated over the life of the grant.

**§58-6-5. Authorized Uses Of Grant Funds.**

5.1. Grants may be used for the initiation, continuation, or expansion of a local litter control program but may not be used in any way to replace local funds currently budgeted or being used to maintain and operate a local litter control program during the grant period.

5.2. Authorized uses of grants funds moneys in an approved local litter control program may include the following:

5.2.1. Enforcement of antilitter statutes;

5.2.2. Expenses incurred in traveling to Division sponsored or approved workshops, conferences, or other meetings;

5.2.3. Implementation and administration of the approved litter control program;

5.2.4. Implementation of local litter cleanup campaigns;

5.2.5. Public informational and educational programs, such as those which increase public awareness or solicit public support in promoting citizen responsibility toward reducing litter;

5.2.6. Purchase of equipment which will specifically serve to fulfill litter control program objectives;

5.2.7. Research or development of local solid waste recycling programs;

5.2.8. Surveys and evaluation studies made for the purpose of identifying and prioritizing local littering problems;

5.2.9. ~~Other relevant items upon the approval of the Division: Cost associated with razing abandoned buildings or other structures which are unsightly or offensive and promote possible health hazards;~~

5.2.10. Other relevant items upon the approval of the Division.

**§58-6-6. Unauthorized Uses Of Gant Funds.**

6.1. Grant funds moneys may not be used for expenditures not related to litter prevention, elimination, or control.

6.2. Grant funds moneys should not be used for the following:

6.2.1. To fund beautification projects such as landscaping (tree or shrub purchases) or the removal of roadside vegetation;

6.2.2. To purchase lawn, tree, or shrub maintenance equipment;

6.2.3. To purchase equipment routinely used to collect or transport solid waste;

6.2.4. To fund landfill operations or management;

6.2.5. To buy office furniture, to buy office equipment, or to decorate or renovate an office;

6.2.6. To pay for professional consultation or production in the development of litter control films, slide shows, or similar programs.

**§58-6-7. Reporting Requirements.**

7.1. The grantee shall submit a final performance and accounting report for approval on or before July 31 of the following year. The report shall include the following:

7.1.1. An evaluation of accomplishments in implementing the original proposal's work tasks;

7.1.2. An accounting of in-kind services provided;

7.1.3. An accounting of grant funds expended;

7.1.4. Evidence supporting in-kind services and grant expenditures;

7.1.5. An analysis of the amount of litter collected or material recycled during the period.

**58-6-78. Grant Withdrawal And Penalty.**

78.1. The Division reserves the right to withdraw a grant upon determination of unsatisfactory program compliance with either these rules or the specifications in the program application.

78.2. A failure to commence program activities within ninety days after receiving a notice of approval from the Division may result in the cancellation of the grant.

78.3. An applicant shall be responsible for the payment to the State of West Virginia of two (2) times the total sum of a grant not properly used or accounted for pursuant to these rules. Such total sum shall constitute a debt owed by the applicant or its successors or assignees by appropriate

legal action. At its option, the Division may proceed against any local government participating in a cooperative program for the total sum owed by the applicant or its successors or assignees, or may hold each local government participating in a cooperative program individually liable to the State of West Virginia for its pro rata share of the total liability.

78.4. The Division reserves the right to conduct an on-site inspection or audit of an applicant's program records during or after the grant period.

**§58-6-89. Nondiscrimination Provision.**

89.1. During the performance of the program described in the application, the applicant will not discriminate against any employee or individual applying for employment because of race, religion, color, sex, handicap, or national origin.

**§58-6-910. Unexpended Funds.**

910.1. All unexpended funds remaining at the end of the grant period will be handled as follows:

910.1.1. If the applicant applies for a grant for the subsequent grant period, and the Division approves said application, unexpended funds will be netted against the amount for which the applicant is eligible to receive;

910.1.2. If the applicant does not apply for a grant for the following grant period, unexpended funds will return to the control of the Division.

**§58-6-1011. Reduction Of The Litter Control Fund.**

1011.1. Grants allocated under these rules are dependent upon the availability of funds collected pursuant to §20-7-25 of the West Virginia Code. In the event that those funds are diminished by legislative action, the Division will adjust the amount of each grant issued accordingly.



**DIVISION OF NATURAL RESOURCES**

Environmental Resources Section  
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  
Secretary of State  
Administrative Law

Debra Graham, Chief Counsel  
Legislative Rule Making Committee

**FROM:** John B. Rader, Director   
Bureau of Commerce  
Division of Natural Resources

**DATE:** June 29, 1999

**SUBJECT:** **Division Approval of Proposed Rules**

The attached rule amendment has my approval to be proposed as additions to the Litter Control 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.

Please call Emily Fleming, Chief, Environmental Resources Section at 558-3370 should there be any questions.

Enclosures

JBR/efh