

**WEST VIRGINIA**

**SECRETARY OF STATE**

**KEN HECHLER**

**ADMINISTRATIVE LAW DIVISION**

FORM #4

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FILED

Dec 28 10 40 AM '99

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

**NOTICE OF RULE MODIFICATION OF A PROPOSED RULE**

AGENCY: BUREAU OF COMMERCE, DIVISION OF NATURAL RESOURCES TITLE NUMBER: 58

CITE AUTHORITY: 20-7-25

AMENDMENT TO AN EXISTING RULE: YES  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: \_\_\_\_\_

THE ABOVE PROPOSED LEGISLATIVE RULE, FOLLOWING REVIEW BY THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE IS HEREBY MODIFIED AS A RESULT OF REVIEW AND COMMENT BY THE LEGISLATIVE RULE-MAKING COMMITTEE. THE ATTACHED MODIFICATIONS ARE FILED WITH THE SECRETARY OF STATE.



JOHN B. RADER, DIRECTOR

\$3.40

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

FILED

DEC 28 10 40 AM '99

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

**§58-6-1. General.**

1.1. Scope. The purpose of ~~these rules~~ this rule 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~~ this rule 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~~ or 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 W. Va. Code §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 W. Va. Code §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.

2.15. "Grantee" means the local government approved by the Division to receive a grant.

### **§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. The Division shall award grants 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. The Division shall award grants 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 ~~shall~~ 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 are limited to a maximum amount of \$3000.00.

3.5. Applications must be postmarked no later than May 31 for consideration in the next grant period.

### **§58-6-4. In-kind Services.**

4.1. The Division shall give credit Credit will be given for in-kind services when

determining the amount of local government funding to be matched by a grant.

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

4.3. ~~The Division shall value donated~~ 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. ~~An applicant may use a G~~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 anti-litter 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. Costs associated with razing abandoned buildings or other structures which are unsightly or offensive and promote possible health hazards; and~~

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

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

~~6.1. An applicant may not use a grant 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.~~

~~6.12. Applicants shall not use Grant funds moneys may not be used for expenditures not related to litter prevention, elimination, or control.~~

~~6.23. Applicants shall not use Grant funds moneys should not be used for the following:~~

~~6.23.1. To fund beautification projects such as landscaping (tree or shrub purchases) or the removal of roadside vegetation;~~

~~6.23.2. To purchase lawn, tree, or shrub maintenance equipment;~~

~~6.23.3. To purchase equipment routinely used to collect or transport solid waste;~~

~~6.23.4. To fund landfill operations or management;~~

~~6.23.5. To buy office furniture, to buy office or equipment, or the to decorate or renovate an office; or~~

~~6.23.6. 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; and~~

~~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~~ this rule or the specifications in the program application.

78.2. ~~A failure~~ The Division may cancel a grant in the event a grantee fails to commence program activities within ninety days after receiving a notice of ~~approval~~ award from the Division may result in the cancellation of the grant.

78.3. An applicant ~~shall be~~ is 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~~ this. Such ~~The~~ total sum ~~shall~~ constitutes 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~~ shall be handled as follows:

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

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

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

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



**DIVISION OF NATURAL RESOURCES**

State Capitol  
Building 3, Room 669  
Charleston WV 25305  
Telephone (304) 558-2754  
Fax (304) 558-2768  
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

A handwritten signature in black ink, appearing to read "John B. Rader".

**DATE:** December 27, 1999

**SUBJECT: Division Approval of Proposed Rules**

The attached rule amendment has my approval to be filed as a rule modification to the agency proposed 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.

Attachments

JBR/efh