

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

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Form #6

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

**NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE RULE AUTHORIZED
BY THE WEST VIRGINIA LEGISLATURE**

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

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 RULE BEING PROPOSED: _____

TITLE OF RULE BEING PROPOSED: _____

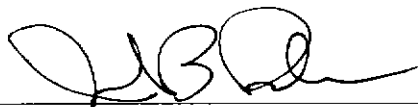
THE ABOVE RULE HAS BEEN AUTHORIZED BY THE WEST VIRGINIA LEGISLATURE.

AUTHORIZATION IS CITED IN (house or senate bill number) SB 310

SECTION 64-10-3(i), PASSED ON MARCH 18, 2000

THIS RULE IS FILED WITH THE SECRETARY OF STATE. THIS RULE BECOMES EFFECTIVE

ON THE FOLLOWING DATE: MAY 1, 2000



Authorized Signature



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Cecil H. Underwood
Governor

John B. Rader
Director

April 14, 2000

Litter Control Grant Program Rules
(Title 58, Series 6)

Filing History

June 30, 1999	Filed Notice of Public Comment Period with the Secretary of State.
July 30, 1999	Public Comment Period ended.
August 6, 1999	Agency-Approved Rule filed with the Legislative Rule Making Review Committee.
September 3, 1999	Filed Modifications of a Proposed Rule with the Secretary of State.
September 9, 1999	Filed a Withdrawal of Rule Modifications with the Secretary of State until reviewed by the Legislative Review Committee.
September 28, 1999	Rule Modification of a Proposed Rule filed with the Secretary of State.
December 28, 1999	Filed a Modified Rule with the Secretary of State.
March 11, 2000	SB310 is approved by the full Legislature.

TITLE 58

LEGISLATIVE RULE

BUREAU OF COMMERCE

DIVISION OF NATURAL RESOURCES

SERIES 6

AWARDING OF MATCHING GRANTS FOR LOCAL
LITTER CONTROL PROGRAMS

§58-6-1. General.

1.1. Scope. The purpose of 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

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 this rule are defined below.

2.1. "Applicant" means the local government applying for a grant.

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

2.8. "Grant Period" means July 1 of a calendar year through June 30 of the subsequent calendar year.

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.

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).

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 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 on a one-to-one matching basis. For each dollar budgeted by an applicant for a local litter control program, the Division 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 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 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 services at the minimum hourly wage unless the applicant can demonstrate that 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 equipment 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 grant for the initiation, continuation, or expansion of a local litter control program.

5.2. Authorized uses of grant funds 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. 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.

6.2. Applicants shall not use grant funds for expenditures not related to litter prevention, elimination, or control.

6.3. Applicants shall not use grant funds for the following:

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

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

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

6.3.4. To fund landfill operations or management;

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

6.3.6. 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.

58-6-8. Grant Withdrawal And Penalty.

8.1. The Division reserves the right to withdraw a grant upon determination of unsatisfactory program compliance with either this rule or the specifications in the program application.

8.2. The Division may cancel a grant in the event a grantee fails to commence program activities within ninety days after receiving a notice of award from the Division.

8.3. An applicant 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 this rule. The total sum 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.

8.4. 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.

§58-6-9. Nondiscrimination Provision.

9.1. 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.

§58-6-10. Unexpended Funds.

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

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

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

§58-6-11. Reduction Of The Litter Control Fund.

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



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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: April 14, 2000

SUBJECT: Division Approval for Final Filing of Legislative Rules

The attached rule amendment has my approval to be filed as the final copy of the agency proposed Litter Control Grant Program Legislative Rules pursuant to the West Virginia Administrative Procedures Act. Your approval is requested.

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

Attachments

JBR/efh