

**WEST VIRGINIA
SECRETARY OF STATE**

KEN HECHLER

ADMINISTRATIVE LAW DIVISION

Form #6

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JUN 30 2 06 PM '93

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

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

AGENCY: CLER, Division of Natural Resources TITLE NUMBER: 47

AMENDMENT TO AN EXISTING RULE: YES , NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: 43

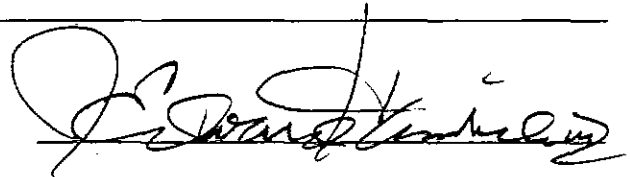
TITLE OF RULE BEING PROPOSED: Recycling Assistance Fund Grant Program

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

AUTHORIZATION IS CITED IN (house or senate bill number) HB 100

SECTION 64-3-8(kkk), PASSED ON May 26, 1993

THIS RULE IS FILED WITH THE SECRETARY OF STATE. THIS RULE BECOMES EFFECTIVE ON
THE FOLLOWING DATE: June 3rd, 1993



FILED

JAN 25 3 46 PM '93

TITLE 47
DIVISION OF NATURAL RESOURCES
DEPARTMENT OF COMMERCE, LABOR AND
ENVIRONMENTAL RESOURCES

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

SERIES 43
RECYCLING ASSISTANCE FUND GRANT PROGRAM

§ 47-43-1. General.

1.1. Scope and Purpose. - This regulation provides guidelines for awarding grants to assist municipalities, counties and other interested parties in the planning and implementation of recycling programs, related public education programs, and recycling market procurement efforts.

1.2. Authority. - § 20-11-5a(h)(1).

1.3. Filing Date.

1.4. Effective Date.

§ 47-43-2. Definitions.

2.1. "Co-mingled" means those source separated recyclable materials that are aggregated into a container(s) to facilitate collection and transportation to a facility for further processing.

2.2. "Director" means the director of the West Virginia Division of Natural Resources or his authorized representative.

2.3. "Instrumentality" means an agency authorized by state law, but for the purposes of this regulation, does not include political subdivisions of the state.

2.4. "Materials Recovery Facility" means a facility for processing of source separated materials, and may include co-mingled source separated materials.

2.5. "Municipality" means an incorporated community

2.6. "Recycling Market Procurement" means developing markets for the materials generated by programs funded from the Recycling Assistance Fund Grant Program.

2.7. "Recyclable Materials" includes, but is not limited to, steel and bi-metallic cans, aluminum, glass, paper, and plastic.

2.8. "Source separated" means the removal of recyclable materials at the point of solid waste generation from that waste which is to be landfilled.

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 regulation.

§ 47-43-3. Grants Available From Recycling Assistance Fund Grant Program.

3.1. The Recycling Assistance Fund Grant program provides grants to assist municipalities, counties and other interested parties in:

- 3.1.1. Planning and implementation of recycling programs;
- 3.1.2. Public education programs related to recycling; and
- 3.1.3. Recycling market procurement efforts.

3.2. Recycling Assistance Fund grant proposals that are in compliance with the criteria of section 3.1 of these regulations will be evaluated on a competitive basis considering each proposal's objectives towards maximizing the following factors; conservation of limited natural resources, reduction of litter, recycling of valuable materials, extending the useful life of solid waste landfills, and reducing the need for new landfills throughout the state.

3.3 The following types of grants are available:

3.3.1. Local Government Recycling Feasibility Study and Planning Grants - This grant is to be used to investigate the feasibility of, and to prepare detailed, comprehensive planning for, community/county recycling programs. A professional service may be utilized to plan and implement a comprehensive recycling program.

3.3.2. Recycling Promotion and Collection Drive Grants - This type grant is available to state agencies, other instrumentalities of the state and private colleges in the absence of a municipal, or county recycling program, as provided for in §20-11-6 of the state code. Such grants are for the purpose of implementing recycling programs consisting of at a minimum source separation, collection and transportation activities. This grant may also include such activities as a school project, drop-off bins, special events which will help to increase public awareness of recycling and its benefits.

3.3.3. Local Government Recycling Operation Grants - This grant is for the implementation of municipal, county and regional recycling programs. These grants must emphasize the integration of recycling into local, comprehensive, Solid Waste Management Board approved, solid waste management plans developed by the local or regional solid waste authorities.

3.3.4. Office Paper Recovery Programs - In the absence of a municipal and/or county-wide recycling program, any state agency or instrumentality of the state may apply for assistance to plan and implement on a county or greater level an office wastepaper recovery program in government, school, and local offices. Funds are available for such activities as paper collection equipment acquisition, transportation to a processing center, program publicity and promotional activities.

3.3.5. Other Interested Party Recycling Program Grants and Nonprofit Recycling Center Operation Grants

3.3.6. Recycling Market Development Grants - This Grant is available to State, regional, county or local governments to assist in developing markets for materials produced or expected to be produced in recycling programs.

§ 47-43-4. Grant Program Priority and Other Criteria.

4.1. All West Virginia municipalities, county commissions, and county and regional solid waste authorities are eligible to apply for recycling assistance funding as provided for in subsections 3.3.1, 3.3.3 and 3.3.6 of this regulation. However, priority for funding will be given 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 §§ 20-11-5 and 20-11-6 of the state code. In those instances where a county by referendum has adopted a recycling program that is consistent with the provisions of § 20-11-5(c) of the state code, and the county contains one or more municipalities each with a population greater than 10,000, then such municipality's recycling program must at a minimum be consistent and coordinated with the counties recycling program. Such program funding proposals must meet the following appropriate criteria:

4.1.1. For municipalities with populations over 10,000:

4.1.1.a. Proposals for funding under subsection 3.3.1 of this regulation must have work elements that are at a minimum consistent with the provisions of subsections (a) and (b) of § 20-11-5 of the state code; and

4.1.1.b. Proposals for funding under subsection 3.3.3 of this regulation must contain as part of the application documentation that the plan to be implemented has been approved by the solid waste management board.

4.1.2. A county government required pursuant to § 20-11-5(e) of the state code to develop and implement a comprehensive recycling program for solid waste shall at a minimum develop and implement a program that is in compliance with the provisions of § 20-11-5(c) of the state code.

4.1.3. Municipalities with populations under 10,000 may plan and implement the collection and transportation of recyclable materials featuring curbside or drop-off collection systems; public education about recycling; and/or integration of other materials into the recycling program, such as cardboard, household composting, used oil, and yard waste.

4.1.4. Special funding proposals for five or more communities or two or more counties combining their efforts to provide a county-wide or multi-county recycling program must have a comprehensive recycling plan(s) which has been approved by the West Virginia Solid Waste Management Board.

4.2. In the absence of either a municipal or a comprehensive county recycling program, all agencies and instrumentalities of the state, primary and secondary schools, and private colleges and universities shall be eligible to receive grants under subsections 3.3.2, 3.3.4 and 3.3.6 of this regulation. Grant proposals shall include, but not be limited to the following:

4.2.1. Source separation of at least two recyclable materials; and

4.2.2. Collection and transportation of source separated materials.

4.3. Other interested parties, including non-profits which may at a minimum apply for grants under subsection 3.3.5 of this regulation, may be eligible to receive recycling assistance fund grants,

provided grant proposals are consistent with one or more of the objectives listed under section 3.1 of this regulation, and includes, but is not limited to the recycling activities listed under subsection 4.2 of this regulation.

§ 47-43-5. Use of Grant Funds.

Recycling assistance grants may be used to:

5.1. Enhance the self-sufficiency of recycling in counties or communities through initiation of new, or support of, on-going recycling activities.

5.2. Supplement wages of personnel directly involved with administration or operation of recycling activities; rent or purchase of recycling equipment, including but not limited to such items as curbside containers, or drop-off boxes; collection and transportation of recyclables; development and implementation of recycling program plans and related enforcement programs; recycling promotion and public education; and recycling market procurement efforts.

5.2.1. Allowable costs for Recycling Assistance Fund grants are:

5.2.1.a. Personnel - Limited to the salary costs associated with a recycling manager or coordinator and laborers. No more than \$20,000 of Recycling Assistance Fund grant monies may be used for the wages/benefits of a recycling manager/coordinator.

5.2.1.b. Travel - 1) Recycling workshop expenses are limited to expenses outside of the program boundaries and are allowable for items such as airfare or mileage, meals, lodging, parking and registration fees for attending recycling meetings, workshops and conferences. These costs are limited to a maximum of \$1,000 per year per grant from the Recycling Assistance Fund grant monies, and 2) recycling vehicle expenses which are limited to the lease/purchase, maintenance, fuel, mileage and insurance for truck or van used in approved recycling activities. Shipping materials to market using the program's vehicles and labor is an approved recycling activity.

5.2.1.c. Supplies - General office supplies; and other supplies such as collection bags or household bins used for the collection/storage of recyclables.

5.2.1.d. Equipment - Limited to processing equipment, material handling equipment, material storage equipment, scales, and safety equipment used in recycling activities.

5.2.1.e. Other - 1) Printing/production which is limited to costs associated with the production of educational materials on recycling such as pamphlets, booklets, posters, flyers, etc; 2) Advertising which 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; 3) Promotion items which are limited to costs associated with promotional items such as awards, decals, patches, buttons, magnets, and costs associated with the rental of fair booth and exhibit space for recycling awareness; 4) Professional services to assist in planning and implementation of recycling projects including feasibility studies; and 5) Development work directed towards recycling market procurement.

5.2.2. Costs not allowed under a recycling assistance fund grant are:

5.2.2.a. Purchase or long term lease of dumpsters or other containers or their servicing when not part of an approved recycling activity.

5.2.2.b. Land acquisition.

5.2.2.c. Costs for office equipment including such items as desks, chairs, telephone, typewriters, files, and photocopying equipment.

5.2.2.d. Street sweepers or their equivalents.

5.2.2.e. Entertainment costs (banquets, parties, etc.).

5.2.2.f. Alcoholic beverages, in-state lunches, and all gratuities.

5.2.2.g. Beautification projects (plantings, mowing, weeding, etc).

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

§ 47-43-6. General Conditions Applicable to Grants.

6.1. The following general conditions apply to 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 be an eligible local, and/or county government, state agency or state instrumentality with an expressed commitment to recycling as a long-term solid waste management strategy. This commitment must be in the form of a formal resolution/ordinance from the local governing body or a formal policy/regulation from a state agency or state instrumentality.

6.1.2. The proposed recycling project must 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 be designed to affect a significant and measurable reduction in the municipal solid waste stream. All grant proposals must include an 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 municipal or county proposals must plan to involve all or a substantial percentage of the community's residents in the project area and should include a plan to provide public education about the recycling program.

6.1.5. Projects proposed for funding must 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 include a plan to identify markets able to handle the projected volumes of materials to be collected.

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

6.1.8. 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.

6.1.10. The proposed project must be limited to the collection, processing and market development of recyclable materials and NOT for the manufacture of products from recyclable materials.

6.2. The following general conditions apply to non-profit organizations and other interested parties applying for funding under the Recycling Assistance Fund Grant Program:

§ 47-43-7. Schedule of Grants Available.

7.1. Schedule for one applicant:

<u>Type of Grant</u>	<u>Maximum Grant</u>
Municipality over 10,000 population.	\$100,000
Community/Municipality under 10,000.	\$ 50,000
County	\$100,000
State agency/state instrumentality/school.	\$ 50,000
Office Paper Recovery.	\$ 50,000
Recycling Feasibility Study/Planning.	\$ 20,000
Recycling Market Development	\$ 20,000
Non-profit organization and Other Interested Party Recycling	\$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.

§ 47-43-8. 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; landfilling.

8.2. All proposals shall be coordinated 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.

8.3. Implementation of proposals must contain a policy statement, regulation or ordinance as required by the provisions of this regulation that outlines 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. All proposals must include a public information and education component to ensure receiving good clean quality materials.

8.5. The proposal must provide, where appropriate, for a collection system.

8.6. Where required by the West Virginia Recycling Act the proposal must contain provisions to ensure compliance with the ordinance, including incentives and penalties.

8.7. All proposals must demonstrate cost effectiveness and self-sufficiency of the proposed project.

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

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

8.10. All proposals 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.

§ 47-43-9. 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, to be appointed by the director; the Executive Director of the Solid Waste Management Board; the Director of the Economic Development Office; the Director of the Division of Environmental Protection; the Director of the Division of Natural Resources; and a representative of business or industry, to be appointed by the director. For the purpose of conducting business, four (4) members of the Recycling Assistance Fund Grant Review Committee shall be required for a quorum. The Director may vote to break tie votes of the committee. Approved grants meeting the programs 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 as soon as possible after award decisions have been made. Unsuccessful applicants will be given the opportunity to discuss their proposals with appropriate staff.

§ 47-43-10. Submittal of Grant Applications; Awarding of Grants; Financial Management; Unexpended Funds and Termination of Grant.

10.1. All recycling assistance fund grants are for a one year period beginning the first of January each year.

10.2. Complete recycling assistance fund grant applications must be submitted to the West Virginia Division of Natural Resources prior to the first day of August each year. However, municipalities with populations greater than 10,000 should make application as soon as possible, but no later than the first day of August, so that they may meet the time frames provided for in the West Virginia Recycling Act.

10.3. Notification to grant applicants relative to funding of their proposal will be made during the first full week in November each year with grant award letters issued by no later than the first of January the following year.

10.4. 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 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 report, as provided for in section eleven (11) of this regulation..

10.5. The grantee must retain and make available upon request by the West Virginia 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 § 12-4-14 of the West Virginia State Code apply to all Recycling Assistance Fund Grants. A copy of the grantee's independently audited financial records that cover the entire grant period shall be provided to the West Virginia Division of Natural Resources.

10.6. All unexpended grant funds remaining at the end of 90 days following submission of the final report required in section 11 of this regulation shall be returned to the recycling assistance fund grant program.

10.7. 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 West Virginia Division of Natural Resources, payment of remaining grant funds will be terminated.

§ 47-43-11. Site Visits and Reports Required.

11.1. A final report must be submitted on or before January 30, or within 30 days of completion of the project, whichever comes first. The report must provide a detailed summary of the implementation of the project and the degree to which objectives were achieved. The final report must 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.

11.2. A progress status report and expenditure statement must be submitted by all recycling grantees to the DNR 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 and grant recipients, and may include inspections from the Division of Environmental Protection and site visits from the West Virginia Solid Waste Management Board.

§ 47-43-12. Equal Employment Opportunity.

12.1. In implementing 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.

12.1.2. 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.

§ 47-43-13. Certification Regarding Drug-Free Workplace Requirements.

Certification is required by the Drug-Free Workplace Act of 1988 and is implemented through additions to the Debarment and Suspension regulations, published in the Federal Register on January 31, 1989. The certification form must be completed and accompany the grant application.

§ 47-43-14. Submission of Application.

14.1. All applications for a recycling assistance fund grant must contain in addition to a description of the proposed project, an estimated budget, Certification Regarding Drug-Free Workplace, and where required a resolution authorizing the submission of application.

14.2. Applications should be mailed to: West Virginia Recycling Assistance Fund Grant Program, West Virginia Division of Natural Resources, 1900 Kanawha Boulevard, East, Building 3, Room 732, Charleston, West Virginia 25305-0665.

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 West Virginia Division of Natural Resources, at (304) 348-3370.

§ 47-43-15. Severability.

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

NOTE: Application Must Be Accompanied By A Certified Resolution Authorizing The Submission Of Application.

Application is being made in the absence of a municipal and/or county recycling program.
YES _____ NO _____

Proposal Narrative: (Must be a complete description of proposed project, what is to be accomplished and how, with list of materials to be collected and source separated. Limit to two pages. Attach additional pages as necessary.)

(FORM No. RG-2)

WEST VIRGINIA DIVISION OF NATURAL RESOURCES
WV RECYCLING ACT GRANTS PROGRAM

ESTIMATED BUDGET

Applicants Name: _____

Applicants Address: _____

Project Manager's Name: _____

Telephone Number: _____

LINE ITEM

ESTIMATED BUDGET

Personnel Services:

Travel:

Supplies:

Equipment:

Other:

TOTAL ESTIMATED BUDGET \$ _____

Signature of Authorized Person

Date

(Explanation of costs allowable under the above line items may be found in section 5 of these regulations.)

(FORM No. RG-3)

WEST VIRGINIA DIVISION OF NATURAL RESOURCES
WV RECYCLING ACT GRANT PROGRAM

PROGRESS REPORT

Quarter Ending: _____

Name of Organization

Street or Box No.

City

County

Zip Code

Project Title: _____

Give brief narrative of accomplishments during the past 3 months: _____

Give brief description of projections for the next 3 months: _____

Provide number of pounds of recyclable material collected during the past three months:

Aluminum Cans: _____

Steel/Bi-Metal Cans: _____

Paper: _____

Glass: _____

Plastic: _____

Other: (explain) _____

EXPENDITURES FOR THE QUARTER

<u>Line Item</u>	<u>Grantee Share of Expenditures</u>	<u>Grant Funds Expended</u>
Personnel services	\$	\$
Travel	\$	\$
Supplies	\$	\$
Equipment	\$	\$
Other	\$ _____	\$ _____
 Total	 \$	 \$

I certify that the above expenditures were made in carrying out the purposes and objectives of the WV Recycling Act and that such expenditures are true costs of the approved grant project.

Authorized Person

Date

TOTAL BTU SAVED BY RECYCLING

When figuring quarterly report BTU savings for materials collected during the above three month period use the following factors per pound of material.

	<u>Pounds</u>	<u>Factor</u>	<u>Totals</u>
Aluminum	_____	X 22,183	= _____
Glass	_____	X 250	= _____
Paper	_____	X 2,500	= _____
Plastic	_____	X 12,000	= _____
Steel/Bi-Metal	_____	X 6,000	= _____
Total BTU's			_____

(FORM No. RG-4)

WEST VIRGINIA DIVISION OF NATURAL RESOURCES
WV RECYCLING ACT GRANTS PROGRAM

FINAL REPORT

This form must be completed with the final report attached and postmarked no later than 30 days following the end of the grant period. MAIL TO: WV Recycling Program, WV Division of Natural Resources, Building 3, Room 732, Charleston, WV 25305.

Name of Applicant Organization _____

Name of Project Manager _____

Street or Box No. _____ City _____ County _____ Zip Code _____

Office Telephone _____ Home Telephone _____ Federal Identification No. (FEIN) _____

Title of Recycling Project _____

Starting Date _____ Ending Date _____ Total Months of Project _____

Signature of Grant Applicant _____ Signature of Project Manager _____

Name (typed): _____ Name (typed): _____

Position/Title: _____ Position/Title: _____

Address & Telephone No.: _____ Address & Telephone No.: _____

Social Security Number: _____ Social Security Number: _____

Date Final Report Mailed: _____

Attach to this form the following:

- 1) Accounting of grant funds received and expended.
- 2) Detailed narrative summary of the implementation of the recycling project, written to provide others insights for starting similar projects. Provide an evaluation of successes and failures encountered in implementing the original proposal's work tasks. Include a composite of individual volumes of recycled materials collected.
- 3) Include a detailed technical evaluation of major equipment used in project, including discussions on operating costs, performance characteristics, and strong and weak points.
- 4) Give an analysis of economic development achievements, such as job development.

(FORM No. RG-5)

WEST VIRGINIA DIVISION OF NATURAL RESOURCES
WV RECYCLING ACT GRANTS PROGRAM

RECYCLING FEASIBILITY STUDY/PLANNING
GRANT APPLICATION

Applicant Name: _____

Address: _____

Check appropriate category:

Municipality over 10,000 _____

County Commission _____

County Solid Waste Authority _____

Regional Solid Waste Authority _____

Regional Planning Council _____

Requests a Feasibility Study/Planning Grant in the amount of \$ _____ to be used for the purpose of developing direction for a recycling program which will include a system for source separation, collection and marketing of recyclable materials. We understand the funds will be available by July 1, 1992, and that a copy of the feasibility study will be made available to the West Virginia Division of Natural Resources upon completion of the study.

It is further understood that in order for a Feasibility Study/Planning applicant to apply for an implementation grant with January 1993 funding, a complete application that includes forms RG-1 Grant Application; RG-2 Estimated Budget; Resolution approval by governing body; and Drug-Free Workplace Requirement must be provided to the Division of Natural Resources by August 1, 1992 and must have prior approval from the West Virginia Solid Waste Management Board.

Signature of Applicant Official

Position/Title

SENATE BILL NO. 166

(By Senator Manchin)

[Introduced March 1, 1993; referred to the
Committee on Natural Resources; and then to the
Committee on the Judiciary.]

8

9

10 A BILL to amend and reenact section eight, article three, chapter
11 sixty-four of the code of West Virginia, one thousand nine
12 hundred thirty-one, as amended, relating to authorizing the
13 division of natural resources to promulgate legislative rules
14 relating to the recycling assistance fund grant program.

15 Be it enacted by the Legislature of West Virginia:

16 That section eight, article three, chapter sixty-four of the
17 code of West Virginia, one thousand nine hundred thirty-one, as
18 amended, be amended and reenacted, to read as follows:

19 ARTICLE 3. AUTHORIZATION FOR DEPARTMENT OF COMMERCE, LABOR AND
20 ENVIRONMENTAL RESOURCES TO PROMULGATE LEGISLATIVE RULES.

21 §64-3-8. Division of natural resources.

22 (a) The legislative rules filed in the state register on the
23 eighth day of December, one thousand nine hundred eighty-three,

1 relating to the department of natural resources (surface mining),
2 are authorized with the amendments set forth below:

3 Page 3-4, §3E.01 by adding after the word "engineer" the
4 words "or licensed land surveyor."

5 Page 3-5, §3E.02, subsection (a), by adding after the word
6 "mining" the words "or civil."

7 And,

8 Page 3-5, §3E.02, subsection (b), by adding after the first
9 sentence -- "Those persons who have been approved to date need
10 not make said demonstration."

11 (b) The legislative rules filed in the state register on the
12 twentieth day of January, one thousand nine hundred eighty-four,
13 relating to the department of natural resources (solid waste
14 management), are authorized with the amendments set forth below:

15 Page 9, section 4.04, line five, add the following paragraph:

16 "Upon request of any applicant, the division shall meet with
17 the applicant for prefiling review of the application. The
18 division, with the cooperation of the solid waste authority,
19 shall assist the applicant in preparing a complete and proper
20 application which would not be rejected as incomplete."

21 On page 15, section 6.03(c)(1) in the first full sentence,
22 after the word "cease", strike the remainder of the sentence and
23 insert in lieu thereof the words "within fifteen (15) days of
24 receipt of an order of suspension" and in the second sentence
25 strike the word "recommence" and insert the words "continue"

1 beyond fifteen (15) days"; (c)(2) in the first full sentence,
2 after the word "cease" by striking out the remainder of the
3 sentence and insert in lieu thereof the words "immediately upon
4 receipt of an order of revocation."

5 (c) The legislative rules filed in the state register on the
6 twenty-sixth day of September, one thousand nine hundred
7 eighty-four, relating to the department of natural resources
8 (public use of state parks, forests, hunting and fishing areas),
9 are authorized.

10 (d) The legislative rules filed in the state register on the
11 seventh day of November, one thousand nine hundred eighty-four,
12 relating to the department of natural resources (surface mining
13 reclamation), are authorized.

14 (e) The legislative rules filed in the state register on the
15 seventh day of November, one thousand nine hundred eighty-four,
16 relating to the department of natural resources (coal refuse
17 disposal), are authorized.

18 (f) The legislative rules filed in the state register on the
19 ninth day of November, one thousand nine hundred eighty-four,
20 relating to the department of natural resources (transfer of the
21 state national pollutant discharge elimination system program),
22 are authorized with the amendment set forth below:

23 Page 10-5, by striking §10B.19 and inserting in lieu thereof
24 a new §10B.19, to read as follows: "'Effluent limitations
25 guidelines' means a regulation published by the Administrator

1 under Section 304(b) or Section 301(b)(1)(B) of the CWA to adopt
2 or revise effluent limitations or levels of effluent quality
3 attainable through the application of secondary or equivalent
4 treatment. For the coal industry these regulations are published
5 at 40 C.F.R. Parts 434 and 133. (See: Appendix G and H)."

6 (g) The legislative rules filed in the state register on the
7 twenty-eighth day of August, one thousand nine hundred
8 eighty-four, relating to the department of natural resources
9 (small arms hunting), are authorized.

10 (h) The legislative rules filed in the state register on the
11 sixth day of January, one thousand nine hundred eighty-four,
12 relating to the department of natural resources (hazardous waste
13 management), are authorized.

14 (i) The legislative rules filed in the state register on the
15 third day of December, one thousand nine hundred eighty-four,
16 modified by the department of natural resources to meet the
17 objections of the legislative rule-making review committee and
18 refiled in the state register on the thirteenth day of February,
19 one thousand nine hundred eighty-five, relating to the department
20 of natural resources (hazardous waste management), are
21 authorized.

22 (j) The legislative rules filed in the state register on the
23 tenth day of October, one thousand nine hundred eighty-five,
24 relating to the department of natural resources (hazardous waste
25 management: Small quantity generators and waste minimization

1 certification), are authorized with the amendment set forth
2 below:

3 On page 1, §3.1.4b, delete the word "or" in the reference to
4 "paragraph (g) or (j)" and insert in lieu thereof the words "and,
5 if applicable."

6 (k) The legislative rules filed in the state register on the
7 ninth day of September, one thousand nine hundred eighty-five,
8 relating to the department of natural resources (WV/NPDES
9 regulations for the coal mining point source category and related
10 sewage facilities), are authorized.

11 (l) The legislative rules filed in the state register on the
12 eleventh day of December, one thousand nine hundred eighty-five,
13 modified by the department of natural resources to meet the
14 objections of the legislative rule-making review committee and
15 refiled in the state register on the twentieth day of February,
16 one thousand nine hundred eighty-six, relating to the department
17 of natural resources (hazardous waste management), are
18 authorized.

19 (m) The legislative rules filed in the state register on the
20 twenty-sixth day of September, one thousand nine hundred
21 eighty-six, modified by the department of natural resources to
22 meet the objections of the legislative rule-making review
23 committee and refiled in the state register on the ninth day of
24 December, one thousand nine hundred eighty-six, relating to the

1 department of natural resources (hazardous waste management
2 regulations), are authorized.

3 (n) The legislative rules filed in the state register on the
4 seventh day of August, one thousand nine hundred eighty-six,
5 relating to the director of the department of natural resources
6 (procedures for transporting and dealing in furbearing animals),
7 are authorized.

8 (o) The legislative rules filed in the state register on the
9 thirtieth day of December, one thousand nine hundred eighty-six,
10 relating to the department of natural resources (WV/NPDES program
11 for coal mines and preparation plants, and the refuse and waste
12 therefrom), are authorized with the amendments set forth below:

13 On page four, §1.9.1.a by inserting the words "five thousand
14 dollars or" after the words "'significant portion of income'
15 means."

16 And,

17 On page four, §1.9.1.a by inserting the words "whichever is
18 less," after the words "ten percent or more of gross personal
19 income for a calendar year."

20 (p) The legislative rules filed in the state register on the
21 fifth day of March, one thousand nine hundred eighty-six,
22 relating to the department of natural resources (hazardous waste
23 management), are authorized.

24 (q) The legislative rules filed in the state register on the
25 twelfth day of August, one thousand nine hundred eighty-seven,

1 relating to the department of natural resources (WV/NPDES
2 regulations for coal mining facilities), are authorized.

3 (r) The legislative rules filed in the state register on the
4 tenth day of June, one thousand nine hundred eighty-seven,
5 relating to the director of the department of natural resources
6 (outfitters and guides), are authorized.

7 (s) The legislative rules filed in the state register on the
8 ninth day of January, one thousand nine hundred eighty-seven,
9 relating to the department of natural resources (hazardous waste
10 management regulations), are authorized.

11 (t) The legislative rules filed in the state register on the
12 fifth day of March, one thousand nine hundred eighty-seven,
13 relating to the department of natural resources (hazardous waste
14 management regulations, series 35), are authorized.

15 (u) The legislative rules filed in the state register on the
16 seventh day of December, one thousand nine hundred eighty-seven,
17 relating to the department of natural resources (hazardous waste
18 management regulations, series 35), are authorized.

19 (v) The legislative rules filed in the state register on the
20 sixteenth day of December, one thousand nine hundred
21 eighty-seven, modified by the department of natural resources to
22 meet the objections of the legislative rule-making review
23 committee and refiled in the state register on the fourteenth day
24 of January, one thousand nine hundred eighty-eight, relating to

1 the department of natural resources (solid waste management), are
2 authorized.

3 (w) The legislative rules filed in the state register on the
4 twenty-eighth day of July, one thousand nine hundred
5 eighty-seven, modified by the director of the department of
6 natural resources to meet the objections of the legislative
7 rule-making review committee and refiled in the state register on
8 the seventh day of August, one thousand nine hundred
9 eighty-seven, relating to the director of the department of
10 natural resources (boating regulations), are authorized with the
11 amendment set forth below:

12 On page 16, section 6.2, line 3 by inserting following the
13 period "This regulation does not apply to licensed outfitters
14 and guides." These rules were proposed by the director of the
15 department of natural resources pursuant to section seven,
16 article one and section twenty-two, article seven, chapter twenty
17 of this code.

18 (x) The legislative rules filed in the state register on the
19 second day of September, one thousand nine hundred eighty-eight
20 modified by the department of natural resources to meet the
21 objections of the legislative rule-making review committee and
22 refiled in the state register on the seventeenth day of October
23 one thousand nine hundred eighty-eight, relating to the
24 department of natural resources (hazardous waste management) are
25 authorized.

1 (y) The legislative rules filed in the state register on the
2 thirty-first day of August, one thousand nine hundred
3 eighty-eight, relating to the director of the department of
4 natural resources (boating), are authorized.

5 (z) The legislative rules filed in the state register on the
6 eighth day of March, one thousand nine hundred eighty-eight,
7 modified by the director of the department of natural resources
8 to meet the objections of the legislative rule-making review
9 committee and refiled in the state register on the thirtieth day
10 of August, one thousand nine hundred eighty-eight, relating to
11 the director of the department of natural resources (commercial
12 sale of wildlife), are authorized.

13 (aa) The legislative rules filed in the state register on the
14 twenty-seventh day of January, one thousand nine hundred
15 eighty-eight, relating to the director of the department of
16 natural resources (catching and selling bait fish), are
17 authorized.

18 (bb) The legislative rules filed in the state register on the
19 twenty-fifth day of March, one thousand nine hundred
20 eighty-eight, relating to the director of the department of
21 natural resources (West Virginia public hunting and fishing
22 areas), are authorized with the following amendment:

23 On page three, section 3.8.4, by inserting after the word
24 "vehicle" the following: ", all terrain vehicle (ATV)."

1 (cc) The legislative rules filed in the state register on the
2 seventeenth day of March, one thousand nine hundred eighty-nine,
3 modified by the division of natural resources to meet the
4 objections of the legislative rule-making review committee and
5 refiled in the state register on the sixteenth day of January,
6 one thousand nine hundred ninety, relating to the division of
7 natural resources (solid waste management), are authorized with
8 the amendments set forth below:

9 On page 13, Section 3.2.6, by deleting the current language
10 and inserting in lieu thereof the following:

11 "3.2.6. Within two hundred (200) feet of faults that have
12 had displacement in Holocene time (i.e., during the last eleven
13 thousand years);"

14 On page 64, Section 3.14.25, by deleting the current language
15 and inserting in lieu thereof the following language:

16 "3.14.25. **Environmental Compliance History.** The chief or
17 the director may refuse to grant any permit if he has reasonable
18 cause to believe, as indicated by documented evidence, that the
19 applicant, or any officer, director or manager, thereof, or
20 shareholder owning twenty percent (20%) or more of its capital
21 stock, beneficial or otherwise, or other person conducting or
22 managing the affairs of the applicant or of the proposed
23 permitted premises, in whole or part, has exhibited a pattern of
24 violation of the environmental statutes or regulations of this
25 State, any other state, or the federal government."

1 On page 104, section 4.5.4.a, by inserting after the words
2 "at that landfill" the following:

3 "Nothing within these regulations shall be construed to allow
4 the installations of any liner or system on areas not lined as of
5 November 30, 1989, that is not in conformance with section
6 4.5.4.a.E or 4.5.4.a.G of these regulations. Landfills that do
7 have an article 5f permit and a liner installed as of November
8 30, 1989, may install a liner as approved by the chief."

9 And,

10 On pages 147 through 151, sections 4.11.5 and 4.11.6, by
11 deleting the current language and inserting in lieu thereof the
12 following:

13 "4.11.5. **Corrective Action Program.**

14 Whenever a statistically significant increase is found in a
15 Phase II or Phase III monitoring parameter, or when groundwater
16 contamination is otherwise identified by the Chief at sites
17 without monitoring programs, which is determined by the Chief to
18 have resulted in a significant adverse effect on an aquifer, and
19 which is attributable to a solid waste facility, the Chief may
20 require appropriate corrective or remedial action pursuant to W.
21 Va. Code Chapter 20, article 5A, and Chapter 20, article 5F to
22 abate, remediate or correct such pollution. Any such corrective
23 or remedial action order shall take into account any applicable
24 groundwater quality protection standards, the existing use of

1 such waters, the reasonable uses of such waters, background water
2 quality, and the protection of human health and the environment."

3 (dd) The legislative rules filed in the state register on the
4 seventeenth day of February, one thousand nine hundred
5 eighty-nine, relating to the director of the department of
6 natural resources (underground storage tanks), are authorized.

7 (ee) The legislative rules filed in the state register on the
8 twenty-seventh day of January, one thousand nine hundred
9 eighty-nine, relating to the director of the department of
10 natural resources (transporting and selling wildlife pelts), are
11 authorized.

12 (ff) The legislative rules filed in the state register on the
13 seventeenth day of February, one thousand nine hundred
14 eighty-nine, modified by the director of the department of
15 natural resources to meet the objections of the legislative
16 rule-making review committee and refiled in the state register on
17 the ninth day of August, one thousand nine hundred eighty-nine,
18 relating to the director of the department of natural resources
19 (underground storage tank fee assessments), are authorized.

20 (gg) The legislative rules filed in the state register on the
21 twenty-fourth day of April, one thousand nine hundred
22 eighty-nine, modified by the director of the department of
23 natural resources to meet the objections of the legislative
24 rule-making review committee and refiled in the state register on
25 the twenty-second day of May, one thousand nine hundred

1 eighty-nine, relating to the director of the department of
2 natural resources (public hunting and fishing areas), are
3 authorized.

4 (hh) The legislative rules filed in the state register on the
5 first day of December, one thousand nine hundred eighty-nine,
6 relating to the department of natural resources (water pollution
7 control permit fee schedules), are authorized with the amendments
8 set forth below:

9 On page five, section 3.3, by deleting the following:
10 "Submitted fees are not refundable."

11 On page two, after section 2.6, by inserting the following:

12 "Customer" means any person that purchases waste disposal
13 services from a facility permitted under article five-a, chapter
14 twenty of the code of West Virginia, one thousand nine hundred
15 thirty-one, as amended. For the purposes of these regulations,
16 commercial and other non-single family dwelling customers shall
17 be translated into customer equivalents by dividing the total
18 daily estimated volume of waste water by three hundred and fifty
19 gallons per day." and renumbering the remaining subsections.

20 On page nine, section 7.2, by striking out the words "seven
21 hundred fifty dollars (\$750)." and inserting in lieu thereof the
22 following:

23 "determined using Table D, but in no case shall be less than
24 two hundred fifty dollars (\$250)."

25 And,

1 On page thirteen, by striking out all of Table D, Schedule of
2 Annual Permit Fees, and inserting in lieu thereof a new Table D,
3 designated "Schedule of Annual Permit Fees", to read as follows:

4 "TABLE D

5 SCHEDULE OF ANNUAL PERMIT FEES

6 SEWAGE FACILITIES

7 Number of Customers	Annual Permit Fee
8 less than 1000	\$ 250
9 1000 to 1499	\$ 500
10 1500 to 1999	\$ 750
11 2000 to 2499	\$ 1000
12 2500 to 2999	\$ 1250
13 3000 to 3499	\$ 1500
14 3500 to 3999	\$ 1750
15 4000 to 4499	\$ 2000
16 4500 to 4999	\$ 2250
17 greater than 5000	\$ 2500

18 INDUSTRIAL OR OTHER WASTE FACILITIES

19 Average Discharge Volume	Annual Permit Fee
20 (gallons per day)	
21 less than 1,000	\$ 50
22 1,001 to 10,000	\$ 500
23 10,001 to 50,000	\$ 1000
24 greater than 50,000	\$ 2500"

1 (ii) The legislative rules filed in the state register on the
2 twenty-fifth day of July, one thousand nine hundred eighty-nine,
3 modified by the director of the department of natural resources
4 to meet the objections of the legislative rule-making review
5 committee and refiled in the state register on the fifteenth day
6 of September, one thousand nine hundred eighty-nine, relating to
7 the director of the department of natural resources (revocation
8 of hunting and fishing licenses), are authorized.

9 (jj) The legislative rules filed in the state register on the
10 twentieth day of December, one thousand nine hundred eighty-nine,
11 modified by the division of natural resources to meet the
12 objections of the legislative rule-making review committee and
13 refiled in the state register on the twenty-fourth day of
14 January, one thousand nine hundred ninety, relating to the
15 division of natural resources (state water pollution control
16 revolving fund program), are authorized.

17 (kk) The legislative rules filed in the state register on the
18 twenty-ninth day of March, one thousand nine hundred ninety,
19 modified by the division of natural resources to meet the
20 objections of the legislative rule-making review committee and
21 refiled in the state register on the thirtieth day of August, one
22 thousand nine hundred ninety, relating to the division of natural
23 resources (assessment of civil administrative penalties), are
24 authorized.

1 (ll) The legislative rules filed in the state register on the
2 sixth day of August, one thousand nine hundred ninety, relating
3 to the division of natural resources (water pollution control
4 permit fee schedules), are authorized.

5 (mm) The legislative rules filed in the state register on the
6 fifteenth day of June, one thousand nine hundred ninety, modified
7 by the division of natural resources to meet the objections of
8 the legislative rule-making review committee and refiled in the
9 state register on the twenty-second day of August, one thousand
10 nine hundred ninety, relating to the division of natural
11 resources (underground storage tank insurance trust 1990), are
12 authorized with the amendment set forth below:

13 On page four, after subsection 5.1, by inserting a new
14 subdivision 5.1.1 to read as follows:

15 "5.1.1 The fee shall be one hundred dollars per tank per
16 year (\$100/tank/year) for a period of not less than one (1) year
17 and not more than three (3) years. Second and third year
18 capitalization fees may be levied if there is an inadequate
19 surplus of funds, as determined by the Board of Risk and
20 Insurance Management, the Division of Natural Resources and the
21 Underground Storage Tank Advisory Committee pursuant to W. Va.
22 Code, §20-5H-7."

23 (nn) The legislative rules filed in the state register on the
24 thirteenth day of August, one thousand nine hundred ninety,
25 modified by the division of natural resources to meet the

1 objections of the legislative rule-making review committee and
2 refiled in the state register on the second day of October, one
3 thousand nine hundred ninety, relating to the division of natural
4 resources (underground storage tanks), are authorized with the
5 amendment set forth below:

6 On page four, section five, subsection 5.1, after the word
7 "requirements" by striking out the remainder of the subsection
8 and inserting in lieu thereof, the following:

9 "of Title 47, Series 37 (Underground Storage Tank Fee
10 Assessments); Title 47, Series 36, Section 4 (Notification
11 Requirements); and Title 47, Series 37A, Section 5
12 (Capitalization Fees) of the Code of State Regulations and the
13 owner or operator presents proof of the certification to the
14 carrier."

15 (oo) The legislative rules filed in the state register on the
16 thirteenth day of August, one thousand nine hundred ninety,
17 relating to the division of natural resources (dam safety), are
18 authorized.

19 (pp) The legislative rules filed in the state register on the
20 thirteenth day of August, one thousand nine hundred ninety,
21 modified by the division of natural resources to meet the
22 objections of the legislative rule-making review committee and
23 refiled in the state register on the twenty-eighth day of
24 November, one thousand nine hundred ninety, relating to the

1 division of natural resources (hazardous waste management), are
2 authorized.

3 (qq) The legislative rules filed in the state register on the
4 first day of July, one thousand nine hundred ninety-one, modified
5 by the division of natural resources to meet the objections of
6 the legislative rule-making review committee and refiled in the
7 state register on the nineteenth day of September, one thousand
8 nine hundred ninety-one, relating to the division of natural
9 resources (special motorboating regulations), are authorized.

10 (rr) The legislative rules filed in the state register on the
11 first day of May, one thousand nine hundred ninety-one, modified
12 by the division of natural resources to meet the objections of
13 the legislative rule-making review committee and refiled in the
14 state register on the twenty-second day of July, one thousand
15 nine hundred ninety-one, relating to the division of natural
16 resources (special fishing regulations), are authorized with the
17 amendment set forth below:

18 On page one, by striking out subsection 2.1 and inserting in
19 lieu thereof, a new subsection 2.1, to read as follows:

20 "2.1 "Daylight hours" means the time period between sixty
21 minutes before sunrise and sixty minutes after sunset."

22 (ss) The legislative rules filed in the state register on the
23 first day of July, one thousand nine hundred ninety-one, modified
24 by the division of natural resources to meet the objections of
25 the legislative rule-making review committee and refiled in the

1 state register on the twenty-first day of November, one thousand
2 nine hundred ninety-one, relating to the division of natural
3 resources (boating regulations), are authorized.

4 (tt) The Legislature hereby authorizes and directs the
5 division of natural resources to promulgate the legislative rule
6 relating to water pollution control permit fee schedules, 47 CSR
7 26, effective the twenty-second day of April, one thousand nine
8 hundred ninety-one, with the amendment set forth below:

9 On page eight, subdivision 7.4.1, at the end of the
10 subdivision by striking the period and adding the following:

11 ":- Provided, That if the chief determines that a facility is
12 in substantial compliance with its existing permit, the fee is
13 one thousand two hundred fifty dollars (\$1,250.00)."

14 (uu) The legislative rules filed in the state register on the
15 seventeenth day of September, one thousand nine hundred ninety-
16 two, modified by the division of natural resources to meet the
17 objections of the legislative rule-making review committee and
18 refiled in the state register on the twenty-fifth day of January,
19 one thousand nine hundred ninety-three, relating to the division
20 of natural resources (recycling assistance fund grant program),
21 are authorized.

22

23 NOTE: The purpose of this bill is to authorize the Division
24 of Natural Resources to promulgate legislative rules relating to
25 the recycling assistance fund grant program.

26

27 .Strike-throughs indicate language that would be stricken from
28 the present law, and underscoring indicates new language that
29 would be added.



STATE OF WEST VIRGINIA
DEPARTMENT OF COMMERCE, LABOR AND ENVIRONMENTAL RESOURCES
DIVISION OF NATURAL RESOURCES

State Capitol Complex
Building 3, Room 732
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Telephone (304) 558-3370 Fax (304) 558-2768

GASTON CAPERTON
Governor

J. EDWARD HAMRICK III
Director

JOHN M. RANSON
Cabinet Secretary

August 9, 1993

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

AUG 9 2 59 PM '93

FILED

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

From: Ollie M. Harvey *OMH*
DNR Recycling Coordinator

Subject: HB 100
Title 47, Series 43
RECYCLING ASSISTANCE FUND GRANT PROGRAM

In accordance with your memo of July 26, enclosed are the changes needed for completion of the legislative rule filed on the Recycling Assistance Fund Grant Program being administered by the WV Division of Natural Resources.

Please contact me at 558-3370 if you have any questions.

OMH

Enclosures



STATE OF WEST VIRGINIA
DEPARTMENT OF COMMERCE, LABOR AND ENVIRONMENTAL RESOURCES
DIVISION OF NATURAL RESOURCES

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GASTON CAPERTON
Governor

J. EDWARD HAMRICK III
Director

JOHN M. RANSON
Cabinet Secretary

August 3, 1993

MEMORANDUM

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

FROM: J. Edward Hamrick III, Director

SUBJECT: *HB 100*
TITLE 47, SERIES 43
RECYCLING ASSISTANCE FUND GRANT PROGRAM

In accordance with your memo of July 26, listed below are changes which need to be made to the legislative rule filed on the Recycling Assistance Fund Grant Program.

Page 2, paragraph 4.1. change counties to county's
Page 5, paragraph 6.1.7. change it's to its
Page 6, paragraph 9.1. change programs to program's
Page 8, paragraph 14.3. change 348-3370 to 558-3370
Page 9 (Form RG-1), change GRANTS to GRANT
Page 11 (Form RG-2), change GRANTS to GRANT, and remove (FORM No. RG-3) from bottom of page
Page 12 (Form RG-3), change Provide to Indicate, and change pounds to pounds/tons
Page 13 (Form RG-3), remove section captioned TOTAL BTU SAVED BY RECYCLING
Page 14 (Form RG-4), change GRANTS to GRANT and change zip code from 25305 to 25305-0665.

Replace page 15 (Form RG-5) with the attached revised Form RG-5.

Add the attached Resolution and Certification Regarding Drug-Free Workplace Requirements forms.

We have indicated the above changes on the attached copy of the rule.

If you have any questions, please don't hesitate to contact this office.

JEH:sha
Enclosures



KEN HECHLER
Secretary of State

MARY P. RATLIFF
Deputy Secretary of State

A. RENEE COE
Deputy Secretary of State

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(Plus all the volunteer
help we can get)

FAX: (304) 558-0900

STATE OF WEST VIRGINIA

SECRETARY OF STATE

Building 1, Suite 157-K
1900 Kanawha Blvd., East
Charleston, WV 25305-0770

Maxine Scardis, Administrator

TO: Bill Daniels

Conservation Education and Litter Control Section
AGENCY: Div. of Natural Resources

FROM: JUDY COOPER, DIRECTOR, ADMINISTRATIVE LAW DIVISION

DATE: July 26, 1993

THE ATTACHED RULE FILED BY YOUR AGENCY HAS BEEN ENTERED INTO OUR COMPUTER SYSTEM. PLEASE REVIEW, PROOF AND RETURN IT WITH ANY CORRECTIONS. IF THERE ARE NO CORRECTIONS, PLEASE SIGN THIS MEMO AND RETURN IT TO THIS OFFICE. YOU WILL BE SENT A FINAL VERSION OF THE RULE FOR YOUR RECORDS.

PLEASE RETURN EITHER THE CORRECTED RULE OR THIS FORM WITHIN TEN (10) WORKING DAYS OF THE DATE YOU RECEIVED THIS REQUEST. CALL IF YOU HAVE ANY QUESTIONS.

SERIES: 43 TITLE: 47 Div. of Natural Resources

* THE ATTACHED RULE HAS BEEN REVIEWED AND IS CORRECT.

SIGNED: _____

TITLE OF PERSON SIGNING: _____

DATE: _____

* THE ATTACHED RULE HAS BEEN REVIEWED AND NEEDS CORRECTING. THE CORRECTIONS HAVE BEEN MARKED.

SIGNED: *Edward H. ...*

TITLE OF PERSON SIGNING: Director, Division of Natural Resources

DATE: August 6, 1993

NOTE: IF YOU ARE NOT THE PERSON WHO HANDLES THIS RULE, PLEASE FORWARD TO THE CORRECT PERSON.

JUL 30 1993

J. ...

**WEST VIRGINIA DIVISION OF NATURAL RESOURCES
WV RECYCLING ACT GRANT PROGRAM**

**RECYCLING FEASIBILITY STUDY/PLANNING
GRANT APPLICATION**

DATE
Deadline: *AUGUST 1*

Applicant Name: _____

Address: _____ Telephone # _____

Check appropriate category:

- Municipality over 10,000 _____
- County Commission _____
- County Solid Waste Authority _____
- Regional Solid Waste Authority _____
- Regional Planning Council _____

Requests a Feasibility Study/Planning Grant in the amount of \$ _____ to be used for the purpose of developing direction for a recycling program which will include a system for source separation, collection and marketing of recyclable materials. A copy of the feasibility study will be made available to the West Virginia Division of Natural Resources and the West Virginia Solid Waste Management Board upon completion of the study.

It is further understood that in order for a Feasibility Study/Planning applicant to apply for an implementation grant, a complete application that includes forms RG-1 Grant Application; RG-2 Estimated Budget; Resolution approval by governing body; and Drug-Free Workplace Requirement must be provided to the Division of Natural Resources by *August 1*. If additional time is needed to complete the Feasibility Study and prepare application for implementation, contact the DNR for an extension.

Signature of Applicant Official

Position/Title

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING _____ TO FILE AN APPLICATION AND ENTER INTO AGREEMENT WITH THE WEST VIRGINIA DIVISION OF NATURAL RESOURCES FOR THE PURPOSE OF ACQUIRING FUNDS THROUGH THE WEST VIRGINIA RECYCLING ACT GRANT PROGRAM PURSUANT TO THE WEST VIRGINIA RECYCLING ACT OF 1991.

WHEREAS, millions of dollars are spent in West Virginia each year to remove unsightly and unsanitary litter from along streets, roads, waterways, recreational places and other public areas; and

WHEREAS, _____ recognizes the existence of a litter problem within the boundaries of the _____ and the need to address the problem at the local level; and

WHEREAS, the West Virginia Recycling Act of 1991 provides, through the Division of Natural Resources, Conservation Education and Litter Control Section for the allocation of funds in the form of grants for the purposes of initiating and/or expanding recycling programs.

NOW, THEREFORE, BE IT RESOLVED BY _____ COUNTY OF THE STATE OF WEST VIRGINIA:

SECTION 1. That the _____ hereby endorses and supports a Litter Prevention and Recycling Program for the _____ and authorizes the implementation of said program, if approved, as indicated in its application.

SECTION 2. That the _____ is hereby authorized to apply for and, if awarded, enter into agreement with the Division of Natural Resources to administer a grant and implement said program, and that _____ is (are) authorized to sign said agreement.

SECTION 3. That the _____ hereby requests the Division of Natural Resources, Conservation Education and Litter Control Section to consider and fund its application project.

SECTION 4. That it is found and determined that all formal actions of this _____ concerning and relating to the adoption of this resolution were adopted in an open meeting of this _____ and that all deliberations of this _____ and of any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements.

RESOLUTION NO. _____ ADOPTED ON _____, 19__

Signature

Title

Signature

Title

Signature

Title

WITNESSED: _____
Clerk or Authorized Person

CERTIFICATION REGARDING DRUG-FREE WORKPLACE REQUIREMENTS

This certification is required by the Drug-Free Workplace Act of 1988 (Pub. L 100-690, Title V, Subtitle D) and is implemented through additions to the Debarment and Suspension regulations, published in the Federal Register on January 31, 1989.

An organizational applicant certifies that it will provide a drug-free workplace by:

- (a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
- (b) Establishing a drug-free awareness program to inform employees about--
 - (1) the dangers of drug abuse in the workplace;
 - (2) the grantee's policy of maintaining a drug-free workplace;
 - (3) any available drug counseling, rehabilitation, and employee assistance programs; and
 - (4) the penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
- (c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);
- (d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will--
 - (1) abide by the terms of the statement; and
 - (2) notify the employer of any criminal drug statute conviction for a violation occurring in the workplace not later than five (5) days after such conviction;
- (e) Notifying the agency within ten (10) days after receiving notice under subparagraph (d) (2) from an employee or otherwise receiving actual notice of such conviction;
- (f) Taking one of the following actions, within 30 days of receiving notice under subparagraph (d) (2), with respect to any employee who is so convicted--
 - (1) taking appropriate personnel action against such an employee, up to and including termination; or
 - (2) requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;
- (g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).

Place of Performance: The applicant shall insert in the space provided below the site(s) for the performance of work done in connection with the specific grant: (street address, city, county, state, zip code). _____

An applicant who is an individual certifies that, as a condition of the grant, he or she will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the grant.

This assurance is given in connection with any and all financial assistance from the West Virginia Division of Natural Resources after the date this form is signed. This includes payments after such date for financial assistance approved before such date. The applicant recognizes and agrees that any such assistance will be extended in reliance on the representations and agreements made in this assurance, and the United States shall have the right to seek judicial enforcement of this assurance. This assurance is binding on the applicant, its successors, transferees, and assignees, and on the authorized official (or individual applicant, as appropriate) whose signature appears below.

Organization Name Award Number

Name and Title of Authorized Representative

Signature Date