

WEST VIRGINIA
SECRETARY OF STATE

KEN HECHLER

ADMINISTRATIVE LAW DIVISION

Form #3

RECEIVED
1992 SEP 18 PM 1:14
OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

**NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE
AND
FILING WITH THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE**

Department of Administration
AGENCY: Division of Rehabilitation Services TITLE NUMBER: 186

CITE AUTHORITY W. Va. Code 5A-3A-5

AMENDMENT TO AN EXISTING RULE: YES X NO

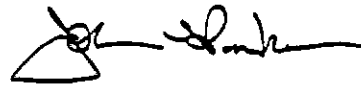
IF YES, SERIES NUMBER OF RULE BEING AMENDED: 4

TITLE OF RULE BEING AMENDED: Qualifications for Participation: Committee
for the Purchase of Commodities and Services from the Handicapped

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED:

TITLE OF RULE BEING PROPOSED:

THE ABOVE PROPOSED LEGISLATIVE RULE HAVING GONE TO A PUBLIC HEARING OR A PUBLIC COMMENT PERIOD IS HEREBY APPROVED BY THE PROMULGATING AGENCY FOR FILING WITH THE SECRETARY OF STATE AND THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE FOR THEIR REVIEW.





STATE OF WEST VIRGINIA
DEPARTMENT OF ADMINISTRATION

State Capitol
Charleston, WV 25305

Gaston Caperton
Governor

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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

Chuck Polan
Secretary

July 31, 1992

Honorable Ken Hechler
Secretary of State
Suite 157-K
Capitol Building
Charleston, West Virginia 25305

Re: Legislative Rules for Qualifications for
Participation by the Committee for the
Purchase of Commodities and Services from
the Handicapped

Dear Mr. Hechler:

Approval is hereby given for filing of legislative rules
of the Committee for the Purchase of Commodities and Services
from the Handicapped, entitled "Legislative Rules For Quali-
fications for Participation," as enclosed, in accordance with
West Virginia Code 5A-3A-5.

Sincerely,

Chuck Polan
Secretary

CP:jb

Enclosure

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #2

Do Not Mark In this Box

FILED
1992 AUG 18 PM 9:33
OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

AGENCY: Department of Administration and
Division of Rehabilitation Services TITLE NUMBER: 186
RULE TYPE: Legislative; CITE AUTHORITY W. Va. Code Section 5A-3A-5
AMENDMENT TO AN EXISTING RULE: YES X NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 4

TITLE OF RULE BEING AMENDED: Qualifications for Participation:
Committee for the Purchase of Commodities and Services from the
Handicapped

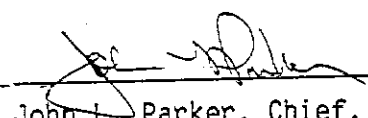
IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED:

TITLE OF RULE BEING PROPOSED:

IN LIEU OF A PUBLIC HEARING, A COMMENT PERIOD HAS BEEN ESTABLISHED DURING WHICH
ANY INTERESTED PERSON MAY SEND COMMENTS CONCERNING THESE PROPOSED RULES. THIS
COMMENT PERIOD WILL END ON September 17, 1992 AT 4:30 p.m.
ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING
ADDRESS.

Division of Rehabilitation Services
P. O. Box #50890, State Capitol Complex
Charleston WV 25305
Attn: John L. Parker
Chief, Workshop Support

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


John L. Parker, Chief, Workshop Support

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

3.00

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Rules for Qualifications for Participation by the Committee
For the Purchase of Commodities and Services from the Handicapped

TYPE OF RULE: ☒ Legislative ☐ Interpretive ☐ Procedural

Agency Division of Rehabilitation Services Address P.O. Box 50890, State
Capitol Complex, Charleston, WV 25305

1. Effect of Proposed Rule	ANNUAL		FISCAL YEAR		
	Increase	Decrease	Current	Next	Thereafter
Estimated Total Cost	\$	\$	\$	\$	\$
Personal Services					0
Current Expense					0
Repairs and Alterations					0
Equipment					0
Other					0

2. Explanation of above estimates: No additional costs are anticipated by promulgation of these rules.

3. Objectives of these rules: To provide legislative rules for appropriately certifying nonprofit workshops and their qualifications for participation in this program. To ensure that no unqualified organizations benefit from the privileges afforded to participants under this law.

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4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

Employment of more of our state's citizens with disabilities who were formerly either earning reduced wages in the state's sheltered workshops or no wages at all.

B. Economic Impact on Political Subdivisions; Specific Industries; Specific groups of Citizens.

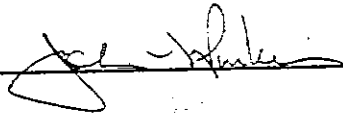
Encourage these political subdivisions to participate in the State Use program and derive benefit from it. Impact on specific industries is not known. The impact is also not known on specific groups of citizens.

C. Economic Impact on Citizens/Public at Large.

Not known.

Date: August 18, 1992

Signature of Agency Head or Authorized Representative

_____

DATE: September 18, 1992

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TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

FROM: Committee for the Purchase of Commodities and Services From the Handicapped

LEGISLATIVE RULE TITLE: 186 Series 4 Qualifications for Participation

1. Authorizing statute(s) citation W. Va. Code 5A-3A-5

2. a. Date filed in State Register with Notice of ^{Comment Period} ~~XXXXXX~~
August 17, 1992

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

None

c. Date of hearing(s): None

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

Attached No comments received X

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

September 18, 1992

f. Name and phone number(s) of agency person(s) to contact
for additional information:

John L. Parker, Chief, Workshop Support

Division of Rehabilitation Services

P. O. Box 50890 Capitol Complex
Charleston, WV 25305 (telephone 766-4670)

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

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

N/A

N/A

b. Date of hearing: N/A

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

N/A

d. Attach findings and determinations and reasons:

Attached N/A

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SUMMARY OF PROPOSED RULE

The purpose of these legislative rules is to set forth the qualifications for participation under the provision of West Virginia Code, Section 5A-3-10.

TITLE 186
LEGISLATIVE RULES
GOVERNOR'S COMMITTEE
FOR THE PURCHASE OF COMMODITIES
AND SERVICES FROM THE HANDICAPPED

SERIES 4
RULES AND REGULATIONS FOR
QUALIFICATIONS FOR PARTICIPATION

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§186-4-1. General.

1.1. Scope. -- The scope of these procedural rules is to set forth the qualifications for participation under the provisions of West Virginia Code, Section 5A-3-10.

1.2. Authority. -- West Virginia Code, Section 5A-3A-5.

1.3. Filing Date. --

1.4. Effective Date. --

1.5. Repeal of former rule. -- This legislative rule repeals and replaced WV 186CSR4 "Rules and Regulations for the Qualifications for Participation" filed September 18, 1990 and effective October 19, 1990.

§186-4-2. Definitions.

The following words and terms, when used in these regulations, shall have the following meaning, unless the context clearly indicates otherwise:

2.1. "CNA" -- means Central Nonprofit Agency.

2.2. "Committee" -- means the Governor's Committee for the Purchase of Commodities and Services from the Handicapped.

2.3. "Commodities" -- means supplies, material, equipment, contractual services, and any other articles or things used by or furnished to a department, agency or institution of state government.

2.4. "DRS" -- means the West Virginia Division of Rehabilitation Services.

2.5. "Nonprofit workshop" -- means an establishment (a) where any manufacture or handiwork is carried on, (b) which is operated either by a public agency or by a cooperative or by a nonprofit private corporation or nonprofit association, in which no part of

the net earnings thereof inures, or may lawfully inure, to the benefit of any private shareholder or individual, (c) which is operated for the primary purpose of providing remunerative employment to blind or severely disabled persons who cannot be absorbed into the competitive labor market, and (d) which shall be approved, as evidenced by a certificate of approval, by the state board of vocational education, division of vocational rehabilitation.

2.6. "Rehabilitation Facility" -- means a facility that is operated for the primary purpose of providing vocational rehabilitation services to individuals with handicaps and that provides singly or in combination one or more of the following services:

2.6.1. Vocational rehabilitation services, including under one management, medical, psychiatric, psychological, social and vocational services.

2.6.2. Testing, fitting, or training in the use of prosthetic orthotic devices.

2.6.3. Prevocational conditioning or recreational therapy;

2.6.4. Physical and occupational therapy;

2.6.5. Speech and hearing therapy;

2.6.6. Psychiatric, psychological and social services;

2.6.7. Evaluation of rehabilitation potential;

2.6.8. Personal and work adjustment;

2.6.9. Vocational training with a view toward career advancement (in combination with other rehabilitation services);

2.6.10. Evaluation and control of specific disabilities;

2.6.11. Orientation and mobility services and other adjustment services to blind individuals;

2.6.12. Transitional or extended employment for those individuals with disabilities who cannot be readily absorbed in the competitive labor market;

2.6.13. Psychological rehabilitation services for individuals with chronic mental disabilities;

2.6.14. Rehabilitation engineering services.

2.7. "Services" -- means a product by labor when that product is not deemed a tangible commodity. Services include, but are not limited to, janitorial service, printing, food service, microfilming, temporary labor, and grounds maintenance.

2.8. "Workshop" -- means a particular type of vocational rehabilitation facility where any manufacture or handiwork is carried on and which is operated by public agency or by a private corporation or association, no part of the net earning of which inures or may lawfully insure to the benefit of any private shareholder or individual, or by a cooperative, for the primary purpose of providing remunerative employment to disabled persons (a) as an interim step in the rehabilitation process for those who cannot be readily absorbed in the competitive labor market; (b) during such time as employment opportunities for them in the competitive labor market do not exist; or (c) for providing vocational evaluation and work adjustment services for disadvantaged persons.

\$186-4-3. Qualification for Program Participation.

3.1. Requirements. -- In order for a workshop or rehabilitation facility to qualify for participation under provisions of West Virginia Code, § 5A-3-10, it shall file the following documents with the Executive Secretary of the Governor's Committee for the Purchase of Commodities and Services from the Handicapped, "Committee," and Central Nonprofit Agency, "CNA":

3.1.1. A letter of application by an officer of the workshop or rehabilitation facility attesting that the workshop or rehabilitation facility:

3.1.1.a. Operates as non-profit [IRS 501(c)(3)] entity or as a State agency which operates in the interest of persons with disability, and that no part of its net income inures to the benefit of any shareholder or other individual.

3.1.1.b. Complies with applicable occupational health and safety standards required by the laws of the United States and of the State.

3.1.1.c. In the manufacturing of commodities and in the provision of services, whether or not procured under the state's program, employs persons with disability to perform at least 50% of its total production or service labor, whether or not government related. If this condition has not been met, the applicant must attach to the letter of application a satisfactory plan and timetable to achieve at least this level of handicapped labor.

3.1.1.d. Has an ongoing placement program which includes at least pre-admission evaluation and annual review to determine each worker's capability for normal competitive employment and maintenance of liaison with appropriate community services for the placement in such employment of any of its workers qualifying for such placement.

3.1.1.e. That the applicant agrees to abide by the following rules:

3.1.1.e.A. To furnish commodities or services in strict compliance with contract specifications.

3.1.1.e.B. To make appropriate records available for inspection by the Committee or CNA at any reasonable time.

3.1.1.e.C. To maintain records of direct labor hours performed in the facility by each worker and report monthly, on the approved form, hours worked by type of disability.

3.1.1.e.D. To comply with applicable occupational health and safety standards prescribed by the United States Department of Labor and the State of West Virginia Division of Labor.

3.1.1.e.E. Maintain a file on each person with a disability which includes reports of pre-admission evaluation, and annual re-evaluation of the individual's capacity for normal competitive employment, prepared by a person or persons qualified by training and experience to evaluate the work potential, interest, aptitudes and abilities of handicapped persons.

3.1.1.e.F. Make full disclosure to the CNA of all facts related to the costs, overhead, or profits in the production of commodity or provision of service.

3.1.2. A letter of approval from the DRS for participation in the program which attests DRS has audited, examined or has on file current documentation of the following items:

3.1.2.a. If workshop or rehabilitation facility is incorporated, a legible copy of the articles of incorporation showing the date of filing and signature of an appropriate State official and a copy of the bylaws certified by an officer of the corporation.

3.1.2.b. A copy of the Internal Revenue Service certificate indicating that the workshop or rehabilitation facility has been accepted as nonprofit for taxation purposes.

3.1.2.c. Evidence that the workshop or rehabilitation facility meets the criteria for determining nonprofit status under the applicable provisions of West Virginia, and is registered and in good standing as a charitable organization with the Secretary of State, under the provisions of West Virginia law.

3.1.2.d. If sub-minimum wages are to be paid, the current certificate(s) issued by the United States Department of Labor authorizing wage payments under Section 14 (c) of the Fair Labor Standards Act.

3.1.2.e. A current listing of the names, addresses and phone numbers of officers of the workshop or rehabilitation facility.

3.2. Notification. -- The Committee shall review the application letter and the DRS approval letter, and, if acceptable, notify the workshop or rehabilitation facility through the CNA of its eligibility to participate.

3.3. Revocation. -- The Committee may revoke the rights of any workshop or rehabilitation facility to participate if, at any time, the Committee determines the workshop or rehabilitation facility is not in compliance with all the requirements in § 186-3-3 of these regulations.

3.3.1. If the CNA recommends the denial of approved status to a workshop or rehabilitation facility, or the revocation or suspension of such status, for failure to comply with these regulations or for other good cause, the matter shall be referred to the Committee for resolution.