

Form #3

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

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.



DEPARTMENT OF COMMERCE, LABOR & ENVIRONMENTAL RESOURCES
OFFICE OF THE SECRETARY

State Capitol, Room R-151
Charleston, West Virginia 25305-0310
Telephone: (304) 558-3255
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GASTON CAPERTON
Governor

JOHN M. RANSON
Cabinet Secretary

August 11, 1992

Charles Jordan, Director
Solid Waste Management Board
1615 Washington Street, E.
Charleston, West Virginia 25311-2126

RE: Proposed Rule - Title 54, Series 5 (Rules & Regulations
for the Disbursement of Grants to Solid Waste
Authorities)

Dear Charles:

Pursuant to West Virginia Code §5F-2-2(a)(12), I hereby
consent to the proposal of the rule specified above.

You may attach a copy of this letter to your filing with the
Secretary of State as evidence of my consent.

Sincerely yours,

John M. Ranson
John M. Ranson
Cabinet Secretary

JMR:cjb
B:RUL-SWMB.RUL

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Rules and Regulations for the Disbursement of Grants to Solid Waste Authorities

Type of Rule: y Legislative Interpretive Procedural

Agency Solid Waste Management Board Address 1615 Washington Street East
Charleston, WV 25311-2126

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

2. Explanation of above estimates:

Grants are Special Revenue Funds disbursed to local Solid Waste Authorities through account 8461-17-025 in accordance with these Rules and Regulations. The maximum Disbursement of these funds pursuant to WV Code § 16-26-6; § 20-9-13(h)-(2)(A) would be \$1,100,000; to be determined by the Board on a "funds available" basis. The administrative cost would be negligible and no general revenue funds are expended for this purpose.

3. Objectives of these rules:

The objectives of these rules are to provide the local authorities with guidelines for the proper expenditures of funds and procurement procedures. Additionally, they will ensure that the authorities are following legislative intent in implementing an integrated solid waste management plan.

4. **Explanation of Overall Economic Impact of Proposed Rule.**

A. Economic Impact on State Governments.

Implementation of these rules would provide for the prudent use of state mandated special revenue funds. Additionally, the efficient disposal of solid waste, using state of the art technology, will retain and attract industry, providing more jobs and resulting in a larger tax base.

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

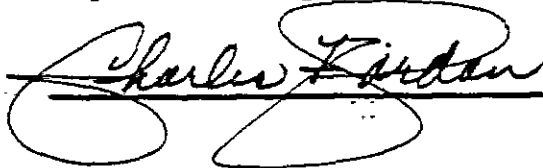
Provide funds to assist local solid waste authorities with funds to implement an integrated solid waste management plan pursuant to WV Code § 20-9-12.

C. Economic Impact on Citizens/Public at Large.

Makes available a more cost effective solid waste disposal system.

Date: August 12, -1992

Signature of Agency Head or Authorized Representative

A handwritten signature in cursive script, appearing to read "Charles Jordan", is written over a horizontal line.

DATE: September 18, 1992

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: Solid Waste Management Board

LEGISLATIVE RULE TITLE: Rules & Regulations for the Disbursement of Grants
to Solid Waste Authorities

1. Authorizing statute(s) citation _____

WV Code §16-26-6; §20-9-13(h)

2. a. Date filed in State Register with Notice of Hearing

August 14, 1992

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

Letters sent to each local Solid Waste Authority with Notice of
Hearing

c. Date of Hearing(s) September 17, 1992

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

Attached XX No comments received _____

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:

Charles Jordan 558-0844

Glenn Jarrell 558-0844

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: NO

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.

b. Date of hearing: _____

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

d. Attach findings and determinations and reasons:

Attached _____

TITLE 54
LEGISLATIVE ~~EMERGENCY~~ RULES
SOLID WASTE MANAGEMENT BOARD

SERIES 5
RULES AND REGULATIONS FOR THE DISBURSEMENT
OF GRANTS TO SOLID WASTE AUTHORITIES

§ 54-5-1. General.

1.1. Scope. -- The purpose of these regulations is to provide interpretation and guidance concerning the awarding of grants to county and regional solid waste authorities for use in carrying out the purposes under W. Va. Code, § 20-9-1 et seq.

1.2. Filing Date.

1.3. Effective Date.

1.4. Authority. -- W. Va. Code, § 16-26-6; W. Va. Code, § 20-9-13(h)(2)(A).

1.5. Repeal of former rule. -- This legislative rule repeals and replaces WV 54CSR5 "Rules and Regulations for the Disbursement of Grants to Solid Waste Authorities" filed December 5, 1990 and effective January 4, 1991.

§ 54-5-2. Definitions.

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

2.1. "Applicant" -- means a solid waste authority which applies for a grant pursuant to these regulations.

2.2. "Approved solid waste facility" -- means a commercial solid waste facility or practice which has a valid permit or compliance order under article five-f [§ 20-5f-1 et seq.] of this chapter.

2.3. "Authority" -- means any solid waste authority of any county or region in West Virginia, established by W. Va. Code, §§ 20-9-3, 20-9-4; or the County Commission of any county which elected not to establish an authority, as allowed by W. Va. Code, § 20-9-5a.

2.4. "Board" -- means the Solid Waste Management Board created in W. Va. Code, 16-26-4, or its authorized representatives.

2.5. "Buy back facility" -- means any recycling facility, which has an attendant present while open, at which source separated recyclable are purchased from the general public, or accepted for a nominal fee. Limited processing of materials is required or conducted.

2.6. "Class A facility" -- means a commercial solid waste facility which handles an aggregate of between ten and thirty thousand tons of solid waste per month. Class A facility shall include two or more Class B solid waste landfills owned or operated by the same person in the same county, if the aggregate tons of solid waste handled per month by such landfills exceeds nine thousand nine hundred ninety-nine tons of solid waste per month.

2.7. "Class B facility" -- means a commercial solid waste facility which receives or is expected to receive an average daily quantity of mixed solid waste equal to or exceeding one hundred tons each working day, or serves or is expected to serve a population equal to or exceeding forty thousand persons, but which does not receive solid waste exceeding an aggregate of ten thousand tons per month. Class B facilities do not include construction/demolition facilities; Provided, That the definition of Class B facility may include such reasonable subdivisions or subclassifications as the director may establish by legislative rule proposed in accordance with provisions of chapter twenty-nine-a [§ 29A-1-1 et seq.] of this code.

2.8. "Commercial solid waste facility" -- means any solid waste facility which accepts solid waste generated by sources other than the owner or operator of the facility and shall not include an approved solid waste facility owned and operated by a person for the sole purpose of disposing of solid wastes created by that person or that person and another person on a cost-sharing or non-profit basis and shall not include the legitimate reuse and recycling of materials for structural fill, road base, mine reclamation and similar applications.

2.9. "Construction" -- includes reconstruction, enlargement, improvement and providing furnishings or equipment for a solid waste disposal project.

2.10. "Cost" -- means, as applied to solid waste disposal projects, the cost of their acquisition and construction; of all land, rights-of-way, property, rights, easements, franchise rights and interests required by the board for such acquisition and construction; the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any land to which such buildings or structures may be moved; the cost of diverting highways, interchange of highways and access roads to private property, including the cost of land or easements therefor; the cost of all machinery, furnishings and equipment; all financing charges and interest prior to and during construction and for no

more than eighteen months after completion of construction; the cost of all engineering services and all expenses of research and development with respect to solid waste facilities; the cost of all legal services and expenses; the cost of all plans, specifications, surveys and estimates of cost and revenues; all working capital and other expenses necessary or incident to determining the feasibility or practicability of acquiring or constructing any such project; all administrative expenses and such other expenses as may be necessary or incident to the acquisition or construction of the project; the financing of such acquisition or construction, including the amount authorized in the resolution of the board providing for the issuance of solid waste disposal revenue bonds to be paid into any special funds from the proceeds of such bonds; and the financing of the placing of any such project in operation. Any obligation or expenses incurred after the effective date of this article by any governmental agency, with the approval of the board, for surveys, borings, preparation of plans and specifications and other engineering services in connection with the acquisition or construction of a project shall be regarded as a part of the cost of such project and shall be reimbursed out of the proceeds of loans or solid waste disposal revenue bonds as authorized by the provisions of this article.

2.11. "Energy recovery incinerator" -- means any solid waste facility at which solid wastes are incinerated, with the intention of using the resulting energy for generation of steam, electricity, or any other use not specified in these regulations.

2.12. "Grant" -- means a grant made by the Board to an applicant pursuant to these regulations.

2.13. "Government agency" -- means the state government of any agency, department, division or unit thereof; counties; municipalities; watershed improvement districts; soil conservation districts; sanitary districts; public service districts; drainage districts; regional governmental authorities and any other governmental agency, entity, political subdivision, public corporation or agency having the authority to acquire, construct or operate solid waste facilities; the United States government or any agency, department, division or unit thereof; and any agency, commission or authority established pursuant to an interstate compact or agreement.

2.14. "Incineration technologies" -- means any technology that uses controlled flame combustion to thermally break down solid waste, including refuse-derived fuel, to an ash residue that contains little or no combustible materials, regardless of whether the purpose is processing, disposal, electric or steam generation, or any other method by which solid waste is incinerated.

2.15. "Incinerator" -- means an enclosed device ~~device~~ using controlled flame combustion to thermally break down solid waste,

including refuse-derived fuel, to an ash residue that contains little or no combustible materials.

2.16. "Industrial waste" -- means any solid waste substance resulting from or incidental to any process of industry, manufacturing, trade or business, or from or incidental to the development, processing or recovery of any natural resource.

2.17. "Landfill" -- means a facility or part of one at which solid waste, or its residue after treatment, is intentionally placed in or on land, and at which solid waste will remain after closure. The term landfill does not include a land application unit, surface impoundment, solid waste surface impoundment or injection well.

2.18. "Materials recovery facility" -- means any solid waste facility at which solid wastes are manually or mechanically shredded, separated, so that materials are recovered from the general waste stream for purposes of reuse and recycling.

2.19. "Owner" -- includes all persons, partnerships or governmental agencies having any title or interest in any property rights, easements and interests authorized to be acquired by this article.

2.20. "Person" -- means any public or private corporation, institution, association, firm or company organized or existing under the laws of this or any other state or county; the United States or the state of West Virginia; governmental agency; political subdivision; county commission; municipality; industry; sanitary district; public service district; drainage district; soil conservation district; solid waste disposal shed district; partnership; trust; estate; individual; group of individuals acting individually or as a group; or any other legal entity whatever.

2.21. "Recycle" or "Recycling" -- means the collection, separation, recovery and sale or reuse of metals, glass, paper and other materials.

2.22. "Recycling Facility" -- means any solid waste facility for the purpose of recycling at which neither land disposal, nor biological, chemical, or thermal transformation of solid waste occurs. Sorting of recyclable into separate categories may occur, but the manual or mechanical separation of recyclable from the general waste stream may not.

2.23. "Resource recovery facility" -- means any solid waste facility at which solid wastes are mechanically, biologically, chemically, or thermally transformed for the purpose of separating, removing, or creating any materials or energy for reuse or sale and at which land disposal of solid waste does not occur. Resource recovery facilities include composting facilities, environmentally

acceptable incinerators, materials recovery facilities, energy recovery facilities, and other such solid waste facilities not herein specified.

2.24. "Solid waste" -- means any garbage, paper, litter, refuse, cans, bottles, waste processed for the express purpose of incineration, sludge from a waste treatment plant, water supply treatment plant or air pollution control facility, other discarded material, including offensive or unsightly matter, solid, liquid, semisolid or contained liquid or gaseous material resulting from industrial, commercial, mining or community activities but does not include solid or dissolved material in sewage, or solid or dissolved materials in irrigation return flows or industrial discharges which are point sources and have permits under article five-a [§ 20-5A-1 et seq.], chapter 20 of the code, or source, special nuclear or by-product material as defined by the Atomic Energy Act of 1954, as amended, including any nuclear or by-product material considered by federal standards to be below regulatory concern, or a hazardous waste either identified or listed under article five-e [§ 20-5E-1 et seq.] chapter 20 of the code, or refuse, slurry, overburden or other waste or materials resulting from coal-fired electric power generation or stream generation, the exploration, development, production, storage and recovery of coal, oil and gas and other mineral resources placed or disposed of at a facility which is regulated under chapter twenty-two, chapter twenty-two a, or chapter twenty-two b, [§ 22-1-1 et seq., § 22A-1-1 et seq. or § 22B-1-1 et seq.] of the code, so long as such placement or disposal is in conformance with a permit issued pursuant to said chapters: "Solid waste" shall also not include materials which are recycled by being used or reused in an industrial process to make a product, as effective substitutes for commercial products, or are returned to the original process as a substitute for raw material feedstock.

2.25. "Solid waste disposal" -- means the practice of disposing of solid waste including placing, depositing, dumping or throwing or causing to be placed, deposited, dumped or thrown any solid waste.

2.26. "Solid waste disposal project" or "project" -- means any solid waste facility, wastewater treatment plants, sewer treatment plants, water and sewer systems and connecting pipelines the acquisition or construction of which is authorized by the solid waste management board or any acquisition or construction which is financed in whole or in part from funds made available by grant or loan by, or through, the board as provided in this article, including all buildings and facilities which the board deems necessary for the operation of the project, together with all property, rights, easements and interests which may be required for the operation of the project.

2.27. "Solid waste facility" -- means any system, facility, land, contiguous land, improvements on the land, structures or other appurtenances or methods used for processing, recycling or disposing of solid waste, including landfills, transfer stations, materials recovery facilities and other such facilities not herein specified. Such facility shall be deemed to be situated, for purposes of these regulations, in the county where the majority of the spatial area of such facility is located.

§54-5-3. Application for grants.

3.1. Any eligible solid waste authority which desires to participate in the program shall make a separate application to the Board on forms prescribed by the Board for each project for which such participation is desired.

3.2. All applications must be submitted with a signed resolution authorizing the application. Both the application and the resolution must be signed by the chairperson of the solid waste authority or authorities.

3.3. Grant applications must be received by the Board no later than March 31 to be considered at the May Board meeting and no later than September 30 to be considered at the November Board meeting. Grants will not be considered at any other meetings. However, for the First half of Fiscal Year 92-93, once regulations have been implemented the Authority will have thirty (30) days from day of implementation to file an application for a grant. The Board will consider said application within thirty (30) days.

3.4. Applications to fund the operation and maintenance of a project must include a detailed outline of projected expenditures and revenues for the project.

3.5. Grants will be awarded to solid waste authorities for the purchasing of equipment, materials, services, land and buildings to be done on behalf of the solid waste authority. Grant monies cannot be passed on to a third party for use.

3.6. The applicant will be notified in writing within a reasonable period of time of approval or disapproval of the grant. Approval or disapproval of the grant will be determined by the Board after consideration of the factors listed under section 54-5-7 of these regulations, following review of the application by staff, presentation of the application to the grants committee, and recommendation by the committee to the full Board. Disbursement of any approved grant by the Board shall be contingent upon the prior written approval of the Secretary of Commerce, Labor and Environmental Resources, if such approval is required pursuant to W. Va. Code section 16-26-6(ba) or any other statutory provision.

\$54-5-4. Eligibility for Participation. -- The following criteria will determine the eligibility of a proposed project to receive funding under this program:

4.1. The applicant must be a county or regional solid waste authority, or group of such authorities acting collectively for the purpose of the grant project.

4.2. Grants will be awarded for a maximum period of one year, provided that the Board may extend this period for up to sixty (60) days. A second grant may be awarded for a project funded in a previous year. Continued financing for long-term projects will not be provided under this grant program. However, recycling projects showing exceptional innovation and merit may receive grants for more than two years at the sole discretion of the Board.

4.3. Applicants are only eligible for one or more grants totalling an aggregate amount not to exceed twenty thousand dollars (\$20,000) per fiscal year if funds are available. The amount of money may be increased when the applicant consists of two or more counties acting collectively for the purposes of a grant, and provided further, that at the Board's sole discretion, this amount of grant monies may be increased if the Board's funding exceeds the fiscal projections made by the Board.

4.4. Grants will be awarded on a one-to-one matching basis, unless the applicant demonstrates to the Board's satisfaction that it does not have sufficient funds to make such a match or that such a match is unwarranted under the particular circumstances pertaining to the particular project. The match may be in dollars or in kind (services, land or equipment). In the event an applicant makes such a satisfactory demonstration, the Board may award the grant with a lesser match required of the applicant. Further, the Board may require an applicant to provide documentation substantiating monies or in-kind services used to match the Board's grant.

4.5. After July 1, 1991, grants will not be awarded to any solid waste authorities which have failed to submit or implement comprehensive litter and solid waste control plans and commercial solid waste facility site ~~eting~~ plans in accordance with the requirements of W. Va. Code, §§ 20-9-7, 20-9-12a and the regulations promulgated thereunder, and provided that eligibility will be reinstated upon the approval of such required plans and the payment to the Board of all cost and expenses incurred by the Board for its preparation of such plans pursuant to W. Va. Code, § 20-9-7(e) and 12(a)(h).

4.6. After December 31, 1992, grants will not be awarded to solid waste authorities which do not have comprehensive litter and solid waste control plans and commercial solid waste facility site ~~eting~~ plans approved by the Board in accordance with the

requirements of W. Va. Code, § 20-9-7, 20-9-12a and the regulations promulgated thereunder, and provided that eligibility will be reinstated upon the approval of such required plans and the payment to the Board of all cost and expenses incurred by the Board for its preparation of such plans pursuant to W. Va. Code, § 20-9-7(e) and 12(a)(h).

4.7. If the purpose of the grant is to fund costs associated with a solid waste facility, the facility must be in compliance with all applicable laws and regulations of the West Virginia Department of Health and Human Resources and the West Virginia Department of Commerce, Labor and Environmental Resources, including any compliance orders issued by such departments.

4.8. The applicant shall be responsible for establishing and maintaining adequate procedures and internal financial controls governing the management and utilization of funds provided under this Contract, as well as funds provided as the applicant's matching share.

4.9. The applicant shall cause an audit of this program to be included in the annual audit of the applicant performed by the State Tax Department or its designated representative. The audit shall be performed in conformance with generally acceptable accounting procedures as referred to in W. Va. Code, § 16-26-15.

4.10. At any time during normal business hours and as often as the Solid Waste Management Board or its designated representative may deem necessary, the applicant shall make available to the Solid Waste Management Board or its designated representative for examination, all of its records with respect to all matters covered by this grant and permit the Solid Waste Management Board or its designated representative to audit, examine and make excerpts or transcripts from such records, audit all contracts, invoices, materials, payrolls, records and personnel, conditions of employment and other data relating to all matters covered by this grant during the entire time period beginning with the project approval and ending three years after the final disbursement of grant funds.

4.11. The applicant shall solicit sealed bids for all construction-related contracts or purchases which have an estimated value of over five thousand dollars (\$5,000). Any attempts by the applicant to segregate the project into sections having an estimated value of less than \$5,000 may be cause for termination of an agreement.

4.11.1. The bids shall be obtained by public notice as a Class II legal advertisement in compliance with the provisions of W. Va. Code, § 59-3. This notice shall be published by the applicant in the newspaper with the largest circulation serving the general area twice within fourteen days preceding the final date

of submitting bids. The applicant shall also, where feasible, solicit sealed bids by listing the project in the F. W. Dodge Report, sending requests by mail to prospective suppliers or contractors, and by posting notice on a bulletin Board in a public place. The applicant shall have available upon request for review by the State Solid Waste Management Board or its designated representative, bid documents and other evidence of compliance with these procedures.

4.11.2. The applicant shall comply with the requirements of W. Va. Code, § 5G-1-1 et seq., in regard to obtaining architectural or engineering services, if such services are needed.

4.12. Unless a grant applicant specifically requests and can demonstrate a need for a larger portion of the awarded grant to initiate the project, all grants 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.

4.13. All grant applications will be submitted to the appropriate Regional Council or Councils for review in accordance with W. Va. Code, § 8-25-9 in order to avoid unnecessary duplication of ideas, equipment, services, or imprudent use of grant funds.

§54-5-5. In-Kind Services.

5.1. Credit will be given for in-kind services when determining the amount of funding from the authority to be matched by a grant.

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

5.3. Donated equipment will be valued at its fair market value prorated over the life of the grant. Such equipment may only be used to determine the amount of matching funds for the first grant given the authority involving that equipment.

5.4. Costs and third-party in-kind contributions must be verifiable from the records of the applicant. These records must show how the value placed on third-party in-kind contributions were derived. To the extent feasible, volunteer services will be supported by the same methods that the organizations use to support the allocability of regular personnel costs.

5.5. The following items are not in-kind services:

5.5.1. Goods and services normally available free in the community and which would be available whether you operated the project or not. Example, space in a community center;

5.5.2. Contributed time of project staff whose regular working hours are paid with Federal and State funds;

5.5.3. Contributed time of members of Boards of Directors and Advisory Councils spent in the performance of the duties for which they were elected or appointed;

5.5.4. Value of space donated for meetings and other purposes in the homes of individuals, especially staff members.

5.6. Valuation of third-party in-kind contributions will be determined as follows:

5.6.1. Volunteer services are unpaid services valued at rates paid by other activities of the agency or should be consistent with those paid for similar work in the same labor market, including fringe benefits. Rates of employees of other agencies should be priced at the base compensation rate exclusive of fringe benefits and overhead costs;

5.6.2. Tangible personal property;

5.6.3. Donated real property (land and buildings), fair market value at the time of donation, if approval is obtained from the awarding agency;

5.6.4. Donated use of property, valued as if the applicant has rented the property and has paid the property's fair rental value.

5.7. The Board may allow other charges which are adequately supported and permissible.

5.8. The applicant must document within the application that it has, or will secure at its own expense, personnel with the necessary qualifications and experience required to perform the services under this Contract. Such personnel shall not be employees of or have any contractual relationship with the Solid Waste Management Board.

5.9. The applicant agrees to the following conditions:

5.9.1. That it will not discriminate against any employee or applicant for employment because of race, color, age, religion, sex, national origin, or physical handicap;

5.9.2. That it shall take affirmative action to ensure that all contractors employed during this project treat all their

employees without regard to race, color, age, religion, sex, national origin, or physical handicap; and that such affirmative action shall include, but not be limited to the following: employment, upgrading, demotions, transfers, recruitment, compensation, selection for training (including apprenticeship), and participation in recreational and educational activities; in all solicitations or advertisements for employees placed by or on behalf of the applicant, shall state that all qualified applicants will receive consideration for employment without regard to race, color, age, religion, sex, national origin, or physical handicap; shall cause the provisions of this nondiscrimination clause to be inserted in all subcontracts for any work covered by this notice of grant award so that such provisions will be binding upon each subcontractor; and shall keep such records and submit such reports concerning the racial and ethnic origin of employees and applicants for employment as the Solid Waste Management Board may require;

5.9.3. The applicant shall require any contractors and/or any subcontractors it engages on this project to comply with Title VI and Title VII of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d et. seq.); Presidential Executive Order 11246, as amended by Presidential Executive Order 11375; as well as the provisions of the West Virginia Human Rights Act, as amended W. Va. Code, § 5-11-1;

5.9.4. The applicant shall insure that the contractor has complied with the regulations issued by the Contractors Licensing Board pursuant to West Virginia Code, § 21-11-1 et seq. and its applicable regulations, in regard to operating a contracting business in the State of West Virginia.

5.10. The applicant shall require any facilities constructed under the auspices of this Contract to be designed to comply with the standards documented within Title III of the Americans With Disabilities Act of 1991, and its applicable regulations.

5.11. 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 RG #5 must be completed and accompany the grant application.

§54-5-6. Authorized Use of Grants Funds.

6.1. Applicants may request grant money to be used for any of the purposes under W. Va. Code, § 20-9-1 et seq. The following purposes have been selected as representative of the types of activities allowed and the general priority in which they will be considered:

6.1.1. Source reduction in toxicity or volume.

6.1.2. Reuse of materials with little or no processing thus diverting them from the waste stream.

6.1.3. Recycling, composting, processing and marketing of materials recovered.

6.1.4. Open dump clean-up and litter control.

6.1.5. Transfer stations.

6.1.6. Landfills and other solid waste facilities.

6.1.7. Administrative costs for any of the above items or other projects.

6.1.8. Projects for the development, purchase or delivery of educational materials, programs or seminars. Applicants are encouraged to use existing educational information, programs and seminars available to the applicant from other sources.

§54-5-7. Factors Considered in Evaluating Applications.

The Board will consider the following factors in evaluating an application for a grant: ---

7.1. Project's relationship to and support of the hierarchy established under W. Va. Code, § 20-9-1. The Board will give preference to grant projects in the following order of priority: (1) Source reduction; (2) recycling, reuse and materials recovery; and (3) landfilling. The project needs to be consistent with the state solid waste plan and the local authority's plan.

7.2. Potential of project to further the efficient and effective collection, processing, recycling and disposal of solid wastes within the area and to assist in the protection of the environment.

7.3. Financial sustainability ~~sustainability~~ of the project beyond the grant period.

7.4. Cost-effectiveness of the project.

7.5. Level of local match.

7.6. Degree of public involvement in the project.

7.7. Projects that have not received funding from this particular grant program will be given priority over projects funded previously for grants under this program.

7.8. Consideration of the applicant's ability to obtain a grant or loan from monies available under the provisions of W. Va. Code, § 16-26-1 et seq., or any other state funded source.

7.9. Consideration of the applicant's ability to assess and collect rentals, fees and service charges for the use or services of any solid waste facilities involved in the grant application.

7.10. Any administrative costs of the authority, such as salary, operations and maintenance or administrative equipment whether in connection with a grant project or not, will be given low priority by the Board when compared to other costs involved in requests for grants. However, computer hardware and software at a reasonable cost may be an exception to the low priority standard.

7.11. No grants will be approved in operation or equipment for buy-back centers which are in direct competition with private enterprise operations existing within the same county, unless such buy-back center agrees in writing not to pay more for commodities than the price paid for such commodities by the private enterprise.

7.12. Applications for physical resources, such as equipment or facilities will receive preference over funding of operations or salaries of employees.

§54-5-8. Grant Withdrawal and Penalty.

8.1. The Board reserves the right to withdraw a grant upon determination of unsatisfactory program compliance with either these rules, or the specifications in the grant document, or the application for the grant.

8.2. A failure to commence program activities within ninety (90) days after receiving funding from the Board may result in the cancellation of the grant.

8.3. A failure to expend twenty percent of the grant funds within the first quarter of the grant period will result in cancellation of the grant and a recall of all funds.

8.4. The Board reserves the right to conduct an on-site inspection of the applicant's facilities related to the grant; and the Board also reserves the right to conduct an audit of an applicant's program records during or after the grant period. The applicant shall retain all financial records, statistical records and all other documents relating to the grant for a period of three (3) years from the end of the grant period.

§54-5-9. Reporting Requirements.

9.1. Quarterly reports. -- If grant monies are for an ongoing project within a fiscal year, reports shall be submitted to the

Board on a quarterly basis within fourteen (14) calendar days of the end of the quarter and shall contain the following information:

9.1.1. A detailed listing of all funds expended or received during the quarter with copies of invoices, purchase orders and titles evidencing ownership, for all equipment and materials purchased and copies of all contracts and service agreements.

9.1.2. The balance of the grant monies remaining.

9.1.3. The amount of matching funds and in kind match utilized to date, including time sheets, invoices, requisitions for payment, and other records or information requested by the Board.

9.1.4. The percentage of the project completed to date. Specify the progress that has been made and any problems which have been encountered.

9.1.5. All quarterly reports must include a copy of the authorities current balance sheet and current income statement.

9.2. For purposes of section 9.1. of these regulations, the fiscal quarters end with the following dates: September 30, December 31, March 31, and June 30.

9.3. Final Report. -- A final report shall be submitted to the Board within thirty (30) days of completion of the project containing the same information required under Section 9.1. of these regulations.

9.3.1. If an extension is authorized in regard to the project, pursuant to Section 4.2., then the filing deadline will automatically be extended for a like period of time.

9.3.2. An applicant may submit a final report at the time all grant and matching funds have been expended in lieu of any additional quarterly reports.

9.4. All reports required under this section shall be filed with the Board on forms prescribed by the Board.

\$54-5-10. Unexpended Funds. -- The applicant shall return all unexpended funds remaining at the end of the grant period to the Board, provided that this requirement may be waived for good cause found by the Board. Such unexpended funds must be returned to the Board within sixty (60) days following the end of the grant period.

\$54-5-11. Reduction of Grant Monies Available. -- Grants allocated under these regulations are dependent upon the availability of funds collected pursuant to W. Va. Code, § 20-9-13. In the event that those funds are diminished by legislative action or a decrease in waste disposed of at landfills, the Board will adjust the amount of each grant accordingly.

PUBLIC HEARING FOR GRANT REGULATIONS

September 17, 1992
1:00 p.m.
Air Quality Building
1518 Washington Street East
Charleston, WV

NAME

REPRESENTING

ADDRESS

WALTER SWIGER	HCSWA	P.O. Box 8 CLARKSBURG, WV 2630
ROBERT MENESES, JR	PCSWA	4237 STATE RT 34 HURRICANE, WV
WALLY RIGSBY	WEB. Co. SWA.	P.O. Box 8 CAMDEN ON GAULEY, WV
Joe Hanna	Wob Co SWA	P.O. Box 8 Camden on Gauley, WV
Carl Hoken	MOVRC	P.O. Box 247 Parkersburg
George Riley	HARRISON COUNTY SOLID WASTE AUTH.	301 W. MAIN ST. CLARKSBURG, WV. 2630
John A Lichello	Wood Co SWA	P.O. Box 2371 Parkersburg, WV. 26101
Sloan Smith	West Va Waste Handlers Assoc	P.O. Box 219 Milton WV 25414
Orantha Orourke	SWA & SWA	SWA, WV
INDY CRIPPS	WVBIIRP	Chas WV 25362 PO Box 6508
BOB ARTHUR	SWAB	100 Ct St Fayetteville WV 2581
LARRY PARSONS	SWA	PO Box 307 Fayetteville WV 2584
Tim Blankenship	Mingo County SWA	Gilbert WV 25621



Ritchie County Solid Waste Authority

P. O. Box 161, Ellenboro, WV 26346

SUBMITTED TO WWSWMB, 1615 Washington Street, E., Charleston, WV 25301
on September 17, 1992

COMMENTS on Title 54, Series 5 Rules and Regulations for the Disbursement of Grants to Solid Waste Authorities

54-5-3. Application for grants.

3.6. The words "and the Secretary of Commerce, Labor and Environmental Resources" should be deleted. The amount of time to process applications would only increase with additional considerations. The secretary must already consider and approve funds to the SWA. The solid waste management board is supposed to be in charge of managing solid waste and indeed can; with out any more red tape.

54-5-4. Eligibility for Participation.

4.11. The meaning is unclear as to supplies related; segregate the project into sections. Funding is often needed for many different and separate things. Bids should be done on work estimated at \$5,000. Local businesses should always be given consideration as a matter of policy.

4.13. The grant applications should be the sole responsibility of the management board. The regional councils have many responsibilities already. If a grant is approved by the board, the regional council could then review it for planning recommendations. The board has every county's management plan on file and can better judge unnecessary duplication of ideas.

54-5-5. In-Kind Services.

5.5.3. Is this to mean members of local solid waste authorities?

5.9.4. How shall the applicant insure this?

5.10. If the facilities have to comply for handicapped persons it will be very expensive and impractical for a low tech. program.

5.11. This seems like an unnecessary added paperwork burden unless it is mandated by the federal government laws.

54-5-8. Grant Withdrawal and Penalty.

8.3. The word "will" should be removed and may or could should be added. A program may not start out as expected but could very well build to a success by the years end. Many projects depend on public education. This takes time and repetition so people understand the service offered, or the need for cooperation.

54-5-11. Reduction of Grant Monies Available. What does accordingly mean?



Recycle for a sustainable future

Upshur County Solid Waste Authority

P.O. Box 2244

Buckhannon, West Virginia 26201

September 16, 1992

To:

West Virginia Solid Waste Management Board
1615 Washington Street East
Charleston, WV 25311

From: Bob Coit, Chairman
Upshur County Solid Waste Authority

Re: COMMENTS FOR PRESENTATION AT THE PUBLIC HEARING
TO BE HELD SEPTEMBER 17, 1992

ON

PROPOSED RULE - TITLE 54 - SERIES 5 (RULES AND REGULATIONS
FOR THE DISBURSEMENT OF GRANTS TO SOLID WASTE AUTHORITIES)

Section 54-5-4.13Regional Clearinghouse Review

As Chairman of a Solid Waste Authority, I have no objection to the the requirement that grant applications be submitted for regional review, but there may be times when the regional councils have difficulty completing the normal 30 to 40 day review process before the Solid Waste Management Board needs to make its decision making a particular grant. Most councils have a way to expedite reviews, expedited reviews may often be needed.

Section 54-5-3.3Grant Deadlines

Because of delays in establishing these regulations there is no way for any Authority to submit an application before September 30 of this year. I hope that both the September submission date and November Board Meeting Review requirements will be modified to allow restart of the grant program before March 31, 1993.

Section 54-5-3.5Pass Through to Third Parties

Smaller Authorities may find important programs for recycling or litter control are most effectively operated by a separate nonprofit organization or small local governments which already have facilities and staff in place. Passing funds to these organizations may be the most cost effective way for an Authority to establish a worthwhile project.

Those of us who have a hard time spelling would be more comfortable if the several references to the commercial solid waste facility citing plan were repaired.



Region Seven
Planning and Development Council
4 West Main Street
Buckhannon, WV 26201
Phone (304) 472-6564
Fax (304) 472-6590

Region VII Planning and Development Council

4 WEST MAIN STREET, BUCKHANNON, WV 26201

(304) 472-6564

Fax Transmittal

Date: 9/16/92
Number of Pages
Including this cover: 2

To: Solid Waste Mgmt Bd

Attention: CHARLIE

From: Bob Coit

September 16, 1992

To:

West Virginia Solid Waste Management Board
1615 Washington Street East
Charleston, WV 25311

From:

Robert Coit, Executive Director
Region Seven Planning and Development Council
On behalf of the West Virginia Associations
of Regional Planning and Development Councils

Re: COMMENTS FOR PRESENTATION AT THE PUBLIC HEARING
TO BE HELD SEPTEMBER 17, 1992

ON

PROPOSED RULE - TITLE 54 - SERIES 5 (RULES AND REGULATIONS
FOR THE DISBURSEMENT OF GRANTS TO SOLID WASTE AUTHORITIES)

COMMENT:

The Executive Directors Committee of the WVARPDC has asked me to assure Solid Waste Management Board that after due consideration that the Regional Planning and Development Councils fully supports the proposed provision contained in Section 4.13 of Title 54, Series 5 which requires the submission of all grant applications to the appropriate Council or Councils for review in accordance with W.V. Code Section 8-25-9. Such review can assist in avoiding duplication of efforts and the imprudent use of grant funds, and will at least provide another means of informing local governments of proposed solid waste management activities in their areas. Each regional council in the state has in place a system for project notification and review, so the addition of these grant applications to these systems will not add significantly to the existing work load.



RECEIVED
SEP 14 1992
SOLID WASTE
MANAGEMENT BOARD

September 14, 1992
Tom Degen
Rt. 3 Box 324
Chloe, WV 25235

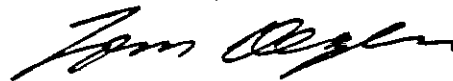
To: WV Solid Waste Management Board
1615 Washington Street, East
Charleston, WV 25311

Members of the Board and Charlie Jordan,

Enclosed are my comments on Title 54, Series 5 Rules and Regulations for the Disbursement of Grants to Solid Waste Authorities. In general I think that better financial controls are a good thing, but I would urge the Board not to over-react to the events of the 1991 Special Session to the point that these grants are made so difficult to get and comply with that they are unobtainable or not worth applying for. Please keep in mind that this is a dedicated grant fund that is supposed to be administered as a form of the assistance that the Board is mandated to give the authorities.

I appreciate the opportunity to submit comments and look forward to your responses.

Sincerely,



Tom Degen

Comments on Title 54, Series 5
Rules and Regulations for the Disbursement
of Grants to Solid Waste Authorities

§ 54 - 5 - 2. Definitions.

2.11. "Energy recovery incinerator" This definition is not current. The current definition in § 20-5F-2 and § 20-9-2 is the same, except the words "or processed for future incineration" have been stricken.

2.24. "Solid waste" In the fifth line, there should be a comma between the words "solid" and "liquid".

2.27. "Solid waste facility" The last sentence refers to "this article". This is language from the code that is meaningless in these regs. The reference should be inserted, much as was done in the definition of solid waste. This definition of solid waste facility is in § 16-26, § 20-5F, and § 20-9.

§ 54 - 5 - 3. Application for grants.

3.5. Can grant monies be used for the purchase of land and buildings? Please make it clear.

3.6 I feel that the words "and the Secretary of Commerce, Labor and Environmental Resources" should not be there, for several reasons:

- * The intent of the legislature was that the solid waste management board be an independent board. Having every grant be subject to the review of the secretary works against that intent.
- * That section of the law which creates the office of the "super secretaries" gives them the option to review anything that appears to them to be remiss, therefore it is not necessary.
- * The secretary has many other things to do besides review each and every grant application that the board receives. It may be that the option of approving or disapproving the grants would be preferable to the secretary than the duty of approving or disapproving them.
- * § 16-26-6(b), which provides that the board may not disburse grants without first obtaining the written approval of the

secretary, also renders this language redundant. If the legislature were to remove or change § 16-26-6(b), then in order for these regulations to reflect the code, they would have to be opened up for revision, public comment, a hearing, and all the associated work that accompanies that process. The board has plenty to do as it is.

§ 54 - 5 - 4. Eligibility for Participation.

4.5. and 4.6. It is not clear whether these delinquent authorities will ever be eligible for grants. I would hope that when plans are completed and approved for these counties, that they would then become eligible for grants.

4.11. This wording is unclear. Are the supplies referred to construction-related, or is the reference to any supplies? Does the estimated value of the contracts and supplies have to exceed \$5,000.00 or just the project they're used on. This could be read so that the purchase of a box of staples would have to be put out to bid if it were used in a building costing over \$5,000.00.

The department of administration does not consider local solid waste authorities to be "spending units of the state" in that they are not appropriated funds by the legislature. They are therefore not bound by the purchasing department's rules concerning putting all purchases of over \$5,000 out to bid. The Solid Waste Management Board is considered a "spending unit of the state" and does have to abide by the purchasing department's regulation, so it is understandable that the authorities be required to put those purchases out to bid that use the board's grant money.

Perhaps the following wording is more clear: "The applicant shall solicit sealed bids for all construction-related contracts or construction-related supplies which have an estimated value of over five thousand dollars (\$5,000) and which are funded with grant money received from the board."

4.12. It is possible that all the grant monies are for a single purchase, or that the project in question can be completed well within a year, yet the "wiggle" that the regulations provide is only for a larger portion to initiate the project. I would recommend some language that would allow for an alternate disbursement schedule if the applicant can show good cause for it.

4.13. In §16-26-6a. the board is charged with preparing an overall state plan for the proper management of solid waste, therefore it should have a better perspective of the statewide development of solid waste management. The board has the comprehensive and siting plans at its office and all the

records of the grants that have been disbursed so far. The board has the information, the authority and the mandate to review the applications for duplication of ideas, equipment, services, or imprudent use of funds. To funnel these applications through the planning commissions will add another layer of bureaucracy, delay and possible political influence to the process. The planning commissions have many areas they deal with besides solid waste, I don't see how they could be more thorough than the board, which is mandated to deal with solid waste management and nothing else.

In order to avoid duplication, and possible further erosion of the board's authority, I would recommend that this idea be dropped.

§ 54 - 5 - 5. In - Kind Services

5.5.2. Does this refer to employees of local solid waste authorities?

5.5.3. Does this refer to members of the boards of directors of local solid waste authorities?

5.5.4. There could be situations in which the donated space may be a portion of a home that is used exclusively for business purposes and declared as such to the IRS. Such situations should not be prevented from being considered in-kind services.

5.6.1. This is confusing to me, I think it is just bad sentence structure. Perhaps it should be worded as follows: "Volunteer services are unpaid services valued at rates paid for other activities of the agency or should be consistent with those paid for similar work in the same labor market, including fringe benefits. Rates of employees of other agencies should be priced at the base compensation rate exclusive of fringe benefits and overhead costs;"

5.10. This one is difficult for me, because I believe that the handicapped deserve equal access. However, a lot of counties don't have landfills that they get income from, be it from fees or from ownership, and many counties are in financial trouble to the extent that there is no money to spare in the county commission to help pay expenses as provided for in § 20-9-6(b). Outfitting or retrofitting a facility to comply with the Disabilities Act can be expensive, in some cases prohibitively so. It is my understanding that this is only required when federal funds are involved, which is not the case with this program. I don't know if you are aware of this, board members, but there are counties in this state that don't have handicapped access to their schools or courthouses, it seems a bit premature to require this at solid

waste facilities. Let's get something up and running, and require the retrofit later.

5.11. Is the Act a State Act? I thought only programs receiving federal funds needed to comply with this. While I am aware that it is unpopular not to be anti-drugs, I also know that there is a lot of paperwork and extra fuss involved in the Drug-Free Workplace requirements. It would be much simpler if the administrator of these facilities would simply fire an employee who can't do the job.

§ 54 - 5 - 6. Authorized Use of Grants Funds.

6.1.2. The wording here reflects a minimal appreciation of the hierarchy. I would recommend the following: "Reuse of materials with little or no processing, thus diverting them from the waste stream."

§ 54 - 5 - 7. Factors Considered in Evaluating Applications.

7.1. The hierarchy is mis-quoted. The second step of the hierarchy is "(2) recycling, reuse and materials recovery. -". Senate Bill 18 changed the wording from "resource" to "materials" to exclude incineration technologies from this step of the hierarchy.

§ 54 - 5 - 8. Grant Withdrawal and Penalty.

There are many unforeseen variables that can crop up in any project, especially one that has to be applied for considerably in advance of the project itself. 8.1 does alright in saying "reserves the right to withdraw" instead of "shall withdraw". 8.2 does alright in saying "may result in the cancellation of the grant." instead of "shall". I would recommend the use of "may" in 8.3 instead of "will". To develop this thought further, perhaps the board could insert some specific language that requires the applicant to notify the board of significant changes in plans and procedures and supply the justification for them. That way the board won't be caught off guard, and the applicant won't be faced with a withdrawal of funds due to changes or delays that may be justifiable.

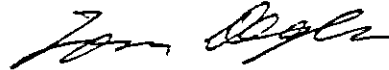
§ 54 - 5 - 9. Reporting Requirements.

9.3.2. It seems that this would be more clear if it was worded as follows: "In the event that funds are expended in less than one year's time, an applicant may submit a final report at the time all grant and matching funds have been expended in lieu of any additional quarterly reports."

§ 54 - 5 - 11. Reduction of Grant Monies Available.

A more thorough description of "accordingly" would be helpful. Would projects already funded be cut? Would each grant be cut by the same dollar amount, or would it be pro-rated? Would any thought be given to how far along the grant project is and the applicant's ability to extricate themselves from contractual obligations?

Submitted by:



Tom Degen
Rt. 3 Box 324
Chloe, WV 25235

PUBLIC HEARING

West Virginia Solid Waste Management Board

September 17, 1992

OK. This is the same spiel Ladies and Gentlemen. I'm Terry Ridenour. I'm with the Attorney Generals Office. I'm here today to set up and monitor this hearing in regard to the regulations and disbursement of grants to the Solid Waste Authority promulgated by West Virginia Solid Waste Management Board. Before you we have Ms. Martha Moore, Board Member; Mr. Max Robertson, Board Member; Ms. Joyce Manyik, the Chairman of the Board; and Mr. Charles Jordan, who is the Director of the Solid Waste Management Board. When you have any questions, I ask that you give your name and your Division Represented before you give a comment or question to the Board. They do have the right to respond to that or if they wish they can just note it for the record and then they will respond in writing when they submit the final regulations to the Secretary of State's Office for approval. I will go section by section and you direct your comments to the section as we go along.

We'll start off with the first section which is §54-5-1. Do we have any comments?

OK. The second section is §54-5-2 which is the Definition Section. Any comments?

Alright. The third section is §54-5-3 which is the Application For Grants. Are there any comments or questions in regard to that section? Yes mam?

My name is Sloan Smith and I am the Secretary/Treasurer for the West Virginia Solid Waste Haulers Association. And I have a question...I have a comment to make about Section 3.5 that states there that the grant monies cannot be passed on to a certain party for use. Most county Authorities do not have the money to match the grant dollar for dollar and this forces them to go to the community for volunteer help which is very difficult sometimes and it...I think it also makes another barrier between the county Solid Waste Authority and those entities inside that county deprive their public who also have the same objective and goals and needs as the County Solid Waste Authorities and I think that it's extremely important that we encourage those entities private and public to work together with the county Solid Waste Authorities to face their problems and to solve them. I would like to see that the wording there is struck so that the county Solid Waste Authorities which choose may go to either haulers or recyclers or other businesses in their counties to put on a project that doesn't just end when the \$20,000 is gone or the \$40,000 is gone but is a project that continues to be effective and used for the good of the community and the good of the county that they choose that they would need. One example is even Cabell County. That money was given to a hauler and they placed a curbside-recycling project in

Public Hearing - SWMB
September 17, 1992
Page 2

that will not end just because the year is up and the grant money is up. That project will continue on now and, and it will supply needs that the county has as allowed valuable information. And I would just like that wording struck so that the county Solid Waste Authorities that choose may explore the effective use of the money that would best meet their particular needs.

Any further comments in regard to the section?

OK. We are on §54-5-4 which is the Eligibility and Participation. Any comments or questions in regards to that section?

OK. §54-5-5 which is In-Kind Services.

OK. We'll move on to Section §54-5-6 which is the Authorized Use Of Grant Funds.

OK. The next section is §54-5-7 which is Factors considered In Evaluating Applications. Any comments or questions in regard to that section?

The next section is §54-5-8 which is grant withdrawal in penalty.

OK. The next section is Section §54-5-9...Reporting Requirements.

The next section is §54-5-10...Unexpended Funds.

The next section is §54-5-11 which is the Reduction of Grant Monies Available.

OK. We haven't got too many comments on the sections so I think we should make any general comments and have any questions. Yes Sir.

I'm John Lichiello, Program Coordinator for the Wood County Solid Waste Authority, Parkersburg. My question simply is that this is the first time I think probably alot of people have seen this document and it's probably not been discussed at the regularly scheduled Board meetings at alot of the local Solid Waste Authorities. Is there going to be a...a written comment period? A period of time in which the Board will accept written comments?

OK. They have to file these regulations by tomorrow. These regulations were disbursed to I believe the state-wide local Solid Waste Authority, the Board.

No. The notice of the public hearing was to notify the local authorities. Obviously they had to get the copy from the Secretary of State.

A copy. OK.

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Page 3

And it was published through the State Registry.

Yeah. See they have...when they publish it they give you thirty days before they have the hearing and more than thirty days have gone by since they were filed with the Secretary of State's Office. We have to have them in by tomorrow with the Secretary of State's Office with the comments and responses to the comments as well as the Board's either approval or disapproval of these regulations. And the Board can make them go into effect after the emergency regulations are out of effect. Otherwise the Board operates with no regulations for a period of time.

Thank you.

Any other questions? Does the Board have any reply? No?

Well, Ladies and Gentlemen, it looks like this meeting can be adjourned, public hearing can be adjourned. Do we have any written comments.

The public comments that have been received here today will be received by the Board and responded to when they file the regulations with the Secretary of State Office.

This meeting is adjourned.

PUBLIC COMMENTS FOR GRANT REGULATIONS
Title 54, Series 5

54-5-2. Definitions

(1) 2.11. "Energy recovery incinerator" This definition is not current. The current definition in 20-5F-2 and 20-9-2 is the same, except the words "or processed for future incineration" have been stricken.

(a) Change:

Strike "or processed for future incineration"

(b) Board agreed that the current definition in 20-5F-2 (R) and 20-9-2 (N) has deleted these words.

(2) 2.24. "Solid waste" In the fifth line, there should be a comma between "solid" and "liquid".

(a) Change:

"," inserted between "solid" and "liquid"

(b) Board agreed that comma should be there and is in 25-5F-2

(3) 2.27 "Solid waste facility" The last sentence refers to "this article". This is language from the code that is meaningless in these regs. The reference should be inserted, much as was done in the definition of solid waste. The definition of solid waste facility is in 16-26, 20-5F, and 20-9.

(a) Change:

"this article" changed to "these regulations"

(b) Board agreed that this should be changed and that it was an oversight in copying from the code.

54-5-3. Application for Grants

(4) 3.3 Grant Deadlines. Because of delays in establishing these regulations there is no way for any Authority to submit an application before September 30 of this year. I hope that both the September submission date and November Board Meeting Review requirements will be modified to allow restart of the grant program before March 31, 1993.

(a) No Change:

(b) Board felt that the time frame was adequate.

(5) 3.5. Pass through to Third Parties. Smaller Authorities may find important programs for recycling or litter control are most effectively operated by a separate nonprofit organization or small local governments which already have facilities and staff in place. Passing funds to these organizations may be the most cost effective way for an Authority to establish a worthwhile project.

(a) No Change:

(b) Board felt that regulation was appropriate as it already reads.

(6) 3.5. Can grant monies be used for the purchase of land and buildings?

(a) Change:

", land and buildings" inserted after "services"

(b) Board agreed that they did not intend to exclude buildings and land.

(7) 3.6. The words "and the Secretary of Commerce, Labor and Environmental Resources" should be deleted. The amount of time to process applications would only increase with additional considerations. The secretary must already consider and approve funds to the SWA. The solid waste management board is supposed to be in charge of managing solid waste and indeed can; without any more red tape.

(a) No Change:

(b) This is part of the law and must be left in.

(8) 3.6. 16-26-6(b), which provides that the board may not disburse grants without first obtaining the written approval of the secretary, also renders this language redundant. If the legislature were to remove or change 16-26-6(b), then in order for these regulations to reflect the code, they would have to be opened up for revision, public comment, a hearing, and all the associated work that accompanies that process. The board has plenty to do as it is.

(a) Change:

Entire 3.6 is replaced by:

3.6. The applicant will be notified in writing within a reasonable period of time of approval or disapproval of the grant. Approval or disapproval of the grant will be determined by the Board after consideration of the factors listed under section 54-5-7 of these regulations, following review of the application by staff, presentation of the application to the grants committee, and recommendation by the committee to the full Board. Disbursement of any approved grant by the Board shall be contingent upon the prior written approval of the Secretary of Commerce, Labor and Environmental Resources, if such approval is required pursuant to W.Va. Code section 16-26-6(b) or any other statutory provision.

(b) The Board felt that this language would clarify the regulation.

54-5-4. Eligibility for Participation.

(9) 4.5 and 4.6. It is not clear whether these delinquent authorities will ever be eligible for grants. I would hope that when plans are completed and approved for these counties, that they would then become eligible for grants.

(a) Change:

Insert after "thereunder"-- ", and provided that eligibility will be reinstated upon the approval of such required plans and the payment to the Board of all cost and expenses incurred by the Board for its preparation of such plans pursuant to W.Va. Code § 20.9.7(e) and 12(a)(h)."

(b) The Board felt that adding this would make it clear that they intended to reinstate eligibility upon compliance of the regulations.

(10) 4.5., 4.6. citing is misspelled.

(a) Change:

Change citing to site in both 4.5 and 4.6.

(b) The Board agreed that this was overlooked in editing.

(11) 4.11. The meaning is unclear as to supplies related; segregate the project into sections. Funding is often needed for many different and separate things. Bids could be done on work estimated at \$5,000. Local business should always be given consideration as a matter of policy.

(a) Change:

Delete "supplies related to any projects" and insert "purchases "

(b) Board felt that change would make the intent clearer. There is nothing in the regulation to restrict local businesses being given priority.

(12) 4.12. It is possible that all the grant monies are for a single purpose, or that the project in question can be completed well within a year, yet the "wigggle" that the regulations provide is only for a larger portion to initiate the project. I would recommend some language that would allow for an alternate disbursement schedule if the applicant can show good cause for it.

(a) No Change:

(b) The Board felt that the disbursement schedule was appropriate and that the regulation allowed for the above alternative.

(13) 4.13. The grant applications should be the sole responsibility of the management board. The regional councils have many responsibilities already. If a grant is approved by the board, the regional council could then review it for planning recommendations. The board has every county's management plan on file and can better judge unnecessary duplication of ideas.

(a) No Change

(b) The law specifies that this has to be done.

54-5-5. In-Kind Services.

(14) 5.5.2. Does this refer to employees of solid waste authorities?

(a) Change:

Delete "Donated overtime" and insert "contributed time"

(b) Board felt that this would clarify the meaning.

(15) 5.5.3 Is this to mean members of boards of directors of local solid waste authorities?

(a) Change:

Insert "or appointed" after "elected"

(b) The Board felt that this would make the meaner clearer.

(16) 5.5.4. There could be situations in which the donated space may be a portion of a home that is used exclusively for business purposes and declared as such to the IRS. Such situations should not be prevented from being considered in-kind services.

(a) No Change

(b) The Board felt that the regulation as stated was appropriate.

(17) 5.6.1. This is confusing to me. I think it is just bad sentence structure. Perhaps it should be worded as follows: "Volunteer services are unpaid services valued at rates paid for other activities of the agency or should be consistent with those paid for similar work in the same labor market, including fringe benefits. Rates of employees of other agencies should be priced at the base compensation rate exclusive of fringe benefits and overhead costs;"

(a) Change:

"," inserted after "benefits"

(b) The Board felt that this change would make the meaner clearer.

(18) 5.9.4. How shall the applicant insure this?

(a) No Change

(b) The Board felt that no change was necessary. Applicant should ask for license of contractor.

(19) 5.10. If the facilities have to comply for handicapped persons it will be very expensive and impractical for a low tech. program.

(a) No Change

(b) The Board agreed to comply with the law.

(20) 5.11. This seems like an unnecessary added paperwork burden unless it is mandated by the federal government laws.

(a) No Change

(b) The Board agreed to comply with the law.

54-5-6. Authorized Use of Grants Funds.

(21) 6.1.2. The wording here reflects a minimal appreciation of the hierarchy. I would recommend the following: "Reuse of materials with little or no processing, thus diverting them from the waste stream."

(a) Change:

Delete "waste" and insert "materials" after "Reuse of" and add "thus diverting them from the waste stream" after "processing"

(b) The Board agrees that this will make the regulation clearer.

54-5-7. Factors Considered in Evaluating Applications.

(22) 7.1. The hierarchy is mis-quoted. The second step of the hierarchy is "(2) recycling, reuse and materials recovery-...". Senate Bill 18 changed the wording from "resource" to "materials" to exclude incineration technologies from this step of the hierarchy.

(a) Change:

Delete "resource" and insert "materials" after "reuse and"

(b) The Board agreed that the hierarchy was misquoted.

54-5-8. Grant Withdrawal and Penalty.

(23) 8.3. The word "will" should be removed and may or could should be added. A program may not start out as expected but could very well build to a success by the years end. Many projects depend on public education. This takes time and repetition so people understand the service offered, or the need for cooperation.

(a) No Change

(b) The Board felt that grants should not be applied for if the project was not ready to go. Priority should be given to projects

that are complete.

54-5-9. Reporting Requirements

(24) 9.3.2. It seems that this would be more clear if it was worded as follows: "In the event that funds are expended in less than one year's time, an applicant may submit a final report at the time all grant and matching funds have been expended in lieu of any additional quarterly reports.

(a) No Change

(b) The Board felt that the present language is adequate.

54-5-11. Reduction of Grant Monies Available.

(25) What does accordingly mean?

(a) No Change

(b) The Board will adjust the grants according to the funds that are available.

MINUTES

West Virginia Solid Waste Management Board Emergency Board Meeting

September 17, 1992

1. Roll Call.

The emergency Board meeting was held by teleconference and called to order by Chairman Manyik at 3:40 p.m. The teleconference originated in the Board's offices, by speaker phone, Charleston, WV. The following Staff members were present: Charles Jordan, Rita Meneses, Glenn Jarrell, Chris Quasebarth, and Mitzi Stout. The following Board members were present: Joyce Manyik and Max Robertson. The following Board members were connected by the call: Randie Lawson, and Jack Martin. Martha Moore and Mark Nesselroad were absent.

2. Approval of Grant Rules & Regulations.

Chairman Manyik explained the purpose of the meeting regarding approval of the grant regulations by tomorrow's deadline. Chairman Manyik asked those Board members connected by phone if they agreed to hear the proposed changes in the regulations. After a positive response, Mrs. Meneses continued by reciting the proposed changes discussed after the Public Hearing. Changes discussed were as per the statement attached.

Chairman Manyik asked for any comments.

Mr. Lawson stated he would like to see a Section in the Regulations that said the local Solid Waste Authorities could work with other agencies. He continued by saying that he thought it would be difficult to meet the grant without help from other agencies. Chairman Manyik responded that it was not necessary for a pass thru to third parties and that there was no lack of counties applying for grants. It had been proposed not to add this change because the money was to be for the local Solid Waste Authorities and not for private industry. Mr. Jordan added that there would be difficulty in the accountability of private firms.

Mr. Martin stated that he would like to see a reference to a Class "C" facility added. Chairman Manyik responded that there was, that he had misunderstood.

Mr. Martin sitting Section §54-5-4-12 stated that he would like something added giving a choice for alternate disbursement schedule percentages at different quarters. Counsel Quasebarth responded that the WV Code already states that. Mr. Martin stated that he would like it reworded.

Mr. Martin sitting Section §54-5-4.13 stated that he would like a system of hierarchy added explaining the order (1. Staff, 2. Committee, 3. Board) in which questions should be addressed about grants. Mr. Jordan responded that changes can't be made on things that were not addressed in the hearing. Chairman Manyik replied that it could be added in Section 3.6.

Chairman Manyik asked for any further comments.

Motion was made by Mr. Martin to include a system of hierarchy on how grants should be handled (1. Staff, 2. Committee, 3. Board) in Section 3.6. Motion was seconded by Mr. Robertson. Motion passed with four 'yea's.

Motion was made by Mr. Lawson to add a section giving the local Solid Waste Authorities the ability to work with other agencies. Motion was not seconded.

Motion was made by Mr. Robertson to adopt the new Rules and Regulations. Motion was seconded by Mr. Martin. Motion passed with four 'yea's.

3. Approval of Bank Statement Resolution.

Mr. Jordan explained that the Board must adopt a resolution for Mr. Jordan, the new Acting Director, and Chairman Manyik, the new Chairman of the Board to be able to sign for the One Valley Bank Account of the Monongalia County landfill. Mr. Jordan continued by reading the One Valley Bank resolution attached.

Motion made by Mr. Robertson to adopt a resolution to let Mr. Jordan and Chairman Manyik sign for the Monongalia County Landfill Account at One Valley Bank. Motion was seconded by Mr. Lawson. Motion passed with four 'yea's.

Minutes - SWMB
September 17, 1992
Page 3
4. Adjournment.

Motion was made by Mr. Martin to adjourn the meeting.
Motion seconded by Mr. Robertson and passed. Meeting
adjourned at 4:22 p.m.

Respectfully submitted,



Joyce Manyik
Chairman

Martha H. Moore
Secretary/Treasurer

For Checking or
Savings Account

**ONE VALLEY
BANK**

Unincorporated
Association

CERTIFIED COPY OF RESOLUTION TO OPEN AND MAINTAIN ACCOUNT

I, the undersigned, hereby certify to ONE VALLEY BANK OF MORGANTOWN, INC.
(Bank)

Morgantown, West Virginia, that at a meeting of the MEMBERS

Members-Executive Committee-Board of Directors-Trustees

of the WEST VIRGINIA SOLID WASTE MANAGEMENT BOARD, an unincorporated association,
duly called and held at 1615 WASHINGTON ST. E. CHARLESTON, WV 25311

on the _____ day of _____, 19____

the following resolutions were duly adopted and that they are in conformity with the rules and by-laws governing the association
and in full force and effect:

"RESOLVED, that ONE VALLEY BANK OF MORGANTOWN, INC. is hereby designated
(Bank)

as a depository of this association and that a CHECKING account be opened and maintained, in the name of this
Association with said Bank, subject to the rules and regulations established from time to time by said Bank. That any _____
Number

of the following, to wit:

Charles F. Jordan ~~President~~ ACTING DIRECTOR
Joyce Manly ~~Vice-President~~ CHAIRPERSON

Secretary

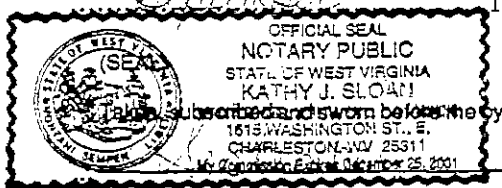
Treasurer

is/are authorized, on behalf of this association, and in its name, to sign checks, receipts or orders for the payment or withdrawal of
funds deposited in said account or deposited to the credit of said association in the said Bank and said Bank is hereby authorized and
directed to honor and pay any of said checks, receipts or orders for the payment or withdrawal of funds deposited to the credit of
said association when so signed.

"FURTHER RESOLVED, that the foregoing resolution shall remain in full force and effect until written notice of its
amendment or rescission shall have been received by said Bank and that receipt of such notice shall not affect any action taken by
the Bank prior thereto."

I further certify that there is no provision in the articles or by-laws of said association limiting the power to pass the
foregoing resolutions and that the same are in conformity with the provisions of said articles and/or by-laws.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 17th day of



Charles F. Jordan
~~XXXXXX~~ CHARLES F. JORDAN
This 17th Day Of _____, 1992
Kathy J. Sloan
Notary Public

County

My commission expires September 25, 2001

-Give title of officers authorized to sign.

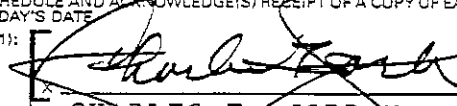
CHANGE ON ACCOUNT

WEST VIRGINIA SOLID WASTE
MANAGEMENT BOARD

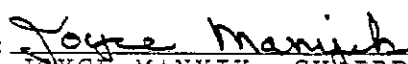
ACCOUNT NAME
AND ADDRESS

SIGNATURES - THE UNDERSIGNED AGREE(S) TO THE TERMS STATED
ON THE FRONT AND BACK OF THIS FORM, THE SEPARATE DISCLO-
SURE FORM, CONCERNING FUNDS AVAILABILITY, THE SERVICE FEE
SCHEDULE AND ACKNOWLEDGE(S) RECEIPT OF A COPY OF EACH ON
TODAY'S DATE.

(1):


CHARLES F. JORDAN,
ACTING DIRECTOR

(2):

X
(3): 
JOYCE MANYIK, CHAIRPERSON

(4):

X

Account
Number: 2005018
Date: SEP. 11, 1992
Number of Signatures
Required for Withdrawal: 1
Type of
Account: BUSINESS ACCOUNT
ANALYSTS-CHECKING
ship: NON-PROFIT
ASSOCIATION

Taxpayer
I.D. Number: 550 58 9073
Telephone
Number: 304 558-0844
Name and address of someone who will always
know your whereabouts:

BUSINESS ACCOUNTS -

Authorization Received? ☐ Yes ☐ No

Dated _____

Facsimile Signature? ☐ Yes ☐ No

TIME DEPOSITS -

Term _____

Maturity Date _____

Notice Period _____

Automatic Renewal? _____

Initial Deposit \$ _____

Certif. No. _____

Additions Allowed? _____

Minimum Addition \$ _____

OTHER TERMS, EXPLANATIONS, OTHER SERVICES, ETC.-

1615 WASHINGTON ST. E
CHARLESTON, WV 25311

Look to your DEPOSIT ACCOUNT DISCLOSURE for information about the particular type of account you have opened and
for instructions for completing the following BACKUP WITHHOLDING CERTIFICATIONS.

BACKUP WITHHOLDING CERTIFICATIONS

☒ TAXPAYER I.D. NUMBER - The taxpayer identification
number shown above (Taxpayer I.D. Number) is my correct
taxpayer identification number.

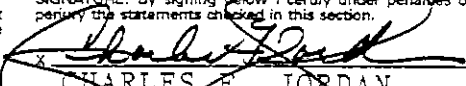
☐ APPLIED FOR TAXPAYER I.D. NUMBER - A taxpayer iden-
tification number has not been issued to me, and I mailed or
delivered an application to receive a taxpayer identification
number to the appropriate Internal Revenue Service Center or
Social Security Administration Office (or I intend to mail or
deliver an application in the near future). I understand that if
I do not provide a taxpayer identification number to the payer
within 60 days, the payer is required to withhold 20 percent
of all reportable payments thereafter made to me until I provide
a number.

☒ BACKUP WITHHOLDING - I am not subject to backup
withholding either because I have not been notified that I am
subject to backup withholding as a result of a failure to report
all interest or dividends, or the Internal Revenue Service has
notified me that I am no longer subject to backup withholding.

☐ EXEMPT RECIPIENTS - I am an exempt recipient under
the Internal Revenue Service Regulations.

☐ NONRESIDENT ALIENS - I am not a United States person,
or if I am an individual, I am neither a citizen nor a resident
of the United States.

SIGNATURE: By signing below I certify under penalties of
perjury the statements checked in this section.


CHARLES F. JORDAN

ONE VALLEY
BANK
MORGANTOWN, WV 26505

OFFICE NO. 007-LB

AGREEMENT - The following printed terms, and those on the deposit account disclosure, will govern the operation of this account, unless clearly varied in writing or typing on this form, the disclosure, or in a separate written agreement. "We," "our," or "us" means the depository institution and "you" means the account holder(s). This agreement includes your promise to pay the charges listed on the deposit account disclosure and your permission for us to deduct these charges, as earned, directly from the account balance. You also agree to pay any additional reasonable charges we may impose for services you request which are not contemplated by this agreement. Each of you agrees to be jointly and severally liable for any account deficit resulting from charges or overdrafts, whether caused by you or another authorized to withdraw from this account, together with the costs we incur to collect the deficit including, to the extent permitted by law, our reasonable attorneys' fees.

This agreement incorporates clearinghouse rules and state and federal law, except to the extent that this agreement can and does vary such rules or law.

DEPOSITS - Any items accepted for deposit (including items drawn "on us") will be given provisional credit only until collection is final (and actual credit for deposits of, or payable in, foreign currency will be at the exchange rate in effect on final collection in U.S. dollars). We are not responsible for transactions initiated by mail or outside depository until we actually record them.

WITHDRAWALS - Unless otherwise indicated on the reverse side, any one of you who signs this form may withdraw or transfer all or any part of the account balance at any time on forms approved by us. Each of you authorizes each other person signing this form to endorse any item payable to you or your order for deposit to this account or any other transaction with us, until we receive actual notice to the contrary. The fact that we may honor withdrawal requests which overdraw the finally collected account balance does not obligate us to do so. We will not be obligated to honor such requests unless required by law.

We reserve the right to refuse any withdrawal or transfer request which is for an amount less than any minimum withdrawal or which exceeds any frequency limitation. Repeated abuse of the stated limitations (if any) may eventually force us to close this account. We will use the date a transaction is completed by us (as opposed to the day you initiate it) to apply the frequency limitations. On interest-bearing accounts other than time deposits, we reserve the right to require at least seven days' written notice before any withdrawal or transfer. Withdrawals from a time deposit prior to maturity or prior to the expiration of any notice period may be restricted and may be subject to penalty. See your notice of penalties for early withdrawal.

OWNERSHIP OF ACCOUNT - The following provisions explain the rules applicable to this account depending on the form of ownership specified on the reverse side. Only the portion corresponding to the form of ownership specified will apply. **Individual Account** - Such an account is issued to one person who does not intend (merely by opening this account) to create any survivorship rights in any other person. **Joint Account**

- **With Survivorship (And Not As Tenants In Common)** - Such an account is issued in the name of two or more persons. Each of you intend that upon your death the balance in the account (subject to any previous pledge to which we have consented) will belong to the survivor(s). If two or more of you survive, you will own the balance in the account as joint tenants with survivorship and not as tenants in common. **Joint Account-No Survivorship (As Tenants In Common)** - Such an account is issued to two or more persons, but none of you intend (merely by opening this account) to create any right of survivorship in any other person.

We encourage you to agree and tell us in writing of the percentage of the deposit contributed by each of you. This information will not, however, affect the "number of signatures" necessary for withdrawal. **Trust or Pay-On-Death Account** - If two or more of you create such an account, you own the account jointly with survivorship. Beneficiaries acquire the right to withdraw only if (1) all persons creating the account die, and (2) the beneficiary is then living. If two or more beneficiaries are named and survive the death of all persons creating the account, such beneficiaries will own this account in equal shares, without right of survivorship. The person(s) creating either of these account types reserves the right to: (1) change beneficiaries; (2) change account types; and (3) withdraw all or part of the deposit at any time. **Corporate, Partnership, and Other Organizational Accounts** - We reserve the right to require the governing body of the legal entity to give us a separate authorization telling us who is authorized to act on its behalf. We will honor such an authorization until we actually receive written notice of a change from the governing body.

ACCOUNT TRANSFER - This account may not be transferred or assigned without our written consent. **AMENDMENTS AND TERMINATION** - We may amend the terms of this account at any time upon reasonable notice to you by posting notice of the changes in our building, enclosing notice in a statement for this account, or mailing notice to you. We may also close this account at any time by giving notice and mailing the account balance to you. Notice from us to any one of you is notice to all of you.

STOP-PAYMENTS - We will honor a stop-payment request by the person who signed the particular item and by any other person having the right to withdraw from this account equal to or greater than the person signing the particular item. To be effective, a stop-payment order must be received in time to give us a reasonable opportunity to act on it, and must precisely identify the number, date and amount of the item, and the payee.

STATEMENTS - If you do not notify us of an unauthorized signature or alteration within a reasonable time (not to exceed 14 days) after we send or make available to you your statement and items: (1) you cannot assert the unauthorized signature or alteration against us, even if we are unable to show a loss due to your failure and, (2) you cannot assert any unauthorized signatures or alterations by the same wrongdoer on items paid by us after the reasonable time mentioned above elapses, but before we receive your notice. We lose these protections if we fail to exercise ordinary care in paying an item with an unauthorized signature or alteration, unless you do not notify us of the problem within 60 days of when we send or make available to you the statement and items. You must also report any other account problem (e.g., erroneous statement or passbook entry, missing signature, unauthorized endorsement, etc.) within this 60-day period or lose your right to assert the problem against us.

DIRECT DEPOSITS - If, in connection with a direct deposit plan, we deposit any amount in this account which should have been returned to the Federal Government for any reason, you authorize us to deduct the amount of our liability to the Federal Government from this account or from any other account you have with us, without prior notice and at any time, except as prohibited by law. We may also use any other legal remedy to recover the amount of our liability.

SET-OFF - By signing this form you each agree that we may (without prior notice and when permitted by law) set-off the funds in this account against any due and payable debt owed to us now or in the future, by any of you having the right of withdrawal, to the extent of such persons' or legal entity's right to withdraw. This right of set-off does not apply to this account if: (a) it is an IRA or a tax-deferred retirement account, or (b) the debt is created by a consumer credit transaction under a credit card plan; or (c) the debtor's right of withdrawal arises only in a representative capacity.

FORM MDAA-SC, MPSC 4-18-89

For Checking or
Savings Account

**ONE VALLEY
BANK**

Unincorporated
Association

CERTIFIED COPY OF RESOLUTION TO OPEN AND MAINTAIN ACCOUNT

I, the undersigned, hereby certify to ONE VALLEY BANK OF MORGANTOWN, INC.
(Bank)

Morgantown, West Virginia, that at a meeting of the MEMBERS

Members-Executive Committee-Board of Directors-Trustees

of the WEST VIRGINIA SOLID WASTE MANAGEMENT BOARD, an unincorporated association,

duly called and held at 1615 WASHINGTON ST. E., CHARLESTON, WV 25311

....., on the day of, 19.....,

the following resolutions were duly adopted and that they are in conformity with the rules and by-laws governing the association and in full force and effect:

"RESOLVED, that ONE VALLEY BANK OF MORGANTOWN, INC. is hereby designated
(Bank)

as a depository of this association and that a CHECKING..... account be opened and maintained, in the name of this

Association with said Bank, subject to the rules and regulations established from time to time by said Bank. That any.....
Number

.....of the following, to wit:

Shackleton ~~President~~ ACTING DIRECTOR
James M. Smith ~~Vice-President~~ CHAIRPERSON
.....Secretary
.....Treasurer

is/are authorized, on behalf of this association, and in its name, to sign checks, receipts or orders for the payment or withdrawal of funds deposited in said account or deposited to the credit of said association in the said Bank and said Bank is hereby authorized and directed to honor and pay any of said checks, receipts or orders for the payment or withdrawal of funds deposited to the credit of said association when so signed.

"FURTHER RESOLVED, that the foregoing resolution shall remain in full force and effect until written notice of its amendment or rescission shall have been received by said Bank and that receipt of such notice shall not affect any action taken by the Bank prior thereto."

I further certify that there is no provision in the articles or by-laws of said association limiting the power to pass the foregoing resolutions and that the same are in conformity with the provisions of said articles and/or by-laws.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 17th.....day of

September, 1992.

Charles F. Jordan
~~XXXXXX~~ CHARLES F. JORDAN
This 17th Day Of

1992

Notary Public

County

My commission expires September 25, 2001

Give title of officers authorized to sign.

CHANGE ON ACCOUNT

WEST VIRGINIA SOLID WASTE
MANAGEMENT BOARD

ACCOUNT NAME
AND ADDRESS

SIGNATURES - THE UNDERSIGNED AGREE(S) TO THE TERMS STATED
ON THE FRONT AND BACK OF THIS FORM. THE SEPARATE DISCLO-
SURE FORM, CONCERNING FUNDS AVAILABILITY, THE SERVICE FEE
SCHEDULE AND ACKNOWLEDGE(S) RECEIPT OF A COPY OF EACH ON
TODAY'S DATE.

(1):

Charles F. Jordan
X CHARLES F. JORDAN,
ACTING DIRECTOR

(2):

X

(3):

Joyce Manyik
X JOYCE MANYIK, CHAIRPERSON

(4):

X

Account Number: 2005018

Date: SEP. 11, 1992

Number of Signatures

Required for Withdrawal: 1

Type of Account: BUSINESS ACCOUNT

ANALYSIS-CHECKING

ship: NON-PROFIT

ASSOCIATION

Taxpayer

I.D. Number: 550 58 9073

Telephone

Number: 304 558-0844

Name and address of someone who will always

know your whereabouts:

BUSINESS ACCOUNTS -

Authorization Received? ☐ Yes ☐ No

Dated

Facsimile Signature? ☐ Yes ☐ No

TIME DEPOSITS -

Term

Maturity Date

Notice Period

Automatic Renewal?

Initial Deposit \$

Certif. No.

Additions Allowed?

Minimum Addition \$

OTHER TERMS, EXPLANATIONS, OTHER SERVICES, ETC.-

1615 WASHINGTON ST. E
CHARLESTON, WV 25311

Look to your DEPOSIT ACCOUNT DISCLOSURE for information about the particular type of account you have opened and
for instructions for completing the following BACKUP WITHHOLDING CERTIFICATIONS.

BACKUP WITHHOLDING CERTIFICATIONS

☒ TAXPAYER I.D. NUMBER - The taxpayer identification
number shown above (Taxpayer I.D. Number) is my correct
taxpayer identification number.

☐ APPLIED FOR TAXPAYER I.D. NUMBER - A taxpayer iden-
tification number has not been issued to me, and I mailed or
delivered an application to receive a taxpayer identification
number to the appropriate Internal Revenue Service Center or
Social Security Administration Office (or I intend to mail or
deliver an application in the near future). I understand that if
I do not provide a taxpayer identification number to the payor
within 60 days, the payor is required to withhold 20 percent
of all reportable payments thereafter made to me until I provide
a number.

☒ BACKUP WITHHOLDING - I am not subject to backup
withholding either because I have not been notified that I am
subject to backup withholding as a result of a failure to report
all interest or dividends, or the Internal Revenue Service has
notified me that I am no longer subject to backup withholding.

☐ EXEMPT RECIPIENTS - I am an exempt recipient under
the Internal Revenue Service Regulations.

☐ NONRESIDENT ALIENS - I am not a United States person,
or if I am an individual, I am neither a citizen nor a resident
of the United States.

SIGNATURE: By signing below I certify under penalties of
perjury the statements checked in this section.

Charles F. Jordan
X CHARLES F. JORDAN

ONE VALLEY
BANK
MORGANTOWN, WV 26505

OFFICE NO. 007-LB

AGREEMENT - The following printed terms, and those on the deposit account disclosure, will govern the operation of this account, unless clearly varied in writing or typing on this form, the disclosure, or in a separate written agreement. "We," "our" or "us" means the depository institution and "you" means the account holder(s). This agreement includes your promise to pay the charges listed on the deposit account disclosure and your permission for us to deduct these charges, as earned, directly from the account balance. You also agree to pay any additional reasonable charges we may impose for services you request which are not contemplated by this agreement. Each of you agrees to be jointly and severally liable for any account deficit resulting from charges or overdrafts, whether caused by you or another authorized to withdraw from this account, together with the costs we incur to collect the deficit including, to the extent permitted by law, our reasonable attorneys' fees.

This agreement incorporates clearinghouse rules and state and federal law, except to the extent that this agreement can and does vary such rules or law.

DEPOSITS - Any items accepted for deposit (including items drawn "on us") will be given provisional credit only until collection is final (and actual credit for deposits of, or payable in, foreign currency will be at the exchange rate in effect on final collection in U.S. dollars). We are not responsible for transactions initiated by mail or outside depository until we actually record them.

WITHDRAWALS - Unless otherwise indicated on the reverse side, any one of you who signs this form may withdraw or transfer all or any part of the account balance at any time on forms approved by us. Each of you authorizes each other person signing this form to endorse any item payable to you or your order for deposit to this account or any other transaction with us, until we receive actual notice to the contrary. The fact that we may honor withdrawal requests which overdraw the finally collected account balance does not obligate us to do so. We will not be obligated to honor such requests unless required by law.

We reserve the right to refuse any withdrawal or transfer request which is for an amount less than any minimum withdrawal or which exceeds any frequency limitation. Repeated abuse of the stated limitations (if any) may eventually force us to close this account. We will use the date a transaction is completed by us (as opposed to the day you initiate it) to apply the frequency limitations. On interest-bearing accounts other than time deposits, we reserve the right to require at least seven days' written notice before any withdrawal or transfer. Withdrawals from a time deposit prior to maturity or prior to the expiration of any notice period may be restricted and may be subject to penalty. See your notice of penalties for early withdrawal.

OWNERSHIP OF ACCOUNT - The following provisions explain the rules applicable to this account depending on the form of ownership specified on the reverse side. Only the portion corresponding to the form of ownership specified will apply. **Individual Account** - Such an account is issued to one person who does not intend (merely by opening this account) to create any survivorship rights in any other person. **Joint Account - With Survivorship (And Not As Tenants In Common)** - Such an account is issued in the name of two or more persons. Each of you intend that upon your death the balance in the account (subject to any previous pledge to which we have consented) will belong to the survivor(s). If two or more of you survive, you will own the balance in the account as joint tenants with survivorship and not as tenants in common. **Joint Account-No Survivorship (As Tenants In Common)** - Such an account is issued to two or more persons, but none of you intend (merely by opening this account) to create any right of survivorship in any other person. We encourage you to agree and tell us in writing of the percentage of the deposit contributed by each of you. This information will not, however, affect the "number of signatures" necessary for withdrawal. **Trust or Pay-On-Death Account** - If two or more of you create such an account, you own the account jointly with survivorship. Beneficiaries acquire the right to withdraw only if (1) all persons creating the account die, and (2) the beneficiary is then living. If two or more beneficiaries are named and survive the death of all persons creating the account, such beneficiaries will own this account in equal shares, without right of survivorship. The person(s) creating either of these account types reserves the right to: (1) change beneficiaries; (2) change account types; and (3) withdraw all or part of the deposit at any time. **Corporate, Partnership, and other Organizational Accounts** - We reserve the right to require the governing body of the legal entity to give us a separate authorization telling us who is authorized to act on its behalf. We will honor such an authorization until we actually receive written notice of a change from the governing body.

ACCOUNT TRANSFER - This account may not be transferred or assigned without our written consent.

AMENDMENTS AND TERMINATION - We may amend the terms of this account at any time upon reasonable notice to you by posting notice of the changes in our building, enclosing notice in a statement for this account, or mailing notice to you. We may also close this account at any time by giving notice and mailing the account balance to you. Notice from us to any one of you is notice to all of you.

STOP-PAYMENTS - We will honor a stop-payment request by the person who signed the particular item and by any other person having the right to withdraw from this account equal to or greater than the person signing the particular item. To be effective, a stop-payment order must be received in time to give us a reasonable opportunity to act on it, and must precisely identify the number, date and amount of the item, and the payee.

STATEMENTS - If you do not notify us of an unauthorized signature or alteration within a reasonable time (not to exceed 14 days) after we send or make available to you your statement and items: (1) you cannot assert the unauthorized signature or alteration against us, even if we are unable to show a loss due to your failure and, (2) you cannot assert any unauthorized signatures or alterations by the same wrongdoer on items paid by us after the reasonable time mentioned above elapses, but before we receive your notice. We lose these protections if we fail to exercise ordinary care in paying an item with an unauthorized signature or alteration, unless you do not notify us of the problem within 60 days of when we send or make available to you the statement and items. You must also report any other account problem (e.g. erroneous statement or passbook entry, missing signature, unauthorized endorsement, etc.) within this 60-day period or lose your right to assert the problem against us.

DIRECT DEPOSITS - If, in connection with a direct deposit plan, we deposit any amount in this account which should have been returned to the Federal Government for any reason, you authorize us to deduct the amount of our liability to the Federal Government from this account or from any other account you have with us, without prior notice and at any time, except as prohibited by law. We may also use any other legal remedy to recover the amount of our liability.

SET-OFF - By signing this form you each agree that we may (without prior notice and when permitted by law) set-off the funds in this account against any due and payable debt owed to us now or in the future, by any of you having the right of withdrawal, to the extent of such persons' or legal entity's right to withdraw.

This right of set-off does not apply to this account if: (a) it is an IRA or a tax-deferred retirement account; or (b) the debt is created by a consumer credit transaction under a credit card plan; or (c) the debtor's right of withdrawal arises only in a representative capacity.

FORM MDAA-SC, MPSC 4.18/89