

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #6

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Jun 9 4 04 PM '93

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

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

AGENCY: Solid Waste Management Board TITLE NUMBER: 54

AMENDMENT TO AN EXISTING RULE: YES x, NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 5

TITLE OF RULE BEING AMENDED: Title 54,
Disbursement of Grants to Solid Waste Authorities

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED:

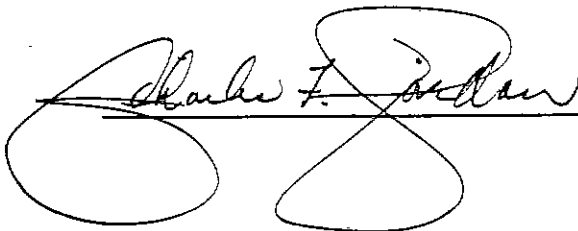
TITLE OF RULE BEING PROPOSED:

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

AUTHORIZATION IS CITED IN (house or senate bill number) H. B. 100

SECTION 64-3-12(e), PASSED ON May 26, 1993

THIS RULE IS FILED WITH THE SECRETARY OF STATE. THIS RULE BECOMES EFFECTIVE ON
THE FOLLOWING DATE: June 9, 1993



TITLE 54
LEGISLATIVE 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 W. Va. Code, § 20-5f-1 et seq.

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 W. Va. Code, § 29A-1-1 et seq.

2.8. "Commercial recycler" -- means any person, corporation or business entity whose operation involves the mechanical separation of materials for the purpose of reselling or recycling at least seventy percent by weight of the materials coming into the commercial recycling facility.

2.9. "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.

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

2.11. "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.

2.12. "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.

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

2.14. "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.

2.15. "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.

2.16. "Incinerator" -- means an enclosed 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.

2.17. "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.

2.18. "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.

2.19. "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.

2.20. "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.

2.21. "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.

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

2.23. "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.

2.24. "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.

2.25. "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 W. Va. Code, § 20-5A-1 et seq., 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 W. Va. Code, § 20-5E-1 et seq., 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 W. Va. Code, § 22-1-1 et seq., § 22A-1-1 et seq. or § 22B-1-1 et seq., 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.

2.26. "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.

2.27. "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.

2.28. "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 § 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, § 16-26-6(b) 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 siting 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 20-9-12a(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 siting 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 20-9-12a(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 grant award, 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. A copy of the audit report shall be forwarded to the Solid Waste Management Board.

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, § 59-3-2. 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. Provided, however, that upon a finding that disbursement by this schedule will adversely affect continuity of the project, the Board may disburse funds on a schedule to facilitate this continuity.

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 Grant Award. 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 contained in W. Va. Code, § 5-11-1 et seq.;

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 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 § 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 § 9.1. of these regulations.

9.3.1. If an extension is authorized in regard to the project, pursuant to § 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.

SENATE BILL NO. 179

(By Senator Manchin)

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

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9

10 A BILL to amend and reenact section twelve, article three,
11 chapter sixty-four of the code of West Virginia, one thousand
12 nine hundred thirty-one, as amended, relating to authorizing
13 the solid waste management board to promulgate legislative
14 rules relating to the disbursement of grants to solid waste
15 authorities.

16 Be it enacted by the Legislature of West Virginia:

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

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

22 §64-3-12. Solid waste management board.

23 (a) The legislative rules filed in the state register on the
24 twenty-third day of October, one thousand nine hundred ninety,

1 modified by the solid waste management board to meet the
2 objections of the legislative rule-making review committee and
3 refiled in the state register on the eighteenth day of January,
4 one thousand nine hundred ninety-one, relating to the solid waste
5 management board (development of comprehensive litter and solid
6 waste control plans), are authorized.

7 (b) The legislative rules filed in the state register on the
8 twenty-third day of October, one thousand nine hundred ninety,
9 modified by the solid waste management board to meet the
10 objections of the legislative rule-making review committee and
11 refiled in the state register on the eighteenth day of January,
12 one thousand nine hundred ninety-one, relating to the solid waste
13 management board (disbursement of loans and grants to
14 governmental agencies for the acquisition or construction of
15 solid waste disposal projects), are authorized.

16 (c) The legislative rules filed in the state register on the
17 twenty-third day of October, one thousand nine hundred ninety,
18 modified by the solid waste management board to meet the
19 objections of the legislative rule-making review committee and
20 refiled in the state register on the eighteenth day of January,
21 one thousand nine hundred ninety-one, relating to the solid waste
22 management board (establishment of fee schedule and cost
23 allocation applicable to the issuance of bonds by the board), are
24 authorized.

1 (d) The legislative rules filed in the state register on the
2 twenty-third day of October, one thousand nine hundred ninety,
3 modified by the solid waste management board to meet the
4 objections of the legislative rule-making review committee and
5 refiled in the state register on the eighteenth day of January,
6 one thousand nine hundred ninety-one, relating to the solid waste
7 management board (development of commercial solid waste facility
8 siting plans), are authorized.

9 (e) The legislative rules filed in the state register on the
10 eighteenth day of September, one thousand nine hundred ninety-
11 two, modified by the solid waste management board to meet the
12 objections of the legislative rule-making review committee and
13 refiled in the state register on the seventeenth day of February,
14 one thousand nine hundred ninety-three, relating to the solid
15 waste management board (rules and regulations for the
16 disbursement of grants to solid waste authorities), are
17 authorized.

18

19 NOTE: The purpose of this bill is to authorize the Solid
20 Waste Management Board to promulgate legislative rules relating
21 to the disbursement of grants to solid waste authorities.

22

23 Strike-throughs indicate language that would be stricken from
24 the present law, and underscoring indicates new language that
25 would be added.

KEN HECHLER
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May 28, 1993

Charles F. Jordan
Solid Waste Mgmt Bd.
1615 Washington St., E
Charleston, WV 25301

HB 100 authorizing, Title 54, Series 5, Disbursement of Grants to Solid Waste Authorities, passed the Legislature on **May 26, 1993**. It is now awaiting the Governor's signature.

You have sixty (60) days after the Governor signs HB 100, to final file the legislative rule with the Secretary of State's office. To final file your legislative rule, fill in the blanks on the enclosed form #6, the "Final Filing" form and file the form with our office. Authorization for your legislative rule is cited in **HB 100** section 64-3-12(e). The agency may set the effective date of the legislative rule up to ninety (90) days from the date the legislative rule is final filed with the Secretary of State's office. Please have an authorized signature on the bottom line.

*****IMPORTANT: IF YOUR AGENCY HAS COMPLETED THE LEGISLATIVE RULE ON A COMPUTER SYSTEM THAT USES A 3 1/2" OR 5 1/4" DISK, PLEASE SUBMIT A CLEAN COPY, WITH ALL UNDERLINING AND STRIKE-THROUGHS TAKEN OUT, TO OUR OFFICE WHEN FINAL FILING THE RULE. STATE ON THE DISK THE FORMAT THE RULE IS IN AND THE TITLE IT IS FILED UNDER. THIS WILL MAKE IT QUICKER FOR US TO ENTER YOUR RULES ON THE LEGISLATIVE DATA BASE. REMEMBER THE TEXT OF THE COMPUTER FILED RULE MUST BE IDENTICAL - WORD FOR WORD, COMMA FOR COMMA, WITH ALL UNDERLINING AND STRIKE-THROUGHS TAKEN OUT, AS THE HARD COPY AUTHORIZED BY THE LEGISLATURE.**

After the final rule is entered into the legislative data base, the rule will be sent to the agency for review and proofing. Following confirmation or corrections, as the case may be, the Secretary of State shall submit to the agency a final version of the rule for their records.

If you have any questions or need any assistance, please do not hesitate to call our office.

Thank You
Administrative Law Division