

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #2

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1990

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

AGENCY: West Virginia Solid Waste Management Board TITLE NUMBER: 54

RULE TYPE: Interpretive; CITE AUTHORITY W. Va. Code § 16-26-6;
20-9-12d(h).

AMENDMENT TO AN EXISTING RULE: YES ☐ NO ☒

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: 5

TITLE OF RULE BEING PROPOSED: Rules and Regulations for the Disbursement
of Grants to Solid Waste Authorities

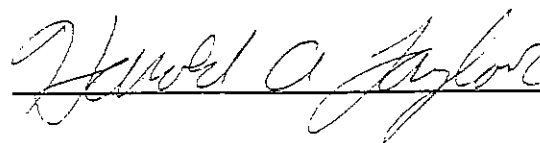
IN LIEU OF A PUBLIC HEARING, A COMMENT PERIOD HAS BEEN ESTABLISHED DURING WHICH ANY INTERESTED PERSON MAY SEND COMMENTS CONCERNING THESE PROPOSED RULES. THIS COMMENT PERIOD WILL END ON November 26, 1990 AT _____ ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS.

West Virginia Solid Waste Management Board

1212 Stewart Plaza

Dunbar, WV 25064

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



ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

These regulations will govern a grant program available to local solid waste authorities, which grant money may be used for any of the purposes under W. Va. Code § 20-9-1 et seq.

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OFFICE OF THE ATTORNEY GENERAL
SECRETARY OF STATE

Administrative Law Division
Secretary of State
Building 1, Room 157-K
State Capitol
Charleston, WV 25305

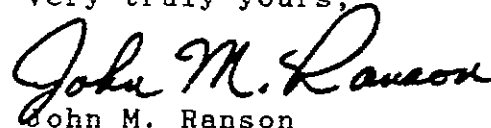
RE: Solid Waste Management Board's Regulations

Attn: Judy Cooper

Dear Ms. Cooper:

This letter is to inform you that as Secretary of the Department of Commerce, Labor and Environmental Resources, I approve of the filing of the Solid Waste Management Board's Series 1, 2, 3, 4 and 5 regulations to be filed on October 23, 1990. I also approve of the filing of Series 3 and 4 as emergency regulations on the same date.

Very truly yours,



John M. Ranson
Secretary of Commerce,
Labor & Environmental
Resources

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

FILED

Rule Title: Title 54 - Series 5 - Rules and Regulations for the Disbursement of Grants to Solid Waste Authorities.

Type of Rule: Legislative ☒ Interpretative ☐ Procedural ☐

Agency West Virginia Solid Waste Management Board Address 1212 Stewart Plaza Dunbar, WV 25064

1. Effect of Proposed Rule	ANNUAL		FISCAL YEAR		
	Increase	Decrease	Current	Next	Thereafter
Estimated Total Cost	\$57,000	\$	\$ 2,026,652	\$ same	\$ same
Personal Services	50,000.00		212,164	262,164	same
Current Expense		57,000	901,582	844,582	same
Repairs and Alterations	0		0	0	same
Equipment	1,000		29,528	30,528	same
Other	6,000		883,378	889,378	same

2. Explanation of above estimates:

An additional staff member will be required to coordinate, prioritize and track the incoming grant applications. Recommendations to the Board from this individual will be the basis for making a grant.

3. Objectives of these rules:

To make a grant program available to local solid waste authorities to use in carrying out the purposes of W. Va. Code §20-9-1 et seq.

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

None

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

There will be a positive economic impact on local solid waste authorities since they will receive economic assistance in carrying out their duties.

C. Economic Impact on Citizens/Public at Large.

There is a potential for a positive economic impact on citizens at large, especially when recycling projects are involved.

Date: October 23, 1990

Signature of Agency Head or Authorized Representative

James A. Campbell

TITLE 54
INTERPRETIVE RULES
SOLID WASTE MANAGEMENT BOARD

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

OFFICE OF THE ATTORNEY GENERAL
SECRETARY OF STATE

§ 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 § 20-9-12d(h).

§ 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. "Authority" - means any solid waste authority of any county or region in West Virginia, established by W. Va. Code § 20-9-3 and § 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.

2.3. "Board" - means the West Virginia Solid Waste Management Board as established by W. Va. Code § 16-26-4, or its authorized representatives.

2.4. "Energy Recovery Facility" - means any solid waste facility at which solid wastes are incinerated, or processed for future incineration, with the intention of using the resulting energy for generation of steam, electricity, or any other use not specified in these regulations.

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

2.6. "Incinerator" - means any device used to accomplish incineration, including incinerators associated with resource recovery.

2.7. "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.

2.8. "Materials Recovery Facility" - means any solid waste facility at which solid wastes are manually or mechanically shredded, separated, and recovered from the general waste stream for the purpose of recycling or reusing the resource recovered.

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

2.10. "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 recyclables into separate categories may occur, but the manual or mechanical separation of recyclables from the general waste stream may not.

2.11. "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.

2.12. "Solid Waste" - means any garbage, paper, litter, refuse, cans, bottles, sludge from a waste treatment plant, water supply treatment plant or air pollution control facility, other discarded material, including carcasses of any dead animal or any other offensive or unsightly matter, solid liquid, semisolid or contained liquid or gaseous material resulting from industrial, commercial, mining or from 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, or source, special nuclear or by-product material as defined by the Atomic Energy Act of 1954, as amended, or a hazardous waste either identified or listed under W. Va. Code § 20-5E, or refuse, slurry, overburden or other waste or material resulting from coal-fired electric power 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 Chapter 22, Chapter 22A, or Chapter 22B, 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.

2.13. "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, environmentally acceptable incinerators, resource recovery facilities, recycling facilities, materials recovery facilities, energy 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 and must be signed by the chairman of the solid waste authority.

3.3. The applicant will be notified in writing of approval or disapproval of the grant. Approval or disapproval of the grant will be determined by the Board in its sole discretion, after consideration of the factors listed under § 54-5-7 of these regulations.

§ 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 purposes 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. Applicants should not depend on continued financing for long-term projects under this grant program.

4.3. Applicants are only eligible for one or more grants totalling an amount not to exceed twenty thousand dollars (\$20,000), if funds are available, provided that this amount of money may be increased when the applicant consists of two or more authorities acting collectively for the purposes of a grant.

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. In the event an applicant makes such a satisfactory demonstration, the Board may award the grant with a lesser match required of the applicant or with no match required.

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 and §20-9-12a and the regulations promulgated thereunder.

4.6. 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.

§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.

§ 54-5-6. Authorized Use of Grants Funds. - Grants awarded under these regulations may be used for any of the purposes under W. Va. Code §20-9-1 et seq.

§54-5-7. Factors Considered in Evaluating Applications. - The Board will consider the following factors in evaluating an application for a grant:

7.1. Projects 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 resource recovery; and (3) landfilling.

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 considered before projects funded previously 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.

7.10. Any administrative costs of the authority, 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.

§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. The Board reserves the right to conduct an on-site inspection of the applicant's facilities related to the grant or 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. Amount of funds expended to date.

9.1.2. The balance of the grant monies remaining.

9.1.3. The amount of matching funds utilized to date.

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.

9.2. 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 fourteen (14) days of completion of the project containing the same information required under section 9.1. of these regulations.

§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.

§ 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 §20-9-12d. 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.