

**WEST VIRGINIA  
SECRETARY OF STATE  
KEN HECHLER  
ADMINISTRATIVE LAW DIVISION**

Form #5

**FILED**  
DEC 16 10 21 AM '94  
OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

**NOTICE OF AGENCY ADOPTION OF A PROCEDURAL OR INTERPRETIVE RULE  
OR A LEGISLATIVE RULE EXEMPT FROM LEGISLATIVE REVIEW**

AGENCY: West Virginia Tourism TITLE NUMBER: 144

CITE AUTHORITY: \_\_\_\_\_

RULE TYPE: PROCEDURAL XX INTERPRETIVE \_\_\_\_\_

EXEMPT LEGISLATIVE RULE \_\_\_\_\_  
CITE STATUTE(S) GRANTING EXEMPTION FROM LEGISLATIVE REVIEW  
\_\_\_\_\_

AMENDMENT TO AN EXISTING RULE: YES \_\_\_\_\_, NO XX

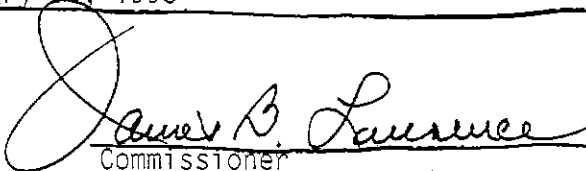
IF YES, SERIES NUMBER OF RULE BEING AMENDED: \_\_\_\_\_

TITLE OF RULE BEING AMENDED: \_\_\_\_\_

IF NO, SERIES NUMBER OF NEW RULE BEING ADOPTED: Series II

TITLE OF RULE BEING ADOPTED: Direct Advertising Grants

THE ABOVE RULE IS HEREBY ADOPTED AND FILED WITH THE SECRETARY OF STATE. THE  
EFFECTIVE DATE OF THIS RULE IS January 15, 1995

  
Commissioner  
West Virginia Tourism

TITLE 144  
PROCEDURAL RULES  
DIVISION OF TOURISM  
SERIES II  
DIRECT ADVERTISING GRANTS

S U M M A R Y

These rules govern the procedures for making available moneys deposited in the Tourism Promotion Fund for direct advertising within the state's eight regional development districts. The rule establishes eligibility, application guidelines, evaluation criteria, match requirement and accountability for a cooperative advertising program.

FACTS & CIRCUMSTANCES

West Virginia Code 5B-1-9(b) directs that the above rule be promulgated by the Division of Tourism.

FILED

DEC 16 10 21 AM '94

Title 144  
Procedural Rules  
Division of Tourism & Parks  
Series 2  
Direct Advertising Grants

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

144-2-1 General

- 1.1 Scope -- These procedural rules govern the application and award criteria for disbursement of direct advertising grants for regional advertising from the "tourism promotion fund."
- 1.2 Authority -- West Virginia Code 5B-1-9(b)
- 1.3 Filing Date -- December 16, 1994
- 1.4 Effective Date -- January 15, 1995

144-2-2 Definitions

- 2.1 "Qualified Applicant" means an organization whose purpose, in whole or in part, is to promote the tourism industry of West Virginia; which demonstrates the ability to provide the required match when invoiced; which represents a city, county, region or regions, or tourism industry or activity; and which in the judgment of the Commission adequately represents the interests of the regional development district or districts which the applicant's application covers.
- 2.2 "Tourism Promotion Fund Commission" (Commission) means the eight-member commission created by West Virginia Code 5B-1-9(c)(1).
- 2.3 "Division" means the West Virginia Division of Tourism and Parks, or any successor agency or office.
- 2.4 "Total project cost" means the total of all proposed project expenditures.

144-2-3 Applications

- 3.1 An applicant shall apply for tourism promotion funds on forms supplied by the Commission.
- 3.2 The application shall include the complete advertising or marketing project, in sufficient detail to permit evaluation against the required criteria.

- 3.3 The Commission may request such additional information as it determines necessary to evaluate any application, including but not limited to financial and budgetary information related to the application or to the applicant.
- 3.4 Failure to provide the required application information, or failure to provide such additional information as the Commission reasonably requests by a specific date, in order to evaluate any application, may at the Commission's option, disqualify the application.
- 3.5 The Commission may establish application deadlines and dates for grant award cycles. If the Commission does so, it shall disseminate notice of such dates to the West Virginia Hospitality and Travel Association and to any other person or organization requesting to be placed on the Commission's mailing list for such purpose.
- 3.6 Applications and required submissions associated with an awarded project may be public information, to the extent provided in West Virginia Code 29B-1-1 et. seq., the Freedom of Information Act.
- 3.7 All applications and required submissions associated with a project not awarded shall be returned to the applicant; however, evaluation forms and findings made by the Division or the Commission may be public information, to the extent provided in West Virginia Code 29B-1-1 et. seq., the Freedom of Information Act.
- 3.8 In order to assure that funds received by an applicant under this program are not used to fund regular ongoing advertising activities but instead to support new advertising activities, the Commission may require that an applicant furnish financial information as described above in §3.3.
- 3.9 No funds received by an applicant under this program may be used to advertise in the West Virginia, It's You magazine.
- 3.10 The Commission reserves the right to reject an application on the basis of the amount of funding it seeks, to request the applicant to revise an application to a lower or higher level of funding, or to award more or less than the full amount requested in the application.
- 3.11 No application shall be considered by the Commission unless the applicant's share of the project cost is at least \$10,000.00.

144-2-4 Review and Evaluations

- 4.1 The Commission will review all applications for completeness and eligibility.
- 4.2 The Commission shall evaluate and score all eligible applications.
- 4.3 Each application will be scored on the basis of 100 points, as detailed in §144-2-5. Individual scores will be totaled and averaged for each application, to produce the final score. Applications shall be awarded in accordance with the scoring and evaluation.

144-2-5 Evaluation Criteria

- 5.1 Eligible applications shall be evaluated and scored, up to a maximum of 100 points, on the following basis.
1. Up to 20 points -- project demonstrates potential for a strong positive return on investment, is well researched and includes tracking and evaluation measures.
  2. Up to 20 points -- project is appropriate to the market selected and complements or carries forward goals or objectives included in the Tourism Strategic Marketing Plan.
  3. Up to 20 points -- project encompasses multiple attractions, municipalities, counties, or a regional development district or districts.
  4. Up to 20 points -- project is creative, professional in quality and attainable with the funds requested or with additional identified and available funds.
  5. Up to 10 points -- project is to a new market or media.
  6. Up to 10 points -- project region has not received funding in the past.

144-2-6 Match Requirement

- 6.1 Applicant must provide a minimum of 50% of the project cost.
- 6.2 Cost overruns above the award amount shall be borne by the applicant unless the Commission grants prior approval in writing.
- 6.3 Any changes in the project after award requires prior approval of the Commission and may not materially change the project's objective or goal.
- 6.4 The match shall be a cash match. No in-kind services may be utilized for the match but may be utilized to reduce the overall cost of the project.
- 6.5 State funds from any source may not be used for the match. Non-state funds from any source may be used for the match.

144-2-7 Eligible Expenditures; Ineligible Expenditures

- 7.1 Eligible expenditures are those directly related to direct advertising. Direct advertising includes but is not limited to advertising on television, radio, newspaper, magazines and outdoor advertising (billboards) or any combination thereof.

7.2 Ineligible expenditures include, but are not limited to:

1. Administrative costs of the applicant, including travel costs.
2. Cost associated with preparation of the application.
3. Rent or the purchase of real estate.
4. Construction costs.
5. Political or lobbying activities of any kind.
6. Membership fees or dues to any organization.
7. Events, fairs or festivals.
8. Purchase or rental of any audio/visual equipment.
9. The costs of alcoholic beverages.
10. Expenditures not identified within the project application, unless the Commission grants prior approval in writing.

144-2-8 Audit & Compliance

- 8.1 The state reserves the right to review/audit an applicant's records relating to the project. Records must be retained for a minimum of three years after the close of the project.
- 8.2 The state may terminate any project agreement upon discovery of any violation of the terms of the agreement, these rules, or state or federal law.

144-2-9 Project Agreement

- 9.1 Simultaneously with the award of a project, the Division shall enter into an agreement with the applicant detailing the responsibilities of both parties, the payment schedule, the project timetable, and any other necessary or appropriate conditions.
- 9.2 The agreement shall require the applicant to hold harmless the State of West Virginia for any liability arising from the agreement.

WEST VIRGINIA DIVISION OF TOURISM

RECORD OF PUBLIC COMMENT

DIRECT ADVERTISING

This rule was open for public comment from October 26, 1994, through December 2, 1994. Only one comment was received, from Jerry Henderson, President of the Mountainstate Association of Bed & Breakfasts, which is attached. Mr. Henderson's comment proposes that the minimum grant amount be reduced from \$10,000 to \$5,000. The rationale for this proposal is that the \$10,000 level will tend to exclude a segment of the industry.

Upon consideration of the comment, the Commissioner elected not to change the rule. The objective of the \$10,000 minimum grant amount is to encourage the consolidation of tourism advertising, to foster economies of scale in promotional efforts, in order to achieve more consistent advertising of the state's tourism industry, and to maximize the impact of both public and private funds. As a result, the \$10,000 limit is considered more appropriate.

RECEIVED

NOV 20 1994

DEPARTMENT OF COMMERCE  
COMMISSIONER

November 17, 1994

Mountainstate Association of Bed & Breakfasts  
P.O. Box 271  
Buckhannon, WV 26201

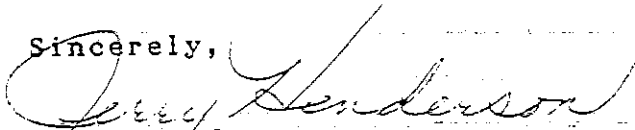
WV Division of Tourism  
2101 Washington Street, East  
Charleston, WV 25305

Dear Tom Gillooly:

This letter is a public comment on proposed procedural rule titled Direct Advertising Grants, Title 144, Series II. My name is Jerry Henderson and I am the president of the Mountainstate Association of Bed & Breakfasts. This is a fairly young organization whose membership is growing as is the number of B&B's in WV. We are very excited about this advertising grant and feel that we can use it in new and creative ways that will be good for our particular industry and therefore good for the entire WV tourism industry. We only have one deterrent to our taking advantage of the grant and that is the \$10,000 minimum amount of the match. We feel the we are one of many industries within the WV tourism industry that is in that same situation and therefore we propose that the amount be reduced to \$5,000. We feel that reducing the match to \$5000 would be much more inclusive of all of the industries that make up the WV tourism industry.

Thank you for your attention to this matter.

Sincerely,



Jerry Henderson  
Henderson House B&B  
472-1611