



STATE OF WEST VIRGINIA
WATER DEVELOPMENT AUTHORITY
1201 DUNBAR AVENUE
DUNBAR, WV 25064

(304) 348-3612

Emergency

August 1, 1984

The Honorable A. James Manchin
Secretary of State
Capitol Building
Charleston, WV 25305

As provided in Chapter 29A, the West Virginia Water Development Authority is filing under emergency provisions two copies of its Administrative Regulations, Chapter 20, Article 5C, Series I, Section 7, "Requirements concerning disbursement of hardship grant funds for assisting in the construction of sewage treatment facilities and appurtenances." These emergency regulations are effective immediately upon such filing (August 1, 1984).

In complying with the requirements of Chapter 29A, the following is the Authority's statement of facts and circumstances constituting the emergency:

During discussions with the Attorney General's office, it has been determined that the Water Development Authority cannot continue to administer its hardship grants program under existing regulations because of significant changes made by the U. S. Environmental Protection Agency in the grants program for sewer systems. The Authority was advised to file amended hardship grant regulations under the emergency provisions of Chapter 29A.

Fifteen copies of the emergency regulations and the required statement of facts and circumstances have been filed with the Legislative Rule-making Review Committee on this date.

Edgar N. Henry
EDGAR N. HENRY, PE - DIRECTOR

bbm

Enclosures

c Water Development Board
John Homburg, Legislative Services

FILED IN THE OFFICE OF
A. JAMES MANCHIN
SECRETARY OF STATE

THIS DATE *Aug. 1, 1984*
Administrative Law Division



STATE OF WEST VIRGINIA
OFFICE OF THE SECRETARY OF STATE
CHARLESTON 25305

STATE REGISTER FILING

I, Edgar N. Henry, Director,
Name Title or Position

Water Development Authority hereby submit to record
Department or Division

in the State Register on 8 1/2" x 11" paper two (2) copies of

- () proposed rules and regulations concerning topics or material not covered by existing rules and regulations;
- (x) proposed rules and regulations superseding rules and regulations already on file; FILED AS EMERGENCY REGULATIONS.
- () a notice of hearing;
- () findings and determinations;
- () rules and regulations; or
- () other - specify (

This filing pertains to

Chapter 20
Article 5C
Series I
Section 7
Page No. 38 - 43

FILED IN THE OFFICE OF
A. JAMES MANCHIN
SECRETARY OF STATE

THIS DATE 8-1-84
Administrative Law Division

August 1, 1984
Date Submitted

Edgar N. Henry
Signature of Person Authorizing this Filing

WEST VIRGINIA
WATER DEVELOPMENT AUTHORITY
ADMINISTRATIVE REGULATIONS

Requirements concerning disbursement
of hardship grant funds
for assisting in the construction
of sewage treatment facilities
and ~~interceptor-sewers~~
appurtenances.

Chapter 20-5C
Series I
(1976)
(Amended-1981)
(Amended 1984)



FILED IN THE OFFICE OF
A. JAMES MANCHIN
SECRETARY OF STATE

THIS DATE 8-1-84
Administrative Law Division

WEST VIRGINIA
WATER DEVELOPMENT AUTHORITY
1201 Dunbar Avenue
Dunbar, West Virginia 25064

ADMINISTRATIVE REGULATIONS
OF
THE STATE OF WEST VIRGINIA

REQUIREMENTS CONCERNING DISBURSEMENT
OF HARDSHIP GRANT FUNDS
FOR ASSISTING IN THE CONSTRUCTION
OF SEWAGE TREATMENT FACILITIES
AND ~~INTERCEPTOR~~-SEWERS
APPURTENANCES

Chapter 20, Article 5C
Code of West Virginia

West Virginia
Water Development Authority
1201 Dunbar Avenue
Dunbar, West Virginia 25064

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WEST VIRGINIA ADMINISTRATIVE REGULATIONS
Water Development Authority

Chapter 20-5C
Series I
(1976)
~~(Amended 1981)~~
(Amended 1984)

FILED IN THE OFFICE OF
A. JAMES MANCHIN
SECRETARY OF STATE
THIS DATE 8-1-84
Administrative Law Division

SUBJECT: Requirements concerning the disbursement of hardship grant funds for assisting in the construction of sewage treatment facilities and ~~intereceptor-sewers~~ appurtenances.

The Water Development Authority has the power and capacity to make loans and grants to governmental agencies for the acquisition or construction of water development projects as provided in Chapter 20, Article 5C, Code of West Virginia.

In this capacity, consideration will be given to the circumstances related to availability of funds, water quality in the area of concern and status of the project being considered.

GENERAL: SCOPE - These regulations establish requirements concerning the disbursement of hardship grant funds for assisting in the construction of sewage treatment facilities and ~~intereceptor-sewers~~ appurtenances.

AUTHORITY - These regulations are issued under authority of West Virginia Code, Chapter 20, Article 5C, Section 6.

EFFECTIVE DATE - These regulations were promulgated on _____ and became effective on _____.

FILING DATE - These regulations were filed in the Office of the Secretary of State on _____.

CERTIFICATION - These regulations were certified authentic by the Chairman of the West Virginia Water Development Board by Certification No. 7
8.

SECTION 7 - PRIORITY SYSTEM FOR CONSTRUCTION GRANT RECIPIENTS TO DETERMINE
WHETHER A SUPPLEMENTAL STATE HARDSHIP GRANT SHOULD BE PROVIDED TO
HELP RELIEVE A HARDSHIP IN LOCAL FUNDING.

SECTION 7.01. INTRODUCTION.

In fiscal year 1975-76, the West Virginia Water Development Authority (WDA) received funds for the first time to assist communities in the funding of needed sewage facilities.

In accordance with Public Law 92-500, the Federal Water Pollution Control Act Amendments of 1972, as amended, the Division of Water Resources of the Department of Natural Resources has established a priority rating system for determination of construction grant recipients to accomplish the goals set forth in the act. The priority system is a mechanism through which water quality problems are ranked State-wide relative to their severity and volume. Once a community has obtained a priority, the eligible portions of the project are recommended for a 75-percent federal grant. A-5-percent-State-grant-with-the-remaining-20-percent-coming-from-local-sources-is-the-normal-funding-for-Step-III-(construction)-projects-

In accordance with provisions of Chapter 20, Article 5C, Code of West Virginia, the WDA has developed the following criteria to identify grant applicants who may experience a financial hardship and thereby qualify for additional State hardship grant funds. However, availability of hardship funds will NOT be retroactive to entities where construction has been initiated.

SECTION 7.02. CRITERIA.

~~In-general,-a-construction-grant-is-awarded-in-a-series-of-three steps-or-a-combination-of-these-steps-~~

Step-I---Facilities-Plan-Preparation
Step-II---Preparation-of-construction-drawings-and-specifications
Step-III---Building-and-erection-of-a-complete-and-operable-treatment
works

In order to accurately evaluate the financial impact a proposed system will have on a given community, several factors must be considered. The most accurate information relating to the financial impact of a proposed sewage system is not available, however, until the applicant is ready to initiate the-Step-III-phase construction of the project. Therefore, a hardship grant will not be awarded until a project is ready for construction, as determined by the WDA.

A---Applicants-in-the-Step-I-and-Step-II-phases-are-eligible for-the-total-25-percent-nonfederal-share-of-the-eligible-project-cost in-the-form-of-a-loan-from-the-WDA---This,-coupled-with-the-75-percent grant-from-the-U.-S.-Environmental-Protection-Agency,-provides-100-percent funding-for-the-Step-I-and-Step-II-projects-

B---All-Step-III-projects-in-the-State-are-eligible-for-basis-5 percent-grants-from-the-WDA---Funds-from-both-the-basis-5-percent-grants and-the-hardship-grants-may-be-used-to-repay-the-WDA-loans-made-for-Step I-and-Step-II-projects-

7.02.01. Criteria for Step-III Grant Applicants. The WDA intends to evaluate the financial impact a proposed system will have on a community due to the installation of wastewater treatment facilities. Therefore, the following constraints will be used to determine the eligibility of projects for State hardship grants:

(1) The applicant must have an-approved-Step-I-project-(201 Facilities-Plan)-or-equivalent-that-has adequately addressed the cost-effective aspects of the project and project alternatives.

(2) The applicant must have ~~an approved Step-II-project-or~~ approvable plans and specifications, as determined by the WDA.

(3) As appropriate, the applicant must have been awarded a Step ~~III-project~~ construction grant by the U. S. Environmental Protection Agency and, ~~where appropriate, a Step-III-project-grant-by-the-WDA.~~

~~(4) Hardship grant funds may be withdrawn from a project if the project does not proceed promptly (as determined by the WDA) to completion ---- upon award of a hardship grant.~~

A. Criteria to determine Step-III grant applicants that qualify as hardship:

(1) The State median family income is used as the basis for determining the acceptable sewer user charge level. The determination will be made using a methodology to be the subject of periodic review by the Water Development Board at public meetings held as required.

(2) Projects with proposed user charges in excess of the values determined in item (1) would be considered for hardship grant award.

B. Criteria to determine allocation of hardship funds:

Applicants recommended as hardship under Section 7.02.01 A. will be allocated funds in such a manner that those communities with a relatively high user charge will be eligible for a larger hardship fund allocation.

(1) Funding of projects recommended as hardship under Section 7.02.01 A. will be developed in the following manner: The hardship grant amount is based on the difference between the proposed user charge, which is derived using criteria prescribed by the WDA, and the recommended (see 7.02.01 A.) sewer user charge. The difference in costs would then be used to calculate the reduction in the project's debt service necessary to reduce the proposed

user charge to the recommended level. Since the maximum size of the hardship grant is set by the Water Development Board, the grant may be insufficient to meet the needs of the project in bringing the user charge down to the recommended level.

(2) In the event a community funded by a hardship grant is able to reduce its user charge rates to the recommended level and subsequently receives additional grant funds for the project, the community must return the WDA funds in excess of those required to maintain the user charge at the recommended level.

(3) Hardship grant funds may be withdrawn from a project if the project does not proceed promptly (as determined by the WDA) to completion upon award of a hardship grant.

~~(3)~~ (4) Appropriations in any fiscal year may not be sufficient to fund all the recommended applicants. Grants will be made until all qualifying projects have received grants or grant funds are exhausted, whichever occurs first.

SECTION 7.03. DEFINITIONS OF TERMS.

7.03.01. State Median Family Income. This is the median income for the State. This value will be provided by the WDA.

7.03.02. User Charge. As a minimum, these are charges levied to recover from the system's users the cost of operation and maintenance, existing debt service and debt service incurred from the proposed project. These represent the anticipated costs of serving each family unit on an individual connection.

7.03.03. WDA. This is the abbreviation for the West Virginia Water Development Authority.

7.03.04. Construction. As used in this regulation, this means any wastewater project where a formal award of construction contracts has been made.