

**WEST VIRGINIA  
SECRETARY OF STATE  
NATALIE E. TENNANT  
ADMINISTRATIVE LAW DIVISION**

Form #7

Do Not Mark In This Box  
Filing Date

**FILED**

2014 JUL -8 P 3:58

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

Effective Date

**NOTICE OF AN EMERGENCY RULE**

AGENCY: West Virginia Department of Agriculture TITLE NUMBER: 61

CITE AUTHORITY: 19-1-11

EMERGENCY 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 RULE BEING PROPOSED: 33

TITLE OF RULE BEING PROPOSED: Rural Rehabilitation Loan Program

THE ABOVE RULE IS BEING FILED AS AN EMERGENCY RULE TO BECOME EFFECTIVE AFTER APPROVAL BY SECRETARY OF STATE OR 42ND DAY AFTER FILING, WHICHEVER OCCURS FIRST.

THE FACTS AND CIRCUMSTANCES CONSTITUTING THE EMERGENCY ARE AS FOLLOWS:

Please see attached.

Use additional sheets if necessary



Authorized Signature

APPENDIX B

**FISCAL NOTE FOR PROPOSED RULES**

Rural Rehabilitation Loan Program

Rule Title: \_\_\_\_\_

Type of Rule:  Legislative  Interpretive  Procedural

Agency: West Virginia Department of Agriculture

Address: 1900 Kanawha Boulevard, East  
Charleston, WV 25305

Phone Number: 304-558-3200 Email: jodeemartin@wvda.us

**Fiscal Note Summary**

Summarize in a clear and concise manner what impact this measure will have on costs and revenues of state government.

Under this proposed rule, changes to the governance of the Department of Agriculture's Rural Rehabilitation Loan Program will result in minimal additional expenditures for this program. In addition, loan interest rate standards proposed in this rule would minimally affect revenue generated by this program. The fiscal impact of this proposed rule cannot be estimated at this time, due to the reasons noted below.

**Fiscal Note Detail**

Show over-all effect in Item 1 and 2 and, in Item 3, give an explanation of Breakdown by fiscal year, including long-range effect.

FISCAL YEAR			
Effect of Proposal	Current Increase/Decrease (use "--")	Next Increase/Decrease (use "--")	Fiscal Year (Upon Full Implementation)
<b>1. Estimated Total Cost</b>	0.00	0.00	0.00
Personal Services	0.00	0.00	0.00
Current Expenses	0.00	0.00	0.00
Repairs & Alterations	0.00	0.00	0.00
Assets	0.00	0.00	0.00
Other	0.00	0.00	0.00
<b>2. Estimated Total Revenues</b>	0.00	0.00	0.00

Rural Rehabilitation Loan Program

Rule Title: \_\_\_\_\_

Rule Title: \_\_\_\_\_

**3. Explanation of above estimates (including long-range effect):**

Please include any increase or decrease in fees in your estimated total revenues.

Section 3 of this proposed rule establishes a loan committee to provide oversight for the Rural Rehabilitation Loan Program. Loan committee members will be compensated for participation in loan committee meetings and carrying out related duties, and will receive reimbursement for related travel expenses. The cost of committee member compensation and travel reimbursement cannot be accurately estimated, as it is dependent on the frequency of loan committee meetings and final makeup of the committee. Therefore, additional expense to the state cannot be estimated at this time.

Similarly, Section 8 of this proposed rule provides for standards for the interest rate to be established for future loans approved by the loan committee. The effect on the Rural Rehabilitation Loan Program revenue cannot be estimated at this time, due to variables such as future national interest rate fluctuations and number of approved loans.

**MEMORANDUM**

Please identify any areas of vagueness, technical defects, reasons the proposed rule would not have a fiscal impact, and/or any special issues not captured elsewhere on this form.

Legislation that requires this rule filing indicates that administration of the program after the loan has been awarded will be outsourced to a financial institution for payment processing, collection actions, etc. Competitive bids will be solicited and evaluated in order to establish a contract for the required third-party loan servicing. At this point, there is no way to determine an estimate of what the cost to the program will be.

Date: July 8, 2014

Signature of Agency Head or Authorized Representative

 \_\_\_\_\_



EMERGENCY RULE QUESTIONNAIRE

DATE: July 8, 2014

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: *(Agency Name, Address & Phone No.)* West Virginia Department of Agriculture  
1900 Kanawha Boulevard, East  
Charleston, WV 25305 304-558-3200

EMERGENCY RULE TITLE: \_\_\_\_\_

1. Date of filing July 8, 2014

2. Statutory authority for promulgating emergency rule:  
19-1-11

3. Date of filing of proposed legislative rule: July 1, 2014

4. Does the emergency rule adopt new language or does it amend or appeal a current legislative rule? This emergency rule has the same language as the proposed rule.

5. Has the same or similar emergency rule previously been filed and expired?  
No

6. State, with particularity, those facts and circumstances which make the emergency rule necessary for the **immediate** preservation of public peace, health, safety or welfare.  
The West Virginia Legislature through SB350 2014 Session authorized the West Virginia Department of Agriculture to have emergency rule making authority. The agriculture industry in the state of West Virginia is not thriving at this time. Our citizens cannot invest, and we will miss another growing season if we have to go through the year before rule is approved. There is also a very big demand for assistance.

7. If the emergency rule was promulgated in order to comply with a time limit established by the Code or federal statute or regulation, cite the Code provision, federal statute or regulation and time limit established therein.

~~N/A~~ \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

8. State, with particularity, those facts and circumstances which make the emergency rule necessary to prevent substantial harm to the public interest.

~~This program is vital to investment in the agriculture industry. There is a very high demand for loans to assist people with agriculture or related purposes. If we wait we lose out on another growing season. This loan program is a tool to help promote agriculture in the state of West Virginia and also adds to our economy.~~ \_\_\_\_\_  
\_\_\_\_\_



**West Virginia Department of Agriculture**

1900 Kanawha Blvd. E., Charleston, WV 25305  
304-558-3550

**Walt Helmick**  
Commissioner

**The West Virginia Department of Agriculture is requesting to file an emergency rule Title 61 Series 33 Rural Rehabilitation Loan Program.**

**The West Virginia Legislature passed SB350 in which gave the department emergency rulemaking authority. In addition to the authority granted to us by the passing of SB350 we feel that by waiting for this rule to go through the regular rule making process we will lose an entire growing season.**

**There is a demand for loans at this time, and these loans will help the citizens of this state to invest in agriculture and agriculture related purposes. Agriculture is a viable industry, and also supports our economy.**

A handwritten signature in cursive script that reads "Walt Helmick".

Title 61

Legislative Rule

West Virginia Department of Agriculture

Rural Rehabilitation Loan Program

Series 33

**§61-33-1. General.**

1.1. **Scope.** -- This legislative rule defines the Rural Rehabilitation Loan Program, establishes requirements for the Rural Rehabilitation Loan Committee, establishes the minimum financial requirements for receiving financial assistance, establishes requirements for financial assistance usage, establishes sufficient collateral, establishes an application process, sets applicable interest rates, establishes refinancing, delinquencies, and collection proceedings, as well as requirements for advertising the program. The Rural Rehabilitation Loan Program is a financial assistance program administered by the West Virginia Department of Agriculture. The Rural Rehabilitation Loan Program is an important tool for the Commissioner of Agriculture to promote investment in the agricultural industry in the state.

1.2. **Authority.** -- WV Code §19-1-11.

1.3. **Filing Date.** --

1.4. **Effective Date.** --

**§61-33-2. Definitions.**

2.1. "Agricultural or related purpose" means to use for starting, purchasing, or expanding a farm operation; to assist farmers who have suffered financial setbacks from natural disasters, or who need additional resources with which to redirect or maintain profitable farming operations; or for any other agricultural purpose deemed important by the Commissioner of Agriculture.

2.2. "Application" means a request form for financial assistance submitted to the West Virginia Department of Agriculture Rural Rehab Loan Committee.

2.3. "At large member" means a member who has some standing authority with an organization, but no official responsibility.

2.4.. "Collateral" means security that is pledged for a loan.

2.5. "Collection proceedings" means to demand payment of a loan.

2.6. "Commissioner" means the Commissioner of the West Virginia Department of Agriculture.

2.7. "Delinquencies" means a failure to pay back a loan; neglecting to pay back a loan in a timely manner.

2.8. "Department employee" means a person who is currently employed by the West Virginia Department of Agriculture.

2.9. "Immediate family" means a spouse, parent, grandparent, children, grandchildren, siblings, similarly related in-laws, and adopted, half and step members of families.

2.10. "Rural Rehabilitation Loan Committee" is a committee appointed by the Commissioner of Agriculture.

2.11. "Rural Rehabilitation Loan Program" is a financial assistance program administered by the West Virginia Department of Agriculture to promote investment in the agriculture industry in the state.

2.12. "WJS prime rate" or "Wall Street Journal prime rate" means a measure of the U. S. prime rate and is the base rate on corporate loans posted by at least 70% of the 10 largest U.S. banks.

**§61-33-3. Requirements of the Rural Rehabilitation Loan Committee.**

3.1. The West Virginia Department of Agriculture shall establish a loan committee which consist of the following five (5) members.

3.1.a One employee of the West Virginia Department of Agriculture.

3.1.b Four public members as follows:

3.2.b.1. One member with agricultural experience;

3.1.b.2 One member with business loan experience; and

3.1.b.3 Two "At Large" members.

3.2. The loan committee shall meet to consider financial assistance applications, applicable interest rates, delinquencies, refinancing, collection proceedings, collateral requirements, and other aspects of the program.

3.3. Each member of the Rural Rehabilitation Loan Committee is eligible to receive compensation for attending official meetings or engaging in official duties not to exceed the amount paid to members of the Legislature for their interim duties as recommended by the Citizens Legislative Compensation Commission and authorized by law. A member of the Rural Rehabilitation Loan Committee may not receive compensation for travel days that are not on the same day as the official meeting or official duties.

3.4. The Rural Rehabilitation Committee may reimburse actual and necessary expenses incurred for each day or portion of a day engaged in the discharge of official duties in a manner consistent with guidelines of the West Virginia Department of Agriculture Travel Policy.

**§61-33-4. Financial requirements for receiving financial assistance.**

- 4.1. Applicant must have an acceptable credit history.
- 4.2. Applicant must provide proof that they have been unable to obtain credit elsewhere at a reasonable rate.
- 4.3. Applicant must possess legal capacity.
- 4.4. Applicant must not be delinquent on a federal or state debt or have received forgiveness from any government-sponsored loan program.

**§61-33-5. Financial assistance shall be used for agricultural or related purposes.**

- 5.1. Financial assistance shall be used to purchase or expand farming operations.
- 5.2. Applicant shall demonstrate adequate training, education or agricultural experience.
- 5.3. Funds shall be used to promote, build, and sustain family farms in support of a thriving agricultural economy.

**§61-33-6. Requiring sufficient collateral.**

- 6.1. Borrower shall be required to have sufficient collateral to secure a loan.
- 6.2. In the case of financial assistance other than a loan, the applicant shall demonstrate significant financial contributions of their own.

**§61-33-7. Application.**

- 7.1. The application shall include the following:
  - 7.1.1. Name;
  - 7.1.2. Address;
  - 7.1.3. Social Security Number; and
  - 7.1.4. Any additional information as requested by the Commissioner in order to thoroughly evaluate the loan applicants credit worthiness, current debt load, ability to repay the loan, proper collateral and other financial history.

**§61-33-8. Applicable interest rates.**

- 8.1. The interest rate shall be lower than the prime as indicated by WSJ Prime Rate at the time the Loan Committee votes to recommend the loan for the Commissioner's approval.

8.2. The interest rate shall be fixed throughout the life of the loan at the interest rate established in this section.

**§61-33-9. Delinquencies and collection proceedings.**

9.1. A loan shall become delinquent when the borrower misses two (2) consecutive monthly payments, or one quarterly, semi-annual, or annual payment.

9.2. Loan holders of delinquent loans shall be sent delinquency notices and given thirty (30) calendar days to resolve the delinquency by paying the past-due balances.

9.2.1. Loan holders who are still delinquent after initial attempts to resolve delinquency may be subject to further remedial action as approved by the Loan Committee, including formal collection procedures and possibly foreclosure.

**§61-33-10. Refinancing.**

10.1. The borrower shall not be eligible to refinance until 5 years into the loan term.

10.2. The borrower shall submit a new application in order to be eligible for refinancing.

10.3. Any refinancing will not extend a loan term past 20 years.

**§61-33-11. Advertisement.**

11.1 The West Virginia Department of Agriculture shall advertise the Rural Rehabilitation Loan Program to the public in at least one of the following manners:

11.1.a. On the West Virginia Department of Agriculture website; or

11.1.b. In the West Virginia Department of Agriculture's Market Bulletin.

**§61-33-12. Annual report.**

12.1. The Commissioner shall file an annual report to the Joint Committee on Government and Finance regarding the loan program, including information about the financing awarded, repaid and outstanding loans, interest rates, delinquencies and collections, and other pertinent data.