

**WEST VIRGINIA
SECRETARY OF STATE
BETTY IRELAND
ADMINISTRATIVE LAW DIVISION**

Form #4

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OFFICE WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF RULE MODIFICATION OF A PROPOSED RULE

AGENCY: Department of Administration TITLE NUMBER: 148

CITE AUTHORITY: 5A-3-45

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: 17

TITLE OF RULE BEING PROPOSED: Waste Disposal of State Property

THE ABOVE PROPOSED LEGISLATIVE RULES, FOLLOWING REVIEW BY THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE, IS HEREBY MODIFIED AS A RESULT OF REVIEW AND COMMENT BY THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE. THE ATTACHED MODIFICATIONS ARE FILED WITH THE SECRETARY OF STATE.



Authorized Signature

TITLE 148
DEPARTMENT OF ADMINISTRATION
PURCHASING DIVISION

FILED

SERIES 17
WASTE DISPOSAL OF STATE PROPERTY

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SECRETARY OF STATE

§148-17-1. General.

- 1.1. Scope. - This Legislative Rule is an explanation and clarification of operative procedures for the disposal of commodities as waste.
- 1.2. Authority. - W. Va. Code, §5A-3-45.
- 1.3. Filing Date. - May 15, 2005
- 1.4. Effective Date. -

§148-17-2. Definitions.

As used in this rule, all terms have the same meaning as provided in W.Va. Code §5A-1-1 and 5A-3-1 et seq., and as follows:

- 2.1. "Director" means the Director of the Purchasing Division of the Department of Administration.
- 2.2. "Waste" means a commodity with a value less than the benefit that can be realized through any authorized method of property disposal.
- 2.3. "Landfill" means a facility approved by the Department of Environmental Protection to accept waste for disposal.

§148-17-3. Applicability.

- 3.1. This legislative rule applies to all spending units of State government except those statutorily exempted. Exempted spending units may elect to follow this rule.
- 3.2. All requests for disposal of assets as waste under this rule must be approved by the Director of the Purchasing Division, or a designee.

§148-17-4. Authority.

The Director shall:

- 4.1. Ensure state assets are disposed of exclusively through the state agency for surplus property;
- 4.2. Provide for a means of disposal, which includes disposal of property in a landfill or by other lawful means of waste disposal;

- 4.3. Require a written request to be submitted on a standardized form prescribed by the Purchasing Division;
- 4.4. Evaluate requests for disposal of state property as waste and respond to agencies with documented decision;
- 4.5. Provide recommendation to agencies if disposal as waste is not approved.

§148-17-5. Procedures.

- 5.1. The requesting agency submits a "Surplus Property Retirement Form" (WV-103) to the state agency for surplus property.
- 5.2. State agency for surplus property evaluates the recommendation of the requesting agency to determine if inspection of the property is necessary.
- 5.3. The state agency for surplus property may determine that a physical inspection is not required when any of the following conditions exist:
 - 5.3.a. If the documentation for the request is complete and sufficient to allow a determination to be made;
 - 5.3.b. The item was destroyed in a known natural disaster, accident or other occurrence; or,
 - 5.3.c. The value of the item is such that disposal as waste is in the best interest of the state.
- 5.4. If the state agency for surplus property deems a physical inspection of the state property is warranted, an employee of the state agency for surplus property will visit the agency to gather information on the property condition.
 - 5.4.a. A physical inspection may be performed if the following conditions exist:
 - 5.4.a.1 The written description of the asset to be disposed of is incomplete and/or insufficient to make a determination;
 - 5.4.a.2 The relative age of the asset would indicate that under normal circumstances the asset would retain value; and,
 - 5.4.a.3 The volume of the assets being disposed of at any given time may have a greater total value to warrant another authorized method of disposal.
- 5.5. After proper documentation has been completed and a physical inspection conducted (if necessary), a determination is made by the state agency for surplus property as to the approved disposal method of the commodity.
- 5.6. The state agency for surplus property has the right to take possession of any commodity retired as waste and provide disposal using any other approved method, in accordance with §5A-3-45 of the *West Virginia Code*.
- 5.7. If the state agency for surplus property determines with fifteen (15) days of receiving a commodity that it must be disposed of as waste, any costs related to that disposal shall be the responsible of the agency retiring the commodity.



STATE OF WEST VIRGINIA
DEPARTMENT OF ADMINISTRATION
OFFICE OF THE CABINET SECRETARY

JOE MANCHIN III
GOVERNOR

ROBERT W. FERGUSON, JR.
CABINET SECRETARY

August 11, 2006

Via Hand-Delivery

The Honorable Betty Ireland
Secretary of State
Building 1, Suite 157K
1900 Kanawha Boulevard, East
Charleston, WV 25305

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2006 AUG 16 P 2:57
OFFICE WEST VIRGINIA
SECRETARY OF STATE

**Re: Waste Disposal of State Property, 148CSR1
Legislative Rules**

Dear Secretary Ireland,

I am enclosing the original and ten copies of the "Notice of Rule Modification of a Proposed Rule" regarding Waste Disposal of State Property. These rules contain modifications requested at the Legislative Rule-Making interim meeting. The Department of Administration has agreed to the modifications. It is my understanding that your office will maintain the original in your files. Once the ten copies have been stamped filed I will provide the copies to the Legislative Rule-Making office.

Thank you very much for your assistance. If you have any questions, or need any additional information, please do not hesitate to give me a call.

Sincerely,

Donna M. Lipscomb
Executive Coordinator

DMP:dp
Enclosures
cc: Debra Graham, Counsel for Legislative Rule-Making