

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

Form #2

Do Not Mark in This Box

FILED
2005 JUN 28 P 2:03
OFFICE WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

AGENCY: Department of Administration TITLE NUMBER: 148

RULE TYPE: Legislative 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

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 JULY 28, 2005 AT 10:00 am ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS:

Donna Lipscomb

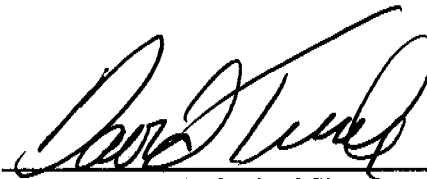
Department of Administration

1900 Kanawha Boulevard, East

Capitol Complex, Room E-119

Charleston, WV 25305

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



Authorized Signature

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

#3.20

Agency: Department of Administration

Rule Type: Legislative

Title Number: 148

Cite Authority: 5A-3-45

STATEMENT OF CIRCUMSTANCE AND BRIEF SUMMARY

The proposed rules are a result of the passage of SB 728 during the 2005 legislative session which made statute changes regarding the waste disposal of state property. The rules establish the procedures for disposing of waste property.

TITLE 148
DEPARTMENT OF ADMINISTRATION
PURCHASING DIVISION

SERIES 17
WASTE DISPOSAL OF STATE PROPERTY

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§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:

- (a) "Director" means the Director of the Purchasing Division of the Department of Administration.
- (b) "Waste" means a commodity with a value less than the benefit that can be realized through any authorized method of property disposal.
- (c) "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:

- (a) Ensure state assets are disposed of exclusively through the state agency for surplus property;
- (b) Provide for a means of disposal, which includes disposal of property in a landfill or by

other means of waste disposal;

- (c.) Require a written request to be submitted on a standardized form prescribed by the Purchasing Division;
- (d.) Evaluate requests for disposal of state property as waste and respond to agencies with documented decision;
- (e.) 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 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 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.
- 5.5 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.
- 5.6 If the state agency for surplus property determines within fifteen days of receiving a commodity that it must be disposed of as waste, any costs related to that disposal shall be the responsibility of the agency retiring the commodity.

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Title 148, Series 17

Type of Rule: X Legislative Interpretive Procedural

Agency: Department of Administration, Purchasing Division

Address: 1900 Kanawha Boulevard, East
Capitol Complex, Room E-119
Charleston, WV 25305

Phone Number: 304- 558-3392 Email: dlipscomb@wvadmin.gov

Fiscal Note Summary

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

The proposed rules are a result of the passage of SB 728 during the 2005 legislative session. The rules outline the procedures for waste disposal of state property. There should be no additional fiscal impact as a result of the rules as the Statute now allows for waste disposal of property. These rules simply establish the procedures to be followed when an agency wants to dispose of property.

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	2005 Increase/Decrease (use "-")	2006 Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost	-0-	-0-	-0-
Personal Services			
Current Expenses			
Repairs & Alterations			
Assets			
Equipment			
Other			
2. Estimated Total Revenues			

