

**WEST VIRGINIA
SECRETARY OF STATE
JOE MANCHIN, III
ADMINISTRATIVE LAW DIVISION**

Form #2

Do Not Mark In This Box

FILED

2002 JAN 24 P 1:16

OFFICE WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

AGENCY: West Virginia Development Office TITLE NUMBER: 145

RULE TYPE: Procedural CITE AUTHORITY: §11-13-2f(g)

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: 10

TITLE OF RULE BEING PROPOSED: _____

Synthetic Fuel Producing Counties Grant Fund Program

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 2/25/02 AT 5:00 p.m. ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS:

Bobby Lewis, Director

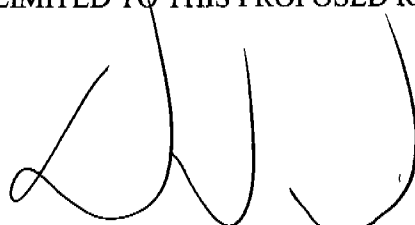
Community Development Division

Building 6, Capitol Complex

1900 Kanawha Boulevard, East

Charleston, West Virginia 25305-0311

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



Authorized Signature

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

SCANNED

Synthetic Fuel Producing Counties Grant Fund Program

Summary

This new procedural rule establishes the guidelines to be used by the Director of the West Virginia development Office for administering the distribution of moneys in the Synthetic Fuel producing Counties Grant Fund. Up to \$2,000,000 may be available each fiscal year to be awarded to synthetic fuel producing counties on a proportional share to be used for infrastructure and economic development.

FISCAL NOTE WORKSHEET

HD NO. _____ DRAFT NO. _____ BILL NO. _____ RESOLUTION NO. _____

SUBJECT Synthetic Fuel Producing Counties Grant Fund program FUND Synthetic Fuel Producing Counties Grant Fund

SOURCE OF REVENUE: GENERAL FUND SPECIAL OTHER (SPECIFY) SB 5006

COST ESTIMATE BASED ON: AN ORIGINAL ESTIMATE BUDGET BILL OTHER (SPECIFY) SB 5006

INCOME ESTIMATE BASED ON: AN ORIGINAL ESTIMATE BUDGET BILL OTHER (SPECIFY) _____

SHOW OVER-ALL EFFECT IN ITEMS 1 AND 2 AND IN ITEM 3 GIVE EXPLANATION OF BREAKDOWN BY FISCAL YEAR INCLUDING LONG-RANGE EFFECT.

EFFECT OF PROPOSAL	ANNUAL		FISCAL YEAR		
	INCREASE	DECREASE	CURRENT	NEXT	THEREAFTER
1. ESTIMATED TOTAL COST	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0
PERSONAL SERVICES					
CURRENT EXPENSE					
REPAIRS AND ALTERATIONS					
EQUIPMENT					
OTHER					
2. ESTIMATED TOTAL REVENUES	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0

3. EXPLANATION OF ABOVE ESTIMATES (INCLUDING LONG-RANGE EFFECT):

SB 5006 prescribes that up to \$2,060,000 of the synthetic fuel tax authorized by 11-13-2(f) will be used for the Synthetic Fuel Producing Counties Grant Fund program. This rule outlines the procedures for the administration of these moneys. The administration of the program is to be paid by up to \$60,000 of the \$2,060,000 allocated to the program.

TOTAL

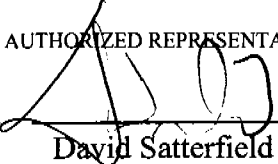
DATE

1/22/02

AGENCY

WV Development Office

AUTHORIZED REPRESENTATIVE



David Satterfield
Executive Director

Title 145
PROCEDURAL RULE
WEST VIRGINIA DEVELOPMENT OFFICE

FILED

SERIES 10
SYNTHETIC FUEL-PRODUCING COUNTIES GRANT FUND PROGRAM

2007 JAN 24 P 1: 16

OFFICE WEST VIRGINIA
SECRETARY OF STATE

§145-10-1 General.

- 1.1. Scope and Purpose. - - This procedural rule establishes guidelines to be used by the Director of the West Virginia Development Office for administering the distribution of moneys in the Synthetic Fuel-Producing Counties Grant Fund Program.
- 1.2. Authority. - - W. Va. Code §11-13-2f(g).
- 1.3. Filing Date. - -
- 1.4. Effective Date. - -

determines is likely to foster economic growth and development in the area of the state which the project is developed, for commercial, industrial, community improvement or preservation or other proper purposes.

- 3.4. "Eligible County" means a county in which a synthetic fuel manufacturing plant actively produced synthetic fuel for at least one hundred eighty days during the applicable first year as certified by the State Tax Commissioner.
- 3.5. "Fund" means the synthetic fuel-producing counties grant fund created in the state treasury by W. Va. Code §11-13-2f(e)2.

§145-10-2. Application and Enforcement.

- 2.1. Application. - - These procedural rules shall apply to the Director, the West Virginia Development Office, and all Synthetic Fuel-Producing Counties Grant funds pursuant to W. Va. Code § 11-13-2f(f) (2002).
 - 2.1.1. Any specific procedural rule may be modified or waived by the Director when the Director deems it necessary and desirable to fulfill the intent of the Act.
- 2.2. Enforcement. - - The enforcement of this rule shall be vested with the West Virginia Development Office.

- 3.6. "Grantee" means an Eligible County which receives an executed Grant Agreement.
- 3.7. "Infrastructure Council" means the West Virginia Infrastructure and Jobs Development Council created pursuant to section 3 of W.Va. Code §31-15A-1 et seq.
- 3.8. "Infrastructure Project" means a project in the State which the Director determines is likely to foster infrastructure improvements including but not limited to any water or wastewater facilities or any part thereof, storm water systems, steam, gas, [telephone and telecommunications], and [electric lines and installations], roads, bridges, [railroad spurs], and drainage and flood control facilities.

§145-10-3. Definitions.

- 3.1. "Act" means Chapter 11, Article 13, Section 2f of the W. Va. Code as it relates to the Fund.
- 3.2. "Director" means the director of the West Virginia Development Office.
- 3.3. "Economic Development Project" means a project in the State which the Director

- 3.9. "Plan" means the annual plan submitted by each Eligible County to the Director outlining the proposed use of the Eligible County's Provision Share and describing the proposed Projects.

- 3.10. "Plan Submission Date" means February 20th of each year provided the "initial plan submission date" means March 20, 2002.
- 3.11. "Project" means either an Economic Development Project or an Infrastructure Project.
- 3.12. "Provisional Share" means the portion of the synthetic fuel producing counties grant fund that is available for possible distribution to each Eligible County.
- 3.13. "State Development Office" means the West Virginia Development Office established under W. Va. Code §5B-2 et seq., or any successor to all or any substantial part of its powers and duties.

- 4.2.3.1 The Plan is submitted by an Eligible County as determined by the State Tax Commissioner.
- 4.2.3.2. The cost effectiveness of the Project as compared with alternatives.
- 4.2.3.3. The degree to which the Project achieves other State or regional goals.
- 4.2.3.4. The enhancement of economic development by encouraging directly or indirectly development activity and job creation and retention.

§145-10-4 Plans.

4.1. Plan Filing.

- 4.1.1. Each Eligible County shall submit its Plan for Infrastructure Projects to the Infrastructure Council by the Plan Submission Date.
- 4.1.2. Each Eligible County shall submit its Plan for Economic Development Projects to the WV Development Office by the Plan Submission Date.

4.2. Plan Review.

- 4.2.1. The Infrastructure Council will review the Plan for Infrastructure Projects and make a recommendation to the Director.
- 4.2.2. The WV Development Office will review the Plan for Economic Development Projects and make a recommendation to the Director.
- 4.2.3. Review Criteria. When evaluating the Plan, the Director may consider the following:

4.3. Plan Approval.

- 4.3.1. The Director shall approve each Plan which contains Infrastructure Project(s) and Economic Development Project(s) that reasonably conform to the requirements of the Act.
- 4.3.2. The State Development Office will notify the Eligible County if its Plan is approved.
- 4.3.3. The State Development Office will prepare a Grant Agreement for each approved Project in the Plan.

4.4. Funding of Project. The Director will administer the funds to the Grantee for each Project.

§145-10-5.Fund Administration.

5.1. Administration of program.

- 5.1.1. Grants are administered according to the State fiscal year, July 1 to June 30.
- 5.1.2. Grant Agreements will be reviewed each fiscal year.

- 5.2. Sources of Money for Program.
 - 5.2.1. The fund receives moneys from the tax collected and moneys not approved or reallocated from previous fiscal year.
 - 5.2.2. Any Eligible County that has failed to have its Plan, or an amended and resubmitted Plan approved by the Director for period of eighteen months immediately subsequent to the Initial Plan Submission Date shall lose its entitlement to its Provisional Share of the Fund attributable to the fiscal year to which that unapproved Plan relates and that Provisional Share shall be pooled with all other receipts in the Fund and be reallocated equally to all Eligible Counties as part of the Provisional Share of each.
 - 5.2.3. If the Director determines that moneys previously distributed to a Grantee have not been used as required under the approved Plan or there appears to be reasonable probability that encumbered funds will not be used according to the approved Plan, the Director may revoke the encumbrance and those funds may be pooled with all other receipts in the Fund and be reallocated equally to Eligible Counties as part of the Provisional Share of each.
 - 5.2.3.1. The Director may give the County the opportunity to cure the non qualified use and submit alternate plan
- 5.3. Uses of Money in the program
 - 5.3.1. The Director may use up to \$60,000 for administration of the program.
 - 5.3.2. The Director may use up to \$2,000,000 as set forth in the Act.
 - 5.3.2.1. Ninety percent of the Fund will be used for Infrastructure Projects.
 - 5.3.2.2. Ten percent of the Fund will be used for Economic Development Projects.
- 5.4. Limit on Grant Amount. The amount of each Eligible County's Provisional Share is derived by dividing the share computation base by the number of synthetic fuel-producing counties in the State during the applicable fiscal year. The share computation base is the sum of (A) Net revenues deposited in the synthetic fuel-producing counties grant fund for the fiscal year, and (B) any amounts repooled for the fiscal year into the synthetic fuel producing counties grant fund, less (C) the amount dedicated for administration of the Fund.
- 5.5. Terms of Grant.
 - 5.5.1. Each Grantee must adopt a resolution/order authorizing the acceptance of the grant contract and submit such resolution/order to the State Development Office.
 - 5.5.2. Each grant recipient must agree that the grant funds will be included in its annual audit by the Chief Inspector.
 - 5.5.3. Grant funds will not be committed or spent by the Grantee until an executed contract is received from the State Development Office.
 - 5.5.4. Grant funds must be encumbered within eighteen months of the Plan Submission Date.
 - 5.5.5. The Grantee will designate in writing an individual to maintain all records and oversee each Project.

- 5.5.6. The Grantee agrees that it will perform the work for which the Grant was made.
- 5.5.7. The Grantee agrees that any changes in the scope of the work specified in the Grant Agreement will be submitted in writing for prior written approval by the Director.
- 5.5.8. The amount to be distributed to the Grantee shall not exceed the amount of the Grantee's Provisional Share for the applicable fiscal year plus amounts encumbered and carried over from a prior period.
- 5.5.9. No money in the Fund may be used by a Grantee as money to be matched under the funds matching program authorized by Chapter 5b, Article 2, Section 3(b).