



WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

eFILED

10/14/2022 9:22:27 AM

Office of West Virginia
Secretary Of State

NOTICE OF RULE MODIFICATION OF A PROPOSED RULE

AGENCY: Waste Management Division Of Water
And Waste Management

RULE TYPE: Legislative

TITLE-SERIES: 33-13

RULE NAME: RECLAMATION OF ABANDONED AND
DILAPIDATED PROPERTIES GRANT
PROGRAM

CITE AUTHORITY: W. Va. Code § 22-15A-30

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.

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENT IS TRUE AND CORRECT.

Yes

Sandra D Rogers -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.

TITLE 33
LEGISLATIVE RULE
DEPARTMENT OF ENVIRONMENTAL PROTECTION
OFFICE OF THE ENVIRONMENTAL ADVOCATE

SERIES 13
RECLAMATION OF ABANDONED AND DILAPIDATED
PROPERTIES GRANT PROGRAM

§33-13-1. General.

1.1. Scope and Purpose - This legislative rule establishes procedures and sets out guidelines for county commissions, municipalities, urban renewal authorities created pursuant to West Virginia Code § 16-18-1 et seq., and land reuse agencies and municipal land banks created pursuant to West Virginia Code § 31-18E-1 et seq. to apply for and receive grants for the purpose of remediating abandoned and dilapidated structures in their communities by demolishing or deconstructing them.

1.2. Authority – W. Va. Code § 22-15A-30

1.3. Filing Date. -

1.4. Effective Date. -

§33-13-2. Definitions.

2.1. “Abandoned” means a code enforcement inspection has determined that the property is not habitable and the owner has taken no corrective actions within 90 days of notification of the deficiencies.

2.2. “Applicant” means county commissions, municipalities, urban renewal authorities created pursuant to West Virginia Code § 16-18-1 et seq., and land reuse agencies and municipal land banks created pursuant to West Virginia Code § 31-18E-1 et seq.

2.3. “Application” means the written request submitted to the Secretary by the applicant on forms provided by the Secretary.

2.4. “Asbestos” means any of several minerals that readily separate into long flexible fibers, that cause asbestosis and have been implicated as causes of certain cancers, and that have been used especially formerly as fireproof insulating materials.

2.5. “Department” means the West Virginia Department of Environmental Protection.

2.6. “Dilapidated” means a structure that has decayed, deteriorated, or fallen into partial ruin especially through neglect or misuse.

2.7. “Grant” means funds allocated to an approved program applicant by the Department pursuant to West Virginia Code § 22-15A-30.

2.8. “Grantee” means the entity to whom the grant has been awarded.

2.9. “Grant Period” means the 12 months following approval of a grant application and execution of a grant agreement.

2.10. “Municipality” means a community incorporated through the West Virginia Secretary of State’s Office.

2.11. “Secretary” means the Secretary of the Department of Environmental Protection.

§33-13-3. Reclamation of Abandoned and Dilapidated Properties (RADP) Grant Program.

3.1. RADP Grants are available to county commissions, municipalities, urban renewal authorities created pursuant to West Virginia Code § 16-18-1 *et seq.*, and land reuse agencies and municipal land banks created pursuant to West Virginia Code § 31-18E-1 *et seq.* for the purpose of remediating abandoned and dilapidated structures in their communities by demolishing or deconstructing them.

3.2. Applications for RADP Grants shall be submitted through the West Virginia Vendor Self Service (VSS) portal on forms prescribed by the department.

3.3. The RADP Grants will be awarded for a period of one year from the date of the grant agreement. One six-month extension may be granted for good cause if a request is submitted in writing to the Secretary before the expiration of the 12-month grant period. Subsequent grants may be obtained by a grantee through submission of a new application submitted through the VSS portal to the department, so long as all the objectives of the current grant have been completed to the satisfaction of the Secretary.

§33-13-4. General Conditions Applicable to Grant Applications.

4.1. The following general conditions apply to all applications for funding under the RADP Grant Program:

4.1.a. This project shall provide environmental improvement through decreasing imminent danger, risk to public health and welfare and negative visibility of structures.

4.1.b. This project may provide for redevelopment of property or new development initiatives.

§33-13-5. Authorized Uses of Grant.

5.1. Authorized use of grants funds in an approved RADP Grant Program may include the following:

5.1.a. Asbestos testing;

5.1.b. Asbestos removal prior to demolition;

5.1.c. Demolition of Structure;

5.1.d. Costs associated with structure disposal at a permitted landfill or materials recovery center;

5.1.e. Site stabilization;

5.1.f. Legal costs associated with securing properties for demolition; and

5.1.g. Other relevant costs upon approval of the department.

§33-13-6. Unauthorized Uses of Grant.

6.1. The grantee shall not use a grant to replace funds currently budgeted to demolish or deconstruct an abandoned or dilapidated structure.

6.2. The grantee shall not use a grant for expenditures not related to demolishing or deconstructing an abandoned or dilapidated structure.

6.3. Grant funds shall not be used for the following:

6.3.a. Land acquisitions;

6.3.b. Environmental testing of soil conditions;

6.3.c. Administrative costs;

6.3.d. Beautification costs that are not related to site stabilization;

6.3.e. Office equipment;

6.3.f. Entertainment costs;

6.3.g. Alcoholic beverages, meals and gratuities;

6.3.h. Any type of lobbying expenses; or

6.3.i. Landfill operations or management.

§33-13-7. Department Review of Applications.

7.1. The department may reject all applications that do not meet eligibility and submission requirements established by the department and this rule.

7.2. The department may partially award or reject applications based on available funding.

7.3. The department shall review all applications and submit those applications recommended for funding to the Secretary for approval and the Governor for final approval.

7.4. Applicants shall be notified in writing of approval or denial of a grant within a reasonable time after award recommendations have received final approval by the Governor.

§33-13-8. Requirements of a Grant Recipient.

8.1. Grant funding will be disbursed at the time of receipt of invoices and all other required information by the department for approved expenditures on at least a 30-day rolling basis.

8.2. The grantee shall retain and make available upon request by the department, for a period of five years, all financial records, supporting documents, statistical records, and all other records and data as they relate to the application, acceptance and use of the grant.

8.3. If, through any cause, the grantee fails to fulfill in a timely and proper manner the obligations imposed in the grant agreement or violates any provisions of this rule, the department shall terminate the grant and the grantee shall immediately return any unspent funds of the grant to the department. The department may file a civil action in the Circuit Court of Kanawha County to recoup grant funds that are improperly spent.

8.4. The grantee shall comply with all federal, state, and local laws, codes, ordinances, rules and regulations.

8.5. All bids must be solicited and submitted in accordance with West Virginia procurement and contract bidding statutes and legislative rules.

8.6. The grantee shall submit a final report to the department within 30 days following the last day of the grant period. The report shall contain:

8.6.a. A complete accounting of the grant expended during the period;

8.6.b. Documentation supporting all grant expenditures, including without limitation, invoices, checks, and bank statements relating to the account into which grant funds are placed;

8.6.c. Documentation supporting demolition of structures required by the department;

8.6.d. Documentation evidencing site of waste disposal;

8.6.e. An accounting of the total demolition costs and community support for the project;

8.6.f. A qualitative evaluation of success and/or failures encountered in implementing the original application's requests;

8.6.g. The department shall return an incomplete report to the grantee for completion. A grantee shall resubmit a completed report within 30 days of notification that the report is incomplete. Failure to comply with reporting requirements may result in the grantee's ineligibility for future grants related to the RADP Grant Program.

§33-13-9. Department Site Visits.

9.1. The department may periodically conduct site visits with grantees. These visits shall be conducted to provide assistance, to review progress, to discuss problems encountered in project implementation, or to review all compliances with federal, state, and local laws, codes, ordinances, rules and regulations.

§33-13-10. Unexpended Funds.

10.1. All committed grant funding that is unexpended at the end of the grant period shall remain with the RADP Program.