

Form #3 

~~OFFICE WEST VIRGINIA~~  
~~SECRETARY OF STATE~~

Authorized Signature

\$4.80

■  
APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: 60CSR4 - "Awarding of West Virginia Stream Partners Program Grants Rule"

Type of Rule: X Legislative      \_\_\_\_\_ Interpretive      \_\_\_\_\_ Procedural

Agency: WV Department of Environmental Protection

Address: Ten McJunkin Road  
Nitro, WV 25143-2506

1. Effect of Proposed rule:

|                                  | ANNUAL FISCAL YEAR |          |         |      |            |
|----------------------------------|--------------------|----------|---------|------|------------|
|                                  | INCREASE           | DECREASE | CURRENT | NEXT | THEREAFTER |
| <b>ESTIMATED TOTAL COST</b>      | -0-                | -0-      | -0-     | -0-  | -0-        |
| <b>PERSONAL SERVICES</b>         | -0-                | -0-      | -0-     | -0-  | -0-        |
| <b>CURRENT EXPENSE</b>           | -0-                | -0-      | -0-     | -0-  | -0-        |
| <b>REPAIRS &amp; ALTERATIONS</b> | -0-                | -0-      | -0-     | -0-  | -0-        |
| <b>EQUIPMENT</b>                 | -0-                | -0-      | -0-     | -0-  | -0-        |
| <b>OTHER</b>                     | -0-                | -0-      | -0-     | -0-  | -0-        |

2. Explanation of Above Estimates:

N/A

3. Objectives of These Rules:

To change "board" to "Executive Committee".

Rule Title: 60CSR4 - "Awarding of West Virginia Stream Partners Program Grants Rule"

4. Explanation of Overall Economic Impact of Proposed Rule:

A. Economic Impact on State Government:

N/A

B. Economic Impact on Political Subdivisions; Specific Industries; Specific Groups of Citizens:

N/A

C. Economic Impact on Citizens/Public at Large.

N/A

Date: July 26, 2001

Signature of Agency Head or Authorized Representative:

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Executive Office  
Ten McJunkin Road  
Nitro, West Virginia 25143  
Office: (304) 759-0515  
Facsimile: (304) 759-0526

## West Virginia Department of Environmental Protection

Bob Wise  
Governor

Michael O. Callaghan  
Secretary

### Briefing Document

**Rule Title: 60CSR4 – “Awarding of West Virginia Stream Partners Program Grants Rule”**

**A. AUTHORITY:**

WV Code §20-13-4

**B. SUMMARY OF RULE:**

The proposed amendment to this rule will change “board” to “Executive Committee”. It was discovered during the “Final Filing” process that there was no mention of “board” anywhere in the rule and that it had just been overlooked during review. It would make it difficult to implement the rule as intended by §20-13-4.

**C. STATEMENT OF CIRCUMSTANCES WHICH REQUIRE RULE:**

The “Executive Committee”, which is comprised of the secretary of the Department of Environmental Protection, the directors of the West Virginia Divisions of Forestry and Natural Resources, and the West Virginia Soil Conservation Agency or his or her designee, was defined in the rule as the decision-making body that awards West Virginia Stream Partners Program grants. This is the reason it was necessary to change “board” to “Executive Committee”.

**D. FEDERAL COUNTERPART REGULATIONS – INCORPORATION BY REFERENCE/DETERMINATION OF STRINGENCY:**

N/A

**E. CONSTITUTIONAL TAKINGS DETERMINATION:**

N/A

**F. CONSULTATION WITH THE DEPARTMENT OF ENVIRONMENTAL PROTECTION ADVISORY COUNCIL:**

This proposed rule amendment will be forwarded “electronically” to the Department of Environmental Protection’s Advisory Council for their review and will be discussed during their next scheduled meeting.

## QUESTIONNAIRE

*(Please include a copy of this form with each filing of your rule: Notice of Public Hearing or Comment Period; Proposed Rule, and if needed, Emergency and Modified Rule.)*

DATE: July 26, 2001

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: (Agency Name, Address & Phone No.) West Virginia Department of Environmental Protection  
Ten McJunkin Road  
Nitro, WV 25143-2506  
(304) 759-0515

LEGISLATIVE RULE TITLE: "Awarding of West Virginia Stream Partners  
Program Grants Rule"

1. Authorizing statute(s) citation 20-13-4

2. a. Date filed in State Register with Notice of Hearing or Public Comment Period:  
Thursday, June 21, 2001

b. What other notice, including advertising, did you give of the hearing?  
Cover Letter, Briefing Document, Appendix B - Fiscal Note for Proposed Rule, and  
Copy of Rule

c. Date of Public Hearing(s) *or* Public Comment Period ended:  
Monday, July 23, 2001

d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.

Attached X No comments received X

- e. Date you filed in State Register the agency approved proposed Legislative Rule following public hearing: (be exact)

July 26, 2001

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- f. **Name, title, address and phone/fax/e-mail numbers** of agency person(s) to receive all *written correspondence* regarding this rule: (Please type)

Greg Adolfson (ERPM I) and Jennifer Pauer (ERS III)

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Ten McJunkin Road

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Nitro, WV 25143-2506

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(800) 556-8181, (304) 759-0527 Facsimile, gadolfson@mail.dep.state.wv.us and jpauer@mail.dep.state.wv.us

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- g. **IF DIFFERENT FROM ITEM 'f'** please give **Name, title, address and phone number(s)** of agency person(s) who wrote and/or has responsibility for the contents of this rule: (Please type)

Same as Item 'f'.

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3. If the statute under which you promulgated the submitted rules requires certain findings and determinations to be made as a condition precedent to their promulgation:

- a. Give the date upon which you filed in the State Register a notice of the time and place of a hearing for the taking of evidence and a general description of the issues to be decided.

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b. Date of hearing or comment period:

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c. On what date did you file in the State Register the findings and determinations required together with the reasons therefor?

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d. Attach findings and determinations and reasons:

Attached 

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**TITLE 60  
LEGISLATIVE RULE  
DIVISION OF ENVIRONMENTAL PROTECTION  
DIRECTOR'S OFFICE**

**FILED**

2001 JUL 24 P 4: 05

**SERIES 4  
AWARDING OF WEST VIRGINIA STREAM PARTNERS  
PROGRAM GRANTS RULE**

OFFICE WEST VIRGINIA  
SECRETARY OF STATE**§60-4-1. General.**

1.1. Scope. -- The purpose of this rule is to provide Stream Partners Program grant requirements and guidance concerning the awarding of grants to broad-based community organizations for watershed improvement projects.

1.2. Authority. -- W. Va. Code §20-13-4.

1.3. Filing Date. --

1.4. Effective Date. --

**§60-4-2. Definitions.**

2.1. "Broad-based community organization" means an organization comprised of local individuals from a cross section of the community that live on or near the stream. Example organizations include those with a representation of a cross section from: industry, environmental organizations, agriculture, local government, tourism, recreation, and landowners.

2.2. "Grant" means the money awarded to the broad-based community organization by the state of West Virginia. The amount of the grant shall not exceed \$5,000.

2.3. "Grantee" means the broad-based community organization that has been awarded the grant to complete a watershed improvement project.

2.4. "In-kind services" means goods and services donated to the organization to help complete the watershed improvement project and to match 20% of the awarded grant.

2.5. "Executive Committee" means a committee consisting of the directors, or his or her designee, from each of the four agencies that jointly administer the program. These agencies include: West Virginia Divisions of Environmental Protection, Forestry, Natural Resources, and the West Virginia Soil Conservation Agency.

2.6. "West Virginia Stream Partners Program Coordinator" means a staff member of one of the administering agencies who coordinates the program on behalf of the Executive Committee.

2.7. "Watershed" means a topographically (lay-of-the-land) defined drainage system which directs rainfall, spring outflows, and other surface water sources to a common collection area such as a hollow watercourse, a stream, or a river. Watersheds can and do vary in size from several acres to thousands of square miles.

2.8. "Watershed improvement project" means a project that enhances the identified stream or streams and educates the citizens in the area of that stream or streams about the benefits of restoring, protecting and enhancing the quality of life within the watershed.

**§60-4-3. Applicability.**

3.1. In accordance with W. Va. Code §20-13-5, grants may be used by broad-based community organizations as defined in subsection 2.1 of this rule.

3.2. Grants will be made for a period of one (1) calendar year. Within that year the grantee must demonstrate the ability to achieve the specific watershed improvement project that enhances the identified stream within the watershed.

3.3. In accordance with W. Va. Code §20-13-4, grants will be awarded on a 20% matching basis. The amount of the grant will be determined by a required watershed improvement project budget, not to exceed \$5000.

3.4. In accordance with W. Va. Code §20-13-5, applicant must evidence a commitment to educate the citizens in the area of the identified stream about the benefits of restoring, protecting, and enhancing the stream within the watershed in a responsible manner.

#### **§60-4-4. In-kind Services.**

4.1. Credit will be given for any in-kind services, cash contributions, and other grants contributed to the watershed improvement project when determining the 20% match of the grant.

4.2. Volunteer services will be valued at the minimum hourly wage unless the applicant can demonstrate that such services would normally be valued above that wage in the area served by the applicant's program.

4.3. Donated equipment will be valued at its fair market value pro-rated over the life of the grant year.

#### **§60-4-5. Authorized Uses of Grant Funds.**

5.1. Grants may be used for the following types of watershed improvement projects:

5.1.a. Fish and wildlife habitat enhancement;

5.1.b. Stream bank stabilization, erosion and sediment control;

5.1.c. Education on the importance of protecting streams within the watersheds;

5.1.d. Water monitoring and watershed assessments include but are not limited to, stream classification, its natural meanders, and land uses;

5.1.e. Improved land use practices; and

5.1.f. Clean up projects when done in conjunction with above-mentioned projects.

5.2. The Executive Committee shall authorize use of grant funds during the grant selection process by approving submitted budgets. All changes to these budgets must be in writing and approved by the Stream Partners Program Coordinator. Authorized uses of grant within the watershed improvement project may include the following:

5.2.a. Production, copying and mailing of public information and educational materials to promote the protection of streams within the watershed;

5.2.b. Implementation and materials for the completion of the watershed improvement project;

5.2.c. General operating expenses of the organization, which can include acquiring and maintaining non-profit status in accordance with Federal 501 (c) (3), of the IRS Tax Code guidelines;

5.2.d. Equipment for the watershed improvement project that will belong to the organization;

5.2.e. As match for state, federal and local watershed projects funds;

5.2.f. Travel expenses for watershed association members for educational training programs;

5.2.g. Office equipment and office supplies to support the watershed association's outreach efforts and the watershed improvement project; and

5.2.h. Salaries not to exceed 20% of the grant total within the grant year.

#### **§60-4-6. Review, Evaluation, and Award.**

6.1. Each application will be scored utilizing the following criteria:

6.1.a. Application Style: Legibility of the application, completed and signed cover sheet, and all questions answered and easy to find;

6.1.b. Membership and History: A description of how the organization is a broad-based community organization. Also provide an overview of the organization's history;

6.1.c. Issues: A review of the issues that affect the stream or streams within the watershed;

6.1.d. Long and Short-Term Goals: A plan showing the organization's vision, mission, long-term goals, short-term goals, and the effect the project and organization will have on the community;

6.1.e. Watershed Improvement Project: A description of the watershed improvement project that will enhance the quality of the stream and the watershed;

6.1.f. Budget: A budget for the watershed improvement project which includes: how the applicant plans to spend the grant, in-kind services, cash contributions, and other grants which constitute the 20% match;

6.1.g. Outreach: A plan to provide education and outreach to the community about the importance of watershed protection and restoration; and

6.1.h. Past History/New Organization: Existing groups': record-keeping ability, completion of documentation of grant expenditures, watershed improvement project, ability to foster partnerships and obtain in-kind/cash contributions. New organizations': ability to get organized, planning procedures, and partnership building.

6.2. Grants, up to \$5,000, will be awarded to the highest ranking applicants by Executive Committee.

#### **§60-4-7. Grant Conditions.**

7.1. The Executive Committee reserves the

right to withdraw a grant upon determination of unsatisfactory program compliance with these rules.

#### **§60-4-8. Unexpended Funds.**

8.1. Unexpended funds may be used for future watershed improvement projects under the following conditions:

8.1.a. The grantee files statement of the intended use of the unexpended portion of the grant;

8.1.b. The grantee sets a target date for the completion of the watershed improvement project; and

8.1.c. The grantee submits a final report and a budget including grant expenditures, in-kind services, cash contributions, and other grants.

#### **§60-4-9. Reporting.**

9.1. The grantee must provide a mid-term report, and a final report including a budget indicating how the grant money was spent and all in-kind services, cash contributions, and other grants that constitute the 20% match.

9.2. The grantee must submit copies of all grant expenditures and should retain all receipts from expenditures of grant for a minimum of three years.

9.3. Grantees that do not comply with the reporting requirements shall not be eligible for future funding. The ~~board~~ Executive Committee may deny future funding to grantees who do not comply with reporting requirements.

#### **§60-4-10. West Virginia Stream Partners Program Coordinator Duties.**

10.1. The West Virginia Stream Partners Program Coordinator will track the activities, progress, and milestones of the grantees and their watershed improvement projects and disseminate this information to the Executive Committee to be incorporated into the grant selection process.



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Nitro, West Virginia 25143  
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## West Virginia Department of Environmental Protection

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Bob Wise  
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Michael O. Callaghan  
Secretary

Comments Received  
Public Hearing  
Monday, July 23, 2001  
6:00 – 8:00 p.m.  
Nitro DEP Training Room  
Ten McJunkin Road  
Nitro, WV 25143-2506

Rule Title: 60CSR4 – “Awarding of West Virginia Stream Partners Program Grants Rule”

No comments received.



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Responses To Comments  
Public Hearing  
Monday, July 23, 2001  
6:00 – 8:00 p.m.  
Nitro DEP Training Room  
Ten McJunkin Road  
Nitro, WV 25143-2506

Rule Title: 60CSR4 – “Awarding of West Virginia Stream Partners Program Grants Rule”

No comments received and thus, no responses required.



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Transcript  
Public Hearing  
Monday, July 23, 2001  
6:00 – 8:00 p.m.  
Nitro DEP Training Room  
Ten McJunkin Road  
Nitro, WV 25143-2506

Rule Title: 60CSR4 – “Awarding of West Virginia Stream Partners Program Grants Rule”

Andy Gallagher, Chief of WVDEP's Public Information Office, called the Public Hearing to order at 6:15 p.m. Mr. Gallagher opened up the floor for comments from the public and there was no public present and there were no comments. Mr. Gallagher adjourned the Public Hearing at 6:20 p.m.

The sign in sheet is attached.

