

**WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION**

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MAY 4 4 07 PM '99
OFFICE OF THE SECRETARY OF STATE
WEST VIRGINIA

Form #5

**NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE RULE AUTHORIZED
BY THE WEST VIRGINIA LEGISLATURE**

AGENCY: DIVISION OF ENVIRONMENTAL PROTECTION
DIRECTOR'S OFFICE TITLE NUMBER: 60

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: 4

TITLE OF RULE BEING PROPOSED: AWARDING OF WEST VIRGINIA STREAM

PARTNERS PROGRAM GRANTS RULE

THE ABOVE RULE HAS BEEN AUTHORIZED BY THE WEST VIRGINIA LEGISLATURE.

AUTHORIZATION IS CITED IN (house or senate bill number) HB 2533

SECTION 64-3-1(h) PASSED ON March 21, 1999; Signed April 2, 1999

THIS RULE IS FILED WITH THE SECRETARY OF STATE. THIS RULE BECOMES EFFECTIVE ON

THE FOLLOWING DATE: May 4, 1999


Authorized Signature

\$3.20



Executive Office
#10 McJunkin Road
Nitro, WV 25143-2506
Telephone: (304) 759-0515
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West Virginia Bureau of Environment

Cecil H. Underwood
Governor

Michael P. Miano
Commissioner

April 22, 1999

Ms. Judy Cooper
Director, Administrative
Law Division
Secretary of State's Office
Capitol Complex
Charleston, WV 25305

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

Dear Ms. Cooper:

This is to advise that I am giving approval to file the above-referenced rule with your Office as a final rule authorized by HB 2533, signed by Governor Underwood April 2, 1999.

Your cooperation in this regard is very much appreciated. If you should have any questions or require additional information, please feel free to contact Carrie Chambers in my office at 759-0515.

Sincerely yours,

Michael P. Miano
Commissioner

MPM:cc

Attachment

cc: Jennifer Pauer
Carrie Chambers

RULE PROMULGATION HISTORY

TITLE 60 - SERIES 4 DIVISION OF ENVIRONMENTAL PROTECTION DIRECTOR'S OFFICE

AWARDING OF WEST VIRGINI STREAM PARTNERS PROGRAM GRANTS RULE

JUNE 22, 1998	NOTICE OF PUBLIC HEARING FILED WITH SECRETARY OF STATE'S OFFICE
JULY 22, 1998	PUBLIC HEARING HELD
JULY 31, 1998	AGENCY APPROVED RULE FILED WITH LEGISLATIVE RULE-MAKING AND SECRETARY OF STATE'S OFFICE
NOV 2, 1998	MODIFIED RULE FILES WITH LEGISLATIVE RULE-MAKING AND SECRETARY OF STATE'S OFFICE
MARCH 21, 1999	HB 2533 PASSED THE LEGISLATURE
APRIL 2, 1999	HB 2533 SIGNED BY THE GOVERNOR
MAY 4, 1999	FINAL FILED WITH SECRETARY OF STATE'S OFFICE
MAY 4, 1999	EFFECTIVE DATE OF 60CSR4

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

SERIES 4
AWARDING OF WEST VIRGINIA STREAM PARTNERS PROGRAM GRANTS RULE

§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. -- WV Code §20-13-4

1.3. Filing Date. -- May 4, 1999

1.4. Effective Date.-- May 4, 1999

§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 to be decided by the review team, 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 Review Team" means a team consisting of two members of 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 State Soil Conservation Agency.

2.6. "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.

2.7. "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. The organization's members are to be from the geographic area immediately surrounding the identified stream, and have an interest in improving the quality of life in the stream within the watershed.

3.2. Grants will be made for a period not greater than 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 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. 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, not to exceed 20% of the grant in total within the grant year;
- 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, not to exceed 20% of the grant in total within the grant year;
- 5.2.d. Equipment for the watershed improvement project that will belong to the organization, not exceed 20% of the grant in total within the grant year;
- 5.2.e. As match for state, federal and local watershed projects funds;
- 5.2.f. Travel expenses for watershed association members to be approved by Stream Partners Program Coordinator and

Administrator, for educational training programs, not to exceed 20% of the grant in total within the grant year; and

5.2.g. Office equipment and office supplies to support the watershed association, outreach efforts, and the watershed improvement project, not to exceed 20% in total within the grant year.

\$60-4-6. Review, Evaluation, and Award.

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

6.1.a. A showing of how the organization is a broad-based community organization, and the members represent diverse areas and organizations within the community. Also provide an overview of the organization's history [20 points];

6.2.b. A review of the issues that affect the stream or streams within the watershed [15 points];

6.2.c. A plan showing the organization's vision, mission, long-term goals, short-term goals, and the effect the project will have on the community [20 points];

6.2.c. A description of the watershed improvement project that will enhance the quality of the stream and the watershed [25 points];

6.2.d. A budget for the watershed improvement project which includes: how you plan to spend the grant, in-kind services, including the 20% match [10 points]; and

6.2.e. Explain plans to provide education and outreach to the community about the importance of watershed protection and restoration [10 points].

6.3. Grants, up to \$5,000 will be awarded to the highest ranking applicants by the discretion of the review team.

\$60-4-7.1. Grant Conditions.

7.1. The review team reserves the right to withdraw a grant upon determination of unsatisfactory program compliance with these rules.

7.2. Upon dissolution of the grantee organization, all equipment or other assets of the grantee are to be returned the Division of Environmental Protection. The Division of Environmental Protection may award the equipment to other

grantees as a portion of an awarded grant.

§60-4-8. Unexpended Funds.

8.1. All unexpended funds remaining at the end of the grant year will be handled as follows:

8.1.a. If the grantee applies for a grant for the following grant period, and the Stream Partners Program review team approves said application, unexpended funds will be netted against the amount from which the applicant is eligible to receive; and

8.1.b. If the grantee does not apply for a grant for the following grant period, unexpended funds may be used for future watershed improvement projects under the following conditions:

8.1.b.1. The grantee files statement of the intended use of the grant;

8.1.b.2. The grantee sets a target date for the completion of the watershed improvement project by the end of the next grant period;

8.1.b.3. The grantee submits a final report when the project is completed; or

8.1.b.4. The grantee submits a final budget of how the grant was spent.

§60-4-9. Reporting.

9.1. The grantee must provide a mid-grant year report, and a final report that will include the financial statement indicating how the grant money was spent, all in-kind services contributed including the 20% match.

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

9.3. Grantees that do not comply with the reporting requirements will not be eligible for future funding.

60-4

8858

1 Bill-DEP, A

H. B. 2528

2

(By Delegates Hunt, Linch, Compton, Faircloth,
Jenkins and Riggs)

3

4

[Introduced February 1, 1999; referred to the
Committee on the Judiciary.]

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9

10 A BILL to amend and reenact section one, article three,
11 chapter sixty-four of the code of West Virginia, one
12 thousand nine hundred thirty-one, as amended, relating
13 to authorizing the division of environmental
14 protection to promulgate a legislative rule relating
15 to the awarding of West Virginia stream partners
16 program grants.

17 *Be it enacted by the Legislature of West Virginia:*

18 That section one, article three, chapter sixty-four of
19 the code of West Virginia, one thousand nine hundred
20 thirty-one, as amended, be amended and reenacted, to read
21 as follows:

22 **ARTICLE 3. AUTHORIZATION FOR BUREAU OF ENVIRONMENT TO**
23 **PROMULGATE LEGISLATIVE RULES.**

1 §64-3-1. Division of environmental protection.

2 (a) The legislative rule filed in the state register
3 on the first day of August, one thousand nine hundred
4 ninety-seven, authorized under the authority of section
5 seven, article five, chapter twenty-two, of this code,
6 relating to the division of environmental protection (acid
7 rain provisions and permits, 45 CSR 33), is authorized.

8 (b) The legislative rule filed in the state register
9 on the first day of August, one thousand nine hundred
10 ninety-seven, authorized under the authority of section
11 seven, article five, chapter twenty-two of this code,
12 relating to the division of environmental protection
13 (emission standards for hazardous air pollutants pursuant
14 to 40 CFR Part 63, 45 CSR 34), is authorized.

15 (c) The legislative rule filed in the state register
16 on the first day of August, one thousand nine hundred
17 ninety-seven, authorized under the authority of section
18 six, article eighteen, chapter twenty-two of this code,
19 relating to the division of environmental protection
20 (hazardous waste management, 33 CSR 20), is authorized.

21 (d) The legislative rule filed in the state register
22 on the fourteenth day of August, one thousand nine hundred
23 ninety-seven, authorized under the authority of section

1 four, article five, chapter twenty-two, of this code,
2 relating to the division of environmental protection(to
3 prevent and control particulate air pollution from
4 manufacturing process operations, 45 CSR 7) is authorized.

5 (e) The legislative rule filed in the state register
6 on the first day of August, one thousand nine hundred
7 ninety-seven, authorized under the authority of section
8 four, article five, chapter twenty-two, of this code,
9 modified by the division of environmental protection to
10 meet the objections of the legislative rule-making review
11 committee and refiled in the state register on the seventh
12 day of January, one thousand nine hundred ninety-eight,
13 relating to the division of environmental protection (to
14 prevent and control of emissions from municipal solid waste
15 landfills, 45 CSR 23), is authorized.

16 (f) The legislative rule filed in the state register
17 on the first day of August, one thousand nine hundred
18 ninety-seven, authorized under the authority of section
19 seven, article one, chapter twenty-two of this code,
20 modified by the division of environmental protection to
21 meet the objections of the legislative rule-making review
22 committee and refiled in the state register on the second
23 day of December, one thousand nine hundred ninety-

1 seven, relating to the division of environmental protection
2 (to prevent and control air pollution from hazardous waste
3 treatment, storage or disposal facilities, 45 CSR 25), is
4 authorized.

5 (g) The legislative rule filed in the state register
6 on the first day of August, one thousand nine hundred
7 ninety-seven, authorized under the authority of section
8 three, article one, chapter twenty-two of this code,
9 modified by the division of environmental protection to
10 meet the objections of the legislative rule-making review
11 committee and refiled in the state register on the fifth
12 day of January, one thousand nine hundred ninety-eight,
13 relating to the division of environmental protection
14 (surface mining and reclamation regulations, 38 CSR 2), is
15 authorized.

16 (h) The legislative rule filed in the state register
17 on the thirty-first day of July, one thousand nine hundred
18 ninety-eight, authorized under the authority of section
19 fourteen, article thirteen, chapter twenty, of this code,
20 modified by the division of environmental protection to
21 meet the objections of the legislative rule-making review
22 committee and refiled in the state register on the second
23 day of November, one thousand nine hundred ninety-eight,

1 relating to the division of environmental protection
2 (awarding of West Virginia stream partners program grants,
3 60 CSR 4), is authorized.

4

5 NOTE: The purpose of this bill is to authorize the
6 Division of Environmental Protection to promulgate a
7 legislative rule relating to the Awarding of West Virginia
8 Stream Partners Program Grants.

9

10 Strike-throughs indicate language that would be
11 stricken from the present law, and underscoring indicates
12 new language that would be added.