WEST VIRGINIA CODE: §5B-7-3

§5B-7-3. Certification and waiver of volume cap allocation.

(a) Preliminary certification. --

(1) Each county allocated volume cap in accordance with this article shall submit a preliminary certification to the Governor that includes:

(A) The amount of volume cap the county intends to use;

(B) The entity issuing each series of recovery zone bonds. If the county has suballocated volume cap to an entity, the certification shall include a copy of an order, ordinance or resolution of the county commission authorizing the suballocation;

(C) The projects, including, but not limited to, road transportation projects, to be financed by the issuance of each series of recovery zone bonds; and

(D) The financing plan for each series of recovery zone bonds, including the source of payment of the debt service of each series of recovery zone bonds.

(2) Preliminary certifications for recovery zone economic development bonds shall be submitted to the Governor on or before January 31, 2010.

(3) Preliminary certifications for recovery zone facility bonds shall be submitted to the Governor on or before February 28, 2010.

(4) Any portion of volume cap allocated to a county that is not certified for use by the county in accordance with this subsection is considered waived.

(5) A county may waive its allocation of volume cap by providing written notice of such waiver to the Governor on or before January 31, 2010, in the case of volume cap for recovery zone economic development bonds, or on or before February 28, 2010, in the case of volume cap for recovery zone facility bonds.

(b) Final certification. --

(1) Each county that has submitted a preliminary certification to the Governor shall submit a final certification to the Governor on or before July 31, 2010. The final certification shall establish: (i) That the county or other entity receiving a suballocation from the county has closed on each series of recovery zone bonds or has entered into a bond purchase agreement that requires closing on each series of recovery zone bonds prior to August 31, 2010; and (ii) the amount of volume cap used by the county.

(2) Any portion of volume cap allocated to a county that is not certified as used in

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accordance with this subsection is considered waived. However, if an entity receiving a suballocation from a county submits a timely certification pursuant to section five of this article, that suballocated portion of the county's volume cap is not considered waived.

(3) If, after submitting a preliminary certification to the Governor, a county determines to waive any portion of its allocation of volume cap, it may waive its allocation of such portion by notifying the Governor in writing on or before July 31, 2010.

(c) Notice of waiver. -- The Governor shall provide timely written notice to the Economic Development Authority of any written volume cap waiver submitted by a county.

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