

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL.



West Virginia
Conservation Agency

BRIEF SUMMARY OF PROPOSED RULE

This rule establishes West Virginia Conservation Agency financial assistance programs and procedures for West Virginia's elected and appointed conservation district supervisors to participate in West Virginia Conservation Agency financial assistance programs; the transfer of decision-making authority between districts when an elected supervisor, relative or party in which the supervisor has a financial interest in a farming entity applies for or intends to apply for a particular financial assistance program; and the public notification, disclosure and the appeal of financial assistance decisions made by districts to the State Conservation Committee.

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title:

West Virginia Conservation Agency Financial Assistance Programs

Type of Rule:

☒ Legislative ☐ Interpretive ☐ Procedural

Agency:

State Conservation Committee (West Virginia Conservation Agency)

Address:

1900 Kanawha Blvd. E., Charleston, WV 25305

Phone Number:

304-558-2204

Email: bfarkas@wvca.us**Fiscal Note Summary**

Summarize in a clear and concise manner what impact this measure will have on costs and revenues of state government.

This rule establishes West Virginia Conservation Agency financial assistance programs and procedures for West Virginia's elected and appointed conservation district supervisors to participate in West Virginia Conservation Agency financial assistance programs; the transfer of decision-making authority between districts when an elected supervisor, relative or party in which the supervisor has a financial interest in a farming entity applies for or intends to apply for a particular financial assistance program; and the public notification, disclosure and the appeal of financial assistance decisions made by districts to the State Conservation Committee.

Fiscal Note Detail

Show over-all effect in Item 1 and 2 and, in Item 3, give an explanation of Breakdown by fiscal year, including long-range effect.

FISCAL YEAR			
Effect of Proposal	Current Increase/Decrease (use "-")	Next Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost	0.00	0.00	0.00
Personal Services	0.00	0.00	0.00
Current Expenses	0.00	0.00	0.00
Repairs & Alterations			
Assets			
Other			
2. Estimated Total Revenues	0.00	0.00	0.00

West Virginia Conservation Agency Financial Assistance Programs

Rule Title:

Rule Title: _____

3. Explanation of above estimates (including long-range effect):

Please include any increase or decrease in fees in your estimated total revenues.

There are no fees associated with this proposal.

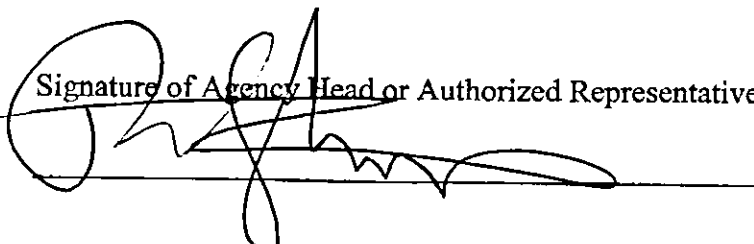
MEMORANDUM

Please identify any areas of vagueness, technical defects, reasons the proposed rule **would not** have a fiscal impact, and/or any special issues **not** captured elsewhere on this form.

This proposed rule applies to West Virginia's conservation district supervisors, their relatives or farming entity of which the supervisor is a part.

Date: June 13, 2014

Signature of Agency Head or Authorized Representative



63CSR2
TITLE 63
LEGISLATIVE RULE
STATE CONSERVATION COMMITTEE

FILED

2014 JUN 13 A 8:29

SERIES 2
WEST VIRGINIA CONSERVATION AGENCY FINANCIAL ASSISTANCE PROGRAMS

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

§63-2-1. General.

1.1. Scope. -- This rule establishes West Virginia Conservation Agency financial assistance programs and procedures for West Virginia's elected and appointed Conservation District supervisors to participate in such programs; the transfer of decision-making authority between districts when a supervisor, relative or farming entity of which the supervisor is a part, applies for or intends to apply for a WVCA financial assistance program; and the public notification, disclosure and the appeal of financial assistance program decisions to the State Conservation Committee.

1.2. Authority. -- W.Va. Code §19-21A-4a.

1.3. Filing Date. --

1.4. Effective Date. --

§63-2-2. Definitions.

For the purposes of these rules and regulations, the following definitions shall apply:

2.1. Act -- Conservation Districts Law of West Virginia, W.Va. Code §19-21A-1 et seq.

2.2. Allocated Funds -- Funds allocated through the State Conservation Committee and the West Virginia Conservation Agency to West Virginia's Conservation Districts for financial assistance programs.

2.3. Applicant -- A person who is applying for or has applied to participate in a West Virginia Conservation Agency financial assistance program.

2.4. Award -- The approval of an application for financial assistance.

2.5. Best Management Practices (BMPs) -- Are agronomic or engineering activities that contribute to the wise use and sustainability of natural resources.

2.6. Business Day -- Any day not including Saturday, Sunday, or any legal holiday as set forth in W.Va. Code §2-2-1.

2.7. Conservation District -- A subdivision of the state organized under W.Va. Code §19-21A-5.

2.8. Conservation District Board -- Comprised of elected or appointed Conservation District supervisors who serve as a Conservation District's governing body, W.Va. Code §19-21A-7.

2.9. Conservation District Supervisor -- One of the members of the governing body of a Conservation District, elected or appointed in accordance with the provisions of W.Va. Code §19-21A-6.

2.10. Conservation Plan -- A record of decisions by the applicant, which are approved by the Conservation District for applying and maintaining BMPs/conservation practices on the land (site).

2.11. Contract -- A written agreement between the applicant and the Conservation District wherein the applicant agrees to implement conservation practices for which funds are being paid.

2.12. Cooperator -- A person or a farming entity who has entered into a cooperative agreement with a Conservation District for the purposes of protecting, conserving and practicing the wise use of West Virginia's natural resources.

2.13. Eligible Project/Practice -- A project or practice designated as eligible for financial assistance through a Conservation District.

2.14. Farming Entity -- A corporation, limited liability corporation, partnership, trust or estate or other business entity in which an applicant has a financial interest.

2.15. Financial Assistance Programs -- State Conservation Committee approved programs that provide financial assistance and are administered by the WVCA and the Conservation Districts for the purpose of protecting and conserving West Virginia's soil, water and related natural resources.

2.16. Nutrient Management Plan -- A plan that addresses the application, management, amount, source, placement, form and timing of nutrient and soil amendments.

2.17. Originating Conservation District -- Any Conservation District that accepts applications for West Virginia Conservation Agency financial assistance programs.

2.18. Program Document -- A document that outlines the administrative and program participation rules for each West Virginia Conservation Agency financial assistance program.

2.19. Program Year -- The 12-month period between July 1 and June 30.

2.20. Qualified Applicant -- A person who has met all program application requirements.

2.21. Receiving Conservation District -- A Conservation District charged with determining West Virginia Conservation Agency financial assistance program approvals when the originating Conservation District is ineligible to render such decisions.

2.22. Relative -- A spouse, mother, father, sister, brother, son, daughter, grandfather, grandmother, grandchild, mother-in-law, father-in-law, sister-in-law, brother-in-law, son-in-law, or daughter-in-law.

2.23. State Conservation Committee (SCC) -- State agency charged with reducing soil erosion and improving water quality, W.Va. Code §19-21A-4.

2.24. West Virginia Conservation Agency (WVCA) -- The administrative agency of the State Conservation Committee, W.Va. Code §19-21A-4(e).

§63-2-3. Financial Assistance Programs.

3.1. The WVCA shall submit to the State Conservation Committee for its annual approval the criteria, ranking process, annual timelines, eligible practices, financial assistance rates and standards for applicants to qualify and receive benefits from a financial assistance program.

3.1.a. The State Conservation Committee shall approve the criteria, ranking process, annual timelines, eligible practices, financial assistance rates and standards for applicants to qualify for a financial assistance program during its July meeting.

3.2. The WVCA, with the State Conservation Committee's approval, shall provide funding to Conservation Districts on an annual basis to aid financial assistance programs.

3.3. The WVCA shall provide technical assistance and oversight to the Conservation Districts to ensure proper use of allocated state funds.

3.4. Conservation Districts shall provide recommendations to the WVCA and the State Conservation Committee annually on resource concerns, needed conservation practices, financial assistance rates and other local priority needs.

3.5. Conservation Districts shall administer financial assistance programs in accordance with State Conservation Committee approved policies.

§63-2-4. Financial Reporting.

4.1. Conservation Districts shall, with the assistance of WVCA employees, update and maintain the WVCA's financial assistance databases.

4.2. Conservation Districts shall provide annual progress reports to the State Conservation Committee by June 30 detailing how the WVCA's financial assistance programs have benefited the districts' soil and water conservation mission.

§63-2-5. Eligibility for Financial Assistance Programs.

5.1. Conservation District supervisors, their relatives, farming entities and cooperators are eligible to participate in WVCA financial assistance programs.

5.2. Applicant eligibility criteria shall be approved annually by the State Conservation Committee. At a minimum, applicants shall:

5.2.a. Be a Conservation District cooperator within the district in which the applicant is applying;

5.2.b. Obtain a conservation plan approved by the Conservation District in which the applicant's land is located;

5.2.c. Obtain a comprehensive nutrient management plan, if applicable. Applicability will be addressed in the approved program document.

5.3. Land eligibility shall be specified in the State Conservation Committee annually-approved program document.

5.4. A list of eligible BMPs shall be specified in the State Conservation Committee annually-approved program document.

§63-2-6. Delegation of West Virginia Conservation Agency Financial Assistance Programs to Another Conservation District.

6.1. The State Conservation Committee shall transfer a Conservation District's decision-making authority for financial assistance programs to another Conservation District when:

6.1.a. A Conservation District supervisor informs the district board in writing that he/she, a relative or farming entity of which the supervisor is a part, applies or intends to apply for a particular WVCA financial assistance program during the program year;

6.1.b. The Conservation District's board affirms in a public meeting that one or more of its members, a relative or farming entity of which the supervisor is a part, applies or intends to apply for a particular WVCA financial assistance program during the program year;

6.1.c. If Sections 6.1.a and 6.1.b apply, then Conservation District supervisors shall not discuss or use their positions to influence pending applications for that particular WVCA financial assistance program.

6.2. A Conservation District shall retain its decision-making authority for WVCA financial assistance programs if:

6.2.a. The district board affirms in a public meeting that none of its members, a relative or farming entity of which the supervisor is a part, will participate in a WVCA financial assistance program for the entire program year.

6.3. The district's affirmation shall be binding for the entire program year.

6.4. Districts shall notify the State Conservation Committee and the WVCA in writing of the district's intentions relating to participation in WVCA financial assistance programs no later than June 30.

§63-2-7. Agricultural Enhancement Program (AgEP).

7.1. Conservation District cooperators shall be afforded the opportunity to apply for financial assistance to implement BMPs to conserve soil and improve the state's waterways that may be affected by sedimentation and/or agricultural practices.

7.2. The State Conservation Committee shall approve the criteria, ranking process, annual timelines, eligible practices, financial assistance rates and standards for applicants to qualify and receive benefits from WVCA financial assistance programs during its July meeting.

68-2-8. Streambank Stabilization and Restoration Program (SSRP).

8.1. Conservation District cooperators shall be afforded the opportunity to apply for financial assistance to address stream bank stabilization and/or stream blockages affecting their improved property and/or reducing a waterway's ability to pass a 5-year storm event.

8.2. To be eligible for financial assistance under SSRP, sites shall:

8.2.a. Be located in the Conservation District in which the cooperator is applying for assistance; and

8.2.b. Meet the technical assessment and criteria established by the State Conservation Committee.

8.3. Qualified Projects seek to:

8.3.a. Stabilize and restore streambanks that are severely eroding and result in limitations on land areas, including agricultural land, urban land, wildlife habitat and other properties and land uses;

8.3.b. Prevent sedimentation of streams and the reduction of the flood-storage capacity of lakes and reservoirs;

8.3.c. Protect water quality by reducing nutrients and chemicals contained in soil or runoff waters from entering a waterway;

8.3.d. Protect aquatic life and habitat by reducing soil erosion, sedimentation and restoring beneficial vegetation;

- 8.3.e. Protect improved public and private property;
- 8.3.f. Protect, create or restore wildlife habitat;
- 8.3.g. Reduce waterway velocity during high water or flooding conditions and reduce flood damage; and/or
- 8.3.h. Demonstrate the effectiveness of low-cost stream bank stabilization techniques to the public.

8.4. The State Conservation Committee shall approve the criteria, ranking process, annual timelines, eligible practices, financial assistance rates and standards for applicants to qualify and receive benefits from WVCA financial assistance programs during its July meeting.

68-2-9. Notification and Disclosure of Application Award or Denial.

9.1. Conservation Districts shall advertise the availability of WVCA financial assistance programs and the application periods in their respective districts.

9.2. Districts shall disclose application decisions within fifteen (15) business days.

9.3. Notification and Disclosure shall include:

9.3.a. Sending written notification via first-class mail to applicants.

9.3.b. Posting on the Conservation District's and the WVCA's web site; and

9.3.c. Issuing a news release to a local newspaper of general circulation in the county from which the application was received.

9.3.d. Whether an application by a Conservation District supervisor, a relative or farming entity of which the supervisor is a part, was approved.

9.4. Applicants whose applications have been approved shall be provided with a financial assistance contract, financial assistance program rules, implementation standards and deadlines to install the planned practice.

9.5. Unsuccessful qualified applicants shall be provided with information on how to appeal the decision to the State Conservation Committee.

68-2-10. Appeals to the State Conservation Committee.

10.1. To appeal a decision to the State Conservation Committee, applicants shall:

10.1.a. Submit a written request to the Executive Director of the WVCA within fifteen (15) business days after being notified of the decision;

10.1.b. State specific reasons for the appeal, including evidence to support the claim and the relief sought;

10.2. The State Conservation Committee, or its designee, shall review the appeal and render a written decision to the applicant within ninety (90) business days of receipt of the applicant's appeal request.

10.3. State Conservation Committee members shall recuse themselves from participating in appeal decisions if they, a relative or a farming entity of which the member is a part, has filed an appeal.

10.4. All decisions of the State Conservation Committee, or its designee, are final.