

Authorized Signature

**TITLE 63
LEGISLATIVE RULE
STATE CONSERVATION COMMITTEE**

SERIES 2

WEST VIRGINIA CONSERVATION AGENCY FINANCIAL ASSISTANCE PROGRAMS

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, an immediate family member, 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 cooperator 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 -- An 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 sole proprietorship, 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. Immediate Family -- Means a spouse with whom the individual is living as husband and wife and any dependent child or children, dependent grandchild or grandchildren and dependent parent or parents.

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

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

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

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

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

2.22. 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.

2.23. State Conservation Committee (SCC) -- The 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. Conservation Districts shall provide recommendations to the WVCA on local resource concerns, needed conservation practices, financial assistance rates and other local priority needs.

3.2. The WVCA shall review the Conservation District's recommendations and then 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.

3.2.a. Conservation Districts shall use the State Conservation Committee's approved practice list to generate and submit a local priority list to the WVCA for approval for the program year.

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

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

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 July 31 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. Applicant eligibility criteria shall be approved annually by the State Conservation Committee. At a minimum, applicants shall:

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

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

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

5.2. Land eligibility shall be specified in the State Conservation Committee's 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 a particular WVCA financial assistance program to another Conservation District when:

6.1.a. A Conservation District supervisor informs the district board in writing that he/she, an immediate family member, 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, an immediate family member, 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.

6.2. A Conservation District shall retain its decision-making authority for WVCA financial assistance programs if a district board affirms in a public meeting that none of its members, an immediate

family member, or farming entity of which the supervisor is a part, will participate in a particular WVCA financial assistance program for the entire program year.

6.3. The Conservation 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.

63-2-8. 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.

63-2-9. 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, an immediate family member, 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.

63-2-10. 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, an immediate family member, or a farming entity of which the member is a part, has filed an appeal.

FISCAL NOTE FOR PROPOSED RULES

West Virginia Conservation Agency Financial Assistance Programs

Rule Title: _____

Type of Rule: ☒ Legislative ☐ Interpretive ☐ ProceduralAgency: State Conservation Committee (West Virginia Conservation Agency)Address: 1900 Kanawha Blvd. E., Charleston, WV 25305Phone 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 such programs; the transfer of decision-making authority between districts when a supervisor, an immediate family member, 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.

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.

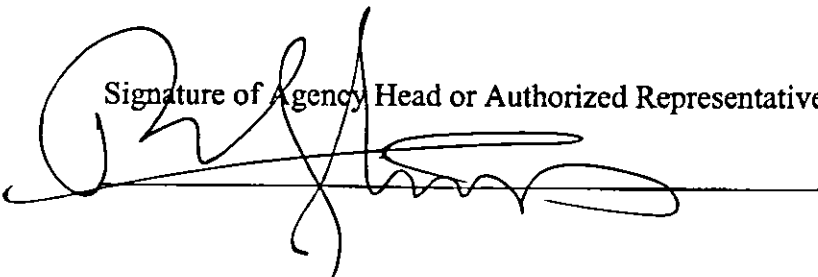
MEMORANDUM

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: July 28, 2014

Signature of Agency Head or Authorized Representative



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: 7-28-14

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: (Agency Name, Address & Phone No.) State Conservation Committee
1900 Kanawha Blvd. E.
Charleston, WV 25305
Phone: 304-558-2204

LEGISLATIVE RULE TITLE: West Virginia Conservation Agency Financial Assistance
Programs

1. Authorizing statute(s) citation WV Code Chapter 19-21A-4a

2. a. Date filed in State Register with Notice of Hearing or Public Comment Period:
June 13, 2014 filed Public Comment Period

b. What other notice, including advertising, did you give of the hearing?
On the West Virginia Conservation Agency web site

c. Date of Public Hearing(s) *or* Public Comment Period ended:
July 14, 2014 public comment period ended

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

Attached X No comments received

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

No public hearing. Agency approved proposed legislative rule filed July 28, 2014.

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

Brian Farkas, Executive Director

West Virginia Conservation Agency

1900 Kanawha Blvd. E.

Charleston, WV 25305

Phone: 304-558-2204

Fax: 304-558-1635

Cell: 304-549-2602

email: bfarkas@wvca.us

- 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)

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.

b. Date of hearing or comment period:

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

d. Attach findings and determinations and reasons:

Attached



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 such programs; the transfer of decision-making authority between districts when a supervisor, an immediate family member, 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.

63CSR2

**TITLE 63
LEGISLATIVE RULE
STATE CONSERVATION COMMITTEE**

**SERIES 2
WEST VIRGINIA CONSERVATION AGENCY FINANCIAL ASSISTANCE PROGRAMS
RESPONSE TO COMMENTS**

On June 13, 2014, the West Virginia Conservation Agency commenced a 30-day public comment period, accepting written comments through 4:30 p.m. on July 14, 2014. The WVCA received comments from 17 individuals and conservation districts regarding the proposed legislative rule to implement the provisions contained in §19-21A-4a.

**1. COMMENTER: KEN SCOTT, SOUTHERN CONSERVATION DISTRICT
SUPERVISOR**

COMMENT A. The commenter states, *“Section 6.1 requiring Conservation District Board to transfer decision-making authority to another District when a Supervisor or family member applies is unmanageable. How will our District Board know if the applicants from another District are eligible for financial assistance? Will they know that the applicant meets the requirement of the AgEP set up by the other District. At this point when we approve District applicants, someone on the Board usually knows the farm family and can help verify their eligibility. If this bill passed and a District was asked to approve another District's applicants, it would amount to "rubber stamping" the list with no way to verify and defeat the purpose of the over site of the County District program.”*

RESPONSE A. Ineligible applications will not be referred to a receiving district. Eligibility will be determined by the originating district, based on State Conservation Committee's financial assistance program guidelines. Also, §19-21A-4a requires the transfer of decision-making authority to another district if a conservation district supervisor applies or intends to apply for a particular WVCA financial assistance program.

COMMENT B. The commenter states, *“Also, section 9.3.c is of concern. I do not feel that the farmers in my county or those in the District would want their financial assistance payment, as I understand the requirement, released and published the local paper. I'm sure most feel that this is a personal matter and would object to its release. Based on this requirement, I am sure it would substantially discourage and keep many eligible farms from participating.”*

RESPONSE B. Per §19-21A-4a(2), the rule is to provide a “process to disclose the recipients of the award.”

COMMENT C. The commenter states, *“With these comments, I am opposed to the above legislative rule. I would prefer to continue with the present restrictions, \$1000 limit, which exist for elected officials. If I, as a District Supervisor, don't feel the present requirements or restrictions are fair, then I would not run for the elected office.”*

RESPONSE C. The comment is outside the scope of the Agency's authority.

**2. COMMENTER: FRED HAYS, CAPITAL CONSERVATION DISTRICT
SUPERVISOR/CENTER FOR SUSTAINABLE RESOURCES**

COMMENT A. The commenter states, *"The proposed rule to ship applications to other districts is good but will not stop corruption if the applications have identifying information on them. If applications can be identified by supervisors determining winners and losers there will be no way to know if corruption was involved in the determination. Therefore, I for one plan to file complaints with each and every application that is successful for a supervisor and the Ethics Commission is obligated to investigate in depth each application. The standards and material of each program is faulty and lacks any concepts of benchmarks/objectives that are a determining factor in measuring the value as a conservation program. The programs were designed with supervisor input and are highly suspect for this reason alone. Corruption and channeling money to themselves is the determining factor for the majority of these supervisors."*

RESPONSE A. State Conservation Committee program guidelines will be established to address anonymity of applicants, benchmarks and objectives. Per 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 ..."

COMMENT B. The commenter states, *"An attempt should be made to have Senate Bill 365 repealed. Why should criminal behavior win out? District supervisors do not represent farmers in WV. Farmers in WV are appalled at these people who have an entitlement mentality and seem to assume that everyone else owes them something. They are owed something but it is not money."*

RESPONSE B. The comment is outside the scope of the Agency's authority.

COMMENT C. The commenter states, *"No elected supervisor should be permitted to apply for any state money. At this time in history we should be working to eliminate such wasteful programs and put a stop to unfair taxation. If district supervisors were doing their job they would be setting an example for others to follow. The example they set is to take anything you can steal and to not do any work."*

RESPONSE C. The comment is outside the scope of the Agency's authority.

3. COMMENTER: GREENBRIER VALLEY CONSERVATION DISTRICT

COMMENT A. The commenter states, *"Gary Truex moved to call for the repeal of Senate Bill 365. Timothy VanReenen seconded and Chairman Sawyers declared the motion as passed by unanimous vote."*

RESPONSE A. The comment is outside the scope of the Agency's authority.

4. COMMENTER: SOUTHERN CONSERVATION DISTRICT

COMMENT A. The commenter states, *"Transfer of all applications to another district if a supervisor or relative expresses interest or applies for AgEP. New rules that effectively change SPRP into a cost share program. The effect of the requirement to publicly disclose names and amounts of approved applicants. As a result of the review, the Board voted to request the code be repealed and continue the AgEP as it currently is administered. The Board also desires to maintain control of applications at a local level."*

RESPONSE A. The comment is outside the scope of the Agency's authority.

5. COMMENTER: POTOMAC VALLEY CONSERVATION DISTRICT

COMMENT A. The commenter states, *"During the July 2, 2014, Board Meeting, the Potomac Valley Conservation District discussed the draft rules for Senate Bill #365. We understand that the bill required rules to be developed for the delivery of conservation programs through the WV Conservation Agency. However, it is our feeling that several items included in the rules will have an adverse effect on conservation programs statewide. "One item of great concern is section 68-2-9 Notification and Disclosure of Application Award or Denial. The rules indicate that advertisement of approval or denial for applications will be published in local newspapers. Many times the amount of approval is quite different that the cost share that is actually paid upon completion of the practice. While we do understand this is public information, it does have the potential to deter landowners from participating in the programs. This would defeat the purpose of the conservation districts in putting conservation dollars on the ground. The Potomac Valley Conservation District is therefore opposed to the entire Senate Bill #365 and the draft rules developed for the bill."*

RESPONSE A. Per §19-21A-4a(2), the rule is to provide a "process to disclose the recipients of the award." The rule only requires a Conservation District to issue a news release containing public information. The Conservation District has no control over whether the local media prints the news release. Comments relating to the law's repeal are outside the scope of the Agency.

6. COMMENTER: JIM MOORE, EASTERN PANHANDLE CONSERVATION DISTRICT SUPERVISOR

COMMENT A. The commenter states, *"I provide the following suggestions to change the proposed TITLE 63 Legislative Rule,*

In Senate Bill 365, 19-21A-4a (b) the State Committee is to propose rules to establish:

- (1) criteria, ranking and standards for an applicant to "qualify" to participate in West Virginia Conservation Agency programs,*
- (2) A process to disclose the recipients of the award,*
- (3) The process of an unsuccessful qualified applicant to appeal,*

Nowhere in the bill does it refer to:

- a. ranking the programs or parts of a program (see section 63-2-3.3.1),*
- b. what would be an "eligible practice". (See "Definitions 2.13, 63-2-3.3.1, Eligibility 63-2-5.5.4 "a list of eligibility of BMP's .)*
- c. land eligibility – see 63-2-5.5.3,*
- d. SCC "annual approval" – see 63-2-3.3.1,*
- e. "financial assistance rates" – see 63-2-3.3.1,*
- f. "The WVCA ... shall provide funding" – see 63-2-3.3.2,*
- g. "The WVCA shall provide technical assistance..." – see 63-2-3.3.3,*

- h. " Conservation District " - see 63-2-3.3.4.
- i. "Conservation Districts ..." - see 6-2-3.3.5.
- j. "Financial Reporting" - see 63-2-4 (the entire section),
- k. Agricultural Enhancement ... (AgEP) section 63-2-7 (the entire section),
- l. Streambank section 63-2-8 (the entire section),
- m. All references to "relative"

THESE ADDITIONS GO BEYOND THE DIRECTIVES GIVEN BY THE "Bill" TO THE STATE COMMITTEE. If passed, this would become part of State Law and would take legislative action to change! All portions of the proposed Rule relating to these should be taken out of the Rule.

In Section 63-2-5 "Eligibility ...":

- a. Delete 5.1 This statement indicates preferential treatment for those named.,
- b. Delete 5.2 This statement would require the legislature to approve the "new" criteria each year.
- c. 5.2.a would now be 5.1, 5.2.b would now be 5.2, 5.2.c would now be 5.3,
- d. Delete in current section 5.2.c " , if applicable. Applicability "sentence and insert "approved by the Conservation District when nutrients other than lime are applied to the soil."

In section 63-2-6, decision making is being transferred to another District when a supervisor or their family member is participating in a program. I would suggest that rather than have another District be involved, State Agency staff would be utilized to make the decision. This would eliminate potential "favoritism" by the assisting District (this was stated in a recent newspaper article) and would prevent any ill feelings amongst Conservation Districts (this has been voiced in meetings). I understand that this would require an amendment to the Bill.

In section 63-2-9:

- 9.1 should be deleted – not part of Legislative directive,
- 9.3.c should be deleted – it is over kill neither NRCS or FSA do this – 9.3.b meets the requirements of the law,
- 9.4 should be deleted – not part of the Legislative directive.

In section 63-2-10:

- a. should be deleted – this is covered by the Ethics Code,
- b. 10.4 should be deleted – appeals can be taken to the Court system.

I remind you that the "Bill" charged the State Committee to "propose rules to establish: (1) criteria, ranking and standards for an applicant to "qualify" to participate, (2) a process to disclose the recipients of the award, (3) the process of a unsuccessful qualified applicant to appeal.

Emergency issues (drought, flood or other) have not been addressed by this proposed rule."

RESPONSE A. The Agency is following the legislative requirement to propose rules to establish criteria, ranking and standards for an applicant to “qualify” to participate; a process to disclose the recipients of the award; and a process for an unsuccessful qualified applicant to appeal.

Section 63-2-5 Was modified to remove specific references to Conservation District Supervisors, relatives and farming entities.

Section 63-2-10.4 was deleted.

The definition for relative was eliminated and replaced with a definition for “Immediate Family,” as noted in §6B-1-3(f).

Regarding emergency decisions, the rule contemplates the State Conservation Committee’s approval of programs as needed.

Section 63-2-10 is not covered by the Ethics Code. It is a process contemplated by §19-21A-4a.

7. COMMENTER: ELIZABETH MCCLINTOCK, TORNADO, WV

COMMENT A. The commenter states, “*Conservation District Supervisors have been elected to provide local leadership in regard to the management and conservation of natural resources. Under Title 63 Legislative Rules, a District must send all applications for a District program to another District Board of Supervisors if one or more Supervisors or their relatives intend to sign up for the District program. This will remove the decision making authority from the Board of Supervisors for WV Conservation Agency financial assistance programs.*”

RESPONSE A. The transfer of decision-making authority is required under §19-21A-4a.

COMMENT B. The commenter states, “*The Board of Supervisors would lose the authority to select practices, set cost share rates, and develop standards, criteria and a ranking process in the Agricultural Enhancement Program if a Supervisor or relative intends to sign up for participation.*”

RESPONSE B. The comment is outside the scope of the Agency’s authority.

COMMENT C. The commenter states, “*That Conservation District Supervisors would relinquish their decision making authority for this constituency in exchange for financial gain from the very programs they promote is misguided and unethical. It is my hope that the Capitol Conservation District Board of Supervisors will retain its decision making authority by affirming that none of the members or their relatives have intentions to participate in any WV Conservation Agency financial assistance programs for Fiscal Year 2016.*”

RESPONSE C. The comment is outside the scope of the Agency’s authority.

8. COMMENTER: CAPITOL CONSERVATION DISTRICT

COMMENT A. The commenter states, “*The Statehouse Beat column by Phil Kabler from the Charleston Gazette/Daily Mail, June 29, 2014, about WV Conservation District Supervisors was printed and distributed to attending board members. Layman read Title 63, Legislative Rules that pertain to the Administration of WV Conservation Agency Programs. Hays made the motion for the District to pursue the repeal of WV Senate Bill 365; Figgatt seconded the motion. The motion was approved with May, Pullin, Figgatt and Hays in favor; Bailey opposed the motion.*”

RESPONSE A. The comment is outside the scope of the Agency's authority.

9. COMMENTER: ELK CONSERVATION DISTRICT

COMMENT A. The commenter states, *"At the Elk Conservation District Board Meeting on Tuesday, June 24, 2014, the board voted unanimously to support having SB365 repealed. They are in favor of the AgEP program remaining as it is currently. The board members, individually and collectively, will contact their legislative representatives."*

RESPONSE A. The comment is outside the scope of the Agency's authority.

10. COMMENTER: GUYAN CONSERVATION DISTRICT

COMMENT A. The commenter states, *"The Guyan Conservation District stands strongly in opposition of Senate Bill 365 for it abolishes our ability to conduct the viable work within our own district in which our constituents elected us."*

RESPONSE A. The comment is outside the scope of the Agency's authority.

COMMENT B. The commenter states, *"The Bill's original purpose was clarification of the Ethics of a District Supervisor(s) eligibility to participate in District Cost Share programs and to reconsider the \$1,000 limit for the Supervisors. We have transgressed the boundaries of intention with Senate Bill 365. The reasons for our action is a direct effect of Rule 6.1, the interpretation of the word "ALL", and the total removal of our authority as District Supervisors and a District as a whole. The Guyan Conservation District feels that Senate Bill 365 has unintended consequences and should be repealed."*

RESPONSE B. The comment is outside the scope of the Agency's authority.

11. COMMENTER: OSCAR HARRIS, WESTERN CONSERVATION DISTRICT SUPERVISOR

COMMENT A. The commenter states, *"Please keep in mind the original concept under which AgEP was designed and has successfully operated since its beginning is threatened by this bill and these rules. I am selecting two statements from the early mission statement for your consideration: "Additional practice options will be determined by each Conservation District to best address the needs of the District."*

"Each conservation district has the ability to modify the program to address specific agricultural issues in it's area."

68-2-10 - 10.3 allows state committee members to recuse themselves if a conflict arises. Should supervisors not be afforded the same opportunity. Perhaps when a conflict arises with the SCC it should be sent to another SCC. Just a thought. Perhaps letting WVCA staff deal with district conflicts would be more satisfactory. An amendment would be required. This bill will be difficult to fix without major changes at the legislative level.

RESPONSE A. The rule was modified to replace the definition of "relative" with the definition of "immediate family." Existing ethics laws cover actions outside the scope of "immediate family."

The rule was also modified and clarified to ensure the State Conservation Committee and the WVCA received and considered input from the Conservation Districts relating to local priorities and program practices.

COMMENT B. The commenter states, "63.2.14 Farming Entity: Should begin with "Sole Proprietorship."

RESPONSE B. The rule was modified to include sole proprietorship.

COMMENT C. The commenter states, "63.2.22 Relative -- For this rule, a relative shall be defined as a closely related person who has a direct financial interest in the farming or other related businesses of the applicant. A closely related person shall be defined as spouse, mother, father,etc."

RESPONSE C. The rule was modified to exchange the definition of "relative" with the definition of "immediate family."

COMMENT D. The commenter states, "63.2.6.1 The State Conservation Committee shall transfer a Conservation District's decision-making authority for financial assistance PRACTICES to another Conservation District when:

6.1.a. A Conservation District supervisor informs the district board in writing that he/she or any other person or entity in which the supervisor has a part, applies for or intends to apply for a particular WVCA financial assistance PRACTICE during the program year;

6.1.b The Conservation District's board affirms in a public meeting that one or more of its members or a relative as defined in 63.2.22 or other farming entity of which the supervisor is a part, applies or intends to apply for a particular WVCA PRACTICE during the program year."

RESPONSE D. §19-21-4a refers to "programs" not "practices."

12. COMMENTER: JAMES MICHAEL, EASTERN PANHANDLE CONSERVATION DISTRICT SUPERVISOR

COMMENT A. The commenter states, "The most objectionable part of this document is section 63-2-6 concerning transferring local conservation district decision making authority to another conservation district because one of the local district board members has applied for financial assistance. The most absurd part of this planned procedures to have all landowner cooperators assistance applications also transferred to another district. The wide variation of land, farms and land use makes it impractical and inefficient for reviewing all program applications from one district by another district."

RESPONSE A. §19-21A-4 requires transfer of decision-making authority to another conservation district when a supervisor applies or intends to apply for a particular WVCA financial assistance program.

COMMENT B. The commenter states, "The present procedures document has a problem with district supervisors or family members that have applied for financial assistance and establishing a satisfactory method to carry out the program. I do not think that this is a major problem. A number of us working in cost share programs have observed the USDA Farm Service Agency and USDA/NRCS handle this type of program in the past. The local conservation district utilizes professional staff from the WVCA to evaluate and rank applications. This staff's ranking process is not influenced by district supervisor's program application."

RESPONSE B. §19-21A-4a requires transfer of decision-making authority to another conservation district when a supervisor applies or intends to apply for a particular WVCA financial assistance program.

COMMENT C. The commenter states, *"In reviewing Section 63-2-9 notification and disclosure of application award or denial items 9.3C and 9.3D are not needed and damaging to the program. The local district prepares records to identify program applications and financial approvals using meeting minutes and the conservation district and WVCA's web site. In general the overall programs document is very comprehensive and a little over zealous!!"*

RESPONSE C. §19-21A-4a requires the creation of a notification process. The rule only requires a Conservation District to issue a news release containing public information. The Conservation District has no control over whether the local media prints the news release.

13. COMMENTER: STEVE MAY, CAPITOL CONSERVATION DISTRICT SUPERVISOR

COMMENT A. The commenter states, *"If a Conservation District Supervisor has an interest in participating in any Conservation District program, all other applications should be processed first. After all applications, other than those for Conservation District Supervisors, have been reviewed and processed, only then should a Conservation District Supervisor become eligible for program funding."*

RESPONSE A. The comment is outside the scope of the Agency's authority.

COMMENT B. The commenter states, *"Relatives of Conservation District Supervisors should be eligible for participation in District programs if they do not live with or have a business partnership with the related Supervisor."*

RESPONSE B. Definition of "relative" was replaced with the definition of "immediate family."

14. COMMENTER: DVON DUNCAN, SOUTHERN CONSERVATION DISTRICT SUPERVISOR

COMMENT A. The commenter states, *"In addition regarding the SPRP program, very few of the large out of state landowners (who own approximately 90% of the land in Wyoming County) would agree to a cost share for removal of stream blockages."*

RESPONSE A. The comment is outside the scope of the Agency's authority.

15. COMMENTER: TIMOTHY VANREENEN, GREENBRIER VALLEY CONSERVATION DISTRICT SUPERVISOR

COMMENT A. The commenter states, *"In 63-2-2.22. The definition of relative is very inclusive and should be re-evaluated to ensure it properly meets the intended use in this context."*

RESPONSE A. Definition of "relative" was replaced with the definition of "immediate family."

COMMENT B. The commenter states, *"Under 63-2-3.1. The WVCA shall submit to the State Conservation Committee for its annual approval the criteria..." It is imperative the word "annual" be kept in this phrase. This will allow each district and the WVCA the ability to change various practices to all cost share programs, as new technologies and strategies are developed, and allow these to be implemented for producers and the public in a timely manner, without the need for further legislation."*

RESPONSE B. The agency agrees the word "annual" should remain in the rule to provide flexibility to address changing resource concerns and emerging technology.

COMMENT C. The commenter states, "63-3-3.3 The rule currently reads, "The WVCA shall provide technical assistance and oversight to the Conservation Districts..." The word oversight implies this program will be administered to the Districts like any other state program. Going back to the founding principles of the Agricultural Enhancement Program it was to be a district managed program with assistance from the WVCA. By removing the word oversight the districts would feel a larger ownership of the program."

RESPONSE C. West Virginia Code §19-21A sets forth the duties and responsibilities of the State Conservation Committee, and its administrative agency, the West Virginia Conservation Agency, as well as the duties of the state's Conservation Districts. The law requires the SCC to provide assistance and advice to the Conservation Districts. The law also states the Conservation District are required to obtain State Conservation Committee approval prior to taking certain actions.

COMMENT D. The commenter states, "Furthermore, it is my understanding if 15 practices are selected by the State Conservation Committee then each district must offer to the public these 15 practices. In the theme of keeping the program a district program each district should have the opportunity to pick the practices that districts believe would truly benefit their producers. This not only allows the district to have control of the program it will also allow districts to be more fiscally responsible with money they have received from the state Legislature."

RESPONSE D. Section 63-2-3 was modified with the following:

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

3.2 The WVCA shall review the Conservation District's recommendations and then 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.

3.2.a. Conservation Districts shall use the State Conservation Committee's approved practice list to generate and submit a local priority list to the WVCA for approval for the program year.

16. COMMENTER: WILLIAM J. GELLNER, UPPER OHIO CONSERVATION DISTRICT SUPERVISOR

COMMENT A. The commenter states, "It is my belief that a modification of SB365 should be asked for to change the scope of 19-21A-4a. (a) to more effectively and fairly serve the general public. Instead of removing all applications, there would only be the need to remove the applications submitted for participation in West Virginia Conservation Agency programs from elected or appointed district supervisors and their family members from the action by their represented conservation district. All such removed applications could be sent to the West Virginia Conservation Agency for processing by staff of by committee. The final action and approval on these applications(s) could then be done by the State Conservation Committee. The above change would remove any action by the elected district supervisor on any application that they or any of their family members might file for WVCA financial assistance programs or any other WVCA program. At the same time it would not disrupt, nor subject the applications from the general public to other oversight or conditions that are normally required in other Conservation Districts."

RESPONSE A. The comment is outside the scope of the Agency's authority.

17. COMMENTER: EASTERN PANHANDLE CONSERVATION DISTRICT

COMMENT A. The commenter states, "*2.14. Farming Entity – remove and replace with 'as defined by state/county tax assessor'.*"

RESPONSE A. A review of state tax code did not reveal a definition for "Farming entity."

COMMENT B. The commenter states, "*2.21. Remove this section entirely.*"

RESPONSE B. §19-21A-4a requires the transfer to another district when a supervisor applies or intends to apply for a particular WVCA financial assistance program.

COMMENT C. The commenter states, "*2.23. Add 'W.Va. Code §19-21A-4 does not charge the state agency with reducing soil erosion and improving water quality'.*"

RESPONSE C. §19-21A-2 establishes the priorities for conservation in the state of West Virginia. §19-21A-4 establishes the State Conservation Committee.

COMMENT D. The commenter states, "*3.1 "remove for its annual approval."*"

RESPONSE D. The term "annual" was retained to provide flexibility to address changing resource concerns and emerging technology.

COMMENT E. The commenter states, "*3.1.a. remove State Conservation Committee and replace with 'local conservation district', remove during its July meeting.*"

RESPONSE E. Section 3.1 was modified to provide more local input.

COMMENT F. The commenter states, "*4.2. remove June and replace with 'July'.*"

RESPONSE F. Section 4.2 was modified to change the date from June 30 to July 31.

COMMENT G. The commenter states, "*5.2. remove annually and replace with 'monthly', remove State Conservation Committee, and replace with 'local conservation district'.*"

RESPONSE G. Section 62-2-5 was modified.

COMMENT H. The commenter states, "*5.3. remove State Conservation Committee and replace with 'local conservation district'.*"

RESPONSE H. Section 62-2-5 was modified.

COMMENT I. The commenter states, "*5.4. remove State Conservation Committee and replace with 'local conservation district'.*"

RESPONSE I. Section 5.4 was removed.

COMMENT J. The commenter states, "*§63-2-6. remove entire sections from §63-2-6 through 6.4.*"

RESPONSE J. The transfer of decision-making authority is required under §19-21A-4a.

COMMENT K. The commenter states, “7.2 *remove State Conservation Committee and replace with ‘local conservation district’, and remove during its July meeting.*”

RESPONSE K. Section 63-7-2 was removed.

COMMENT L. The commenter states, “*remove 8 and replace with ‘3’ on 68-2-8.*”

RESPONSE L. Was corrected.

COMMENT M. The commenter states, “*remove 8 and replace with ‘3’ on 68-2-9.*”

RESPONSE M. Was corrected.

COMMENT N. The commenter states, “9.2. *remove within fifteen (15) days and replace with ‘in a timely manner not to exceed 60 days’.*”

RESPONSE N. Fifteen days is sufficient time to notify applicants.

COMMENT O. The commenter states, “9.3.c *remove Issuing a news release to a local newspaper of general circulation in the county from which the application was received and replace with ‘Violates cooperators right to privacy’.*”

RESPONSE O. Per §19-21A-4a(2), the rule is to provide a “process to disclose the recipients of the award.” The rule only requires a Conservation District to issue a news release containing public information. The Conservation District has no control over whether the local media prints the news release.

COMMENT P. The commenter states, “9.3.d. *remove Whether an application by a conservation District supervisor, a relative or farming entity of which the supervisor is a part, was approved and replace with ‘Violates cooperator right to privacy’.*”

RESPONSE P. Per §19-21A-4a(2), the rule is to provide a “process to disclose the recipients of the award.”

COMMENT Q. The commenter states, “9.4. *remove financial assistance and replace with ‘cost share’, remove financial assistance and replace with ‘cost share’.*”

RESPONSE Q. The term “financial assistance” is an accurate description.

COMMENT R. The commenter states, “*remove 8 and replace with ‘3’ on 68-2-10.*”

RESPONSE R. It was corrected.

COMMENT S. The commenter states, “10.4. *remove are final and replace with ‘Citizens can always appeal in the court system’.*”

RESPONSE S. Section 63-2-10.4 was deleted.

Withrow, Belinda

From: chance37@suddenlink.net
Sent: Friday, June 20, 2014 8:46 PM
To: Withrow, Belinda
Subject: Comments on Legislative Rule 63CSR2 Title 63

Morning Belinda,

I would like to make comment on the proposed legislative rule concerning Conservation District supervisors participating in financial assistance programs administered by the District.

I am currently a Conservation District supervisor on the Southern Conservation District and have been for the last eight years. I understand the conflict that exist with District supervisors approving applications for members or family members of the Board. I am also a Board member with a substantial farming enterprise and have participated up to the \$1000 limit which currently exist.

As I see and understand the proposed rule, I feel there are a couple provisions which I feel would be unmanageable for the District Board and unfair to the area farm community.

Section 6.1 requiring Conservation District Board to transfer decision-making authority to another District when a Supervisor or family members applies is unmanageable. How will our District Board know if the applicants from another District are eligible for financial assistance? Will they know that the applicant meets the requirement of the AgEP set up by the other District. At this point when we approve District applicants, someone on the Board usually knows the farm family and can help verify their eligibility. If this bill passed and a District was asked to approve another District's applicants, it would mount to "rubber stamping" the list with no way to verify and defeat the purpose of the over site of the County District program.

Also, section 9.3.c is of concern. I do not feel that the farmers in my county or those in the District would want their financial assistance payment, as I understand the requirement, released and published the local paper. I'm sure most feel that this is a personal matter and would object to its release. Based on this requirement, I am sure it would substantially discourage and keep many eligible farms from participating.

With these comments, I am opposed to the above legislative rule. I would prefer to continue with the present restrictions, \$1000 limit, which exist for elective officials. If I, as a District Supervisor, don't feel the present requirements or restrictions are fair, then I would not run for the elected office.

Thank you for your time.

Ken Scott
Supervisor, Southern District

--

Ken Scott

S&F Consulting

cell 304-573-0844

chance37@suddenlink.net

Withrow, Belinda

From: Center for Sustainable Resources <sustainableresources@hotmail.com>
Sent: Monday, June 23, 2014 9:25 AM
To: Withrow, Belinda
Subject: Senate Bill 365

Regarding Senate Bill 365

The proposed rule to ship applications to other districts is good but will not stop corruption if the applications have identifying information on them. If applications can be identified by supervisors determining winners and losers there will be no way to know if corruption was involved in the determination. Therefore, I for one plan to file complaints with each and every application that is successful for a supervisor and the Ethics Commission is obligated to investigate in depth each application. The standards and material of each program is faulty and lacks any concepts of benchmarks /objectives that are a determining factor in measuring the value as a conservation program. The programs were designed with supervisor input and are highly suspect for this reason alone. Corruption and channeling money to themselves is the determining factor for the majority of these supervisors.

An attempt should be made to have senate bill 365 repealed. Why should criminal behavior win out?

District supervisors do not represent farmers in WV. Farmers in WV are appalled at these people who have an entitlement mentality and seem to assume that everyone else owes them something. They are owed something but it is not money.

No elected supervisor should be permitted to apply for any state money. At this time in history we should be working to eliminate such wasteful programs and put a stop to unfair taxation. If district supervisors were doing their job they would be setting an example for others to follow. The example they set is to take anything you can steal and to not do any work.

Fred Hays, Proudly un elected for the next term



GREENBRIER VALLEY CONSERVATION DISTRICT

USDA Service Center
179 Northridge Drive
Lewisburg, West Virginia 24901
Phone (304) 645-6173

Serving Greenbrier, Monroe and Pocahontas Counties
July 1, 2014

Mr. Brian Farkas, Executive Director
West Virginia Conservation Agency
255 Gus R. Douglass Lane
Charleston, WV 25312-9908

Dear Brian:

RE: Title 63 Legislative Rule/Senate Bill 365

At a special board meeting held today, July 1, 2014, the board unanimously passed the following motion in regard to Senate Bill 365:

"Gary Truex moved to call for the repeal of Senate Bill 365. Timothy VanReenen seconded and Chairman Sawyers declared the motion as passed by unanimous vote"

The Greenbrier Valley Conservation District Board of Supervisors appreciates the opportunity to comment on this matter.

Very truly yours,

A handwritten signature in cursive script that reads "Gary W. Sawyers".

Gary W. Sawyers
Chairman

GWS/ac

C: Larry Layman, Belinda Withrow - WVCA

**SOUTHERN
CONSERVATION DISTRICT**

463 RAGLAND ROAD
BECKLEY, WEST VIRGINIA 25801
PHONE: (304) 253-0261
FAX: (304) 253-0238



July 11, 2014

JUL 15 2014

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File
2:30 pm

West Virginia Conservation Agency
Brian Farkas, Executive Director
1900 Kanawha Blvd. E.
Charleston, WV 25305

Dear Brian:

The Southern Conservation District supervisors reviewed SB-365 and Title 63, Legislative Rule, State Conservation Committee at their July 10, 2014 board meeting.

Specific concerns of the board include the following:

- 1) Transfer of all applications to another district if a supervisor or relative expresses interest or applies for AgEP
- 2) New rules that effectively change SPRP into a cost share program
- 3) The effect of the requirement to publicly disclose names and amounts of approved applicants

As a result of the review, the Board voted to request the code be repealed and continue the AgEP as it currently is administered. The Board also desires to maintain control of applications at a local level.

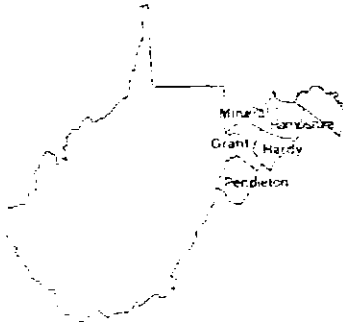
Thank you for the opportunity to respond and comment on the proposed rules.

Sincerely,

A handwritten signature in black ink that reads "Sid Howard". The signature is stylized with a large, looped "S" and "H".

Sid Howard
SCD Chairman

cc: Belinda Withrow, Jennifer Skaggs, Larry Layman, WVCA



Potomac Valley Conservation District

500 East Main Street
Romney, West Virginia 26757-1836
304-822-5174

July 11, 2014

Brian Farkas
WV Conservation Agency
1900 Kanawha Blvd., East
Charleston, WV 25305

Dear Mr. Farkas:

During the July 2, 2014 Board Meeting, the Potomac Valley Conservation District Board discussed the draft rules for senate bill #365. We understand that the bill required rules to be developed for the delivery of conservation program through the WV Conservation Agency. However, it is our feeling that several items included in the rules will have an adverse effect on conservation programs statewide.

One item of great concern is section 68-2-9 "Notification and Disclosure of Application Award or Denial. The rules indicate that advertisement of approval or denial for applications will be published in local newspapers. Many times the amount of approval is quite different than the cost share that is actually paid upon completion of the practice. While we do understand this is public information, it does have the potential to deter landowners from participating in the programs. This would defeat the purpose of the conservation districts in putting conservation dollars on the ground.

The Potomac Valley Conservation District is therefore opposed to the entire senate bill #365 and the draft rules developed for the bill.

Questions or comments regarding the Board's position on this issue should be directed to the District office.

Sincerely,

Charlotte Hoover
Charlotte Hoover
Chairperson

To whom it may concern,

I provide the following suggestions to change the proposed TITLE 63 Legislative Rule ,

In Senate Bill 365, 19-21A-4a (b) the State Committee is to propose rules.... to establish:

- (1) criteria, ranking and standards for an applicant to "qualify" to participate in West Virginia Conservation Agency programs,
- (2) A process to disclose the recipients of the award,
- (3) The process of an unsuccessful qualified applicant to appeal,

No where in the bill does it refer to:

- a. ranking the programs or parts of a program (see section 63-2-3.3.1),
- b. what would be an "eligible practice". (See "Definitions 2.13, 63-2-3.3.1, Eligibility 63-2-5. 5.4 " a list of eligibility of BMP's ,)
- c. land eligibility - see 63-2-5.5.3,
- d. SCC "annual approval" - see 63-2-3.-3.1,
- e. "financial assistance rates" - see 63-2-3.3.1,
- f. "The WVCA ... shall provide funding" - see 63-2-3.3.2,
- g. "The WVCA shall provide technical assistance..." - see 63-2-3.3.3,
- h. " Conservation Dis " - see 63-2-3.3.4.
- i. "Conservation Districts ..." - see 6-2-3.3.5.
- j. "Financial Reporting" - see 63-2-4 (the entire section),
- k. Agricultural Enhancement ... (AgEP) section 63-2-7 (the entire section),
- l. Streambank section 63-2-8 (the entire section),
- m. All references to "relative"

THESE ADDITIONS GO BEYOND THE DIRECTIVES GIVEN BY THE "Bill" TO THE STATE COMMITTEE. If passed, this would become part of State Law and would take legislative action to change! All portions of the proposed Rule relating to these should be taken out of the Rule.

In Section 63-2-5 "Eligibility ...":

- a. Delete 5.1 This statement indicates preferential treatment for those named.,
- b. Delete 5.2 This statement would require the legislature to approve the "new" criteria each year.
- c. 5.2.a would now be 5.1, 5.2.b would now be 5.2, 5.2.c would now be 5.3,
- d. delete in current section 5.2.c ", if applicable. Applicability " sentence and insert "approved by the Conservation District when nutrients other than lime are applied to the soil."

In section 63-2-6, decision making is being transferred to another District when a supervisor or their family member is participating in a program. I would suggest that rather than have another District be involved, State Agency staff would be utilized to make the decision. This would eliminate potential "favoritism" by the assisting District (this was stated in a recent newspaper article) and would prevent any ill feelings amongst Conservation Districts (this has been voiced in meetings). I understand that this would require an amendment to the Bill.

In section 63-2-9:

- 9.1 should be deleted – not part of Legislative directive,
- 9.3.c should be deleted – it is over kill neither NRCS or FSA do this – 9.3.b meets the requirements of the law,
- 9.4 should be deleted – not part of the Legislative directive.

In section 63-2-10:

- a. 10.3 should be deleted – this is covered by the Ethics Code,
- b. 10.4 should be deleted – appeals can be taken to the Court system.

I remind you that the "Bill" charged the State Committee to "propose rules to establish: (1) criteria, ranking and standards for an applicant to "qualify" to participate, (2) a process to disclose the recipients of the award, (3) the process of a unsuccessful qualified applicant to appeal.

Emergency issues (drought, flood or other) have not been addressed by this proposed rule.

I will be happy to discuss any of these suggestions with you. My phone number is (304) 671-7489.

Thank you for your consideration of my suggestions and observations.

Jim Moore
Supervisor, Berkeley County, EPCD

JUL 10 2014

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1155p
arg. Bw/Comp
JTC

Elizabeth McClintock
114 Riverview Drive
Tornado, WV 25202
304-722-2469
emcclintock1@frontier.com

July 10, 2014

TITLE 63 LEGISLATIVE RULES
PUBLIC COMMENT

Conservation District Supervisors have been elected to provide local leadership in regard to the management and conservation of natural resources. Under Title 63 Legislative Rules, a District must send all applications for a District program to another District Board of Supervisors if one or more Supervisors or their relatives intend to sign up for the District program. This will remove the decision making authority from the Board of Supervisors for WV Conservation Agency financial assistance programs.

The Board of Supervisors would lose the authority to select practices, set cost share rates, and develop standards, criteria and a ranking process in the Agricultural Enhancement Program if a Supervisor or relative intends to sign up for participation.

That Conservation District Supervisors would relinquish their decision making authority for their constituency in exchange for financial gain from the very programs that they promote is misguided and unethical.

It is my hope that the Capitol Conservation District Board of Supervisors will retain its decision making authority by affirming that none of the members or their relatives have intentions to participate in any WV Conservation Agency financial assistance programs for Fiscal Year 2016.

I appreciate the opportunity to comment.

Withrow, Belinda

From: McClintock, Beth
Sent: Tuesday, July 01, 2014 10:35 AM
To: Withrow, Belinda
Subject: Senate Bill 365
Attachments: Special Meeting June 30 2014.pdf

Hello Belinda.

The Capitol District submits the attached draft minutes as a public comment regarding WV Senate Bill 365.

Thanks and have a lovely day.

Beth

Elizabeth McClintock
WV Conservation Agency
Capitol Conservation District
418 Goff Mountain Road
Room 102
Cross Lanes, WV 25313
304-759-0736

**CAPITOL CONSERVATION DISTRICT
418 Goff Mountain Road, Room 102
Cross Lanes, WV 25313 304-759-0736**

SPECIAL MEETING

**Monday, June 30, 2014
1:00 p.m.
Cross Lanes USDA Service Center**

MEETING MINUTES

BOARD MEMBERS PRESENT

Steve May, Chairman
Gary Pullin, Vice Chairman (participated via telephone)
Clyde Bailey, Secretary
Aimee Figgatt, Treasurer
Fred Hays (participated via telephone)

OTHERS PRESENT

Larry Layman, Area One Director, WV Conservation Agency
Beth McClintock, District Manager, WV Conservation Agency

The meeting was called to order at 1:15 p.m.

NEW BUSINESS

I. WV SENATE BILL 365 DISCUSSION/MOTION

The Statehouse Beat column by Phil Kabler from the Charleston Gazette/Daily Mail, June 29, 2014, about WV Conservation District Supervisors was printed and distributed to attending board members. Layman read Title 63, Legislative Rules that pertain to the Administration of WV Conservation Agency Programs.

Hays made the motion for the District to pursue the repeal of WV Senate Bill 365; Figgatt seconded the motion. The motion was approved with May, Pullin, Figgatt and Hays in favor; Bailey opposed the motion.

The meeting was adjourned at 1:35 p.m.

Minutes prepared by: Beth McClintock

Minutes approved by the board and signed by: _____
Clyde Bailey, Secretary

Withrow, Belinda

From: Steele, Suzie
Sent: Tuesday, July 01, 2014 2:41 PM
To: Withrow, Belinda
Cc: Layman, Larry
Subject: SB365

Belinda,

At the Elk Conservation District Board Meeting on Tuesday, June 24, 2014, the board voted unanimously to support having SB365 repealed. They are in favor of the AgEP program remaining as it is currently. The board members, individually and collectively, will contact their legislative representatives. Thank you.

Suzie Steele

Suzie Steele, ASA 3/DM
WVCA/Elk Conservation District
740 Airport Rd.
Sutton, WV 26601
304-765-2535
304-765-9635 – Fax
304-678-6422 – Mobile



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Guyan Conservation District

2631-5th Street Road - Huntington, WV 25701 - Phone (304) 528-5718 - Fax (304) 697-4164

Brian Farkas
Executive Director
Gus R. Douglass Agricultural Center at Guthrie
1900 Kanawha Blvd. E
Charleston, WV 25305

Dear Mr. Farkas,

In response to your open request for public comment regarding Senate Bill 365, The Guyan Conservation District collectively submit the following statement.

The Guyan Conservation District stands strongly in opposition of Senate Bill 365 for it abolishes our ability to conduct the viable work within our own district in which our constituents elected us.

Purpose of Conservation Districts
As set forth in Chapter 19-21A-8(8)

"District operate under the guidance and with the support of the West Virginia State Conservation Committee, through the Conservation Agency, and develop and implement local soil and water conservation programs based upon established resource priorities.

District Supervisors serve on local boards that develop and implement programs to protect and conserve soil, water, woodland, wildlife, and other renewable natural resources, including backyard conservation in urban areas. "

The Bill's original purpose was clarification of the Ethics of a District Supervisor(s) eligibility to participate in District Cost Share programs and to reconsider the \$1,000 limit for the Supervisors. We have transgressed the boundaries of intention with Senate Bill 365.

The reasons for our action is a direct effect of Rule 6.1, the interpretation of the word "ALL ", and the total removal of our authority as District Supervisors and a District as a whole.

The Guyan Conservation District feels that Senate Bill 365 has unintended consequences and should be repealed.

Thank you for allowing us this opportunity to submit our comments.

Sincerely,

Boyd Meadows
Guyan Conservation District Chairman

Withrow, Belinda

From: Oscar Harris <ojharris1942@yahoo.com>
Sent: Sunday, July 13, 2014 5:13 PM
To: Withrow, Belinda
Subject: SB 365: Comments and suggestions on Rules

Please keep in mind the original concept under which AgEP was designed and has successfully operated since it's beginning is threatened by this bill and these rules. I am selecting two statements from the early mission statement for your consideration:

"Additional practice options will be determined by each Conservation District to best address the needs of the District"

"Each conservation district has the ability to modify the program to address specific agricultural issues in it's area"

68-2-10

10.3 allows state committee members to recuse themselves if a conflict arises. Should supervisors not be afforded the same opportunity. Perhaps when a conflict arises with the SCC it should be sent to another SCC. Just a thought.

Perhaps letting WVCA staff deal with district conflicts would be more satisfactory. An amendment would be required.

This bill will be difficult to fix without major changes at the legislative level.

Sent from my iPad

Withrow, Belinda

From: Oscar Harris <ojharris1942@yahoo.com>
Sent: Sunday, July 06, 2014 10:41 PM
To: Withrow, Belinda
Subject: Senate Bill 365

63.2.14 Farming Entity: Should begin with "Sole Proprietorship" .

63.2.22 Relative -- For this rule, a relative shall be defined as a closely related person who has a direct financial interest in the farming or other related businesses of the applicant. A closely related person shall be defined as spouse, mother, father,etc.

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

6.1.a. A Conservation District supervisor informs the district board in writing that he/she or any other person or entity in which the supervisor has a part, applies for or intends to apply for a particular WVCA financial assistance PRACTICE during the program year;

6.1.b The Conservation District's board affirms in a public meeting that one or more of its members or a relative as defined in 63.2.22 or other farming entity of which the supervisor is a part, applies or intends to apply for a particular WVCA PRACTICE during the program year;

Sent from my iPad

James R. Michael
4594 Winchester Grade Rd.
Berkeley Springs, WV 25411

July 3, 2014

Attn: Belinda Withrow
Executive Assistant
WVCA
217 Gus R. Douglass Lane
Charleston, WV 25312

Dear Ms. Withrow,

This letter is to respond to the recent Title 63 Legislative Rule State Conservation Committee Series 2 WVCA Financial Assistance Programs Operational Procedures. I understand the comprehensive challenge of preparing a document dealing with state and local government organizations that is applicable to local landowners.

The most objectionable part of this document is section 63-2-6 concerning transferring local conservation district decision making authority to another conservation district because one of the local district board members has applied for financial assistance. The most absurd part of this planned procedures to have all landowner cooperators assistance application also transferred to another district. The wide variation of land, farms and land use makes it impractical and inefficient for reviewing all program applications from one district by another district.

The present procedures document has a problem with district supervisors or family members that have applied for financial assistance and establishing a satisfactory method to carry out the program. I do not think that this a major problem. A number of us working in cost share programs have observed the USDA Farm Service Agency and USDA NRCS handle this type of program in the past.

The local conservation district utilizes professional staff from the WVCA to evaluate and rank applications. This staff's ranking process is not influenced by district supervisor's program application.

In reviewing Section 63-2-9 notification and disclosure of application award or denial items 9.3C and 9.3D are not needed and damaging to the program. The local district prepares records to identify program applications and financial approvals using meeting minutes and the conservation district and WVCA's web site.

In general the overall programs document is very comprehensive and a little over zealous!! I appreciate the opportunity to comment.

Sincerely,



James Michael
EPCD Supervisor

Steve May
68 Honey Farm Road
St. Albans, WV 25177
304-727-7659
gs.may@suddenlink.net

PUBLIC COMMENT REGARDING TITLE 63 LEGISLATIVE RULES

If a Conservation District Supervisor has an interest in participating in any Conservation District program, all other applications should be processed first. After all applications, other than those for Conservation District Supervisors, have been reviewed and processed, only then should a Conservation District Supervisor become eligible for program funding.

Relatives of Conservation District Supervisors should be eligible for participation in District programs if they do not live with or have a business partnership with the related Supervisor.

Withrow, Belinda

From: Farkas, Brian
Sent: Thursday, July 10, 2014 2:22 PM
To: SB365
Subject: FW: Rules for SB365

All,

I received this comment today.

Brian



Brian Farkas
Executive Director
West Virginia Conservation Agency
1900 Kanawha Blvd, East
Charleston, WV 25305
Telephone: 304-558-2204
Cell: 304-549-2602
Email: bfarkas@wvca.us

From: Dvon Duncan [mailto:dvon.duncan@gmail.com]
Sent: Thursday, July 10, 2014 12:14 PM
To: Farkas, Brian
Subject: Rules for SB365

In addition regarding the SPRP program, very few of the large out of state landowners (who own approximately 90% of the land in Wyoming County) would agree to a cost share for removal of stream blockages. I suspect we would not be able to get any of them to contribute in any way. If you require a cost share, you are essentially increasing flooding hazards in Wyoming County.

Sent via the Samsung Galaxy Tab® 3, an AT&T 4G LTE tablet

----- Original message -----

From: Dvon Duncan
Date: 07/08/2014 8:31 AM (GMT-05:00)
To: Dvon Duncan
Subject: Notes for Brian Farkas

For those who worked so hard to get SB365 passed, I want to say - shame on you. I'm disappointed that you are more interested in private gain for you and your family, and lining your pockets. You have forgotten that you

are representing the people who voted to put you here. Shame on you! For thinking you could take advantage of a system set up to benefit the "unelected" farmers in your county. The Ag Enhancement Program was not established for you. As a matter of fact, neither you nor your family should use one penny of any of these programs. If you think you should benefit from any of our programs, then you are not acting in the best interests of your constituents, and you should then leave your seat as a supervisor. For those of you who worked so hard to get SB365 passed, you have made all of us look like we are above the law, and have potentially put the entire Ag Enhancement Program approval process in the hands of someone outside your districts. Shame on you! You are held to a higher standard. Start acting like it.

Sent via the Samsung Galaxy Tab® 3, an AT&T 4G LTE tablet

Timothy VanReenen
758 Denmar Rd.
Hillsboro, WV 24946

July 14, 2014

JUL 15 2014

11559

105-011

arg Bw/copy
file

Brian Farkas
West Virginia Conservation Agency
1900 Kanawha Blvd., East
Charleston, WV 25305

Brian,

I am writing to provide my suggestions regarding Senate Bill 365. After reviewing the rules of the bill I noticed some wording that caused concern and I would like to offer these changes.

In 63-2-2.22. The definition of relative is very inclusive and should be re-evaluated to ensure it properly meets the intended use in this context.

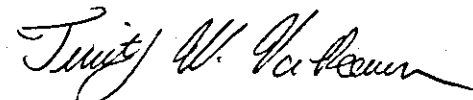
Under 63-2-3.1. "*The WVCA shall submit to the State Conservation Committee for its annual approval the criteria...*" It is imperative the word "annual" be kept in this phrase. This will allow each district and the WVCA the ability to change various practices to all cost share programs, as new technologies and strategies are developed, and allow these to be implemented for producers and the public in a timely manner, without the need for further legislation.

63-2-3.3. The rule currently reads, "*The WVCA shall provide technical assistance and oversight to the Conservation Districts.....*" The word oversight implies this program will be administered to the Districts like any other state program. Going back to the founding principles of the Agricultural Enhancement Program it was to be a district managed program with assistance from the WVCA. By removing the word oversight the districts would feel a larger ownership of the program.

Furthermore, it is my understanding if 15 practices are selected by the State Conservation Committee then each district must offer to the public these 15 practices. In the theme of keeping the program a district program each district should have the opportunity to pick the practices that district believes would truly benefit their producers. This not only allows the district to have control of the program it will also allow districts to be more fiscally responsible with money they have received from the State Legislature.

I appreciate your time and consideration of my comments. Whether we approve of the changes to code or not, this has happened and we must work together to make the rules for the law the most applicable and useful for all. I would like to thank you and the committee for the work that you have put into the rules and wish you luck as you move forward in this process.

Sincerely,



Timothy W. VanReenen

JUL 15 2014 2:30 pm
11558

William J. Gellner
Supervisor, UOCD
483 Abby Ridge Rd.
St. Marys, WV 26170

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Belinda G. Withrow, Executive Assistant
West Virginia Conservation Agency
1900 Kanawha Blvd. E.
Charleston, WV 25305

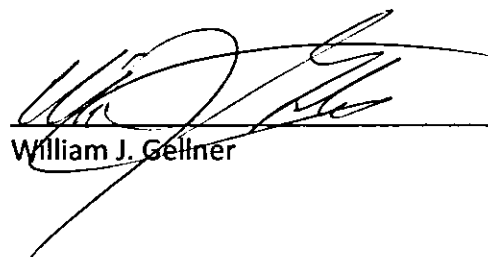
Subject: Comments on SB365 and Proposed Rule

It is my belief that a modification of SB365 should be asked for to change the scope of 19-21A-4a. (a) to more effectively and fairly serve the general public. Instead of removing all applications, there would only be the need to remove the applications submitted for participation in West Virginia Agency programs from elected or appointed district supervisors and their family members from the action by their represented conservation district. All such removed applications could be sent to the West Virginia Conservation Agency for processing by staff or by committee. The final action and approval on these application(s) could then be done by the State Conservation Committee.

The above change would remove any action by the elected district supervisor on any application that they or any of their family members might file for WVCA financial assistance programs or any other WVCA program. At the same time it would not disrupt, nor subject the applications from the general public to other oversight or conditions that are normally required in other Conservation Districts.

It is felt that the rest of the Proposed Rule shows considerable thought and sets forth conditions that help make all programs more consistent between Conservation Districts.

Respectfully submitted,


William J. Gellner

July 14th, 2014



Eastern Panhandle Conservation District

151 Aikens Center, Suite 2

Martinsburg, WV 25404

(304) 263 - 4376 - Fax 263 - 4986

June 30, 2014

Attn: Belinda Withrow
Executive Assistant
WVCA
217 Gus R. Douglass Lane
Charleston, WV 25312

Dear Ms. Withrow,

We the undersigned Supervisors of the Eastern Panhandle Conservation District put forth the following changes to the proposed "Title 63 Legislative Rules".

Sincerely,

James Moore
Chairman
Berkeley County Supervisor

Lin Dunham
Vice-Chairman
Morgan County Supervisor

Robert Boarman
Secretary
Berkeley County Supervisor

Floyd Kursery
Treasurer
Berkeley County Supervisor

Robert Gruber
Jefferson County Supervisor

James Michael
Morgan County Supervisor

Warren Micky
Jefferson County Supervisor

63CSR2
TITLE 63
LEGISLATIVE RULE
STATE CONSERVATION COMMITTEE

SERIES 2
WEST VIRGINIA CONSERVATION AGENCY FINANCIAL ASSISTANCE PROGRAMS

§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. As defined by state/county tax assessor.~~

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. W.Va. Code §19-21A-4 does not charge the state agency with reducing soil erosion and improving water quality.

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~~ local conservation district 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~~ July 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~~ monthly by the ~~State Conservation Committee~~ local conservation district. 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~~ local conservation district annually-approved program document.

5.4. A list of eligible BMPs shall be specified in the ~~State Conservation Committee~~ local conservation district 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~~ local conservation district 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.~~

683-2-8. 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.

683-2-9. 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 in a timely manner not to exceed 60 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. Violates cooperators right to privacy.~~

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. Violates cooperator right to privacy.~~

9.4. Applicants whose applications have been approved shall be provided with a financial assistance ~~cost share contract, financial assistance cost share~~ 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.

683-2-10. 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.~~ Citizens can always appeal in the court system.