

Form #7

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2005 AUG 18 P 2:25

OFFICE WEST VIRGINIA
SECRETARY OF STATE

[Signature]
Authorized Signature

\$6.80

EMERGENCY RULE QUESTIONNAIRE

DATE: August 18, 2005

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: (Agency Name, Address & Phone No.) West Virginia Conservation Agency

1900 Kanawha Blvd. East Charleston, WV 25305 (304) 558-2204

EMERGENCY RULE TITLE: 63CSR1 Legislative Rule State Conservation Committee

1. Date of filing August 18, 2005

2. Statutory authority for promulgating emergency rule:

§19-21A, §19-21B

3. Date of filing of proposed legislative rule: August 18, 2005

4. Does the emergency rule adopt new language or does it amend or appeal a current legislative rule? Amends current legislative rule.

5. Has the same or similar emergency rule previously been filed and expired?

No

6. State, with particularity, those facts and circumstances which make the emergency rule necessary for the immediate preservation of public peace, health, safety or welfare.

~~Senate Bill 670, passed during the regular legislative session 2005, gave authority at §19-21A-4-g-8 "To promulgate emergency and legislative rules to effectuate the provisions of this article as amended and reenacted by the Legislature during the regular session of the Legislature in the year two thousand five."~~

7. If the emergency rule was promulgated in order to comply with a time limit established by the Code or federal statute or regulation, cite the Code provision, federal statute or regulation and time limit established therein.

N/A

8. State, with particularity, those facts and circumstances which make the emergency rule necessary to prevent substantial harm to the public interest.

~~Senate Bill 670, passed during the regular legislative session 2005, gave authority at §19-21A-4-g-8 "To promulgate emergency and legislative rules to effectuate the provisions of this article as amended and reenacted by the Legislature during the regular session of the Legislature in the year two thousand five."~~

QUESTIONNAIRE

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

DATE: July 27, 2005

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: (Agency Name, Address & Phone No.) West Virginia Conservation Agency
1900 Kanawha Blvd East
Charleston, WV 25305
(304) 558-2204

LEGISLATIVE RULE TITLE: 63CSR1 Legislative Rule State Conservation Committee

1. Authorizing statute(s) citation §19-21A, §19-21B

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

Public Comment Period notice filed June 24, 2005

b. What other notice, including advertising, did you give of the hearing?

Notice of public comment period posted on agency web page (www.wvca.us), 14 Conservation District web pages and publicly posted at all District offices. Copies distributed to WV Department of Agriculture, WVU Extension Service, WV DEP, WV Division of Forestry, USDA Natrual Resources Conservation Service.

c. Date of Public Hearing(s) *or* Public Comment Period ended:

Public Comment Period ended July 25, 2005.

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)

July 28, 2005

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

Truman R. Wolfe, Executive Director
Carolyn A. Hefner, Legislative Liaison
Robin A. Holstein, Legislative Specialist
WV Conservation Agency
1900 Kanawha Blvd E
Charleston, WV 25305
Phone (304) 558-2204
Fax (304) 558-1635

- 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)

Carolyn A. Hefner, Legislative Liaison
Robin A. Holstein, Legislative Specialist

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.

N/A

- b. Date of hearing or comment period:

Public Comment Period June 24, 2005 through July 25, 2005

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

July 28, 2005

- d. Attach findings and determinations and reasons:

Attached Yes

West Virginia State Conservation Committee
State Conservation Agency

SUMMARY OF PROPOSED CHANGES

Rule Title: 63CSR1 – State Conservation Committee Regulations63CSR1 – State Conservation Committee Regulations

A. AUTHORITY: WV CODE §19-21A-3

B. SUMMARY OF RULE:

This rule establishes procedures for creating a conservation district and the election and appointment of conservation district supervisors to the State Conservation Committee and the State Conservation Districts, the expenditure of funds by the State Conservation Committee for watershed programs and compliance with the West Virginia Open Governmental Proceedings Act.

C. STATEMENT OF CIRCUMSTANCES WHICH REQUIRE RULE REVISIONS:

Promulgation of this rule is necessary in order for the State Conservation Committee and Conservation Agency to comply with election requirements of the U.S. Constitution and passage of SB 670. SB 670 was passed during the 2005 Regular Legislative Session. Changes in this rule re-define the procedures for appointing and electing District Conservation Supervisors. The revisions establish the qualifications of a candidate and the term of office.

Rule Title: 63CSR1 State Conservation Committee Regulations

Type of Rule: X Legislative Interpretive Procedural

Agency: State Conservation Committee, West Virginia Conservation Agency

Address: 1900 Kanawha Blvd. E.
Charleston, WV 25305

Phone Number: (304) 558-2204 Email: _____

Fiscal Note Summary

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

There is no anticipated impact on costs and revenues of state government resulting from the rule changes

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	0.00	0.00	0.00
Assets	0.00	0.00	0.00
Other	0.00	0.00	0.00
2. Estimated Total Revenues	0.00	0.00	0.00

Rule Title:

63CSR1 State Conservation Committee Regulations

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

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

The above estimates reflect no anticipated changes in costs to administer this rule.

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.

Date: July 28, 2005

Signature of Agency Head or Authorized Representative


Truman R. Wolfe, Executive Director

TITLE 63
LEGISLATIVE RULE
STATE SOIL CONSERVATION COMMITTEE

SERIES 1
STATE SOIL CONSERVATION COMMITTEE REGULATIONS

FILED

2005 JUL 29 P 3:15

OFFICE WEST VIRGINIA
SECRETARY OF STATE

§63-1-1. General.

1.1. Scope. - ~~These legislative regulations~~ This rule establishes rules and procedures for creating a conservation district and the election and appointment of conservation district supervisors for to the State Soil— Conservation Committee and the State Soil— Conservation Districts, the expenditure of funds by the State Conservation Committee for watershed programs and compliance with the West Virginia Open Governmental Proceedings Act

1.2. Authority. - W. Va. Code §19-21A and 19-21B.

1.3. Filing Date. -

1.4. Effective Date. -

OFFICE WEST VIRGINIA
SECRETARY OF STATE

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§63-1-2. Procedure for Appointing and Electing District Soil— Conservation Supervisors.

2.1. The governing body of a Soil— conservation district shall consist of the appointed and elected supervisors (W. Va. Code §19-21A-7).

~~2.1.A. The State soil— Conservation Committee shall appoint two (2) supervisors (W. Va. Code '19-21A-5F) to represent the district. They must be persons who by training and experience are qualified to perform the specialized leadership services which will be required of them and must be legal residents and landowners of the district (W. Va. Code '19-21A-7).~~

~~2.1.A1. These appointments shall be made by the State soil— Conservation Committee upon approval by the remainder of the Board of Supervisors, after consultation with the Committee's Field Agent, who, along with a representative of the governing body, has personally interviewed the proposed appointee. Final authority for all appointments shall rest with the State soil— Conservation Committee.~~

~~2.2.A 2-1.B.~~ Landowners within each county in the district shall nominate and elect a supervisor candidates for the non-partisan position of supervisor to represent the county of the districts governing body (W. Va. Code §19-21A-6). However, when any county shall have in effect eight hundred (800) or more agreements or cooperation with occupiers of land located within said county, then at the next regular election of supervisors, the land occupiers within said Each county are is entitled to elect two (2) non-partisan supervisors to represent said the county (W. Va. Code ' §9-21A-7).

~~2.2.B 2-1.B.1.~~ Any person twenty one (21) years of age or over, firm or corporation who holds title to three (3) or more acres of land lying within the boundaries of a district, or proposed district, shall be eligible to vote. Any registered voter may vote in his or her county for qualified candidates. Elections for non-partisan county supervisors will be held during the general election as non-partisan candidates.

~~2.1.B.2.~~ Any eligible voter residing within the boundaries of a county for which an election has

been announced by the State soil—Conservation Committee may file a nominating petition which has been subscribed by twenty-five (25) or more owners of land lying within the boundaries of the county in which the candidate resides; owners may sign more than one (1) such petition (W. Va. Code '19-21A-6). The petitions shall be delivered to the State soil—Conservation Committee thirty (30) days prior to the announced date of the election.

2.1.C. The State soil—Conservation Committee shall pay all election expenses for electing supervisors; shall supervise the conduct thereof; shall prescribe governing the conduct of such elections and the determination of the eligibility of voters therein and shall make public the results thereof (W. Va. Code '19-21a-6).

2.1.C.1. Ballots shall be prepared by the State soil—Conservation Committee with the names of all qualified candidates appearing in alphabetical order of surnames with a square before each name and a direction to insert an X mark in the square before the name of the candidate of the voter's choice. All owners of land lying within the district shall be eligible to vote for one (1) candidate from the county in which they reside, except when at least eight hundred (800) cooperative agreements are in effect in the county, they shall be eligible to vote for two (2).

2.1.C.2. The Field Agent of the State Committee will establish one or more polling places within the county and will designate the day and the hour that the polls will open. Such designation will be published in at least two (2) newspapers circulated within the county at least sixty (60) days before and again at least seven (7) days before the date of the proposed election.

2.1.C.3. The Committee will appoint the district clerk of each respective district as polling superintendent to assist in the conduct of the election. The polling superintendent will be responsible for receiving application for absentee ballots from eligible voters from all counties within said district, and for the conduct of all absentee voting according to the guidelines established elsewhere in these regulations.

2.1.C.4. The Field Agent will appoint one (1) polling officer for each polling place and said officer will be in charge of the voting at that polling place.

2.1.C.5. The Field Agent will deliver all supplies necessary for the conduct of the election to the polling officers at least three (3) days prior to the date of the election.

2.1.C.6. A voter residing within the county may vote at the polling place most convenient.

2.1.C.7. The eligible voter will sign a poll list, giving his name, residence location and acreage of land and will then proceed to vote.

2.1.C.8. The polling officer shall immediately upon the closing to the polls, enter the name of the last person voting on the appropriate form and offer his or her signature to the same. The polling officer will then place all election papers in safekeeping until the Field Agent arrives to assist the polling officer in the counting of the ballots. The unofficial results of the election are then posted at the polling place and the ballots and official forms of the election are delivered to the office of the State soil—Conservation Committee. The Executive Committee of the State soil—Conservation Committee then tabulates the results of all polling places within the county and certifies the winner or winners to the governing body of the district.

2.1.C.9. It shall be permissible to vote by absentee ballot if the eligible voter will not be in the county

on the day of the election. A supply of ballots, applications and other appropriate forms for use in absentee balloting shall be delivered to the polling superintendent at least thirty (30) days prior to the election. Said polling superintendent will receive applications for absentee ballots in person or in writing during the thirty (30) days immediately preceding the election. The applicant shall state his name, residence, location and acreage of land owned within the county and the polling superintendent shall enter this information on Roster of Absentee Voters. The polling superintendent, when satisfied that the applicant is an eligible voter, shall deliver in person or by mail, an absentee ballot and written instructions for marking and forwarding the ballot. All absentee ballots, to be validly cast, must be received by the polling superintendent at least one (1) day prior to the date of the election. The polling superintendent will keep all absentee ballots in a safe place until the Field Agent picks them up and delivers them to the proper polling place within the county where they will be counted and included in the election results of that polling place.

2.3 Any candidate meeting the qualifications to hold the office of conservation district supervisor, outlined in subsection 2.4, shall file a nominating petition which has been signed by twenty-five (25) or more resident property owners within the boundaries of the county in which the nominee resides; owners may sign more than one (1) nominating petition (W.V. Code § 19-21A-6). The petitions, certified statement of land ownership and residency, and statement of qualifications shall be delivered to the state conservation committee 270 days prior to the general election.

2.4 Qualifications for county supervisor:

2.4.A Must own a minimum of three (3) acres within the county where he or she is running for office.

2.4.B Must reside in the county where he or she is running for office.

2.4.C Must be an active cooperators with at least five (5) years of land management experience.

2.4.D Must have a strong working interest in the conservation of natural resources:

2.4.D.1 Must have knowledge of conservation best management practices either from practical experience or education experience. For example: confined feeding areas; filter strips; alternative watering systems.

2.4.D.2 Must possess experience with related organizations or units of government. For example: Related organizations could include watershed associations, grassland committees, livestock associations, associate members, USDA Farm Service Agency.

2.5 2-1-C-10. All supervisors shall remain in office until the election or appointment and swearing-in the oath of office of the successor or an official resignation has been received in the office of the State Soil Conservation Committee.

2-1-C-11. Whenever a vacancy occurs in the ranks of elected supervisors it shall be filled by appointment, utilizing the procedures used in appointing district supervisors as described elsewhere in these regulations, except that all appointments to fill vacancies in elected supervisor positions shall be limited to the remaining portion of the unexpired term.

2.6 When a vacancy of an elected supervisor occurs, it shall be filled by appointment of the State Conservation Committee, upon recommendation of the appropriate conservation district. The appointment shall be limited to the unexpired term.

2.7 Associate supervisors shall be appointed by districts as deemed necessary. Associate supervisors may have the same duties as elected supervisors, but may not vote or make motions. Duties and responsibilities of associate supervisors will be determined by the board of supervisors in their by-laws or policy manual. Expenses for associate supervisors will be determined at the discretion of the local conservation district board.

2.8 The State Conservation Committee may appoint and authorize a subcommittee to review candidates' petitions, qualifications and applications, and can review and report their findings to the State Conservation Committee. The final determination shall be made by the State Conservation Committee. The Committee shall certify a list of eligible candidates to the Secretary of State in compliance with §3 of the State Code of West Virginia.

§63-1-3. Expenditure of Funds by the State Soil— Conservation Committee for Watershed Programs.

3.1. Guidelines. ~ The following policies and guidelines shall govern the expenditures of funds by the State Soil— Conservation Committee for watershed programs that have or may be made available to it by the state legislature.

3.1.A. State watershed improvement program funds will only be used to aid legally constituted soil conservation districts or watershed improvement districts in meeting their obligation of facilitating the planning and operation phase of approved watershed protection and flood prevention programs.

3.1.B. State watershed improvement program funds will be made available only when other funds cannot be obtained and shall be considered ~~supplementary~~ supplemental to the capital resources of sponsoring soil conservation districts or watershed improvement districts in cooperative action with the federal government, local units of government and communities concerned with approved watershed programs.

3.2. Expenditures of State Watershed Improvement Program Funds. ~ State watershed improvement program funds may be spent for the following purposes subject to the procedures outlined in section 3.3 of ~~these~~ this rules.

3.2.A. Purchase land or easements on a negotiated price basis after certification by ~~three (3) shareholders a state certified appraiser, one (1) representing the landowner, one (1) representative of the sponsoring soil conservation district and, one (1) representative of the State Soil— Conservation Committee, and a review by a state certified appraiser~~ that the negotiated value does not exceed a fair market value price.

3.2.B. Purchase land, easements or other right-of-way at values resulting from condemnation obstructions.

3.2.C. Negotiate with proper officials on the relocation of roads, public utility lines, or similar actions.

3.2.D. Pay court costs, attorney fees or similar expenses directly connected with any of the above actions.

3.2.E. Assist with expenses incurred by soil conservation districts or watershed improvement districts in the performance of work related to any watershed activities.

3.3. Operating policies to govern the acquisition of land rights and the general use of state funds.

3.3.A. Each soil conservation district or watershed improvement district anticipating a need for supplementary state watershed improvement program funds shall prepare and submit to the State Soil Conservation Committee by June 1 of each year, for its action, a comprehensive plan of procedure and statement of intent relative to the acquisition of land rights covering such points as:

3.3.A.1. Estimated total fund needs for land rights;

3.3.A.2. Estimated value of local contributions to this phase of the project;

3.3.A.3. Probable recovery value from land sales; and

3.3.A.4. A description of the (1) methods used, or to be used, to determine land values and (2) a realistic evaluation of the ability of local people to help themselves in the development and completion of a watershed improvement program.

3.3.B. Title to all property acquired shall be vested in the State ~~Soil~~— Conservation Committee.

3.3.C. Easement or other land rights shall be obtained either by the local ~~soil~~ conservation district or watershed improvement district. An up-to-date listing of all easements (state and district) is to be kept in the district office. Easements should be recorded in the county land records as soon as procured. The list should be checked against courthouse records biannually to ascertain if property has been sold. If sold, the new owner is to be contacted and made aware of the easement.

3.3.D. The sale of the land purchased with state watershed funds must be approved in advance by the State ~~Soil~~— Conservation Committee.

3.3.E. All land purchased with state funds will be sold, subject to necessary easements, as soon as practical. Retention of the area in and above a given structure may be kept for public use development on approval of the State ~~Soil~~— Conservation Committee.

3.3.F. Prior to the selling of such land, an appraisal shall be made by ~~three (3) freeholders~~ a state certified appraiser, a representing representative of the local ~~soil~~ conservation district or the watershed improvement district and a representative of the State ~~Soil~~— Conservation Committee. This appraisal must accompany all proposals to the State ~~Soil~~— Conservation Committee to sell lands acquired with state funds.

3.3.G. Before any property purchased with money from this fund is sold, first refusal shall be given to the property owner from whom it was purchased or his or her heirs. If the previous owner or his or her heirs choose not to repurchase the property notice of the sale must be given. The notice shall be paced in three (3) issues at least a week apart, in a newspaper of general circulation in the ~~soil~~ conservation district or watershed improvement district affected. The notices are to call for the bids with the property to be sold to the highest bidder. The State ~~Soil~~— Conservation Committee reserves the right to reject any and all bids. And, further, the provisions of this section shall not apply where acquired lands are being sold or disposed for a public use to the State of West Virginia or its political subdivisions. In lieu thereof, consideration other than the present commercial or market value of the property may be used as a basis for the sale or transfer.

3.3.H. Proceeds from the sale of land or products from such areas are to be immediately transmitted to the State ~~Soil~~— Conservation Committee by the ~~soil~~ conservation district or watershed improvement district.

3.3.I. Improvements other than items covered in watershed work plans are not to be made during the period of ~~soil~~ conservation district or watershed improvement ownership without specific approval of the State ~~Soil~~— Conservation Committee.

3.4. Representation of the State Soil— Conservation Committee. ~ The State Soil— Conservation Committee may appoint and authorize a subcommittee, including its Executive Secretary, to act for the Committee in any matters related to this subject.

§63-1-4. Procedures for Complying with Open Governmental Proceedings Law the West Virginia Open Governmental Proceedings Act

4.1. The State Conservation Committee and Conservation Districts are required to comply with §6-9A.1, the West Virginia Open Governmental Proceedings Act.

4.2 4.1. Filing in the state register. ~ The time, date and place of all regularly meetings of the State Soil Conservation Committee shall be submitted to the office of the Secretary of State and by news release to the media and public at large at least thirty (30) days prior to the convening of the meeting.

4.3 4.2. Special meetings filed ~~on~~ in the state register. ~ The time, date, place and purpose of all special meetings of the State Soil— Conservation Committee shall be submitted to the office of the Secretary of State and by news release to the media and public at large as soon as possible, but no less than twenty-four (24) hours in advance of such meeting.

Holstein, Robin

From: Patrick H. Webster [puddy@hardynet.com]
Sent: Friday, July 22, 2005 4:01 PM
To: Public Comments
Subject: State Conservation Committee Regulations

There is no use to adopt new rules or regulations given that the State Conservation Committee does not follow the regulations that were adopted previously. An example of this is the failure of the Lost River Watershed to register with the State Government as required by legislation to legally exist. Yet the State and Federal Government appropriate funds for projects that receive inadequate oversight to assure that the conservation goals and purposes are being met for the watershed and the environment. The practice of accepting the evaluation of a single source or person without verification through the study of the data and on site observations, or investigation by a qualified expert is a failure of both the State Conservation Agency and our Federal Agency to safeguard both the environment and the common tax payer. From all indications to this point views held differing from government agents are summarily dismissed.

Patrick H. Webster
824 Lower Cove Run Road
Mathias, WV 26812

7/25/2005

Holstein, Robin

From: Patrick H. Webster [puddy@hardynet.com]
Sent: Friday, July 22, 2005 4:08 PM
To: Public Comments
Subject: WV Conservation Agency Regs

First of all, since the State Conservation persons have been unconstitutionally elected for years, they should have been disbanded immediately. Secondly, most of the community does not know who or what the West Virginia Conservation Agency is or their purpose. And it is for sure they don't know how much of their tax dollars are being wasted. End it now (not 2008) and start from scratch to make it legal.

Joem Webster
824 Lower Cove Run Road
Mathias, WV 26812

7/25/2005

Carolyn

COPY
RH/TW/LH

RR 1, Box 143
Coxs Mills, WV 26342
July 8, 2005

RECEIVED	
JUL 11 2005	
By 120-11	
01553	

State Conservation Committee
West Virginia Conservation Agency
1900 Kanawha Blvd. East
Charleston, WV 25305-019

Gentlemen:

Throughout the Legislative Rule "appointment" appears several times. Appointment seems to be what cause the dilemma. Appointment of the State Committee or the District Supervisor should never happen except to fill a vacancy until the next election.

2.2.B Non-partisan elected positions at the county level: i.e. Bd. Of Ed. Members, are generally held in the primary elections. Should not these non-partisan positions be held at the same time?

2.3 Two Hundred Seventy (270) days prior to the election is entirely too long; 90 days would be a better time frame.

2.4 For instead of four.

2.5 (Last sentence add) or the next election whichever comes first. A person elected in May might pass on in August. The State Committee should only fill the vacancy until the next election.

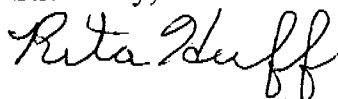
3.3.A Each (soil) conservation Comes out

3.3.E All land (purchased) with state funds... I believe.

In Section 3 the State Soil Conservation Committee does have many delegated task to perform, however, they should not delegate any of those task to another or a subcommittee.

Sorry we won't be able to be present for the oral comments.

Sincerely,

A handwritten signature in cursive script that reads "Rita Huff".

Rita Huff, Supervisor
West Fork Conservation District

A handwritten signature in cursive script that reads "Denzil Huff".

Denzil Huff, Associate Supervisor
West Fork Conservation District

Holstein, Robin

From: Masters, Marcia
Sent: Thursday, June 30, 2005 2:02 PM
To: Holstein, Robin
Subject: 63CSR1

As I am sure you are probably already aware there is an error on item 2.4 of the document it reads 2.4 Qualifications four county supervisor:

It should read 2.4 Qualifications for county supervisor

I know you didn't write this, but hopefully you will know who did and they can make the needed changes before the Legislators and Public view the document.

Thanks a bunch,
Marcie



West Virginia Conservation Agency



**Governor
Joe Manchin III**

**Chairman
Gus R. Douglass**

**Executive Director
Truman R. Wolfe**

July 28, 2005

Summary of Comments Received Relating to 63CSR1

Received from: Patrick H. Webster
824 Lower Cove Run Road
Mathias, WV 26812

Received via: E-Mail
July 22, 2005

Comments: There is no use to adopt new rules or regulations given that the State Conservation Committee does not follow the regulations that were adopted previously."

Amendments: None

Reason: Mr. Webster's comments do not pertain to the substance of the legislative rule. A written response will be provided.

Received from: Joem Webster
824 Lower Cove Run Road
Mathias, WV 26812

Received via: E-Mail
July 22, 2005

Comments: "...State Conservation persons have been unconstitutionally elected for years..."

Amendments: None

Reason: Mrs. Webster's comments do not pertain to the substance of the legislative rule. A written response will be provided.

Received from: Denzil & Rita Huff
RR1 Box 143
Coxs Mills, WV 26342

Received via: U.S. Postal Mail
July 11, 2005

Comments: 1. "Appointment of the State Committee or the District Supervisor should never happen except to fill a vacancy."

Amendments: None

Reason: This comment would not apply as the State Committee may only appoint based upon a vacancy. Appointments only fill the unexpired term.

Comments: 2. §"2.2B ... Bd. Of Ed. Members, are generally held in the primary elections. Should not these non-partisan positions be held at the same time?

Amendments: None

Reason: Conducting these elections during the General Election period was based upon the recommendation of the Council of the Judiciary and is designed to allow for a staggered election cycle.

Comments: 3. §"2.3 Two Hundred Seventy (270) days prior to the election is entirely too long; 90 days would be a better time frame."

Amendments: None

Reason: The 270 day time frame was established in order to provide the sub-committee time for the review and certification of qualifications of the candidates, and make recommendation to the State Committee. The regular, public meetings of the State Committee occur quarterly. A listing of all certified candidates must be provided to the Secretary Of State in accordance with the established election process timeline.

Comments: 4. §"2.4 For instead of four."

Amendments: The correction will be made.

Reason: Typographical error.

Comments: 5. §"2.5 (Last sentence add) or the next election whichever comes first ... The state Committee should only fill the vacancy until the next election."

Amendments: None

Reason: The State Committee may only fill a vacancy for the unexpired term.

Comments: 6. §"3.3A each (soil) conservation ... Comes out

Amendments: Accepted

Reason: The word "soil" is no longer part of the Conservation Committee name, nor of the Districts.

Comments: 7. §"All land (purchased) with state funds ... I believe."

Amendments: Accepted

Reason: Typographical error.

Comments: 8. "In Section 3 the State Soil Conservation Committee does have many delegated task to perform, however, they should not delegate any of those task to another or a subcommittee."

Amendments: None

Reason: The State Committee is comprised of members representing various federal and state agencies. In order to effectively fulfill the duties assigned within Code, the State Committee and Executive Secretary are needed. The Executive Secretary and subcommittees of the State Committee make recommendations to the State Conservation Committee. The State Conservation Committee makes the final decision. As example, it would not be reasonable to expect to review and certify in excess of 110 candidates (two from each of the 55 counties during the first election) for Supervisor during the regular meeting. Therefore, a sub-committee will be tasked to review and certify all candidates and present their findings for approval to the State Committee.

A written response to Mr. & Mrs. Huff's comments will be provided.

Received from: Ms. Marcia Masters
Guyan Conservation District
2631 5th Street Road
Huntington, WV 25701

Received via: E-Mail
June 30, 2005

Comments: "... there is an error on item 2.4 of the document it reads 2.4 Qualifications four county supervisor: It should read 2.4 Qualifications for county supervisor"

Amendments: Accepted

Reason: Typographical error. A response will be provided.