



**WEST VIRGINIA SECRETARY OF STATE**

**MAC WARNER**

**ADMINISTRATIVE LAW DIVISION**

**eFILED**

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Office of West Virginia  
Secretary Of State

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**NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE EXEMPT, INTERPRETIVE OR PROCEDURAL  
RULE**

AGENCY: Homeland Security And Emergency Management TITLE-SERIES: 170-03

RULE TYPE: Procedural Amendment to Existing Rule: No Repeal of existing rule: No

RULE NAME: RULES OF WEST VIRGINIA STATEWIDE  
INTEROPERABLE RADIO NETWORK

CITE STATUTORY AUTHORITY: §§6-9A-1, et seq., 15-14-1 et seq

This rule is filed with the Secretary of State. This rule becomes effective on the following date:

September 23, 2018

**BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENT IS TRUE AND CORRECT.**

**Yes**

**Daniel K Armstrong -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.**

**TITLE 170  
PROCEDURAL RULE  
WEST VIRGINIA DIVISION OF HOMELAND SECURITY AND EMERGENCY  
MANAGEMENT**

**SERIES 3**

**RULES OF WEST VIRGINIA STATEWIDE INTEROPERABLE RADIO NETWORK  
STATEWIDE INTEROPERABILITY EXECUTIVE COMMITTEE AND REGIONAL  
INTEROPERABLE COMMITTEES**

**§170-03-1. General.**

1.1. Scope: These rules shall regulate the governance of meetings held before the Statewide Interoperability Executive Committee with regard to hearings, the Regional Interoperability Committees and the discharge of administrative duties. Nothing in these rules should be construed to limit the Director's authority to manage Division of Homeland Security and Emergency Management operations as it relates to SIRN.

1.2. Authority W.Va. Code §§6-9A-1, et seq., 15-14-1 et seq.,

1.3. Filing Date August 24, 2018.

1.4. Effective Date September 23, 2018.

**§170-03-2. Notice of Meetings.**

2.1. All regular meetings and special meetings shall be open to the people of the State in accordance with West Virginia §6-9A-1 *et seq.* and that reasonable advance notice of the time, date and location of such meetings being convened: Provided, however, that governing bodies may hold executive sessions as part of any duly convened regular, special or emergency meeting under certain circumstances as permitted by law.

2.2. The notice of meeting shall clearly state the date, time and readily identifiable street address of the location of the meeting, along with any room information. Such notice will be published, at a minimum, on the Secretary of State's website and such other publicly accessible locations as the committee deems in the public's best interest.

2.3. The notice of meeting shall also indicate the email address and mailing address or other relevant contact information for the Chairperson along with any other instructions for how a member of the public may reserve time to address the committee.

**§170-03-3. Conduct of Meetings.**

3.1. All meetings will be open to the public, although the Committee may either on its own initiative or upon request of an interested party, hold an executive session during a meeting after the presiding

officer has identified the authority under W. Va. Code §6-9A-4 for the holding of such executive session and has presented it to the governing body and to the general public.

3.2. Persons desiring to address the Committee are encouraged to make arrangements in advance with the committee. Advanced arrangements are not required as such a person may sign in prior to the scheduling commencement of any regular or emergency meeting. Any speaker shall provide their full name, mailing address, telephone number, email address and subject to be addressed. Presentations shall be limited to five minutes, unless otherwise designated by the Committee.

3.3. Circumstances may arise which necessitate one or more Committee members from personally appearing. Members may participate in the meeting by telephone or video conference to the extent as if they were physically present. A speakerphone or other such device shall be used to enable those present, including the public, to hear & see the committee members that are participating remotely. Members shall make arrangements to appear remotely in advance with the Chairperson.

3.4. Committee members or their designees shall not have a felony conviction nor pending felony charges.

3.5. The Chairperson may order a criminal background check on any designee, committee member or programmer to be performed without cost to that individual.

3.6. Officers:

3.6.1. The Chairperson shall open the meetings and keep the meetings orderly. The Director of the Division of Homeland Security and Emergency Management shall serve as the chairperson. The Chairperson shall prepare an accounting of all money disbursed from and deposited to the SIRN account in accordance with 15-14-9(d).

3.6.2. The Vice Chairperson shall be elected by a simple majority of the members present and shall serve for a period of two years. The Vice Chairperson will perform the duties of the Chairperson in their absence.

3.6.3. The Recorder shall keep minutes of all meetings and insure those minutes are published in accordance with paragraph 5.0 of these rules. The recorder will also maintain an agenda for future meetings.

3.6.4. The committee may appoint such further officers as deemed necessary to carry out the purpose of the committee. Such additional officers serve at the pleasure of the Chairperson.

3.7. Rule Making:

3.7.1. The Chairman may establish additional procedural rules as may be necessary for the operation of the Committee with the consent of the Committee.

3.7.2. Any additional procedural rules shall not conflict with these rules.

#### **§170-03-4. Emergency Meetings**

### 170CSR3

4.1. In the event of a situation requiring immediate official action, the Committee will file an emergency meeting notice prior to the meeting. Such notice will contain the date, time, place and purpose of the meeting along with the facts and circumstances of the emergency.

4.2. The minutes of the Committee will be open to inspection of any member of the public at the Charleston office of the WV DHSEM in accordance with W.Va. Code §6-9A-5 and in accordance with paragraph 5 of these rules.

#### **§170-03-5. Minutes.**

5.1. Minutes shall be kept of all meetings and shall be posted, at a minimum, on the SIRN website.

5.2. Executive session portions of any meetings will be noted and include the duration of the closed session and topics discussed.

5.3. Minutes shall reflect any votes taken in accordance with paragraph 7.0.

5.4. The draft minutes from each meeting shall be sent to each committee member after each meeting for comment. Any comments or proposed amendments thereto, shall be read aloud at the next meeting of the committee. After reading amendments, if any, a vote shall be taken to approve the minutes or to include amendments. Once approved by the Committee, the finalized minutes shall be posted in accordance with paragraph 5.1.

#### **§170-03-6. Executive Sessions.**

6.1. Any portion of a meeting not open to the public is to be noted as an Executive Session on the agenda and shall be conducted in accordance with W. Va. § 6-9A-4.

6.2. The presiding officer shall identify the authorization for holding the executive session which shall be noted by the recorder in the minutes of the meeting.

6.3. The members present shall determine by a majority vote to convene the executive session in accordance with Paragraph 7.0.

6.4. Votes shall not be held while in Executive Session.

#### **§170-03-7. Quorum & Voting.**

7.1. A quorum will be the simple majority of the SIEC members as set forth in W. Va. § 15-14-5 participating either in person, by phone, video conference or other committee members participating remotely.

7.2. Attendance shall be recorded in the minutes of the meeting.

7.3. If a quorum is not present, then no items shall be voted upon.

7.4. Any item that is not eligible to be voted on shall be placed on the agenda for the next scheduled meeting. Votes shall be called by the presiding Officer.

7.5. Votes may be cast by voice or can be by roll-call, if requested.

7.6. Votes shall be recorded by the presiding Officer or a designee and published in the minutes of the meeting. If a roll-call vote is requested the minutes shall indicate:

7.6.1. the name of the person;

7.6.2. the SIEC member represented by that person; and

7.6.3. if they voted “yay” “nay”, “abstained” or “not present”.

7.7. No vote shall be cast prior to the presiding Officer calling for a vote and once a vote is closed and tallied, that vote shall not be reopened during that meeting.

#### **§170-03-8. Regional Interoperability Committee (RIC) Members.**

8.1. Members shall be nominated to each regional Committee by the organizations listed in W. Va. Code §15-14-8 or current members of the SIEC or RIC. Existing Members of each RIC will vote to confirm or deny the nomination after the nominee is permitted to present their nomination, discipline represented, expertise and other information useful to the committee in considering the nomination.

8.2. To be eligible for membership, the nominated member’s normal place of work shall be located in the geographic region served by the RIC.

8.2.1. No more than two Individuals from any RIC should be from the same agency unless that RIC votes to approve the additional agency member.

8.2.2. If a member’s agency, work location, or both changes then that member shall be considered as a newly nominated member and subject to a committee vote to preserve the regional integrity and agency diversity.

8.3. RIC members shall vote on a chairperson who will serve a term of 2 years for each designated homeland security region. The Chairperson shall be responsible for conducting the business of the RIC. The Chairperson may succeed themselves.

8.3.1. Regions 1, 3 & 5 shall hold elections on years ending in odd numbers.

8.3.2. Regions 2, 4 & 6 shall hold elections on years ending in even numbers.

8.3.3. Each Regional Committee shall elect a Vice Chairperson and Recorder.

8.3.3.a. The Vice Chairperson shall be responsible for conducting the business of the RIC in the absence of the Chairperson. The Vice-Chairperson shall assume all duties, responsibilities and authority of the Chairperson in his/her absence. The Vice-Chairperson shall be elected by a majority vote of the RIC and shall serve a term of two years. The Vice-Chairperson may succeed themselves.

8.3.3.b. The Recorder shall be responsible for keeping a fair and accurate record of the business transacted in the RIC meetings. The Recorder shall cause the minutes of the business meetings to be reduced to writing and presented to the RIC for approval. The Recorder shall be elected by a majority vote of the RIC and shall serve a term of two years. The Recorder may succeed themselves.

8.4. The Chairman or their designee must be physically present at a minimum once quarterly per calendar year for the SIEC to ensure regional representation. If a RIC is not physically represented once quarterly per calendar year, then the Chairman of the RIC is removed from the position and is ineligible to serve for a period of 12 months from removal from office.

8.4.1. The Counties Commissions located in each region may nominate no more than one representative to participate in the RIC; and

8.4.2. Any municipal government in each region may nominate no more than one representative to participate in the RIC.

**§170-03-9. Statewide Interoperability Coordinator Appointment.**

9.1. The Statewide Interoperability Coordinator (Coordinator) shall be appointed by the Director of the West Virginia Division on Homeland Security and Emergency Management and the Coordinator reports directly to the Director.

9.2. In the event of a vacancy in the Coordinator's position, the Director may appoint a temporary coordinator to assume the duties while a permanent replacement is found.

9.3. When there is a vacancy, any member of the SIEC may put forward a candidate for the Coordinator position. Any candidate put forward by a member of the SIEC shall be considered by the Director. The Director may ask members of the SIEC to assist in the interviewing process so long as the member has not put forward a candidate for the position.

9.3.1. Any SIEC member invited to interview candidates for the coordinator position that participates in the interview shall keep notes of the interview.

9.3.2. The interviewees shall be scored after each interview and ranked by each interview team member. Upon completion of the interviews, the team shall make a recommendation to the Director based on the rank order of each candidate.

9.3.3. The notes created during the interviews are the records of the Division of Homeland Security and Emergency Management and shall be turned into the division at the conclusion of the interviews. If the interviewer is participating by phone, the notes can be scanned and emailed to a designated individual for inclusion in the record.

9.3.4. The Director may accept the recommendations of the interview team or reject them. If the recommendations of the interview team are rejected by the Director then a new interview team may be convened, if needed.