

DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL
DIVISION OF SOIL AND WATER CONSERVATION

Statutory Authority: 7 Delaware Code, Section 3905 (7 **Del.C.** §3905)

PROPOSED

PUBLIC NOTICE

5105 Regulations Governing the Election of Members of County Board of Conservation District Supervisors

REGISTER NOTICE
SAN # 2010 - 20

1. TITLE OF THE REGULATIONS:

7 **DE Admin. Code** 5105 - Regulations Governing the Election of Members of the County Board of Conservation District Supervisors

2. BRIEF SYNOPSIS OF THE SUBJECT, SUBSTANCE AND ISSUES:

Current regulations contain a discrepancy between voter qualification in Kent and New Castle Counties as compared to voter qualification in Sussex County. In Kent and New Castle Counties, qualified voters must hold title to land in the Specified Board Supervisor area. In Sussex County, qualified voters must hold title to land in Sussex County. This modification would change voter eligibility standards in Sussex County to mirror those in Kent and New Castel Counties.

3. POSSIBLE TERMS OF THE AGENCY ACTION:

This modification was requested by the Sussex Conservation District Board of Supervisors and the Delaware Association of Conservation District in an effort t to keep *Title 7, Chapter 39*, consistent and uniform throughout each of Delaware's three Conservation Districts.

4. STATUTORY BASIS OR LEGAL AUTHORITY TO ACT:

Title 7, Chapter 39, §3905

5. OTHER REGULATIONS THAT MAY BE AFFECTED BY THE PROPOSAL:

None

6. NOTICE OF PUBLIC COMMENT:

Individuals may present their comments or request additional information by contacting Robert Palmer of the District Operations Section, Division of Watershed Stewardship, 89 Kings Highway, Dover, DE 19901, (302) 739-9921. A public hearing on these proposed amendments will be held on February 24, 2011 at 7:00 P.M. in the DNREC Auditorium, 89 Kings Highway, Dover, DE 19901. The record will remain open for written comments until 4:30 PM, March 26, 2011.

7. PREPARED BY:

Robert R. Palmer

5105 Regulations Governing the Election of Members of County Board of Conservation District Supervisors

1.0 Authority.

These regulations are promulgated pursuant to the authority provided by 7 **Del.C.** §3905.

2.0 Definitions.

"Cooperator" means a landowner for whom a district provides, or has agreed to provide, in accordance with this chapter, services, material and equipment with respect to the landowner's land within the district;

"Farmer" means any person holding legal title to a farm and being actively engaged in farming operations;

"Landowner" or **"owner of land"** means and includes any person, firm or corporation who shall hold title to any land in this State.

3.0 Eligibility of Candidates

- 3.1 The elected members of the Kent and Sussex Districts shall be farmers residing in those respective counties. In New Castle County, two (2) of the elected supervisors shall be farmers residing in the southern portion of the County, and the remaining two (2), who shall not be farmers, shall reside in the northern portion of the County, according to a division established by the Secretary of the Department of Natural Resources and Environmental Control, 7 Del.C., Section 3907(b).
- 3.1.1 The division of New Castle County established by the Secretary for this purpose is that the northern portion of the county shall include all land north of the Chesapeake and Delaware Canal, and the southern portion shall include all land south of the Canal.
- 3.2 The Department further requires that a candidate shall reside in a specified section of the District to provide geographical distribution of supervisors in order to facilitate the performance of their duties.
- 3.3 The four Supervisor Areas in each county shall be shown on a map prepared by the Board of District Supervisors and approved by the Department.

4.0 Nomination of Candidates

- 4.1 The County Board of Supervisors may nominate qualified candidates including supervisors who shall be eligible to succeed themselves if otherwise qualified.
- 4.2 Other nominations may be made provided: (a) each nomination is supported by ten (10) signatures of landowners in the Conservation District, and (b) that the nomination with supporting signatures is presented to the County Board of Supervisors by the deadline set for nominations which shall be at least two weeks in advance of the election date.
- 4.3 The County Board of Supervisors shall invite other nominations through press and radio news releases at least once in each of the two weeks preceding the deadline for nominations.

5.0 Ballots

The County Board of Supervisors shall prepare the ballots for the election after review and acceptance of the nominations.

6.0 Supervision of Polls

Each voting place shall be supervised by (a) two members of the County Board of Supervisors other than those that may be candidates for reelection, or (b) two landowners who are cooperators in the soil conservation program and designated by the County Board, or (c) one each from (a) and (b) above.

7.0 Distributing and Collecting Ballots

- 7.1 The Supervisors of Polls appointed under V above shall obtain the ballots from the office of the Board of District Supervisors and take them to the designated voting place.
- 7.2 The Supervisors of Polls shall determine the eligibility of those voting and maintain a roster of names of those voting.
- 7.3 At the close of the voting period, the Supervisors of Polls shall seal the ballot box and deliver the ballot box and the roster of names of those voting to the County Board of Supervisors.

8.0 Qualification of Voters

- 8.1.4 ~~In Kent and New Castle Counties, Landowners~~ who shall declare in writing that they hold title to any land in the Supervisor area holding an election shall be eligible to vote.
- 8.1.2 ~~In Sussex County, landowners who shall declare in writing that they hold title to any land in Sussex County shall be eligible to vote in all Supervisor area elections.~~
- 8.2 When land is jointly owned, for example husband and wife, each owner shall be eligible to vote.
- 8.3 Landowners shall be entitled to only one vote regardless of the number of tracts of land owned.
- 8.4 In the case of corporations, only one vote may be cast regardless of the number of owners or number of tracts of land owned.
- 8.5 The written statement indicating ownership by a corporation shall include an affirmation that no other person is voting for the corporation.

9.0 Voting Places

There shall be at least (3) but not more than five (5) polling places located within the Supervisor Area holding an election.

10.0 Hours of Voting

- 10.1 Urban Supervisor Areas – The voting place shall be open between the hours of 2:00 p.m. and 8:00 p.m.
- 10.2 Farmer Supervisor Areas – The voting place shall be open for a period of not less than six (6) hours, the precise hours to be designated by the Board of District Supervisors and publicized as required in XI below.

11.0 Counting Ballots

- 11.1 The County Board of Supervisors, in executive session, excluding incumbent supervisor candidates, shall count the ballots cast, check the number of ballots cast against the number of names on the roster of voters, and determine who has been elected.
- 11.2 They shall then seal the ballot boxes and forward the ballots and the roster of names for each voting place to the Director of Soil and Water Conservation with a report on the result of the election.

12.0 Notice of Pending Election

- 12.1 Public notice shall be given at least one (1) week in advance of the election. Such notice shall appear in at least two (2) newspapers distributed in the County. The notice shall include:
 - 12.1.1 the names of the candidates for the County Board of Supervisors;
 - 12.1.2 the date of the election;
 - 12.1.3 the hours the voting places will be open; and
 - 12.1.4 the location of the voting places.
- 12.2 In addition, posters announcing the coming election shall be displayed at each of the voting places at least one (1) week in advance of the election.

13.0 Action When Only One Candidate is Nominated

In the event that there is only one (1) nomination for a candidate to the Board of District Supervisors after due notice has been given and the time for nomination has elapsed, the Board of District Supervisors shall not hold an election, but shall declare the nominee elected, provided he meets all legal requirements. They shall so notify the Director of Soil and Water Conservation and they shall also give public notice of their actions.

14 DE Reg. 773 (02/01/11)