

KEN HECHLER
Secretary of State

MARY P. RATLIFF
Deputy Secretary of State

JAN CASTO
Deputy Secretary of State

Telephone: (304) 558-6000
Corporations: (304) 558-8000
FAX: (304) 558-0900
E-Mail WVSOS@Secretary.State.WV.US



STATE OF WEST VIRGINIA
SECRETARY OF STATE
Building 1, Suite 157-K
1900 Kanawha Blvd., East
Charleston, WV 25305-0770

WILLIAM H. HARRINGTON
Chief of Staff

CATHERINE FREROTTE
Executive Assistant

JUDY COOPER
Director, Administrative Law

PENNEY BARKER
Supervisor, Corporations

(Plus all the volunteer
help we can get)

August 5, 1998

NOTICE OF EMERGENCY RULE DECISION BY THE SECRETARY OF STATE

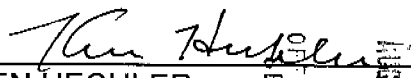
AGENCY: State Tax Commission

RULE: Amendments, Series 1H, Valuation of Timberland and Managed Timberland

DATE FILED AS AN EMERGENCY RULE: July 1, 1998

DECISION NO. 9-98

Following review under WV Code 29A-3-15a, it is the decision of the Secretary of State that the above emergency rule is **approved**. A copy of the complete decision with required findings is available from this office.


KEN HECHLER
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OFFICE OF THE SECRETARY OF STATE
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EMERGENCY RULE DECISION
(ERD 9-98)

AGENCY: State Tax Commission
RULE: Amendments, Series 1H, Valuation of Timberland and Managed Timberland

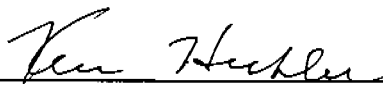
FILED AS AN EMERGENCY RULE: July 1, 198

- par. 1 The State Tax Commission (Commission) has filed the above amendments to an existing rule as an emergency rule.
- par. 2 West Virginia Code 29A-3-15a requires the Secretary of State to review all emergency rules filed after March 8, 1986. This review requires the Secretary of State to determine if the agency filing such emergency rule: 1) has complied with the procedures for adopting an emergency rule; 2) exceeded the scope of its statutory authority in promulgating the emergency rule; or 3) can show that an emergency exists justifying the promulgation of an emergency rule.
- par. 3 Following review, the Secretary of State shall issue a decision as to whether or not such an emergency rule should be disapproved [29A-3-15a].
- par. 4 (A) Procedural Compliance: WV Code 29A-3-15 permits an agency to adopt, amend or repeal, without hearing, any legislative rule by filing such rule, along with a statement of the circumstances constituting the emergency, with the Secretary of State and forthwith with the Legislative Rule-Making Review Committee (LRMRC).
- par. 5 If an agency has accomplished the above two required filings with the appropriate supporting documents by the time the emergency rule decision is issued or the expiration of the forty-two day review period, whichever is sooner, the Secretary of State shall rule in favor of procedural compliance.

- par. 6 The Commission filed this emergency rule with supporting documents with the Secretary of State July 1, 1998 and with the LRMRC July 1, 1998.
- par. 7 It is the determination of the Secretary of State that the Commission has complied with the procedural requirements of WV Code §29A-3-15 for adoption of an emergency rule.
- par. 8 (B) Statutory Authority -- WV Code §11-1C-11b(c) reads:
- (c) Notwithstanding the provisions of §11-1C-5a of this article, the legislative rules required by subsections (a) and *b(of this section may be promulgated as emergency rules if they are filed in the state register on or before the first day of July, one thousand nine hundred ninety-eight.*
- par. 9 It is the determination of the Secretary of State that the Commission has not exceeded its statutory authority in promulgating this emergency rule.
- par. 10 (C) Emergency -- WV Code 29A-3-15(f) defines "emergency" as follows:
- (f) For the purposes of this section, an emergency exists when the promulgation of a rule is necessary for the immediate preservation of the public peace, health, safety or welfare or is necessary to comply with a time limitation established by this code or by a federal statute or regulation or to prevent substantial harm to the public interest.*
- par. 11 There are essentially three classes of emergency broadly presented with the above provision: 1) immediate preservation; 2) time limitation; and 3) substantial harm. An agency need only document to the satisfaction of the Secretary of State that there exists a nexus between the proposal and the circumstances creating at least one of the above three emergency categories.
- par. 12 The facts and circumstances as presented by the Commission are as follows:
- SB 151, effective from passage on March 3, 1998, enacted WV Code §11C-11b(c) to authorize the State Tax commissioner to promulgate an emergency rule establishing the methodologies to be utilized when determining the appraised value of managed timberland. §11-1C-11b(h) requires §11-1C-11b, and therefore the methodologies required by that section, to apply to tax years beginning after January 1, 1999. As a result of those requirements, it is necessary for this rule to become effective on an emergency basis.
- par. 13 It is the determination of the Secretary of State that this proposal qualifies under the definition of an emergency as defined in §29A-3-15(f). . . "Legislative mandate and time requirement."

par. 14

This decision shall be cited as Emergency Rule Decision 9-98 or ERD 9-98 and may be cited as precedent. This decision is available from the Secretary of State and has been filed with the State Tax Department, the Attorney General and the Legislative Rule Making Review Commission.



KEN HECHLER
Secretary of State

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SECRETARY OF STATE
VIRGINIA

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