WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #3

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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE
AND
FILING WITH THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

AGENCY: State Tax Commission TITLE NUMBER: 110

CITE AUTHORITY: W. Va. Code §§ 11-1C-5(a)(2)(B) & 11-1C-11(c)(1)

AMENDMENT TO AN EXISTING RULE: YES X NO ______ (Repeal and Replacement)

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 1H

TITLE OF RULE BEING AMENDED: Value of Timberland and Managed Timberland

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: ______

TITLE OF RULE BEING PROPOSED: ______

THE ABOVE PROPOSED LEGISLATIVE RULE HAVING GONE TO A PUBLIC HEARING OR A PUBLIC COMMENT PERIOD IS HEREBY APPROVED BY THE PROMULGATING AGENCY FOR FILING WITH THE SECRETARY OF STATE AND THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE FOR THEIR REVIEW.

Robin C Capehart

Robin C. Capehart, Cabinet Secretary

July 29, 1998

Date

$11.60

CECIL H. UNDERWOOD
Governor

ROBIN C. CAPEHART
Cabinet Secretary

RICHARD E. BOYLE, JR.
State Tax Commissioner

SUMMARY OF RULE

110 C.S.R. 1H

Valuation of Timberland and Managed Timberland

This rule establishes the methodology for determining the appraised value managed timberland as required by West Virginia code § 11-1C-11b.

STATE OF WEST VIRGINIA
DEPARTMENT OF TAX AND REVENUE
TAX DIVISION

CECIL H. UNDERWOOD Governor | **ROBIN C. CAPEHART** Cabinet Secretary | **RICHARD E. BOYLE, JR.** State Tax Commissioner

STATEMENT OF CIRCUMSTANCES

110 C.S.R. 1H

Valuation of timberland and Managed Timberland

West Virginia Code § 11-1C-11b, as enacted in senate Bill 151, passed on March 3, 1998 and in effect from date of passage, requires the Tax Commissioner to establish by legislative rule two methodologies for determining the appraised value of managed timberland as well as the methodology to determine the appraised value of timberland. This rule accomplishes that requirement.

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Valuation of Timberland and Managed Timberland

Type of Rule: X Legislative ___Interpretive ____Procedural

Agency: State Tax Commission
Address: P.O. Box 1005
Charleston, WV 25324-1005

1. Effect of Proposed Rule

	ANNUAL		FISCAL YEAR		
	INCREASE	DECREASE	CURRENT	NEXT	THEREAFTER
ESTIMATED TOTAL COST	$1,057,160	$	$1,057,160	$948,680	$957,050
PERSONAL SERVICES	122,120	0	122,120	128,830	135,270
CURRENT EXPENSE	811,640	0	811,640	813,650	815,580
REPAIRS & ALTERNATIONS	0	0	0	0	0
EQUIPMENT	123,400	0	123,400	6,200	6,200
OTHER	0	0	0	0	0

2. Explanation of above estimates:

Annual increase represents current year costs.

The foregoing estimated costs are necessary to implement the proposed changes. The costs are for 4 GIS analysists, 2 Tax Audit Clerks, new hardware and upgrad of software licensing, and soil mapping contract with the Natural Resource Conservation Service. Fourth year costs will be $965,840 and thereafter annual maintenance of $10,000 per year.

Rule Title: Valuation of Timberland and Managed Timberland

4. Explanation of Overall Economic Impact of Proposed Rule.

   A. Economic Impact on State Government.

      Minimal.

   B. Economic Impact on Political Subdivisions; Specific Industries; Specific groups of Citizens.

      Reduce property taxes for owners who manage timberland property. Will cause a 50% + reduction in taxation of such properties ($2.6 million). May increase property taxes for owners who do not manage timberland properties.

   C. Economic Impact on Citizens/Public at Large.

      Better management of forest property may increase prospects of forest industry products in the State.

Date: 7-29-98

Signature of Agency Head or Authorized Representative

Richard E. Boyle, Jr.
State Tax Commissioner

DATE: July 28, 1998

TO: **LEGISLATIVE RULE-MAKING REVIEW COMMITTEE**

FROM: State Tax Commission

LEGISLATIVE RULE TITLE: Valuation of Timberland and Managed Timberland

1. Authorizing statute(s) citation W. Va. Code §§ 11-1C-5(a)(2)(B) & 11-1C-11(c)(1)

2. a. Date filled in State Register with Notice of Public Comment Period?

   June 2, 1998

   b. What other notice, including advertising, did you give of the Public Comment Period?

   Available on the Tax Commission Internet Site

   c. Date of Public Comment Period: June 2, 1998 – July 2, 1998

   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 comment period: (be exact)

   July 29, 1998

   f. Name and phone number(s) of agency person(s) to contact for additional information:

   Don Hebb 558-3940

   John Montgomery 558-5330

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: ______

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: ______

FILED

JUL 29 3 52 PM '98

OFFICE OF WEST VIRGINIA SECRETARY OF STATE

AGENCY APPROVED
TITLE 110
WEST VIRGINIA LEGISLATIVE RULE
STATE TAX COMMISSION

SERIES 1H
VALUATION OF TIMBERLAND AND MANAGED TIMBERLAND

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§ 110-1H-1. General.

1.1 **Scope**. -- This legislative rule establishes the procedure for the classification and valuation of timberland and managed timberland.

1.2 **Authority**. -- W. Va. Code §§ 11-1C-5(a)(2)(B), 11-1C-11(c)(1) and 11-1C-11b(c).

1.3 **Filing Date**. --

1.4 **Effective Date**. --

1.5 **Repeal of former rule**. -- This legislative rule repeals and replaces WV 110 C.S.R.1H "Valuation of Timberland and Managed Timberland" filed April 15, 1992 and effective April 15, 1992.

§ 110-1H-2. Introduction.

2.1 The appraised value of managed timberland shall be determined on the basis of the potential of the land to produce future income according to its use and productive potential. Potential future net income is discounted to its present value utilizing a discounted cash flow; this shall be the appraised value. The ability of a stand of timber to produce wood products for sale or use depends primarily on the quality of the soil and certain topographic and climatic features which can be expressed as a site index. Site index is the principal criterion influencing the appraised value of managed timberland. These factors will be reviewed annually by the Tax Commissioner for necessary updating of the method described in order to properly reflect future changes in the values of managed timberland.

2.2 The appraised value of timberland (woodland/wasteland) shall be determined on the basis of market comparables derived through analysis of sales prices of comparable timberland (forested) properties. Timberland appraisal value shall always be more than the appraised value of equivalent grades of properties being classified as managed timberland in the county. The appraised value of timberland shall be determined by the county assessor based upon the Timberland Classification Schedule found in Appendix 1.

2.3 The county assessor shall collect and analyze market data, including sales of timberland, segregated into the classes contained in the previously referenced classification schedule. Based upon this market analysis, the county assessor shall select the value for each class of timberland that best reflects the market value of the property if exposed to the market for sale as timberland. The values by class thus selected shall be entered, by the assessor, into the respective county land pricing tables and shall be used by the assessor to estimate the appraised value of timberland for property tax purposes.

§ 110-1H-3. Definitions. -- As used in this rule and unless the context clearly requires a different meaning, the following terms shall have the meaning ascribed herein, and shall apply in the singular or in the plural.

3.1 **"Capitalization rate"** means the rate used to convert an estimate of income into an estimate of present value. Details of the procedure for determining the capitalization rate are found in Section 12 of this rule.

3.2 **"Certified managed timberland plan"** means the managed timberland plan that is certified by the landowner when the landowner certifies that the property is maintained as managed timberland.

3.3 **"Cost"** means a component of management costs and property taxes.

3.4 **"dbh"** means the diameter of trees at breast height, which is 4.5' above ground level.

3.5 **"Division of Forestry"** means the West Virginia Bureau of Commerce, Division of Forestry.

3.6 **"Farm wood lot"** means that portion of a farm in timber but may not include land used primarily for the growing of timber for commercial purposes except that Christmas trees, or nursery stock and woodland products, such as nuts or fruits harvested for human consumption, shall be considered farm products and not timber products.

3.7 **"Harvest income per acre"** means the expected after tax revenue and accrued interest for each harvesting interval. Interest is assumed to accrue at the rate of return from the period of harvest to the end of the 80 year rotation cycle.

3.8 **"MBF"** means thousand board feet.

3.9 **"Management cost"** means the cost determined tri-annually by the Tax Commissioner to be the average annual cost of maintaining and protecting a producing forest. Maintenance costs may include costs of inventory, boundary survey, security, maps, and any other items as can be shown to have been necessary. Protection may include costs of protection against forest fires; harmful insect and tree diseases; costs of repair and replacement resulting from damages reported to appropriate police agencies, including all-terrain vehicles (ATV's) and other vehicular damages, and costs of replacing and replanting forest production and/or plantations destroyed or injured by deer or other wild animals whose populations exceed the maximum carrying capacity of the site. Management costs will be determined as an average for the entire State or by regions, by Managed Timberlands Productivity Grades or by parcel acreage and will be deducted from gross annual income per acre to obtain net annual income per acre.

3.10 **"Managed Timberland"** means surface real property, except farm woodlots, of not less than ten contiguous acres which is devoted primarily to forest use and which, in consideration of their size, has sufficient numbers of commercially valuable species of trees to constitute at least forty percent normal stocking of forest trees which are well distributed over the growing site, and that it is managed pursuant to a plan as defined in section 3.11 and appendix 2 of this rule.

3.11 **"Managed Timberland Plan"** means the planned timberland management program that conforms to the following standards established by the Division of Forestry:

3.11.1 Includes the owner's multipurpose objectives for the property;

3.11.2 Provides for the land:

3.11.2.a to remain in at least 40% or greater forest cover of well distributed commercially important trees,

3.11.2.b to produce continuous crops of timber according to the site's productivity , and,

3.11.2.c to be monitored for and action taken against threats from injurious agencies;

3.11.3 Ensures that harvesting will be done in a manner that assures regeneration of the landowner's preferred species; and

3.11.4 Assures sustainability of forest resources and compliance with the 1992 Logging Sediment control Act.

3.12 **"Managed Timberland Productivity Grades"** means timberland classified as Grade 1 (excellent to very good), Grade 2 (good to fair), or Grade 3 (poor), according to the table in Appendix 4.

3.13 **"Owner of surface less timber"** means any person who owns an interest in the surface where the timber rights have been sold to someone else.

3.14 **"Owner of Timber"** means any person who owns an interest in timber, including a lessor or sublessor and an owner of a contract right to cut timber. Such owners of timber must have a right to cut timber for sale on his own account for use in his, hers, or its trade or business in order to have property rights that are subject to ad valorem property taxes.

3.15 **"Site Index"** means a method of measuring the productivity of a site to grow trees. It is the height that average dominant and co-dominant trees will attain at a given age. For ad valorem property tax purposes, it shall be the height of upland oaks at fifty (50) years of age.

3.16 **"Soil Productivity Data"** means those site index data derived from the United States Department of Agriculture Natural Resource Conservation Service (NRCS), formerly the Soil Conservation Service (SCS), Soil Survey Geographic Database (SSURGO). These data are digital representations of county soil surveys which are mapped at 1 inch = 2,000 feet.

3.16.1 In those counties where SSURGO data are not yet available, the best available information will be used.

3.16.1.a For Pocahontas County, the article by G.R. Trimble, Jr., "An Equation for Predicting Oak Site Index Without Measuring Soil Depth", Journal of Forestry, 62:325-327, shall be used.

3.16.1.b For Wetzel, Doddridge, Braxton, Clay and Gilmer Counties, the article by L.R. Auchmoody and H. Clay Smith, "Oak Soil-Site Relationships in Northern West Virginia", (USDA Forest Service Research Paper NE 434, 1979) shall be used.

3.16.1.c For Wayne, Lincoln, Boone, Logan, Mingo and McDowell Counties, unpublished results of research at West Virginia University (1983) shall be used.

3.16.1.d For Webster county, the rates of 48% for Grade 1, 34% for Grade 2 and 18% for Grade 3 will be used for all certified managed timberland parcels.

3.16.1.e For all counties not listed in the foregoing 3.16.1.a through 3.16.1.d, the primary source of information will be maps created by the Soil

Survey, published by United States Department of Agriculture Natural Resource Conservation Service.

3.17 **"Stumpage Price"** means the market value of standing trees (on the stump) prior to felling and removal, and is expressed in dollars per unit of volume (MBF or cords). For appraisal purposes, real stumpage price will be adjusted to real price increases over various harvest periods during the 80 year rotation cycle. The real price increase shall be determined from the projected saw timber and pulpwood prices described in the most recent United States Forest Service Bulletin R.P.A. Timber Assessment Update and shall be calculated by the Tax Commissioner from reports based upon 16 inch (dbh) logs as prepared by the Division of Forestry and other available sources. A five-year weighted moving average shall be computed in order to minimize the effects of short-term fluctuations. Stumpage prices shall be computed for each stumpage price region in order to reflect regional differences in markets, topography, and accessibility.

3.18 **"Stumpage Price Region"** means a geographical region of the State, usually consisting of several counties, in which conditions of the timber, timber markets, topography, and accessibility are sufficiently similar to result in similar stumpage prices at any given time. The counties involved in each stumpage price region have been identified by the Division of Forestry and are found in Appendix 3.

3.19 **"Timber"** means trees of any marketable species, whether planted or of natural growth, standing or down, located on public or privately owned land, which are suitable for commercial or industrial use.

3.20 **"Timberland (Woodland/Wasteland)"** means any surface real property, except farm woodlots of not less than ten contiguous acres, which is primarily in forest and which has, in consideration of their size, sufficient numbers of commercially-valuable species of trees to constitute at least forty percent (40%) normal stocking of forest trees, as shown Appendix 2, which are well distributed over the growing site. Additionally, land that has been recently harvested of merchantable timber and is growing into or being planted as a new forest may be classified as timberland.

§ 110-1H-4. Classification of Timberland and Managed Timberland.

4.1 **Managed Timberland**. -- For property to qualify for managed timberland valuation, the owner(s) of the surface real property identified on the county tax mapping system must annually certify in writing to the Division of Forestry that the property satisfies the requirements of managed timberland, as defined in Section 3 of this rule, and enter into a contract with the Division of Forestry to use the real estate in a planned program of multiple purpose forest management, including erosion control during timbering operations, as specified in the West Virginia Forest Practices

Standards and the West Virginia Silvicultural Nonpoint Source Management Program. (See Section 13 of this rule). Multipurpose forest management contemplates the periodic selection of timber on the property for harvesting as an integral part of silvicultural management practices. Such silvicultural manipulation subjects the property to periodic commercial use that may have an effect on the property's classification for property tax purposes. Therefore, in recognition of such silvicultural manipulation, the following guidelines will be observed when classifying managed timberland for property tax purposes.

4.1.1 Property containing managed timberland, which may have been properly taxed as Class II property prior to the managed timberland application, will remain as Class II property unless there is some other event or change in the use of the property that disqualifies it from being taxed as Class II property.

4.1.2 Property containing managed timberland, which may have been properly taxed as Class III or Class IV property prior to the managed timberland application, will be taxed as Class III or Class IV property depending upon location.

4.2 **Timberland**. -- Timberland shall be taxed as Class II, Class III, or Class IV property in accordance with provisions of West Virginia Code § 11-8-5. In order for timberland to be taxed as Class II property, the timberland must be used and occupied by the owner exclusively for residential purposes. (This section does not apply to farm woodlots - See 110 C.S.R. 1H, § 110-1H-5.)

4.3 **Surface less timber** -- Property where the owner of the surface does not include the timber rights shall not be eligible for managed timberland classification and will be valued by the assessor.

4.4 **Timber** -- Property where the owner of the timber rights does not include the surface, shall not be eligible for managed timberland classification and will be valued by the assessor.

§ 110-1H-5. Valuation of Farm Wood Lots. -- Farm wood lots shall be included in the valuation of farm property under W. Va. Code § 11-1A-10, except when the farm wood lot is a separate parcel or tract entered in the land books, and/or except when the primary use of the farm wood lot is in commercial forestry or in a managed timberland contract.

§ 110-1H-6. Timberland Improvements. -- Improvements such as roads and service buildings that are a required (usual) part of timber management operations shall not be subject to an additional market value appraisal over and above the appraisal of the managed timberland. Improvements that are not a necessary part of the timber management operations, such as dwellings, cottages, hunting camps, other recreational facilities, and associated real estate shall be subject to additional market value appraisals. Additionally, haul roads, strip and/or mountaintop removal mines, plant facilities, powerline and gas/oil pipeline rights-of-way, and gas/oil well pads shall not be valued as managed timberland.

§ 110-1H-7. Appraised Value of Timberland. -- The appraised value per acre of timberland shall be determined based upon market comparables and will be estimated by the county assessor. There are at least five (5) various timberland rates based on the timberland classification schedule described in Appendix 1 of this rule. Assessors shall tri-annually review and grade these non-managed timberland properties in order to assign the proper rate per acre to the property. The rate per acre shall be established by the assessor in conformity with requirements of Section 2.2 of this rule.

§ 110-1H-8. Valuation of Less Than 10 Acres. -- A parcel, or contiguous parcels, of timberland totaling less than ten (10) acres shall not be considered for classification as managed timberland and shall be valued by the county assessor based upon market comparables.

§ 110-1H-9. Harvest Volumes Per Acre. -- Harvest Volumes per acre shall be based on site index and the ability of the site to yield timber measured in thousands of board feet (MBF) per acre (Scribner rule) or cords per acre with harvest intervals at thirty-five (35), fifty-five (55) and eighty (80) years for Grade 1 and Grade 2 soils, and at forty-five (45) and eighty (80) years for Grade 3 soil.

§ 110-1H-10. Appraised Value Per Acre of Managed Timberland. -- The appraised value per acre of managed timberland shall be the present worth of $1.00 times the difference between the future value of the harvest income less the future value of the management cost less a property tax adjustment for Class II, and a blend of Class III and Class IV tax rates for Class III and Class IV properties. However, the appraised value for any grade of managed timberland will not be less than $25 per acre.

§ 110-1H-11. Procedure for Determining Value Per Acre of Managed Timberland. -- The following is a step-by-step procedure for determining the appraised value per acre of managed timberland.

11.1 Surface ownership maps (typically 1 inch = 400 feet or 1 inch = 800 feet) will be entered into a Geographic Information System (GIS). The GIS will be used to register the surface ownership parcels to the same geographic coordinate system and scale as that of the soil productivity data (SSURGO). This process will allow the calculation of the area of each soil productivity grade in each parcel.

11.1.1 In those counties where this is not yet available, the soil productivity maps addressed in Sections 3.16.1.a through 3.16.1.e of this rule will be utilized. These maps are the soil grades identified on USGS 7.5 minute topographical quadrangle sheets (1 inch = 200 feet). The West Virginia county surface ownership maps (commonly 1 inch = 400 feet of 1 inch = 800 feet) were reduced to 1 inch = 200 feet. The reduced scale surface maps were overlayed on the productivity grade maps and the grade boundaries were transferred, allowing the determination of the area at each grade for each ownership parcel.

11.2 Average stumpage price (5 year weighted moving average) is determined by stumpage price reports from the Division of Forestry and other available sources.

11.3 Total harvest income per acre over a rotation cycle of thirty-five (35) years, fifty-five (55) years and eighty (80) years for Grade 1 and 2 soils, and forty-five (45) years and eighty (80) years for Grade 3 soils shall be determined by the accumulated periodic harvest income plus accrued interest on the net income less state and federal tax payments.

11.4 End of rotation (80 year) total management costs per acre shall be determined by the accumulated after tax management cost and accrued interest on such costs.

11.5 Appraised value per acre for managed timberland shall be determined by first deducting the end of rotation total management costs; second, calculating the present worth of that difference; and third, adjusting that value by the annual ad valorem property tax rate (either Class II or a blended Class III/IV).

11.6 The GIS (when available) will be used to calculate the appraised value of managed timberland property on an annual basis. Until the GIS is available, soil grade calculations will be made from data described in Sections 3.16.1.a through 3.16.1.e and 11.1.1 of this rule. The appraised value of each managed timberland property will be calculated using the formula found in Appendix 6 of this rule.

11.6.1 Those acreages involved in a managed timberland application where the use of the property is not for managed timberland purposes (e.g., homesite, pasture, tillable, recreation, stripmine, etc.) shall not be classified as managed timberland and will be appraised by the county assessor.

§ 110-1H-12. Capitalization Rate. -- The average statewide capitalization rate (based on a 5-year weighted moving average of various components) for managed timberland will be determined annually by the Tax Commissioner through the use of generally accepted methods of determining such rates. The rate will be based on the assumption of a discounted cash flow model based upon harvest intervals reflected in Appendix 4 of this rule. The capitalization rate used to value managed timberland will be developed considering the following:

12.1 **Discount Component**. -- The summation technique will be used in developing a discount component of the capitalization rate. The five subcomponents of the discount component are:

12.1.1 **Safe Rate**. -- The safe rate will reflect a rate of return that an investor could expect on an investment of minimal risk. This rate will be developed through weighted averages of interest rates offered on five-year United States Treasury Bills for the five years immediately preceding the appraisal date.

12.1.2 **Nonliquidity** . -- The nonliquidity rate will be developed through an annual review to determine a reasonable estimate of time that timberland, when exposed for sale, remains on the market before being sold. The time thus determined will be used to identify United States Treasury Bills with similar time differentials in excess of thirteen-week Treasury Bills. The interest differential between these securities will be used to represent the nonliquidity rate. For example, if it is determined that a tract of timberland remains on the market for an average of nine months (39 weeks) before being sold, the nonliquidity rate will be derived by subtracting the rate on 13-week Treasury Bills from the rate on one year Treasury Bills. This review will consider the weighted average of these differences for a five year period immediately preceding the appraisal date.

12.1.3 **Risk Rate**. -- The relative degree of risk of an investment in timberland will be developed through an annual review of thirty-year United States Treasury Bills less five-year United States Treasury Bills. The review will consider the weighted averages of debt and equity components of these differences for a five-year period immediately preceding the appraisal date.

12.1.4 **Management Rate**. -- The management rate represents the cost of managing the investment, not the cost of managing the timberland. Historically, the management rate has been one-half of one percent (0.5%); therefore, this rate will be considered the industry standard for current applications.

12.1.5 **Inflation Rate (negative)**. -- Nominal interest rates, including the "safe rate" mentioned above, are higher than real rates by an amount representing expectation of future inflation. However, net annual income from timberland is to be estimated assuming level future prices (no inflation). Therefore, the capitalization rate must be a real rate, net of expectation of inflation. The inflation rate will be established through a weighted average analysis of the most recent five calendar year's urban consumer price index as determined by the United States Department of Labor, Bureau of Labor Statistics.

12.1.6 **Discount Component**. -- In determining the discount component of the capitalization rate, the Tax Commissioner will take the sum of the safe rate, the nonliquidity rate, the risk rate, and the management rate, and will deduct from this sum the inflation rate.

12.2 **Property Tax Component**. -- The property tax component will be derived by multiplying the assessment rate by the statewide five year weighted average of tax rates on Class II and on a blended rate for Class III and Class IV properties. The discounted property tax rates will be deducted from the discounted difference between total harvest income and end of rotation management costs.

§ 110-1H-13. Application for Certification and Valuation as Managed Timberland. -- In order to qualify, under the provisions of this rule, for managed timberland valuation purposes, the owner(s) of the timberland shall, on or before the first day of July, enter into a contract with the Division of Forestry. The contract shall state that the real estate is being used in a planned program of timber management and erosion control practices intended to enhance the growth of commercially desirable species through generally accepted silvicultural practices and the use of Best Management Practices as specified in the West Virginia Forest Practice Standards and the West Virginia Nonpoint Source Management Program. The contract shall be assignable with the sale of the land when the land is sold to be used for managed timberland purposes. On or before September 1, the owner(s) will file an application for certification as managed timberland with the Division of Forestry. The application shall include either (a) a commitment to maintain and protect timberland certified as managed timberland by demonstrating land-use objectives to include resource management and soil and water protection; or (b) a written plan prepared by a professional forester. Falsification of certification or failure to follow a professionally prepared plan will result in loss of valuation as managed timberland. In any event, the following information shall be provided:

13.1 County, district, map, parcel number, deed book surface acreage and actual surveyed surface acreage, if available, for each parcel that is to be valued as managed timberland.

13.1.1 The amount of acreage in each parcel that should be classified as managed timberland. For those properties where managed timberland acreage is different than deed acreage, information identifying the use of the non-managed acreage is required.

13.1.2 Signature of owner(s) (including all fractional interests) acknowledging that the contract with the Division of Forestry has been annually reviewed and approved and that the property is being managed in accordance with the Best Management Practices for forestry as outlined in the West Virginia Forest Practice

Standards and the Best Management Practices for water quality as outlined in the West Virginia Nonpoint Source Management Program. If a written plan is provided in accordance with Section 13 of this rule, that plan shall be approved and signed by a registered timber management forester.

13.2 The Division of Forestry shall, on or before October 1 of each year, provide the State Tax Commission with a copy of such certifications and reports and provide a list of those properties certified as managed timberland and those denied certification. After the October 1 report is filed, the Division of Forestry will have until January 15 of the next calendar year to review any applications questioned by the State Tax Commission or county officials.

13.3 The property owner whose managed timberland application was denied or who has been refused certification pending demonstration of specific facts may, on or before November 1 of the assessment year, file an appeal of the denial or file the requested data with the Director of the Division of Forestry. On or before the following December 1, the Division of Forestry will advise the Tax Commissioner of any changes of application denials.

§ 110-1H-14. Summary of Method of Determining Appraised Value. -- The formula to be used in determining the appraised value of property categorized as managed timberland is found in Appendix 5.

§ 110-1H-15. Severability.

15.1 If any provision of this rule or the application of this rule to any person or circumstances is for any reason held to be invalid, the remainder of the rule and the application of the provisions to other persons or circumstances shall not be affected by the holding.

APPENDIX 1
Timberland Classification Schedule

Class "A"

This land will be adaptable for use as forest property. It may be adaptable to other profitable uses. There will be a stand of trees of commercial species, the size being from fourteen (14) to twenty (20) inches d.b.h. and above.

Class "B"

This land will also be adaptable for use as forest property. It may be adaptable for other profitable uses. There will be a stand of trees of commercial species, the size being from ten (10) to fourteen (14) inches d.b.h.

Class "C"

This land will be adaptable for use as forest property. There will be a stand of trees of commercial species, the size being from six (6) to ten (10) inches d.b.h.

Class "D"

This land will be adaptable for use as forest property. There will be a stand of trees of commercial species, the size being from four (4) to six (6) inches d.b.h.

Class "E"

This land will be adaptable for use as forest property. There will be trees of commercial species less than four (4) inches d.b.h. This class of timberland shall also include clear cut property and property subjected to total harvest where the remaining commercial species are less than four (4) inches d.b.h.

APPENDIX 2

Minimum Number of Trees Required Per Acre to Determine 30 Square Feet of Tree Basel Area of 40% Stocking for Classification as Forest Land

D.B.H.	D.B.H. in 2@	Basel Area	Per Range	Per Class	Per Tree
up to 2.9@..........	Seedlings		400	80	40
3.0-4.9@............	4	0.0873	400	80	40
5.0-6.9@............	6	0.1964	153	31	15
7.0-8.9@............	8	0.3491	86	17	9
9.0-10.9@...........	10	0.5454	55	11	6
11.0-12.9@..........	12	0.7854	38	8	4
13.0-14.9@..........	14	1.0690	28	6	3
15.5@+................	16+	1.3983	21	4	2

NOTE:(a) Area 1/5 acre, circle, diameter 105=4@; square 93.4@ per side

(b) Area 1/10 acre; circle, diameter 74=6@; square 66=

(c) Number of seedlings present may qualify on a percentage basis; Example, 100 seedlings would be equivalent of 7.5 square feet of basal area (25% x 30 B 7.5)

(d) Seedlings per acre are based on total pine and hardwood stems. Where intensive pine management is practiced a minimum of 250 well distributed loblolly or white pine seedlings will qualify.

APPENDIX 3

Stumpage Price Regions

Region 1	Region 2	Region 3	Region 4	Region 5
Brooke	Braxton	Barbour	Berkeley	Boone
Cabell	Calhoun	Greenbrier	Grant	Fayette
Hancock	Clay	Monroe	Hampshire	Kanawha
Jackson	Doddridge	Nicholas	Hardy	Lincoln
Marshall	Gilmer	Pendleton	Jefferson	Logan
Mason	Harrison	Pocahontas	Mineral	McDowell
Ohio	Lewis	Preston	Morgan	Mercer
Pleasants	Marion	Randolph		Mingo
Putnam	Monongalia	Tucker		Raleigh
Tyler	Ritchie	Upshur		Summers
Wetzel	Roane	Webster		Wayne
Wood	Taylor			Wyoming
	Wirt			

APPENDIX 4

TABLE OF HARVEST VOLUMES PER ACRE WITH HARVEST INTERVALS OVER AN 80 YEAR ROTATION CYCLE

	35 Years	55 Years	80 Years	Total
Grade 1				
Site Index (75 or more)	4.6 Cords	2.6 Cords	3.3 Cords	10.5 Cords
(Very Good to Excellent)	1.5 MBFs	4.4 MBFs	8.6 MBFs	14.5 MBFs
Grade 2				
Site Index (65-74)	3.3 Cords	7.0 Cords	4.6 Cords	14.9 Cords
(Fair to Good)	1.0 MBFs	3.2 MBFs	5.5 MBFs	9.7 MBFs

	45 Years	80 Years	Total
Grade 3			
Site Index (less than 65)	3.1 Cords	15.4 Cords	18.5 Cords
(Poor)	.8 MBFs	3.7 MBFs	4.5 MBFs

Scribner rule. Schnur, G. Luther. UNITED STATES DEPARTMENT OF AGRICULTURE Tech. Bul. No. 560. 1937. The Tax Commissioner may adopt a different timber scale and revise yields as standards of timber utilization change or as new information becomes available on timber yields of forest stands.

APPENDIX 5

For Class II Parcels:

Appraised Value Per Acre = [[Present worth of 1] x [(Future value of Harvest Income) - (Future value of management costs)]] less discounted property tax Class II rate.

For Class III & IV Parcels:

Same formula except the discounted property tax rate for Class III and Class IV properties is used.

Until the present natural resource and county computer systems can be programmed to change appraisals based on tax classifications or until a new computerized appraisal system can be put into effect, the property tax discount will be a blended rate including both Class II and Class III rates.

APPENDIX 6

AV = (P1V1) + (P2V2) + (P3V3)
where
AV = Property Appraised Value
P1 = Total Acreage of Parcel in Soil Productivity Grade 1
P2 = Total Acreage of Parcel in Soil Productivity Grade 2
P3 = Total Acreage of Parcel in Soil Productivity Grade 3
V1 = Value of Soil Productivity Grade 1
V2 = Value of Soil Productivity Grade 2
V3 = Value of Soil Productivity Grade 3

COMMENTS AND RESPONSES
110 C.S.R. 1H
VALUE OF TIMBERLAND AND MANAGED TIMBERLAND

Comment 1: The information as it appears in Appendix 1 is extremely poor and inaccurate in terms of relative productivity of many areas of the state. The STATSGO database was created for state-wide and multi-county analysis. The methods described in the value determinations go beyond the intended purpose of the dataset. STATSGO data is not suitable for county-level analysis. The State of West Virginia should continue using the existing soil grades that have historically been utilized for managed timberland.

Response: As a result of various other public comments and further staff review of supporting data, Appendix 1, as included in the rule filed for public comment, has been removed from the rule. The sections of the rule that involve soil maps and grade calculations (Section 3.20, 11.1 and 11.6) have been amended to include use of the prior criteria and methodology until work is completed on the Soil Survey Geographic Database (SSURGO).

Comment 2: Section 13.1.2 requires the signature of the timber management forester only when the forester is signing as an agent for the landowner. If the landowner signs, a forester's signature is necessary. Additionally, is it necessary to require a "timber management forester" to sign the annual certification report?

Response: West Virginia Code § 11-1C-10(d)(1) specifies that "In order to qualify for identification as managed timberland for property tax purposes the owner must annually certify, in writing to the division of forestry, that the property meets the definition of managed timberland as set forth in this article and contracts to manage the property according to a plan that will maintain the property as managed timberland." Section 13.1.2 has been reworded to clarify and more appropriately convey the intent of the Code which only requires a forester's signature in specific circumstances.

Comment 3: In Appendix 5, change Grade 1, 35 Year from 1.9 MBF to 1.5 MBF; change 55 Year from 4.0 MBF to 4.4 MBF. Change Grade 2, 35 Year from 1.5 MBF to 1.0 MBF; 55 Year from 2.7 MBF to 3.2 MBF. The changes under the 35 years harvest interval are necessary because the Division of Forestry feels that only the exceptional sites in timber Grade 1 would be able to produce 1.9 MBF's of hardwood by 35 years of age. Most trees do not really begin to put on good volume growth until they are 40 years old.

Response: The harvest amounts in Appendix 5 for the MBF in Grades 1 and 2 for the 35 and 55 year intervals have been adjusted with information provided by the Division of forestry.

Comment 4: Section 3.18 is ambiguous in that it excepts farm wood lots of less than ten acres. The intent of the section would be accomplished without ambiguity by re-drafting.

Response: The definition of Timberland, as shown in Section 3.18, incorporates the terminology provided in West Virginia ode § 11-1c-2(a). Therefore, legislation is required to change the definition.

Comment 5: Section 5 should be rewritten as follows: "Farm wood lots and the parts of a farm which are in timber shall be included in the valuation of farm property under WV Code § 11-1A-10 except when the primary use of the farmland is involved in commercial forestry or the growing of timber for commercial applications and is involved in a managed timberland contract with the WV Division of Forestry."

Response: The current wording used in the proposed rules is essentially the same as contained in prior regulations. A separate parcel or tract of land entered on the land books, not contiguous to a qualified farming operation as defined in West Virginia Code §§ 11-1A-3(f) and 11-1A-3(g), must qualify on its own merits as a "farm" in order to be classified and taxed in accordance with West Virginia Code § 11-1A-10.

Comment 6: Individual acreage should be assessed in same manner as each homeowner is assessed and not by the county.

Response: West Virginia Code § 11-1C-7 requires the assessor to appraise all property except property appraised by the Tax Commissioner under Section 11-1C-10 and except property appraised by the Board of Public Works. The properties appraised by the State Tax Commissioner West Virginia Code § 11-1C-10 includes Managed Timber. All taxable property in West Virginia is assessed at 60% of the appraised value.

Comment 7: Statements concerning participation in managed timberland are highly misleading as to decrease in taxes."

Response: Section 2.2 of this rule requires that "...the timberland appraisal value shall always be more than the appraised value of equivalent grades of properties being classified as managed timberland in the county".

Comment 8: There is no guarantee of the current timber market, and to the stumpage now received to warrant additional taxes.

Response: This rule requires an annual review of the most recent five years stumpage/cord prices to be used in the calculation of the appraised value; therefore, appraisals should always reflect current market/price trends.

Comment 9: There is concern that as a result of Section 2.2, Managed Timberland grades for a property will assigned using county percentages.

Response: Section 2.2 states that non-managed timberland (woodland and wasteland) is to valued by the county assessors based on arms-length sales and graded by application of Appendix 2.

Comment 10: No change should be made to the current methodology of assigning productivity grades and the landowner should be allowed to provide the state with the site index for managed timberland property verified by either the State Division of Forestry or a forester registered by the West Virginia Board of Registration for Foresters."

Response: The criteria and methodology used in prior years will continue to be utilized; however, this procedure does not allow for individual landowners to determine and report their own site index values.

Comment 11: Is the Division of Forestry going to supply county assessors with logging operation data? The assessor should be required to annually review the logging notification forms of the Division of Forestry.

Response: There is no requirement that the Division of Forestry provide such information. Additionally, the suggestion that the assessor be required to annually review the logging notification forms is outside the scope of this rule. This is a matter that should be reviewed by the Legislature.

Comment 12: Request that the capitalization rate in Section 12.1.3 should include a component for biological risks.

Response: Productivity rates, harvest volumes, and management costs already contain a component for mortality which, by its nature, takes into account various "biological risks'.

Comment 13: Market appraisals based on the new classifications identified in Appendix 2 would be very expensive for the assessors to have to do measurements on trees. However assistance from the Division of Forestry in identifying timbering locations would be of assistance. Appendix 2 replaces the old Timberland Classification schedule and appears to require assessors to measure the trees.

Response: The valuation classifications identified in Appendix 2 are not new classifications. Similar definitions (less slope requirements) were part of the definitions of woodland grades presented as part of the 1983 reappraisal program. The primary function of Appendix 2 is to identify guidelines that need to be considered. Tree sizes, as referenced in Appendix 2, can be estimated utilizing aerial photography.

Comment 14: There is serious concern involving a tax decrease/ preferential taxation and the associated negative effects on county revenues.

Response: West Virginia Code § 11-1C-11b(a) requires valuation to be based upon a discounted cash flow thus yielding a value which is less than the fair market value.

RECEIVED
JUL 06 1998
LEGAL DIVISION

DONALD ESKRIDGE
CONSULTANT FORESTER
14 Grant Street
Petersburg, WV 26847
(304) 257-2625

Legal Division
State Tax Commission
P.O. Box 1005
Charleston, WV 25324-1005

June 30, 1998

To whom it may concern:

I have just reviewed information concerning the proposed amendment to the rule concerning the value of timberland and managed timberland and find it very disturbing.

As a consultant forester, I work with many landowners in the eastern panhandle of West Virginia who have their timberland classified as managed timberland. According to the proposed rule, the percentage of the three different grades of timberland in each county would change drastically. I do not see how this is possible, when the three different grades are based on site index which is determined using soils maps and other site information that never changes. I could possibly understand some slight changes from county to county especially in those counties where only a small percentage of the total timberland acreage is classified as managed timberland.

It is my understanding, through information obtained from the Division of Forestry, that the same proposed percentages of the different grades of timberland in each county will be applied to each and every landowner in that county who owns "Managed Timberland". This is totally unfair to many landowners. Some landowners who have large "Managed Timberland" acreages have very little grade 1 or 2 managed timberland while others have more, especially those owning timberland in river bottoms where the site index would be much higher. According to the information contained in Appendix 1, some counties such as Hampshire, will have many acres changed from grade 3 to grade 2, causing a large increase in managed timberland value and therefore a large increase in taxes for most managed timberland owners.

If there has to be a change made in the method of establishing the different grades of managed timberland, I hope that a more equitable and fair method can be found than the one that is presently proposed.

Sincerely,

Donald Eskridge

Donald Eskridge

West Virginia Farm Bureau

Member of American Farm Bureau Federation

1 Red Rock Road, Buckhannon, WV 26201
(304) 472-2080 • 1-800-398-4630
FAX (304) 472-6554

WEST VIRGINIA FARM BUREAU
"we pull the most when we pull together"

June 30, 1998

Legal Division
State Tax Commission
PO Box 1005
Charleston, WV 25324-1005

RECEIVED
JUL 06 1998
LEGAL DIVISION

REF: **Comment on Rule 1H**
Value of Managed Timberland and Timberland

The West Virginia Farm Bureau (WVFB) is a non profit organization designed to represent rural people in West Virginia, with a membership in excess of 13,500 family members in West Virginia.

In lieu of public hearing we would offer the following comments and suggestions relating to the aforereferenced rule;

3.18 "Timberland (Woodland/Wasteland)" - This section as written is ambiguous in that it excepts farm wood lots of less than ten acres. The intent of the section would be accomplished without ambiguity by re-drafting;

Means any surface real property of not less than ten acres except farm wood lots of any size.

See also **110-1H-8** for consistency in 10 acre exclusion of timberland.

110-1H-5 - Should be rewritten as follows:
Farm wood lots and the parts of a farm which are in timber shall be included in the valuation of farm property under WV Code 11-1A-10 except when the primary use of the farmland is in commercial forestry or the growing of timber for commercial is involved in a managed timberland contract with the WV Division of Forestry.

Farm wood lot is described in 110 C.S.R.1A Section 2.6.2.12.b - "It is contiguous to or operated with a tract of land in the same ownership which has been determined by the assessor to be actively devoted to agriculture use, and such woodland in not used primarily in commercial forestry..."

For purposes of WV property taxes we must specify the WV Division of Forestry because management plans may exist with federal agencies or private consultants.

Comments prepared by:

Marc Harman
Director of Governmental Affairs
West Virginia Farm Bureau

West Virginia Forestry Association

"Growing for West Virginia"
P.O. Box 718
Ripley, WV 25271
Phone: (304) 372-1955
(304) 372-1956
FAX: (304) 372-1957
Dick Waybright, Executive Director

July 1, 1998

Legal Division
State Tax Department
P.O. Box 1005
Charleston, WV 25324 - 1005

RE: The Proposed Legislative Rule - Value of Timberland and Managed Timberland

On behalf of the 1000 members of the West Virginia Forestry Association, I offer the following suggestions for amending the proposed Legislative Rule 110 C.S.R. 1H:

1. 110-1H- 3.20 and 110-1H-11.6: We recommend that no change be made to the current method of assigning productivity grades to managed timberland property until a more accurate approach is available. We further recommend that a landowner should be allowed to provide the state the site index for managed timberland property verified by either the State Division of Forestry or a forester registered by the West Virginia Board of Registration for Foresters.

2. 110-1H-5 and 110-1H-7: We recommend this be amended to require the assessor to annually review the logging notification forms of the Division of Forestry so as to insure that property that has had a commercial timber sale is properly classified. This should result in a sizable amount of property shifting from Tax Class 2 to Tax Class 3.

3. 110-1H-12.1.3: We recommend that this section be amended to include an additional component for the biological risk associated with timberland investment.

Sincerely,

Dick Waybright
Executive Director

Westvāco

July 2, 1998

State Tax Commission
Legal Division
P.O. Box 1005
Charleston, WV 25324-1005

Attention: Mary Johnson
Managed Timberland

I have reviewed and offer the following comments on the proposed rules concerning the value of timberland and managed timberland as outlined in Title 110.

The proposed rule at 2.1 states that "Site index is the principal criterion influencing the appraised value of managed timberland." By prior rule and in this proposed rule, the Commissioner has acknowledged three "Managed Timberland Productivity Grades" based on site index, and thus representative of the productivity potential of the land. However, according to Section 11.6 of the proposed rule, the three productivity grades will be calculated as county averages. Property is then valued not according to its actual productivity potential, but rather according to the productivity potential of a theoretical acre which represents a blend of productivity potentials that might be found in a county.

Application of a county-wide average productivity value to all managed timberland also denies the opportunity for landowners to know the actual site index of their property and to have this actual site index used as a basis for property-specific values.

We understand that the "Managed Timberland County Grading Chart", which is Appendix 1 of the proposed rule, is based upon the NRCS database referred to in Section 11.6. This database is commonly referred to as STATSGO. The STATSGO User Guide states "The STATSGO database is designed primarily for regional, multi-state, river basin, state and multi-county resource planning, management, and monitoring. STATSGO data are not detailed enough to make interpretation at the county level." Based on our experience and the experience of several other forestry professionals in the state, the chart in Appendix 1 does not accurately represent the ratios of productivity grades within many of the counties. Therefore, we conclude the STATSGO database is not applicable for county level determinations and is therefore inappropriate in determining county average productivity grades.

Timberlands Division
Appalachian Region
Box 577
Rupert, WV 25984
Telephone 304 392 6373

In consideration of the foregoing, we request that no change be made to the current method of assigning productivity grades to managed timberland property until a more accurate and statistically defensible system becomes available. Additionally, we request that provisions be made in the proposed rules for a landowner to provide under Section 13.1 the site index for managed timberland property. Landowners could provide in addition to acreage for each parcel the site index with verification by a West Virginia Registered Forester.

Thank you for the opportunity to comment and please do not hesitate to call if you have questions about our proposal.

Sincerely,

Wayne A. Barfield
Regional Manager

WAB:RC

cc: R. L. Sherman

RECEIVED

JUL 02 1998

LEGAL DIVISION

HC 34, Box 3
Bloomery, WV 26817
June 30, 1998

Legal Division
State Tax Commission
P. O. Box 1005
Charleston, West Virginia 25324-1005

Gentlemen:

The following are comments concerning the recent letter on Proposed Rules for Timberland:

POINT 1. The lumping of all timber, regardless of accessibility, difference in soil growing ability--i.e. river bottom timber vs. rocky mountainess timber--would be grossly unfair.

POINT 2. Individual acreage should be assessed in the same manner as each homeowner is assessed and not by county.

POINT 3. The statements concerning participation in managed timberland are highly misleading as to decrease in taxes.

POINT 4. Why not have professional foresters give some imput as to the fairness of the percentages proposed?

POINT 5. There is no guarantee of the current timber market, and to the stumpage now received, to warrant additional taxes.

Sincerely,

Kitty Hott Swick

Lazy J Ranch, Inc.
Kitty Hott Swick, Sec.-Treas.

July 2, 1998

Mr. John Montgomery
Legal Division
State Tax Commission
P.O. Box 1005
Charleston, WV 25324-1005

RE: Comments on Legislative Rule 110 C.S.R. 1 H - Valuation of Timberland and Managed Timberland

Dear Mr. Montgomery:

Generally speaking this bill represents another example of preferential tax treatment for primarily large timber companies who already "manage" their timber at the expense of the general public. Most County governments are already struggling financially and this will cause additional losses in revenue. For the individuals who may want to go into managed timber for the tax break, what will their management costs be? These costs have not been publicized, so does the property owner have a good understanding of what his responsibilities will be under managed timber?

As Assessors, we have concerns about Appendix 1(Grading Chart). How were these percentages determined and by whom? In most cases they are vastly different than last years breakdown. For tax year 1998, Taylor County had all 3 grades of managed timberland and this new chart indicates that 100% of Taylor County managed timberland should be Grade 1. The 1998 managed timberland value for Grade 1 was $250/acre, but will drop to less than $120/acre with this new valuation methodology.

The major concern for assessors is valuing the timberland. The new classifications(A,B,C,D, and E) are based on the d.b.h. of commercial species on each tract. How are we to determine the d.b.h. of trees in our county? To physically measure the trees would be terribly expensive and almost impossible in some areas. In Harrison County most large tracts are posted " No Trespassing", thus limiting access. We currently receive very little market data on timber sales and no information on properties being timbered. When gas wells are drilled or coal mines are established , this information is reported to us, but we receive nothing on timber activity. The division of forestry needs to furnish a copy of the registration of each timber operation within the county to the assessors offices and the tax department. This would provide us with information on the timber value and amount to be cut at various locations.

Respectfully submitted,

Cheryl Romano
Cheryl Romano
Harrison County Assessor

Judy Collett
Judy Collett
Taylor County Assessor

TO: Legal Division
State Tax Commission
P.O Box 1005
Charleston, WV. 25324-1005

From: Mike Withers
1503 Lee St. East #A
Charleston, WV 25311

Subject : Comments on legislative rule 110 C.S.R. 1H concerning Value of Timberland and Managed Timberland

4. C. Economic impact on citizens /public at large. You project that better management of forested property may increase prospects of forest industry products in the state. The proposed rule contains no tax credits or incentives for manufactures of wood products(value added) in West Virginia. In fact you project a $2.6 million dollar reduction in local property tax collections. County governments so effected will have fewer economic development dollars available to help fund new wood product ventures.

An evaluation of the inventory of current Managed Timberlands owners will show that the vast majority of these acres are owned by large corporations. Since many are in the timber industry and employed professional foresters prior to the passage of this statute I question the value of this tax expenditure. STD studies of similar tax expenditures made in the early 1990's suggested the state would benefit by the use of revolving loans rather than tax expenditures. If the intent of the proposal is to increase the volume of timber being cut it may be a success.

I find it ironic that this latest tax break will go into effect as the Governor's Commission on Fair Taxation calls for the creation of a broader tax base with fewer exemptions(special treatment).

110-1H-2.1 The State Tax Department will determine the appraised value of managed timberland. Site index is the principal criterion influencing the appraised value of managed timberland. The Managed Timberland Grading Chart proposal is found in Appendix 1. When one compares the actual 1998 TY percentages to the proposed percentages of land in each class by county(appendix 1) you will note a shift in the percentage of each grade in each county. For example in Taylor County 1998 TY Showed 63% of the land in Grade 1 and the proposal in appendix 1 shows all (100%) of the land in Grade 1. What are the basis of these changes? Are you correcting previous errors? Has the quality of the soil changed or has their been a major shift in topography and climate in each of West Virginia's counties?

110-1H-2.2 The appraised value of timberland shall be determined by the county assessor based upon the Timberland Classification Schedule found in Appendix 2. Appendix 2 classification appears to be based on the size of the trees found on each forest tract. Appendix 2 appears to replace old Timberland Classification Schedule which was based on the soil and certain topographical and climatic features which influence the ability to grow trees on a particular tract of land. Is my supposition correct? How is the assessor to determine in which class a tract of land belongs? Does the STD expect each assessor to cruise each tract of timberland and measure the trees? If this expected your explanation of the overall economic impact of this proposed role needs to be revised.

110-1H-2.3 The county assessor shall collect and analyze market data, including sales of timberland, segregated into the classes contained in the previously referenced classification schedule. Is the STD or Division of forestry going to provide the assessors with information concerning logging operations in their respective counties? This information should include the specific acreage involved, the type of logging being conducted i.e. selective cutting of certain size trees or clear cutting and it should also include the value of the trees severed. Without this information any market analysis would be incomplete.

Respectfully,

Mike Withers

Mike Withers

Crummies Creek Tree Farm

PO Box 206
Weston, WV 26452

Phone (304) 269-3964
Fax (304) 269-3964

Managed Timberland Comments...TITLE NUMBER 110

26 June 1998

RECEIVED
JUL 01 1998
LEGAL DIVISION

Robin C. Capehart, Cabinet Secretary
Legal Division
State Tax Commission
PO Box 1005
Charleston, WV 25324-1005

To whom it may concern at the State Tax Commission:

I own timberland in Calhoun County that has been certified and part of the Managed Timberland Program for several years.

I am also a private consulting forester who has had the opportunity to spend time in the woods in nearly half of the counties in West Virginia as part of my work.

I have studied the proposed rules for the Managed Timberland that you have out for review at this time.

I believe that the information as it appears in Appendix 1 is extremely poor and inaccurate in terms of the relative productivity of many areas of the state. For example, I have spent a great deal of time working in Calhoun and Gilmer Counties over the past ten years. I find it extremely hard to believe that for every acre of Site 1 land in Randolph County there will be almost15 acres of Site 1 land in Calhoun and Gilmer Counties.

The productivity information appears to be based very little on the realistic expectations I would have when I visit a property. I have done a tremendous amount of work in Doddridge County and at this time, have some ongoing work in Tucker County. I have never seen any land in Doddridge County that can compare in productivity or fertility to some of the better growing sites in Tucker County. How would it then reason that 100% of Doddridge County is considered Site 1 land in fertility while only 8% of Tucker County is considered Site 1?

I believe that some basis for actual or measured fertility should be applied in setting site class for the purposes of Managed Timberland value assessments. At this point it appears some of the discrepancies between on-the-ground and tax commission determined fertility may take into account factors that may be invisible or unknown to most practicing forest managers. I would appreciate if you could develop a more equitable basis for measuring timberland growth potential and fertility when determining the assessed or appraised values for managed timberland.

Sincerely,

H. Russell Richardson, woodland owner

Georgia-Pacific Corporation

133 Peachtree Street NE (30303)
P.O. Box 105681
Atlanta, GA 30348-5681
Telephone (404) 652-4000

June 26, 1998

Legal Division
State Tax Commission
PO Box 1005
Charleston, WV 25324-1005

RE: Proposed Legislative Rule - Value to Timberland and Managed Timberland

Below are two suggestions for amending the proposed West Virginia Legislative Rule 110 C.S.R. 1H for your consideration:

I. **Section 110-1H-12.1.3 (Risk Rate):**
The International Association of Assessing Officers (IAAO) defines the risk rate as "the return commensurate with the risk assumed by the investor." Investors in timberland incur two types of risk: (1) financial risk associated with the market conditions over a typical rotation cycle (80 years in West Virginia); and, (2) Biological risk associated with the threat of fire, insects, and storms. Combining both the financial risk and biological risk represents the overall risk associated with an investment in timberland. However, Section 110-1H-12.1.3 currently only recognizes the financial risk associated with an investment in timberland

Therefore, it is recommended Section 110-1H-12.1.3 be amended to include an additional component for the biological risk associated with a timberland investment. It is further recommend that this component be based on the August 19, 1996 ***West Virginia Forest Findings*** prepared by the West Virginia Division of Forestry utilizing the following procedures:

DERIVING THE BIOLOGICAL RISK COMPONENT:
Table 11 of the ***West Virginia Forest Finding*** (see attached) indicates the average annual mortality for hardwood growing-stock (GSM) is 212,179,000 cubic feet. Table 5 (see attached) of this same report also indicates the total hardwood gross cubic inventory volume (HIV) is 21,535,000,000. Dividing the HIV into the GSM indicates that approximately 1.0 percent of the growing-stock volume is destroyed each year as a result of mortality. Since some natural mortality is expected, it is recommended the above 1.0 percent mortality factor be reduced by 50 percent to 0.5 percent. Combining the 0.5 percent biological risk with the financial risk to be derived according the procedures currently provided for in Section 110-1H-12.1.3 will result in a risk rate that is "commensurate with the risk" expected by a timberland investor.

II. **Section 3.20 & Section 11.6 (Managed Timberland Soil Type Grades Per County):**
I support the State Tax Commission's efforts to make the administration of the Managed Timberland Program more efficient. I recognize the use of an average county managed timberland value is part of this effort. However, it is my understanding that the Natural Resource Conservation Service's soil information is not statistically very accurate at the county level. As such, it has resulted in

inaccurate soil grade "averages" in several counties. Therefore, I recommend this information not be utilized until it does become or is proven to be statistically accurate. Until such time, I recommend the State of West Virginia continue using the existing soil grades that have historically been utilized for valuing managed timberland. Absent this, then a landowner should be given at least the opportunity to provide credible soil information to support a change in either grade or in thier respective average managed timberland value.

Your consideration of the above issues is greatly appreciated. If you have any questions, please feel free to call me at 404/652-2687.

Sincerely,

Gary F. Hunter
Regional Tax Manager

Attachment

cc: Dick Waybright
West Virginia Forestry Association

BACKGROUND INFORMATION

West Virginia Forest Findings

from Limited Mid-Cycle Inventory
August 19, 1996

The Division of Forestry in cooperation with the USDA Forest Service has completed a limited inventory of West Virginia's forests. The 1995 inventory was ordered by Division of Forestry (DOF) Director William R. Maxey, who perceived that changes are occurring in the forest. Private, county, state, and some Federal lands are included in the inventory. National Forest lands are not included.

West Virginia's 10.7 million acres of forests are in good shape. However, people and nature are exerting pressure on the forest, which is simultaneously maturing and changing.

During 1993, an office procedure was used to assess the status of state forests by West Virginia University and the DOF. The analysis, based primarily on forest utilization data, indicated that growth of the forest was exceeding total removals by a 2 to 1 ratio, a change from 3.6 to 1 in 1989. This computerized update and the following factors indicated the need to have a more reliable estimate:

- increased annual harvest since 1989
- two severe droughts since 1989
- more than 500,000 acres of devastating forest fires since 1989
- about 1 million acres defoliated by gypsy moth since 1989
- severe statewide windstorm damage in 1991
- the severe ice and snow damage in 1989, 1993 and 1994

Rather than wait for the U.S. Forest Service inventory scheduled for 2003, and to address his concerns, the director obtained funding from the Governor and the West Virginia Forestry Association to conduct a mid-cycle, partial inventory.

The results of this statistical field sampling indicate the following:

- **The State lost 246,000 acres of timberland in seven years.**

  Comments: The most significant of these losses is attributed to surface mining (111,000 acres). This conversion of timberland to other uses resulted in the loss of approximately 1.1 billion board feet of live trees. The present surface mine reclamation methods restore areas primarily to grass vegetation, not trees, resulting in a permanent conversion.

Table 5.--Current (1995) gross cubic-foot volume of live trees on timberland by species and diameter class (excludes NIS lands), West Virginia Update, 1995

(In millions of cubic feet)

Species	Diameter class (inches at breast height)										All classes	SE
	5.0-6.9	7.0-8.9	9.0-10.9	11.0-12.9	13.0-14.9	15.0-16.9	17.0-18.9	19.0-20.9	21.0-28.9	29.0+		
Eastern redcedar	6	6	2	2	2	5	0	0	0	0	22	54.9
Red spruce	3	6	3	7	23	17	12	0	8	0	79	77.2
White pine	29	54	43	33	16	30	24	22	23	17	291	26.2
Virginia pine	33	86	92	100	63	18	4	4	0	0	398	19.3
Other yellow pines	22	32	30	27	32	11	8	0	0	0	171	29.1
Hemlock	14	34	23	32	38	15	23	19	26	0	224	22.0
Other softwoods	1	0	1	2	0	0	0	0	0	0	3	100.0
Total softwoods	107	218	202	203	174	96	70	45	56	17	1,180	12.0
Red maple	191	345	306	228	267	202	93	113	175	15	1,935	7.6
Sugar maple	175	191	194	139	183	133	103	73	70	46	1,257	9.1
Yellow birch	19	38	44	18	11	6	0	0	0	12	148	32.9
Sweet birch	54	88	105	60	51	51	27	5	21	0	471	14.0
Hickory	100	187	224	238	235	156	85	57	58	0	1,340	7.0
Beech	50	87	101	91	128	99	88	99	354	74	1,171	12.3
Ash	35	66	99	85	89	94	111	36	50	0	665	11.5
Black walnut	10	15	20	31	19	37	15	5	14	0	165	18.0
Yellow-poplar	126	282	365	515	585	655	437	275	410	77	3,729	7.7
Cucumbertree	8	26	27	30	23	46	33	20	23	0	246	15.6
Blackgum	26	47	27	13	27	19	21	21	22	0	223	12.0
Black cherry	31	71	84	95	109	93	70	51	56	15	676	15.4
Select white oaks	81	183	225	274	343	303	206	119	217	46	1,997	8.1
Select red oaks	24	69	88	159	175	227	150	122	332	134	1,479	8.6
Other white oaks	103	242	310	258	311	280	169	140	167	46	2,027	8.3
Other red oaks	46	145	251	269	333	310	251	174	280	25	2,091	8.1
Basswood	18	52	56	76	116	67	84	22	66	15	573	15.0
Oth comm hdwds	108	181	248	167	165	117	144	52	90	65	1,343	9.2
Total hardwoods	1,155	2,314	2,774	2,754	3,170	2,895	2,087	1,392	2,424	571	21,535	2.1
Total	1,261	2,532	2,976	2,957	3,344	2,991	2,157	1,437	2,481	588	22,715	1.9
SE	3.8	3.5	3.4	3.5	3.4	4.1	5.3	7.4	7.7	10.8	1.9	

*** Includes only commercial species.

*

Table 11.--Av. ann. mortality of gross cu-ft vol of live 5.0"-
trees and gr bd-ft vol of live saw.-size, trees on
timberland by species (excludes NFS lands), West Virginia Update.

(In thousands of cubic feet/board feet)

Species	Mortality	
	Growing-stock	Sawtimber
Red spruce	510	2,055
White pine	1,527	7,780
Virginia pine	16,380	29,596
Other yellow pines	3,005	9,165
Hemlock	3,155	14,615
Other softwoods	402	941
Total softwoods	24,979	64,153
Red maple	9,156	16,353
Sugar maple	4,548	11,027
Yellow birch	2,679	6,172
Sweet birch	9,491	20,526
Hickory	20,996	56,124
Beech	15,586	69,825
Ash	2,550	2,091
Black walnut	2,641	4,541
Yellow-poplar	22,938	54,097
Cucumbertree	825	3,239
Blackgum	2,275	6,869
Black cherry	7,178	21,972
Select white oaks	13,853	43,305
Select red oaks	19,777	67,238
Other white oaks	19,448	58,966
Other red oaks	32,378	95,976
Basswood	2,740	8,475
Oth comm hdwds	23,322	38,050
* → Total hardwoods	212,179	584,666
Total	237,158	648,819

*** Includes only commercial species.

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RECEIVED
JUN 22 1998
LEGAL DIVISION

HC 78 Box 52
Shanks, WV 26761

Legal Division
State Tax Commission
P.O. Box 1005
Charleston, WV 25324-1005

RE: WV Code 11-1C-11b, enacted in senate Bill 151, passed March 3, 1998
Public Comment Period for Value of Timberland and Managed Timberland

Dear Sirs:

This letter regards the public comment period for WV Code 11-1C-11b, senate Bill 151, which affects the value of Timberland and Managed Timberland and how it is determined for property tax purposes.

I am a consulting forester and a landowner in Hampshire County, and write a regular column for The Hampshire Review newspaper regarding forestry issues. For years I have advised my clients and readers, of the advantages and possible pitfalls of the Managed Timberland program, which need to be examined carefully before entering into the program.

I obtained a copy of the recent bill, to keep informed of changes to the Managed Timberland program. Two major problems in it are unfair and will negatively affect taxpayers and the success of the program's ability to meet the objectives of encouraging good forest utilization and management.

In paragraph 2.2 addressing the appraised value of timberland, a reference to Appendix 1 is made for the Managed Timberland County Grading Chart. No reference is made as to how this chart is to be used or IF it is to be used. The inference is that the chart is a reflection of the Grade distribution by county, and that Managed Timberland Grades for a property may be assigned by using the County Grading Chart and applying the percentages shown here to each property.

According to Appendix 1, Doddridge, Ritchie and Taylor counties all have Grade 1 Managed Timberland. Boone and Logan landowners are all charted as Grade 2, and several other county listings are very suspect. If that is the way county assessors are likely to implement the program, then it is inaccurate, unfair, and will cause many landowners to pay higher taxes than they should, based upon the properties ability to produce timber. Maps exist which show Managed Timberland Grades on Tax Maps, and accurately portray the appropriate grade for each property. These had been available at each county assessor's office, however in my experience, they are hard to find and are not available at all in many counties.

If Appendix 1 is used instead of the Grade maps, the average Managed Timberland property values would be overestimated in all but about 15 counties, which unfairly increases property taxes. This would be less accurate particularly for smaller properties, discriminating against owners of smaller tracts.

A problem also exists in 110-1h-13, Application for Certification and Valuation as Managed Timberland. This bill requires in paragraph 13.1.2, a signature from a "timber management forester" acknowledging that the property is being managed in accordance with the BMPs for forestry as outlined in the WV Forest Practice Standards and BMPs for water quality as outlined in the WV Nonpoint source Management Program.

It is right and necessary for some means of verification to be enacted to enforce the terms of the Contract, however if this signature is required on an annual basis on the Application for Certification, who is going to pay for a forester to make an inspection so that this can be verified? A forester that signs the form accepts some responsibility and perhaps liability, making a site visit likely, which could be costly. Should the landowner hire his own forester to make the sign-off? Wouldn't there be a conflict of interest for a forester to sign-off on his own clients?

For the intent of the law to be carried out, a sample of perhaps 5% should be checked annually by WV DOF foresters or better, foresters in the employ of the WV Tax Department. It is in the Tax Department's interest to enforce the law and recoup taxes from landowner's not in compliance. Verification by sampling undoubtedly will result in a higher level of compliance than this sign-off policy.

The Managed Timberland Valuation is an important and necessary benefit to landowners interested in managing their property to produce forest products. Fair valuation, statewide consistency, and enforcement are necessary to provide the proper tax incentive and limit abuse of the program. Making the corrections suggested above will go far to accomplish these goals.

This is an important issue affecting landowners and taxpayers throughout the state and should be fairly and accurately applied.

Sincerely,

David A. Warner

David A. Warner
Consulting Forester
WV R.P.F. # 244

Cecil H. Underwood
Governor

William R. Maxey
Director/State Forester

DIVISION OF FORESTRY
1900 Kanawha Boulevard, East
Charleston, WV 25305-0180
(304) 558-2788/FAX (304) 558-0143

MEMORANDUM

TO: Don Hebb

FROM: Edward C. Murriner ECM
Assistant State Forester

SUBJECT: Proposed Managed Timberland Regulations

DATE: June 18, 1998

Reference: Title 110 Series 1H; Page 10 - 13.1.2 & 13.1.3

We feel the signature of the timber management forester would only be required when the forester is signing as an agent for the landowner. If the landowner signs, we do not feel a forester's signature is necessary.

Reference: Title 110 Series 1H; Page 18 - Appendix 5

Grade 1, 35 Years - Change 1.9 MBF's to 1.5 MBF's. This would in turn change 55 Years 4.0 MBF's to 4.4 MBF's.

Grade 2, 35 Years - Change 1.5 MBF's to 1.0 MBF's. This would in turn change 55 Years 2.7 MBF's to 3.2 MBF's.

The changes under the 35 Years harvest interval are necessary because we in the Division of Forestry feel that only the exceptional sites in timber Grade 1 would be able to produce 1.9 MBF's of hardwood by 35 years of age. Most of our trees do not really begin to put on good volume growth until they are 40 years old.

ECM/pao

\mn\wpdata\110s1h.wpd

JUN-18-98 THU 15:12 WV DIVISION OF FORESTRY FAX NO. 3045580143 P.01
06/22/98 10:03 WV DEPT. TAX & REVENUE-PROP. TAX → DEPT. TAX & REVE NO.005 D02

United States
Department of
Agriculture

Natural
Resources
Conservation
Service

75 High Street
Room 301
Morgantown, WV
26505
(304) 291-4152

June 26, 1998

RECEIVED
JUN 30 1998
LEGAL DIVISION

Legal Division
State Tax Commission
P.O. Box 1005
Charleston, WV 25324-1005

Dear Sir or Madam,

Thank you for the opportunity to review the draft of the Valuation of Timberland and Managed Timberland Rules, Title 110 C.S.R. 1H and the Managed Timberland Value Determination report. I have several concerns related to the use of STATSGO data for determining the county averages by grade.

First, the STATSGO database was created for state-wide and multi-county analysis. The methods you describe in the value determinations go beyond the intended purpose of the dataset. STATSGO data is not suitable for county-level analysis. Map unit composition for STATSGO is determined by transecting and sampling areas of detailed soil maps and expanding the data statistically to characterize the whole map unit. For example, the STATSGO database contains 122 map units for West Virginia. These units are derived from over 3,000 detailed map units.

Secondly, it may be possible to overlook the difference between north and south aspects on the same soil when using STATSGO. Aspect is an extremely important consideration for forest soils in West Virginia. Typically, the difference can be as much as 10 points in site index on the same soil. Considering the narrow ranges in the Managed Timberland Productivity Grades, the difference in aspect may have a considerable effect on Appendix 1 in the rules.

Third, NRCS has consistently used northern red oak as the indicator species for determining site index. In determining the site index for components in the rules, data for more than one species of oak was used if more than one species was given. NRCS believes that northern red oak should be used consistently for more uniform consistency across the state.

In the methods section under preliminaries, the rules state that STATSGO tables were edited to either eliminate unneeded items or to add needed items. This could undermine the integrity of the data as released by NRCS. I would request that you do not reference USDA, NRCS, STATSGO if the database has been altered in any way.

The Natural Resources Conservation Service works hand-in-hand with the American people to conserve natural resources on private lands.

AN EQUAL OPPORTUNITY EMPLOYER

I do have several concerns about the application of the Managed Timberland Rules to private woodlot owners in West Virginia. Since I do not have the document in its entirety, it is difficult to fully assess the implications of the rules as they apply to private landowners.

I hope that these concerns will assist you in writing legislation that will benefit woodland owners in West Virginia. If you have any questions, please feel free to contact Steve Carpenter, State Soil Scientist.

Sincerely,

William J. Hartman

WILLIAM J. HARTMAN
State Conservationist

Attachment

cc: w/o attachment

Don Hebb
Bill Maxey
S. Carpenter
C. Delp
R. Heaslip
B. McWhorter