



Rector, Emily M <emily.m.rector@wv.gov>

Appendix(es) to Proposed Rules for the Certification of Managed Timberland

Mike Jones <mjones@wvrivers.org>
To: "Rector, Emily M" <emily.m.rector@wv.gov>
Cc: Jeremy R McGill <jeremy.r.mcgill@wv.gov>

Thu, Jul 17, 2025 at 1:36 PM

Thank you for responding. We will submit our formal WV Rivers Coalition comment by the deadline on July 24, 2025.

Thank you,
Mike Jones

Mike Jones
Conservation Manager
West Virginia Rivers Coalition
304-408-3588
WVRivers.org | Sign up for E-news

From: Rector, Emily M <emily.m.rector@wv.gov>
Sent: Thursday, July 17, 2025 12:45 PM
To: Mike Jones <mjones@wvrivers.org>
Cc: Jeremy R McGill <jeremy.r.mcgill@wv.gov>
Subject: Re: Appendix(es) to Proposed Rules for the Certification of Managed Timberland

Mike,

Thank you very much for your comment. Your comment will be recorded, and we will incorporate your suggestion, as there are no relevant appendices. That is a holdover and will be removed.

Thanks again,
Emily

Emily M. Rector
Deputy General Counsel
West Virginia Department of Commerce
Phone: (304) 352-3963
Email: emily.m.rector@wv.gov

On Thu, Jul 17, 2025 at 8:31 AM Mike Jones <mjones@wvrivers.org> wrote:

Dear Ms. Rector:

We are reviewing the Proposed Rules for the Certification of Managed Timberland. 22-6-3, Section 3.14 references "Appendix 2" but I cannot find the Appendix. Also, referencing a second appendix implies that there may be an Appendix 1 (or 3..or 4.. etc.)

Could you please send me all appendixes to the proposed Rule.

Thank you,
Mike Jones

Mike Jones

7/23/25, 9:47 AM

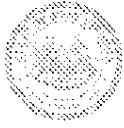
State of West Virginia Mail - Appendix(es) to Proposed Rules for the Certification of Managed Timberland

Conservation Manager

West Virginia Rivers Coalition

304-408-3588

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Rector, Emily M <emily.m.rector@wv.gov>

Rules for Certification of Managed Timberland

Rector, Emily M <emily.m.rector@wv.gov>
To: James Kotcon <jkotcon@gmail.com>
Cc: Jeremy R McGill <jeremy.r.mcgill@wv.gov>

Fri, Jul 18, 2025 at 9:40 AM

James,

We've received your comment. Your comment will be recorded and taken into consideration.

Thanks,
Emily

Emily M. Rector
Deputy General Counsel
West Virginia Department of Commerce
Phone: (304) 352-3963
Email: emily.m.rector@wv.gov

On Mon, Jul 14, 2025 at 9:46 AM James Kotcon <jkotcon@gmail.com> wrote:
Thank you for that clarification

Is there any there guidance or definition to help define "commercially-valuable species of trees"?

I am not sure how to comment on this as it is not clear what that means. If there is a contract for their value, does that make them "commercially valuable"? Is there another rule where that "holdover" is presented or described?

Jim Kotcon
304-594-3322 (cell)

On Mon, Jul 14, 2025 at 9:35 AM Rector, Emily M <emily.m.rector@wv.gov> wrote:
Jim,

Thank you very much for your comment. Your comment will be recorded, and we will incorporate your suggestion, as there are no relevant appendices. That is a holdover and will be removed.

Thanks again,
Emily

Emily M. Rector
Deputy General Counsel
West Virginia Department of Commerce
Phone: (304) 352-3963
Email: emily.m.rector@wv.gov

On Sun, Jul 13, 2025 at 6:29 PM James Kotcon <jkotcon@gmail.com> wrote:

I am reviewing the draft of this proposed rule (22-CSR-06). The version available on the Secretary of State's website in section 3.14 refers to an "Appendix 2"; however, that is not attached or listed on the Secretary of State's website. And an "Appendix 2" implies that there is an "Appendix 1".

Are either of these available, and where can I find them?

Jim Kotcon
304-594-3322 (cell)



Rector, Emily M <emily.m.rector@wv.gov>

Comments on Managed Timberland rule

Rector, Emily M <emily.m.rector@wv.gov>
To: James Kotcon <jkotcon@gmail.com>
Cc: Jeremy R McGill <jeremy.r.mcgill@wv.gov>

Fri, Jul 25, 2025 at 9:43 AM

James,

Please note that these comments were submitted after the close of the comment period. Per the notice, the comment period closed at 4:00 p.m. on 7/24. In any event, we will still consider this comment and include it as a part of the record.

Thanks,
Emily

Emily M. Rector
Deputy General Counsel
West Virginia Department of Commerce
Phone: (304) 352-3963
Email: emily.m.rector@wv.gov

On Thu, Jul 24, 2025 at 8:35 PM James Kotcon <jkotcon@gmail.com> wrote:

PLEASE see attached comments.

Jim Kotcon



**SIERRA
CLUB**

Sierra Club
West Virginia Chapter
P.O. Box 4142
Morgantown, WV 26504

July 24, 2025

Emily Rector
WV Department of Forestry
1900 Kanawha Boulevard East Building 3, Suite 800
Charleston, WV 25305

RE: Proposed Rules for the Certification of Managed Timberland 22-CSR-06

Submitted by email to: emily.m.rector@wv.gov

Dear Ms. Rector:

Please accept the following comments on behalf of the ~2,000 members of the WV Chapter of Sierra Club. While the Proposed Rules for the Certification of Managed Timberland (22-CSR-06) have many merits, this draft inappropriately restricts the rights of private property owners, incorrectly includes public lands in the regulation, and does not adequately distinguish legitimate forest uses from uses designed for tax evasion purposes. We are specifically concerned that the rules unduly restrict the rights of private landowners to enter into forest carbon offset agreements, and are therefore contrary to existing statutory language.

Specific concerns include:

- 1) Section 3.5 defines Managed Timberland incorrectly. Managed Timberland is defined in West Virginia statutes at 11-1C-2 (b) as follows:

(b) "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 is managed pursuant to a plan provided for in section ten of this article: *Provided*, That any tract or parcel of real estate, regardless of its size, which is subject to contract, agreement, a deed restriction, deed covenant, or zoning regulation which limits the use of that real estate in a way that precludes the commercial production and harvesting of timber upon it may not be considered as managed timberland within the meaning of this article: **Provided, however, That a landowner whose land is subject to, or may become subject to, a conservation or preservation easement may not be prevented from entering into a timberland management plan with the West Virginia Division of Forestry.** (emphasis added)

It seems clear that the WV Division of Forestry has ignored that final clause, and is instead relying on a focus on language of contracts that precludes logging. Thus, the definition in the rule at section 3.5 is incorrect, as it does not include lands subject to a conservation or preservation easement. The rule should give guidance on how to distinguish a "contract...that precludes commercial...harvesting of timber"

versus "a conservation or preservation easement". To be specific, a forest carbon offset program that delays, but does not indefinitely preclude, timber harvest should still be eligible for the Managed Timberland program. As long as that timberland is accruing value as timber (and the landowner controls pests, invasive species, soil erosion, etc.), the landowner should have discretion to adopt the "multipurpose objectives for the property" (see the rule at 3.6.1) that they deem most appropriate.

2) The requirements in the rule at 3.6.2.b for "harvests that will produce continuous crops of timber" are clearly contrary to the last clause in the statutory definition. A Managed Timberland Plan that incorporates the desire of a landowner to store carbon (either as a personal management goal to improve soil quality or for commercial gain through a forest carbon offset agreement) should qualify for the Managed Timberland Program. At a minimum, delete the word "continuous" as it implies at least annual timber harvests and "continuous" harvests are clearly contrary to the rest periods needed for sustainable forestry. The "multipurpose objectives for the property", by definition, means that a Managed Timberland Plan should do more than just harvest trees. It may include wildlife, water quality, soil conservation, wild harvest or other objectives, not to mention storing carbon, and so long as it does not perpetrate tax fraud, the owner's private property rights should guide the Plan.

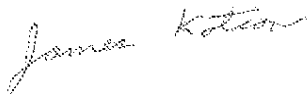
3) Section 3.11 defines "Owner of surface less timber", however, that term itself is awkwardly worded, as is that term in section 4.1. It may be more easily understood as "Owner of surface without timber rights" or at least "Surface, less timber".

4) Section 3.13 defines "timber" to include trees "located on public ... land". While it is certainly true that trees do grow in many of West Virginia's public lands, it is inappropriate for the purposes of the Managed Timberland Program to include those lands. The Managed Timberland Program was established for the purpose of assessing the value of the land for property taxes, and since these public lands do not pay such taxes, they should not be included. This issue can be most easily resolved simply by deleting the words "located on public or privately owned land", as those words are not relevant to the definition of "timber".

5) Section 8.6 is unclear as it does not spell out how random dates would be assigned to specific landowners. In the interests of transparency, the process should be detailed enough that a landowner can understand how their date was chosen, and can appeal if they disagree with the process.

Thank you for considering these comments, please feel free to contact us if you have any questions regarding how to resolve them.

Sincerely,



James Kotcon, Chair
WV Chapter of Sierra Club
jkotcon@gmail.com
304-594-3322 (cell)



Rector, Emily M <emily.m.rector@wv.gov>

Fwd: Attached is a copy of the current version of the New Rules for the Managed Timberland Tax program

Rector, Emily M <emily.m.rector@wv.gov>
 To: jcobbjr369@gmail.com
 Cc: Jeremy R McGill <jeremy.r.mcgill@wv.gov>

Fri, Jul 25, 2025 at 9:46 AM

John,

Please note that these comments were submitted after the close of the comment period. Per the notice, the comment period closed at 4:00 p.m. on 7/24. In any event, we will still consider this comment and include it as a part of the record.

Thanks,
 Emily

Emily M. Rector
 Deputy General Counsel
 West Virginia Department of Commerce
 Phone: (304) 352-3963
 Email: emily.m.rector@wv.gov

----- Forwarded message -----

From: **John Cobb** <jcobbjr369@gmail.com>
 Date: Fri, Jul 25, 2025 at 8:56 AM
 Subject: Attached is a copy of the current version of the New Rules for the Managed Timberland Tax program
 To: John Cobb <jcobbjr369@gmail.com>
 Cc: Jeremy McGill <jeremy.r.mcgill@wv.gov>, Jeremy Jones <jeremy.c.jones@wv.gov>, Copeland, Charles R <charles.r.copeland@wv.gov>, David McGill <dmcgill@wvu.edu>, Jim Mitchell <oldmaplehill@suddenlink.net>, Bob Boyles <bob@wvfa.org>, Terry Jones <tjforester229@yahoo.com>

These are my requested review comments...Thanks for the opportunity to comment, John Cobb
Review and Response the new rules for the Managed Timberland Certification from WVDOF

-Definitions are good

-Like having the owner's multipurpose objectives included

-3.6.2.c who will identify and monitor for forest owner actions against threats?

-3.6.4. How will we ensure that sustainability of forest resources are in play?

-3.6.5. What happens if the plan does not have an inventory of tree species and volume levels and who will inspect the plans to verify this?

-3.6.6. How will inspect plans for maps and stands?

-8.1. So, a forest owner can enter into a Managed Timberland contract with the WVDOF and get his taxes reduced without an actual plan in place. And he will get this tax advantage for 2 years While he is engaging a Forester to develop a Managed Timberland Plan or act as their Managing Forester. And if they withdraw from their attempt at certification during this "grace period" they will not be charged a penalty which I assume means they will not have to pay back the Tax advantage \$ they have received during this grace period?

So, if they are now in the Managed Timberland Tax program but don't have a plan then they have a two-year grace period to get a plan in place. And if they are a new forest owner, they get the tax advantage while their plan is being developed. I feel this is too lenient and they should not get a tax advantage until they have a plan in place.

-8.2. States, "failure to follow a professionally prepared plan shall result in loss of valuation as managed timberland. Who will determine/inspect the forest owner's plan and what grounds will they have for determining that they are not following a plan? Should we not at least identify on Silviculture standard has been met or one EQIP or CSP program has been in practice to meet the forest owner's objectives? We need some criterion here.

-8.3. I would strike the words "if available".

-8.3.2. Again, who will review and approve the contracts. Why just Water Quality? What about other criteria like Soil, and Wildlife? These are criteria for the Tree Farm objectives and standards and also are prominent in the WVDOF Stewardship Guide and in the best Management Practices. This should go beyond just Water Quality. More is Better.

-8.4. Before October 1st of each year WVDOF will supply the WV State Tax Department a list of properties certified and those denied certification as Managed Timberland. I am not familiar with the state tax dept. but I would hope that all 55 County Assessors would also get this information? Again, this will require personal inspections by WVDOF Foresters on forest owner properties. (again, I am not familiar with this process).

From my view this is a beginning step in the right direction but it needs more teeth and we should also have an inspection guideline identified for all WVDOF foresters to follow for consistency.

I would like the Tree Farm forest owner's main objectives to be addressed and optional for folks in the Managed timberland Tax Statute.

I would like to see Carbon Credits included in the new rules.

In my estimation Carbon Capture/Offset agreements are not conservation easements. If we are making rule changes to the Managed Timber Program, we should also address carbon capture or offset agreements. The Carbon Capture companies should be required to report any land/forest placed in a carbon capture program to the WV County Clerks and Assessors as is standard operating procedure as done routinely by The Family Forest Carbon Program.

Landowners with clearly written Stewardship plans that call for not timbering for 10-20 years because of recent timbering should not be penalized by being removed from Managed Timberland Tax Status if they are enrolled in a Carbon Sequestration program. Most forest property recently timbered should not be re-timbered for 15-20 years and this should be noted on a good Stewardship plan approved by a WV DOF Forester. We need to take a position on Carbon Programs in my estimation.

I understand that Prior to 2013, Forestry was performing annual audits of managed timberland properties, but according to Forestry this practice was discontinued due to budget and staffing issues, as well as there being no requirement for Forestry to inspect managed timberland properties.

The Legislature needs to fully fund the WVDOF so it can have the staff to operate to the benefit of the Logging, Wood Products, Timbering, and Wood Products industries. There are only 38 full time Foresters in the WV DOF serving all 55 counties of WV and this is not working. Also, when we add the inspections of all 4,508 Forest Owners in the Managed Timberland Tax Advantage, we will definitely need a fully staffed WVDOF

I offer these comments and concerns from an advisory viewport only and I hope this is helpful. Thanks, Jeremy McGill, for working on this long overdue fix.

John Cobb 7-25-2025

--

John W. Cobb, Jr.
260 Hickory Farm Road
P. O. Box 13

7/25/25, 9:46 AM

State of West Virginia Mail - Fwd: Attached is a copy of the current version of the New Rules for the Managed Timberland Tax progr...

Ireland, WV 26376

Home 1-304-452-9634

Cell 1-240-321-1227

joobbjr369@gmail.com



Rector, Emily M <emily.m.rector@wv.gov>

COMMENT LETTER - Proposed Rules for the Certification of Managed Timberland

Rector, Emily M <emily.m.rector@wv.gov>
To: Mike Jones <mjones@wvivers.org>
Cc: Jeremy R McGill <jeremy.r.mcgill@wv.gov>

Fri, Jul 25, 2025 at 9:57 AM

Thank you for this comment. We will consider this comment and include it as a part of the record.

Best,
Emily

Emily M. Rector
Deputy General Counsel
West Virginia Department of Commerce
Phone: (304) 352-3963
Email: emily.m.rector@wv.gov

On Thu, Jul 24, 2025 at 2:26 PM Mike Jones <mjones@wvivers.org> wrote:

Hello Ms. Rector:

Attached is the Comment Letter from West Virginia Rivers Coalition regarding the Proposed Rules for the Certification of Managed Timberland. We are joined in this Comment by Christians for the Mountains, The Downstream Project, the Greenbrier River Watershed Association, and the West Virginia Highlands Conservancy.

Please let me know if you have any questions.

Best,
Mike Jones

Mike Jones
Conservation Manager
West Virginia Rivers Coalition
304-408-3588
WVRivers.org | Sign up for E-news



WEST VIRGINIA RIVERS

July 24, 2025

To: Emily Rector
WV Department of Forestry
1900 Kanawha Boulevard East
Building 3, Suite 800
Charleston, WV 25305

RE: Proposed Rules for the Certification of Managed Timberland
22-06

Submitted by email to:
emily.m.rector@wv.gov

Dear Ms. Rector:

West Virginia Rivers Coalition (WV Rivers) is submitting the following comments on Proposed Rules for the Certification of Managed Timberland, 22-06. We are joined in these comments by Christians for the Mountains, The Downstream Project, the Greenbrier River Watershed Association, and the West Virginia Highlands Conservancy.

The Managed Timberland program is designed to give private forest owners with at least 10 acres of forested land a reduced property tax assessment (and therefore reduced property taxes) when the private landowner has a timber management plan. The goals of the Managed Timberland program are to assure a regulated supply of timber, and to provide benefits to private forest owners that are managing their timber to delay timbering on their forested private property.¹

As stated on the Department of Forestry website:

The Managed Timberland Program was created to promote the practice of sustainable forestry. This program provides significant tax incentives for forest landowners who practice sustainable forestry on their nonindustrial, privately owned forestland, increasing the amount and

¹[West Virginia Code J, §11-1C-11](#)

quality of the resource.²

While generally the proposed rules track the statute for Managed Timberland, we are very concerned with this definition contained in proposed Rule 22-6-3:

3.13 "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
[Emphasis added]

The inclusion of publicly owned lands in this definition is improper under the statutory provisions of Managed Timberland and should be deleted.

Section 3.13 should read:

3.13 "Timber" means trees of any marketable species, whether planted or of natural growth, standing or down, **located on privately owned forest land subject to the Managed Timberland statute**, which are suitable for commercial or industrial use. [Emphasis added to show the proposed revision]

We believe that Rule 22-6-3, Section 3.11 and Section 3.12, also should be clarified that public lands owners cannot sell, transfer, or convey timber ownership and/or timber rights to a third party who would then attempt to harvest and sell the timber. Any other reference to publicly owned lands or timber in the proposed Rules, whether expressed or implied, should also be removed and revised.

To carry out the last clause of WV Code 11-1C-2 (b), that recognizes that Managed Timberland may include land covered by a conservation or preservation easement, we believe that Rule 22-6-3, Section 3.6.2 should include 3.6.2.d. which states:

3.6.2.d. But nothing in these Rules shall prevent land subject to, or that may become subject to, a conservation or preservation easement, be prevented from entering into a timberland management plan with the West Virginia Division of Forestry.

Lastly, the proposed Rule 22-6-3, Section 3.14 references an "Appendix 2" but there is

² [Managed Timberland Program - WV Division of Forestry](#). Accessed July 16, 2025.

³ [Proposed Rules for Managed Timberlands](#)

no Appendix 2. In your email to me of July 17, 2025, you stated, “there are no relevant appendices. That is a holdover and will be removed.” Therefore, we conclude that there are no appendices; and request that any reference to a non-existent Appendix be removed from the final proposed Rule.

Conclusion

We appreciate the opportunity to provide comments regarding the proposed Rules for the Certification of Managed Timberland. First, we request that the WV Department of Forestry remove the phrase “... **public or** ...” from proposed Rule 22-6-3, Section 3.13 “Timber,” and to revise Section 3.13 further to make it clear that only privately owned forested lands are subject to the provisions of the Managed Timberlands statute and the Rules. Second, we request that Rule 22-6-3, Section 3.11 and Section 3.12, be clarified that be clear that public lands owners cannot sell, transfer, or convey timber ownership and/or timber rights to a third party who would then attempt to harvest and sell the timber. Finally, we request that the WV Department of Forestry delete all references to non-existent Appendices.

Best regards,

Jennie Smith, Executive Director
West Virginia Rivers Coalition

Mike Jones, Conservation Manager
West Virginia Rivers Coalition

Allen Johnson, Coordinator
Christians for the Mountains

Bill Howard, Executive Director
The Downstream Project

Louanne Fatora, Coordinator
Greenbrier River Watershed Association

Marilyn Shoenfeld, President
WV Highlands Conservancy