



McGill, Jeremy R <jeremy.r.mcgill@wv.gov>

Response to comments on proposed rule 22-06

McGill, Jeremy R <jeremy.r.mcgill@wv.gov>

Wed, Oct 8, 2025 at 10:53 AM

Draft To: "mjones@wvrivers.org" <mjones@wvrivers.org>, adair.burgess@wvlegislature.gov, Robert Akers <robert.akers@wvhouse.gov>, Garner Marks <garner.marks@wv.gov>, Jeremy Jones <jeremy.c.jones@wv.gov>

Good morning Mr. Jones,

I wanted to take this time to provide a response to the comments on proposed rule 22-06 that were sent to Emily Rector on July 24th of this year. As these comments were provided by you on behalf of WV Rivers Coalition, Christians for the Mountains, The Downstream Project, Greenbrier River Watershed Association, and the WV Highlands Conservancy, I ask that you please relay our response to those parties as well.

In response to Concern #1 regarding the definition of Timber. We do acknowledge that Managed Timberland Certification is not relevant to the taxation of Public Lands. However, the definition in question is specifically to that of "Timber" and not that of "Managed Timberland". Similar to our response concerning #2, there was nothing changed in the statute regarding the definition of Timber or Timberland, so we plan to carry forth the definition of timber from the existing rule.

In response to concern #2 about sections 3.11 and 3.12, clarifying that public landowners cannot sell the right to timber to third parties. The Division doesn't feel this has any application to the certification of Managed Timberland. Public owners do not participate in Managed Timberland. Even if they were eligible and they sold the timber rights, they would be ineligible as the owner must own both surface and timber to have their property certified.

In response to concern #3 regarding the definition of Managed Timberland. The Division has reviewed your concern, and it appears to be about including language from the code regarding conservation and preservation easements and Managed Timberland plans. As "Managed Timberland Plans" are not the same as certification as "Managed Timberland", we do not feel that including them in the definition of "Managed Timberland" is necessary. We have never denied a Managed Timberland Certification based on its status in a conservation easement, and we will follow all statutory regulations, including the approval of managed timberland plans, regardless of status in conservation or preservation easement as required by statute.

Lastly, regarding your comment about "Appendix 2". This was an editing error in drafting and has been removed.

Thank you for your comments on the proposed rule.

Jeremy McGill
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Response to proposed rule 22-06 comments

1 message

McGill, Jeremy R <jeremy.r.mcgill@wv.gov>

Wed, Oct 8, 2025 at 10:38 AM

To: John Cobb <jcobbjr369@gmail.com>

Cc: Jeremy Jones <jeremy.c.jones@wv.gov>, Robert Akers <robert.akers@wvhouse.gov>, adair.burgess@wvlegislature.gov, Garner Marks <garner.marks@wv.gov>

Good morning Mr. Cobb,

I wanted to take the time to respond to your comments on the proposed rule sent on July 25th of this year. Though they were received late, Emily Rector indicated that we include them as part of the record. We thank you for the concurrence on definitions and the multipurpose objectives of the property. Most of your comments appear to be more about internal procedures and how they relate to state statute than the content of the rule itself, but I'll do my best to answer them.

Comment #1: Who will identify and monitor for forest owner actions against threats?

This would be the WV Division of Forestry, as required by statute.

Comment #2: How will we ensure that the sustainability of Forest Resources are in play?

Hopefully, this is accomplished through inferred approval of verbal plans that exist in the current rule. This will force landowners to involve a Forester in the management of their timber and hopefully meet the goals and requirements of the statutes regarding Managed Timberland participation.

Comment #3: What happens if plans are deficient and who will inspect them?

The WV Division of Forestry will have to review the plans. Deficient plans will have their managed timberland certification revoked and fall under the appeals language.

Comment #4: How will we inspect stand maps?

Stand maps will only be inspected for accuracy upon a field audit.

Comment #5: Can a landowner get a 2 year grace period where he is receiving the tax incentive while working with a forester to get a plan?

Yes, but there are some penalties in statute should they fail to implement a plan within 24 months.

Comment #6 If a landowner is in Managed Timberland currently but does not have a plan that meets the updated requirements, do they get a 2 year grace period as well?

Yes, but there are penalties in the statute for failing to implement a plan.

Comment #7 : Who will inspect plans, and what criteria will be used?

I think I mostly covered this under #3, but the plan review will use the criterion in this rule. It appears that perhaps you want more stringent requirements for participation but we feel that would need to be best left to the Legislative process.

Comment #8: Striking the words "if available"

We still have meets and bounds parcels that do not have surveyed acreage and the acreage is only calculated. So at this time, we do not plan to add a requirement for a survey.

Comment #9: Why do we not add requirements for soil and wildlife?

We feel that soil and wildlife are included under the multipurpose objectives for the property in the forest management plan. Further, water quality is specifically mentioned as all harvests must be done in accordance with state statutes regarding LSCA and Water quality protection.

Comment #10: Do counties see the list?

Yes, counties are provided the list of parcels under consideration and they review them.

Comment #11: You'd like to see carbon credits included.

Currently, carbon credits are not excluded, provided they do not restrict compliance with the other requirements. As the Legislature has shown considerable interest in carbon credit status in the last few years, we feel making any changes to their current status in Managed Timberland is a policy decision best left to statute changes by the legislative body, and not changed within the rulemaking process.

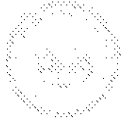
Comment #12: Harvest timelines in Stewardship plans.

Since all harvests must be done in accordance with their plan. Landowners will not be penalized for following the harvest recommendations, provided their plan is approved by Forestry. All Stewardship plans are approved by Forestry.

Thank you for your comments, John.

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Proposed Rule 22-06 Comments Response

McGill, Jeremy R <jeremy.r.mcgill@wv.gov>

Wed, Oct 8, 2025 at 9:12 AM

Draft To: "jkotcon@gmail.com" <jkotcon@gmail.com>

Cc: Garner Marks <garner.marks@wv.gov>, Jeremy Jones <jeremy.c.jones@wv.gov>, Robert Akers <robert.akers@wvhouse.gov>, adair.burgess@wvlegislature.gov

Good morning Mr. Kotcon,

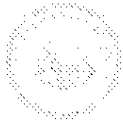
I wanted to take this opportunity to respond to your comments that were provided on July 13th and 14th of this year.

The Division of Forestry incorporated your comments and they are now part of the Agency Approved Rule that is currently on file. Commercially Valuable was replaced with "Non-Invasive".

Thank you for your comments.

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Proposed Rule 22-06 Comments Response

McGill, Jeremy R <jeremy.r.mcgill@wv.gov>

Wed, Oct 8, 2025 at 9:56 AM

Draft To: "jkotcon@gmail.com" <jkotcon@gmail.com>

Cc: Jeremy Jones <jeremy.c.jones@wv.gov>, adair.burgess@wvlegislature.gov, Garner Marks <garner.marks@wv.gov>, Robert Akers <robert.akers@wvhouse.gov>

Good morning Mr. Kotcon,

I wanted to take this opportunity to respond to your comments that were provided on July 25th of this year on behalf of the WV Chapter of the Sierra Club.

In response to specific concern #1 regarding the definition of Managed Timberland.

The Division has reviewed your concern, and it appears to be about including language from the code regarding conservation and preservation easements and Managed Timberland plans. As "Managed Timberland Plans" are not the same as certification as "Managed Timberland", we do not feel that including them in the definition of "Managed Timberland" is necessary. We have never denied a Managed Timberland Certification based on its status in a conservation easement, and we will follow all statutory regulations, including the approval of managed timberland plans, regardless of status in conservation or preservation easement as required by statute.

In response to specific concern #2, this appears to be directly related to the above comment. Please note that this requirement that "to produce continuous crops of timber according to the site's productivity," has not changed from the existing version of the rule. As the definition of "Timberland" did not change in the statute, we feel that changing the requirement in the proposed rule would be best left to the Legislative process..

In response to specific concern #3 regarding the definition of "owner of surface less timber", we have no material objection to this change. This definition was carried over to the proposed rule from the existing rule. We will incorporate the language of "Owner of surface without timber rights" as we agree the language seems to be less confusing.

In response to specific concern #4 regarding the definition of Timber. We do acknowledge that Managed Timberland Certification is not relevant to the taxation of Public Lands. However, the definition in question is specifically to that of "Timber" and not that of "Managed Timberland". Similar to our response concerning #2, there was nothing changed in the statute regarding the definition of Timber or Timberland, so we plan to carry forth the definition of timber from the existing rule.

In response to specific concern #5, we will incorporate further explanation of the methodology into the rule.

Thank you for your comments on behalf of the WV Chapter of the Sierra Club.

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