



WEST VIRGINIA SECRETARY OF STATE

KRIS WARNER

ADMINISTRATIVE LAW DIVISION

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Office of West Virginia
Secretary Of State

NOTICE OF RULE MODIFICATION OF A PROPOSED RULE

AGENCY: Forestry

RULE TYPE: Legislative

TITLE-SERIES: 22-06

RULE NAME: RULES FOR THE CERTIFICATION OF
MANAGED TIMBERLAND

CITE AUTHORITY: W. Va. Code §11-1C-11(e).

The above proposed Legislative rules, following review by the Legislative Rule Making Review Committee, is hereby modified as a result of review and comment by the Legislative Rule Making Review Committee. The attached modifications are filed with the Secretary of State.

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENT IS TRUE AND CORRECT.

Yes

Jeremy McGill -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.

TITLE 22
LEGISLATIVE RULE
DIVISION OF FORESTRY

SERIES 6
RULES FOR THE CERTIFICATION OF MANAGED TIMBERLAND

§22-6-1. General.

1.1. Scope. -- This legislative rule establishes the guidelines and procedures for the certification of managed timberland.

1.2. Authority. -- W. Va. Code §11-1C-11(e)

1.3. Filing Date. --

1.4. Effective Date. --

1.5. 1.5 Sunset Provision.—This rule shall terminate and have no further force or effect on and after August 1, 2031.

§22-6-2. Introduction.

2.1. The certification of property as Managed Timberland outlined herein shall be performed solely by the Division of Forestry. No other agency, state or local shall have any authority to certify or decertify land as Managed Timberland.

§22-6-3. Definitions.

As used in this rule and unless the context clearly requires a different meaning, the following terms shall have the meaning ascribed in this section.

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

3.2. "Division of Forestry" means the West Virginia Department of Commerce, Division of Forestry.

3.3. "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.

3.4. "MBF" means thousand board feet..

3.5. "Managed Timberland" means surface real property, including farm wood lots deemed eligible under section 5 of this rule, 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 according to a plan as defined in subsection 3.6 or by a managing forester as defined in section 3.7 of this rule.

3.6. "Managed Timberland Plan" means the written plan approved by either a Registered Forester or Registered Forestry Technician that conforms to the following standards established by the Division of Forestry in the plan:

3.6.1. Includes the owner's multipurpose objectives for the property.

3.6.2. Provides for the land:

3.6.2.a. To remain in at least 40% or greater forest cover of well-distributed non-invasive trees.

3.6.2.b. Includes recommendations for silvicultural practices and harvests that will produce continuous crops of timber according to the site's productivity, and

3.6.2.c. to be monitored for and action taken against threats from injurious agencies, such as but not limited to invasive pests, invasive plants, or disease.

3.6.3. Ensures that harvesting will be done in a manner that assures regeneration of the landowner's preferred non-invasive species; and

3.6.4. Assures sustainability of forest resources and compliance with the Logging Sediment Control Act, W. Va. Code §19-1B-1 et seq.

3.6.5. Includes an inventory of tree species and volume present on the property.

3.6.6. Includes a map of the property, which divides the property into stands of different timber types or age classes, if applicable.

3.7. "Managing Forester" means any Registered Forester or Registered Forestry Technician employed by or engaged in writing by the owner to manage their forests to the same standards as a Managed Timberland Plan.

3.8. "Registered Forester" means any Forester registered by the WV Board of Registration for Foresters in the State of West Virginia.

3.9. "Registered Forestry Technician" means any Forestry Technician registered by the WV Board of Registration for Foresters in the State of West Virginia.

3.10. "Silviculture" means the practice of controlling the growth, composition/structure, as well as quality of forests to meet values and needs, specifically timber production.

3.11. "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.

3.12. "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. The owner of timber must have the right to cut timber for sale on their account for use in their trade or business to have property rights that are subject to ad valorem property taxes.

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.

3.14. "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 which are well distributed over the growing site. Additionally, land recently harvested of merchantable timber growing into or being planted as a new forest may be classified as timberland.

§22-6-4. Ownership Limitations on Managed Timberland.

4.1. Surface less timber -- Property where the surface owner does not also own the timber rights is not eligible for managed timberland classification and shall be valued by the assessor.

4.2. Timber -- Property where the owner of the timber rights does not also own the surface is not eligible for managed timberland classification and shall be valued by the assessor.

§22-6-5. Certification of Land Previously Classified as Farm Wood Lots.

5.1. Lands that were previously valued as farm wood lot as part of farm property under W. Va. Code § 11-1A-10, but which have had their use change may be considered for certification as Managed Timberland.

§22-6-6. Timberland Improvements.

6.1. Improvements such as roads and service buildings that are a required (usual) part of timber management operations can be included in the Certification of 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, are ineligible for Certification. Additionally, haul roads, strip and/or mountaintop removal mines, plant facilities, powerline and gas/oil pipeline rights-of-way, and gas/oil well pads are ineligible for Certification.

§22-6-7. Valuation of Less Than 10 Acres.

7.1. A parcel, or contiguous parcels, of timberland totaling less than ten (10) acres shall not be considered for certification as managed timberland.

§22-6-8. Application for Certification and Valuation as Managed Timberland.

8.1. For property to qualify for managed timberland the owner of the surface real property identified on the county tax mapping system shall enter into a written contract with the Division of Forestry, on or before the first day of July, which confirms that the property satisfies the requirements of managed timberland, as defined in Section 3 of this rule, and that within 2 years they will have engaged a Registered Forester or Registered Forestry Technician to develop a Managed Timberland Plan or to act as their Managing Forester. Voluntary withdrawal of Certification by the owner before this 2-year grace period has passed will not constitute a breach of contract and no penalty will be assessed against the owner.

8.2. Every fifth year thereafter, on or before September 1, the owner shall apply via an approved method for renewal of their certification as managed timberland with the Division of Forestry. The application shall include the name of the forester who prepared the plan or the name of the managing forester. Falsification of certification or failure to follow a professionally prepared plan shall result in loss of valuation as managed timberland. In any event, the following information shall be provided:

8.2.1. The 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.

8.2.2 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.

8.2.3. The signature of the owner (including all fractional interests) acknowledging that the contract with the Division of Forestry has been reviewed and approved and that the property is being managed according to accepted silvicultural standards and the Best Management Practices for water quality as outlined in the West Virginia Silvicultural Best Management Practices handbook. If there are multiple owners, all must sign unless a legal document has been provided to the Division of Forestry giving certain owners authority to manage the timber on their behalf.

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

8.5. The property owner whose initial contract was denied or who has been refused recertification for any reason may, on or before November 1st 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 1st, the Division of Forestry shall advise the Tax Commissioner of any changes to the status of denied parcels. Should the appeal be denied or should an owner fail to appeal by November 1st, then the property is denied certification for that tax year, and thus the certification will be considered revoked. Further appeals will utilize the process designated in §11-1C-11b(g).

8.5.1. Revocation for failure to reapply shall not prevent an owner from submitting a new contract prior to July 1st of the next tax year.

8.6. Owners who were previously certified as Managed Timberland prior to July 1st, 2025, will be assigned a random reapplication deadline by the Division of Forestry between 1 and 5 years, to phase in the bulk of reapplications so that they are not all due within the same tax year. Thereafter, they will renew every fifth year.

