



WEST VIRGINIA LEGISLATURE
Legislative Rule-Making Review Committee

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November 20, 2002

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NOTICE OF ACTION TAKEN BY THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

TO: Joe Manchin, Secretary of State, State Register

TO: Edward C. Murriner
Forestry, Division of
Capitol Complex
Guthrie Center, Bldg 13

FROM: Legislative Rule-Making Review Committee

Proposed Rule: **Sediment Control During Commercial Timber Harvesting Operations - Licensing, 22CSR2**

The Legislative Rule-Making Review Committee recommends that the West Virginia Legislature:

- 1. Authorize the agency to promulgate the Legislative rule
 - (a) as originally filed
 - (b) as modified by the agency

_____ ✓
- 2. Authorize the agency to promulgate part of the Legislative rule; a statement of reasons for such recommendation is attached.

- 3. Authorize the agency to promulgate the Legislative rule with certain amendments; amendments and a statement of reasons for such recommendation is attached.

- 4. Authorize the agency to promulgate the Legislative rule as modified with certain amendments; amendments and a statement of reasons for such recommendation is attached.

- 5. Recommends that the Legislative rule be withdrawn; a statement of reasons for such recommendation is attached.

SCANNED

ANALYSIS OF PROPOSED LEGISLATIVE RULE

Agency: Division of Forestry

Subject: Sediment Control During Commercial Timber-Harvesting
Operations - Licensing

CSR Cite: 22CSR2

Counsel: JAA

PERTINENT DATES

Filed for public comment: May 15, 2002
Public comment period ended: June 14, 2002
Filed following public comment period: July 23, 2002
Filed LRMRC: July 23, 2002
Filed as emergency: May 15, 2002 (Disapproved)

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DEPARTMENT OF STATE
VIRGINIA

2002 NOV -8 A 10:45

FILED

Fiscal Impact: None.

ABSTRACT

Summary

This rule is being amended to reflect the changes to the code made by SB 431 which was passed during the 2002 Regular Session. The statute was amended to insert a licensing exemption for persons who remove, hire, or are hired to remove less than \$15,528.00 in timber per calendar year. The value of the timber is based on "stumpage price" which is defined as the value of the timber prior to removal from the stump.

Section 2, definitions, is amended by inserting the following definitions: "exempted person", "stumpage price", "notification of harvesting of timber for sale", "hire", and "contract".

New Section 3.8 requires that all persons wanting to undertake timbering must apply and receive license exemption prior to undertaking any timbering. Section 3.9 requires persons so exempted shall have the exemption certificate at the timbering operation.

AUTHORITY

Statutory authority: W.Va. Code, §19-1B-4 provides:

(c) The director shall promulgate legislative rules pursuant to the provisions of article three, chapter twenty-nine-a of this code which provide procedures by which a license may be acquired, suspended or revoked under this article [Sediment Control During Commercial Timber Harvesting Operations].

ANALYSIS

I. HAS THE AGENCY EXCEEDED THE SCOPE OF ITS STATUTORY AUTHORITY IN APPROVING THE PROPOSED LEGISLATIVE RULE?

No.

II. IS THE PROPOSED LEGISLATIVE RULE IN CONFORMITY WITH THE INTENT OF THE STATUTE WHICH THE RULE IS INTENDED TO IMPLEMENT, EXTEND, APPLY, INTERPRET OR MAKE SPECIFIC?

Yes.

III. DOES THE PROPOSED LEGISLATIVE RULE CONFLICT WITH OTHER CODE PROVISIONS OR WITH ANY OTHER RULE ADOPTED BY THE SAME OR A DIFFERENT AGENCY?

No.

IV. IS THE PROPOSED LEGISLATIVE RULE NECESSARY TO FULLY ACCOMPLISH THE OBJECTIVES OF THE STATUTE UNDER WHICH THE PROPOSED RULE WAS PROMULGATED?

Yes.

V. IS THE PROPOSED LEGISLATIVE RULE REASONABLE, ESPECIALLY AS IT AFFECTS THE CONVENIENCE OF THE GENERAL PUBLIC OR OF PERSONS AFFECTED BY IT?

Yes.

VI. CAN THE PROPOSED LEGISLATIVE RULE BE MADE LESS COMPLEX OR MORE READILY UNDERSTANDABLE BY THE GENERAL PUBLIC?

No.

VII. WAS THE PROPOSED LEGISLATIVE RULE PROMULGATED IN COMPLIANCE WITH THE REQUIREMENTS OF CHAPTER 29A, ARTICLE 3 AND WITH ANY REQUIREMENTS IMPOSED BY ANY OTHER PROVISION OF THE CODE?

Yes.

VIII. OTHER.

Counsel has technical modifications to suggest.