

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Do Not Mark In this Box

RECEIVED
1992 SEP 18 PM
OFFICE OF WEST VIR
SECRETARY OF ST.

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

AGENCY: West Virginia Division of Forestry TITLE NUMBER: 22

CITE AUTHORITY 19-1B

AMENDMENT TO AN EXISTING RULE: YES ___ NO X

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: 2

TITLE OF RULE BEING PROPOSED: Sediment Control During Commercial Timber -
Harvesting Operation - Licensing

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.


William H. Gillespie

13-60



DEPARTMENT OF COMMERCE, LABOR & ENVIRONMENTAL RESOURCES

OFFICE OF THE SECRETARY

State Capitol, Room R-151
Charleston, West Virginia 25305-0310
Telephone: (304) 558-3255
Fax No.: (304) 558-4983

GASTON CAPERTON
Governor

JOHN M. RANSON
Cabinet Secretary

August 18, 1992

Mr. William H. Gillespie
Administrative Forester
Division of Forestry
Guthrie Agriculture Center
Charleston, West Virginia 25305-0570

RE: Proposed Rule - Title 22, Series 2 (Sediment Control
During Commercial Timber-Harvesting Operations
[Licensing])

Dear Bill:

Pursuant to West Virginia Code 5F-2-2(a)(12), I hereby
consent to the proposal of the rule specified above.

You may attach a copy of this letter to your filing
with the Secretary of State as evidence of my consent.

Sincerely yours,

A handwritten signature in cursive script that reads "John M. Ranson".

John M. Ranson
Cabinet Secretary

JMR:mcl

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Sediment Control During Commercial Timber-Harvesting Operations - Licensing

Type of Rule: X Legislative Interpretive Procedural

Agency: West Virginia Division of Forestry Address 1900 Kanawha Boulevard, East State Capitol (Guthrie, Bldg. 13), Charleston, WV 25305-0180

1. Effect of Proposed Rule	ANNUAL		FISCAL YEAR		
	Increase	Decrease	Current	Next	Thereafter
Estimated Total Cost	\$	\$	\$	\$	\$
			6,090.00	6,090.00	
Personal Services			\$1,000.00	\$1,000.00	Due to inflation, probably 3% per year increase
Current Expense			\$4,090.00	\$4,090.00	
Repairs and Alterations					
Equipment					
Other			\$1,000.00	\$1,000.00	

2. Explanation of above estimates: Based upon developing, printing, and distributing 3,500 application forms, including postage for about 1,000 sent directly; computerization of application and licensing procedure and staff time involved, minus supervision. 1,000 x 29¢ = \$290.00; printing, \$1,000; secretarial, etc., \$1,000; computerization, \$1,000; 2,000 x 29¢ = \$580.00. Preparation and distribution of monthly reports \$100/month = \$1,200.

3. Objectives of these rules: To license individuals or firms involved in the conduct of timbering operations; purchase of timber or purchase of logs. The primary objectives are to insure that all logging operations are conducted in an environmentally sound manner, that all applicable State taxes are paid and that a logger certified in safety, sediment control and first aid supervises each job. A 12-person, statewide, industry-legislative-environmental committee worked throughout the summer in preparing these rules.

4. Declaration of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

Will cost less than \$10,000 annually to administer and may result in the collection of \$200,000 additional taxes. May also result in future savings due to less sediment in State streams.

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

The impact is on the logging, sawmilling and related industries, such as timber and log buyers. The direct impact will be \$50 per firm or individual involved in such work. There are also several costs involved in certifying loggers, which is a part of licensing. This will approximate \$500.00 per certified logger.

C. Economic Impact on Citizens/Public at Large.

None.

Date: 8-18-92

Signature of Agency Head or Authorized Representative

William H. Gillespie

DATE: September 18, 1992.

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: West Virginia Division of Forestry

LEGISLATIVE RULE TITLE: Sediment Control During Commercial Timber - Harvesting
Operation - Licensing

1. Authorizing statute(s) citation 19 - 1B

2. a. Date filed in State Register with Notice of Hearing:

August 18, 1992

b. What other notice, including advertising, did you give of the hearing?

State wide news release to print and audio media including
Associated Press.

c. Date of hearing(s): September 17, 1992

(Held Six)

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 hearing:
(be exact)

September 18, 1992

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

William H. Gillespie 558-2788

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.

NA

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?

NA

d. Attach findings and determinations and reasons:

Attached _____

RECEIVED

1982 SEP 18 PM 4:40

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

LEGISLATIVE

WEST VIRGINIA LEGISLATIVE REGULATIONS
DIVISION OF FORESTRY
DEPARTMENT OF COMMERCE,
LABOR AND ENVIRONMENTAL RESOURCES
Title 22
Series 2

SEDIMENT CONTROL DURING COMMERCIAL
TIMBER-HARVESTING OPERATIONS - LICENSING

§22-2-1. - General.

1.1. Scope. - These regulations establish procedures by which the license necessary in West Virginia before a person may conduct timbering operations, purchase timber or buy logs for resale may be acquired, suspended or revoked.

1.2. Authority. - West Virginia Code §19-1B-4.

1.3. Filing Date.

1.4. Effective Date.

§22-2-2. Definitions.

2.1. "Best Management Practices" or "BMP's" - means the technically feasible and economically reasonable procedures, as currently used in the state's silvicultural water quality management plan and as are adopted from time to time by the director, upon recommendation of the BMP Committee specified in §19-1B-7(h), used to reduce sedimentation of the waters of the state by soil erosion coming from the establishment and/or use of haul roads, skid roads, log landings, or other activities associated with the commercial harvesting of timber.

2.2. "Certified Logger" - means an individual engaged in the business of severing trees for commercial purposes who has successfully completed the program prescribed by the director to ensure competency in the safe conduct of timbering operations, in first aid, and in the use of BMP's.

2.3. "Chief" - means the administrator of the office of water resources of the division of environmental protection or his or her agent.

2.4. "Commercial" - means that which is done for a wage, fee, commission, agent or profit.

2.5. "Compliance Order" - means a written order of the director specifying how a situation that is contributing, or has the potential to contribute, to soil erosion or water pollution, be corrected; and further specifying a reasonable and practical number of days in which the corrective action(s) must be taken.

2.6. "Conference Panel" - means the entity comprised of those persons selected by the director and the chief, as specified in §19-1B-11-a, and who, upon the request of an aggrieved person or upon petition of the chief, meet to affirm, modify or vacate orders of the director relating to commercial timber harvesting.

2.7. "Director" - means the director, also termed the state administrative forester, of the West Virginia division of forestry or his or her agent.

2.8. "Haul Road" - means a road, other than roads built under an active permit to comply with other laws or regulations, constructed or used for the transportation of logs from a landing to a state road or highway.

2.9. "Landing" - means an area, integral to the logging operation, in or near a forest where logs are first accumulated and/or prepared for loading onto or into carriers for transportation to a wood-processing facility.

2.10. "License" means a document approved by the director and supplied, upon application, to any qualified person engaged in the conduct of timbering operations, or the purchase of timber for harvesting, or the purchase of logs for resale or some combination thereof.

2.11. "Log" - means any portion of a tree which has been severed from the stump and delimbed.

2.12. "Log Buyer" - means any person who buys and/or barterers for logs and who then resells some or all of the logs.

2.13. "Notification of Timbering Operations" - means supplying information about timbering operations to the director, within three days, either before or after, of the beginning of the operation, using a form designed and distributed by the director. If filed after the beginning of the operation, a brief statement shall accompany the notification form giving the reason for not filing earlier.

2.14. "Operator" - means a person who is engaged in the conduct of timbering operations, either independently or under contract to or for someone else. This includes those persons who contract to build skid roads and landings, who contract to skid logs, and who contract to fell trees for other operators.

2.15. "Person" - means any individual or combination of individuals, partnership, corporation, company, society, association, firm, organization, or other business entity.

2.16. "Skid Road" - means a road over which trees and logs are carried or dragged from the point where severed to a landing.

2.17. "Timber Buyer" - means any person who buys and/or barterers for standing or down timber to be used in the manufacture of wood products.

2.18. "Timbering Operations" - means all aspects of logging, including but

not limited to severing and delimiting of trees, cutting of the delimited tree into logs either at the point of severing or at a landing, the preparation of any skid and haul roads and the skidding or otherwise moving of the logs to landings.

2.19. "Water Pollution Control Act" - means Article 5A, Chapter 20, of the West Virginia Code or the successor citation.

§22-2-3. License Procurement; Posting of License Number.

3.1. Any person engaged in timbering operations, timber buying or log buying for resale shall, after September 1, 1992, first procure a license to do so from the director. Licenses may be for a single or for multiple, either two or three, categories.

3.2. Any person applying for a license to engage in timbering operations, timber buying or buying logs for resale shall do so by completing an application form supplied by the director.

3.3. A fee of fifty dollars shall be submitted with each single or multiple category license or license renewal application. There shall be no prorating of the fee for partial year licensing.

3.4. Any person applying for the renewal of a timbering operator, timber buyer or log buyer license shall do so by completing a renewal form on or before June 15 of each year. A renewal form shall be sent by the director to the last known address of the licensee at least thirty days prior to the renewal deadline.

3.5. Licenses not renewed for two successive years shall be deemed vacant and the number shall be available for reassignment.

3.6. Any person found guilty of operating without a license as specified by these regulations shall procure such license before resuming operations.

3.7. A sign, including thereon the name of the operator and the operator's license number, in letters no less than three inches high, shall be in plain view at each active landing on a timbering operation.

§22-2-4. License Suspension.

4.1. The license of any operator may be suspended for no less than thirty nor more than ninety days when found to be in violation of the provisions of either the logging sediment control act or the water pollution control act for a second time within any two-year period. Under such circumstances, a single incident, regardless of the number of individual violations cited, shall constitute only a single violation.

4.2. Violations to be considered as cause for license suspension shall include, but not be limited to:

4.2.1. Failure to have timbering operation supervised by a certified logger.

4.2.2. Failure to notify the director, on a form provided by the director, within three days of the beginning of a timbering operation.

- 4.2.3. Providing invalid or misleading information on a notification form.
- 4.2.4. Failure to place a sign, as per 3.7, at the timbering operation.
- 4.2.5. Failure to use appropriate best management practices.
- 4.2.6. Failure to observe compliance orders from the director.
- 4.2.7. Failure to observe a timbering operation suspension order from the director.
- 4.2.8. Interfering with the director's or chiefs access to the operation for inspection purposes during reasonable working hours or for emergencies.

§22-2-5. License Revocation.

5.1 The license of any timbering operator, timber buyer or log buyer may be revoked for any of the following reasons:

- 5.1.1. Providing false data on the licensing application.
- 5.1.2. Being found in violation of either the logging sediment control act or the water pollution control act for a third time within any two-year period. Violations to be considered as causes for license revocation shall include, but are not necessarily limited to, the listing in 4.2.1 through 4.2.8 of this regulation.

§22-2-6. Exceptions.

6.1. Persons severing evergreen trees for sale during the traditional Christmas season shall be exempt from licensing for that activity.

6.2. Persons severing trees incidental to ground-disturbing construction activities shall be exempt from licensing for that activity provided that the logs so produced are not sold for, or given away for, wood product production purposes.

6.3. Persons severing trees incidental to the construction of access roads, well sites, gathering lines or transportation pipelines shall be exempt for that activity provided that the materials so produced are not sold, or given away, for wood product production purposes.

6.4. Persons severing trees incidental to the construction of highways or public utility rights-of-way or for the maintenance of existing highways or public utility rights-of-way shall be exempt from licensing for that activity providing that the trees so severed are not sold for, or given away for, wood product production purposes.

6.5. Companies regulated by the federal energy regulatory commission shall be exempt from licensing for the severing of trees incidental to the purposes for which they are so regulated.

6.6. An individual severing trees on the individual's own property with the intention of using the logs directly or for the manufacture of wood products for the personal use of the individual or the immediate family of the individual shall be exempt from licensing for that activity, provided that the individual does not have

the severing done by a person whose business is the commercial severing or removal of trees.

6.7. Individuals severing trees occasionally or routinely for sale on their own property, where the gross income realized from the sale of the product; i.e., logs, props, posts, firewood, rails, etc., does not exceed ten thousand dollars per annum may obtain a waiver from licensing by applying to the division, on forms provided by the division, for such.

§22-2-7. Right of Appeal.

7.1. Any person aggrieved by a decision of the director relative to the licensing of timbering operators, or timber buyers or log buyers purchasing logs for resale shall have the right to appeal the order to the district conference panel who shall, in writing, affirm, modify or vacate the order.

Procedures are established by which the license necessary in West Virginia before a person may conduct timbering operations, purchase timber or buy logs for resale may be required. Procedures are also established under which such licenses may be suspended or revoked. Certain exceptions and definitions are also provided.

NEWS RELEASE

West Virginia Division of Forestry
1900 Kanawha Boulevard, East
State Capitol (Guthrie)
Charleston, WV 25305-0180
Phone: 558-2788/FAX: 558-0143

For Immediate Release

August 25, 1992

PUBLIC HEARINGS SCHEDULED ON LOGGING SEDIMENT CONTROL

CHARLESTON, W. VA. -- Bill Gillespie, Director of the West Virginia Division of Forestry, has released a schedule for the public hearings on the regulations concerned with sediment control during commercial timber-harvesting operations.

Gillespie says that hearings on the regulations involving licensing of timber operators, timber buyers, and log buyers are scheduled for 9 to 10 a.m. on September 17, 1992. Public hearings will be held in each of the Forestry Division district offices. The locations are District I, 1304 Goose Run road, Fairmont, WV 26554; District II, #1 Depot Street, Romney, WV 26757; District III, State Route 20, French Creek, WV 26218; District IV, Route 16, MacArthur, WV 25873; District V, 878 East Main Street, Rear, Milton, WV 25541; and District VI, 2309 Gihon Road, Parkersburg, WV 26101.

A second public hearing from 10 to 11 a.m. will be held at the same place on the same day for consideration of the regulation pertaining to logger certification.

The Division requests that persons wishing to make comments at the hearings also plan to bring written comments in order to facilitate the review. The issues to be heard shall be limited to those involved with the proposed regulation.

Comments about either of the regulations may be mailed to the West Virginia Division of Forestry, 1900 Kanawha Boulevard, East, Charleston, WV 25305-0180.

Copies of the regulations and the news releases pertaining thereto can be procured at any office of the Division of Forestry. For further information, call 558-2788.

Dom. Jour Post

9/11/92

10/11/92 Charleston
Gazette

Forums on timbering scheduled

THE ASSOCIATED PRESS

Public hearings on timbering regulations will be held Thursday at state forestry offices in Fairmont, Romney, French Creek, MacArthur, Milton and Parkersburg.

The Legislature passed the state's first law regulating loggers earlier this year, with specifics worked out by a panel of experts.

The panel decided the following are grounds for license suspension:

▲ Failure to notify the Division of Forestry three days before cutting timber.

▲ Improper timber management.

▲ Defiance of state Forestry Division orders.

The panel also said loggers must buy a \$50 license from the state each year unless they are cutting timber worth \$4,000 or less on their own property.

Hearings slated on proposals for timbering rules

By The Associated Press

Proposed rules on timbering in West Virginia are too much of a burden on small companies, a state senator said.

"I just don't want to see any timber operators put out of business," said Sen. Donna Boley, R-Pleasants.

Public hearings on the rules will be held next Thursday at state forestry offices in Fairmont, Romney, French Creek, MacArthur, Milton and Parkersburg.

The Legislature passed the state's first law regulating loggers earlier this year. Specifics were worked out this summer by a panel of lawmakers, environmentalists and timber industry representatives.

The panel decided the following are grounds for license suspension:

● failure to notify the Division of Forestry three days before cutting timber.

● improper timber management.

● defiance of state Forestry Division orders.

The panel also said loggers must buy a \$50 license from the state each year unless they are cutting timber worth \$4,000 or less on their own property.

The rules will be phased in over the next several months. Comments at the public hearings could result in rule changes, but only if those changes are approved by the Legislature.

Clipping Division
West Virginia
Press Services,
3422 Pennsylvania Ave.
Charleston, WV 25302
Date of Clipping:

SEP 2 1992

Moorefield Examiner
MOOREFIELD, WV

147

Public Hearings Scheduled On Logging Sediment Control

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Clipping Division
West Virginia
Press Services,
3422 Pennsylvania Ave.
Charleston, WV 25302
Date of Clipping:

SEP 2 1992

Webster Echo
WEBSTER SPRINGS, WV
Circulation: 2,923

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Clipping Division

West Virginia
Press Services,
3422 Pennsylvania Ave.
Charleston, WV 25302

Date of Clipping

SEP 2 1992

The Record Delta
BUCKHANNON, WV

Public hearings scheduled on logging sediment control

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Clipping Division
West Virginia
Press Services,

101 Dee Drive - Suite 200
Charleston, WV 25311

Date of Clipping:

SEP 7 1992

Clay Herald
Clay, WV

Circulation: 0

Public Hearings On Logging Sediment Control

Monday,

Public hearings on the 26101.

regulations involving licens-
ing of timber operators, tim-
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scheduled for 9 to 10 a.m. on
Thursday, September 17,
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District III, State Route
20, French Creek, WV 26218.

District IV, Route 16,
MacArthur, WV 25873.

District V, 878 East
Main Street, Rear, Milton,
WV 25541.

District VI, 2309 Giffon
Road, Parkersburg, WV

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Copies of the regulations
can be procured at any office
of the Division of Forestry.
For further information, call
558-2788.

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Clipping Division
West Virginia
Press Services,
3422 Pennsylvania Ave.
Charleston, WV 25302
Date of Clipping:

SEP 03 1992

Nichols Chronicle
SUMMERSVILLE, WV

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Clipping Division
West Virginia
Press Services,
3422 Pennsylvania Ave.
Charleston, WV 25302
Date of Clipping:

SEP 4 1992

Mountain Views
GLENNVILLE, WV
750

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**SEDIMENT CONTROL DURING COMMERCIAL
TIMBER-HARVESTING OPERATIONS--LICENSING**

Brief Synopsis of the Six Hearings Held
Across the State Today, September 17, 1992

The six hearings were held simultaneously in the locations noted on the attached form "Notice of Public Hearing on a Proposed Rule." Differing numbers of people appeared at the different locations, from a low of six at Milton to a high of 63 at French Creek.

In essence, more than 90% of the comments, both officially and from the floor, at all locations, were by citizens not involved in timbering operations and, in general, the comments were against the statute and not germane to the regulations. At the Parkersburg and Buckhannon meetings, tax-payer associations spent a lot of time discussing the unconstitutionality of eight different laws that they were against. At the Buckhannon location, informational picketing, via the handing out of a leaflet, was conducted from a parked automobile in the front of the parking lot.

Germane comments were primarily that landowners should be able to cut on land they own or on land from which they purchase timber, without having to pay a license fee, as long as they do not exceed \$10,000 in gross receipts. This would be an increase from \$4,000 to \$10,000 over the proposed regulations. The same people supported being able to post their license in lieu of posting a sign with three-inch letters.

Most of the other comments were individual comments and did not point to a consensus of thinking on the item. One individual did wish to raise the exemption to \$50,000; another thought the three-person informal hearing committee is unconstitutional; and there were isolated comments to the effect that utilities and construction should not totally exempt.

21

REC'D SEP 17 1992 PUBLIC HEARING
Sediment Control During Commercial Timber-Harvesting Operations
Licensing

Date 9-17-92

NAME	ADDRESS	DESIRES TO SPEAK (YES OR NO)
Rolfe Moran	RT 4 Box 1 Mannington WV 26582	No
Kurt Flewings	P.O. Box 92 Terra Alta, W.D. 26764	Yes
William Hauser	RT 1 Box 179 Acrotz WV 26705	No
David W. Hill	RT 1 Box 1608 Bristol WV 26332	No
Michael S. Siler	5T RT Terra Alta WV 26764	No
Ted Harrison	492 Town St., Charlesburg, WV 26301	Yes
Tim Pahl	RT Box 170, Morgantown WV 26505	No
Curt Hassler	RT. 3 Box 93-B Morgantown, WV 26505	NO
David Summers	RT 3 Box 136 Sheafers WV 26354	NO
Paul Summers	RD #3 Box 140 Sheafers WV 26354	NO
	1	

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REC'D SEP 17 1992
Sediment Control During Commercial Timber-Harvesting Operations
PUBLIC HEARING
Licensing

Date 9-17-92

NAME	ADDRESS	DESIRES TO SPEAK (YES OR NO)
Barbara Alvertson	P.O. Box 55 Burton, W.V. 26562	No
Mr. Patterson	Same	No
Rayol L.P.	Box 81 Wendover WV. 26589	yes
Jack Bell	P.O. Box 231 Redsville, W.V. 26547	No
Bill Burnett	Rt 1 Box 117 Wolf Summit W. Va	yes
Denise R. Brumback	Rt 1 Box 117 Wolf Summit, W. Va	No

REC'D SEP 17 1992

We are here today to support the Logging Regulations Bill that was passed by the Legislature this past session. We feel that the bill is a good way to make more responsible operators of the contractors working in the timber industry today, but we would like to see the following changes made to better improve the situation:

- 1) that the license exemption of \$4000 be raised to \$10000 for small operators
- 2) that the small operator (who receives the \$10000 exemption) be able to cut on land other than his own
- 3) that a copy of the license certificate serve as a minimum size for the sign on the landing instead of the sign containing three inch letters.

Again, we would like to reaffirm our support for the Logging Regulation Bill, hope that these three changes can be made, and that the Timber Industry can prosper from this day forward.

William Hauser

William Hauser

Michael Sisler

Michael Sisler

Kent Fleming

Kent Fleming

422 Tuna Street
Clarksburg, WV 26301
September 17, 1992

Mr. Lowell McPherson
District Forester
WV Division of Forestry
Fairmont, WV 26554

REC'D SEP 17 1992

Dear Sir:

I appreciate this opportunity to comment on the proposed regulations governing timber harvesting. Although new legislation rarely remains in its original form, the bill passed in the last session is probably as workable a bill as could be expected. However, as a professional forester and member of the West Virginia Forestry Association, I feel that several questions about the bill and its wording should be answered.

From various sections of the bill, I see where the Water Resources section will be involved in enforcement and monitoring. While they have many fine people working in the field, I am concerned that most of them are not foresters or lack a proper appreciation of what proper silvicultural practices entail. A person involved in this area needs to have more than a cursory knowledge of logging to distinguish among proper and improper practices. What training will these people receive? Will they be frequently visiting job sites without cause or complaint? Most other industries do not follow the Best Management Practices as we do.

The bill provides for fees and fines to pay for the implementation of these new guidelines. We must be cautious to avoid the creation of an expensive program that becomes burdensome to administer. Available personnel are at a premium and it is easy to let something of this type evolve into a ponderous bureaucracy with which no one wishes to cooperate.

The wording "potential to cause or contribute to soil erosion or water quality degradation" causes me some concern. Used with some amount of discretion, these regulations will help both landowners and timber producers themselves. However, should an inspector choose to, the above phrase could make life miserable for those in the timber business. There is not a log job in West Virginia which does not have "potential" to cause problems. One cannot disturb soil in any pursuit under that definition. I hope common sense will prevail.

Why are oil & gas, right-of-way operations and others excluded from these regulations? With the wording that exempts them only if the products are not sold, it actually discourages recovery of valuable natural resources. Oil & gas producers may be regulated, but they also build some of the poorest grade roads in the state and they have no concept of Best Management Practices. All the grass seed in the world is ineffective if one does not install water breaks on a 50% grade. No one using heavy equipment to remove trees and disturb forest soils should be exempt.

REC'D SEP 17 1992

(I)

Licensing

Fairmont Public Hearing #1

09:00 09/17/92
Work 3 days in law;

^{with 1000} Kent Fleming - Here to support bill. License exemption raised to \$10,000 ② People getting the exemption be allowed to cut on lands other than their own ③ Place ^{copy} of certificate

Ted Hauiman - Columbia WU - Appreciate opportunity to comment. ^{Concerned that} ~~Not really in law~~ Water Resources in law will be doing enforcement. Questions their training in logging. All jobs in WU could have problems with erosion - needs discretion in enforcement. Why are ~~Common People with diverse oil & gas road~~ exempt. they do not pay attention to DWP's ^{Concerned with appeals panel that it could be used to harass or impede timber producer.}

Harkin lumber

Ralph ~~Six~~ ^{Six} - Why is anybody exempt from getting a license? Everybody should have a license - Anybody with 4-5 members of a family can add cut \$4000 worth of timber and get around this.

REC'D SEP 11

Bill Berrill - WVEA

Recommendation: Raise exemption from \$4000 to
\$10000 under expenses

Rather than sign of receipt
letters, Post-logged &
somehow on landing - this is
due to vandalism, etc.

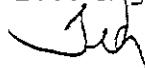
Mr. Lowell McPherson

Page 2

Under the appeal section, it is broadly worded to include "any person having interest in or adversely affected" by decisions in all sections of this bill may file appeals. I can quickly see this as opening the door to a Forest Service type process for every disenchanted neighbor who did not want the timber cut or overzealous interest group that wishes to harass timber producers into bankruptcy. This has the potential to create a nightmare process.

Again, thank you for the opportunity to comment. I hope these questions will serve only to assist in creating a more efficient and desirable program that will be a model for other states to follow.

Best Regards,



Ted Harriman

D-2
Romney

II

REC'D SEP 17 1992

ROMNEY - 9/17/92

LICENSING HEARING

- 1 RAISE EXEMPTION TO \$15M FOR ALL. LANDOWNER CUTTING ON OWN PROPERTY SHOULD BE EXEMPT FROM ANY CHARGE. NEED ANOTHER MEETING DUE TO POOR COMMUNICATION.
- 2 RAISE EXEMPTION TO \$25M FOR ALL.
- 3 WVFA WRITTEN STATEMENT.
- 4 CUTTING ON OWN PROPERTY SHOULD BE EXEMPT TOTALLY, COMMERCIAL OR NOT.
- 5 WHY WAS MEETING CALLED SO HURRIEDLY WITHOUT NOTIFICATION. PUT MORE MONEY IN DIVISION OF FORESTRY BUDGET.
6. GENERAL CONSENSUS - LANDOWNERS CUTTING ON OWN PROPERTY SHOULD BE EXEMPT FROM ALL FEES.

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REC'D SEP 17 1992

PUBLIC HEARING

REC'D SEP 17 1992

Sediment Control During Commercial Timber-Harvesting Operations
Licensing

Date

NAME	ADDRESS	DESIRES TO SPEAK (YES OR NO)
Fred Husel	HC 81 Box 19 Springfield, W.V.	No
Mary Rinke	HC 86 Box 24 Perryville	
Joseph Coleman	HC 81 Box 44 Springfield 26763	492-5305
Scott Rahbough	HC 84, Box 4 Keyser, W.D. 26726	
Willis Godwin		

PUBLIC HEARING
Sediment Control During Commercial Timber-Harvesting Operations
Licensing

REC'D SEP 17 1992

Date _____

NAME	ADDRESS	DESIRES TO SPEAK (YES OR NO)
Shirley O'Neil	Representing the Hampshire Rivers P.O. Box 1036 Rome, NY	Yes
Scott Robinson	Kessel Lumber Supply Inc. Hwy, Keeseville NY 20220	No
Margaret O'Day	Hess Box & Kinby 26725	No
Marilyn Thompson	Helle Box 30 Ad Falls VT	No

REC'D 11-1-1956

PUBLIC HEARING
Sediment Control During Commercial Timber-Harvesting Operations
Licensing

Date 9-17-92

NAME	ADDRESS	DESIRES TO SPEAK (YES OR NO)
James Williams	Paw Paw Md W.Va.	YES
Douglas E. Shingleton	Paw Paw W.Va.	
Bernard D. Conolly	Paw Paw W.Va.	
Joseph Coleman	Spartanburg, W.V. 26763	Yes
Dean Brown	Franklin W.V.	Yes
William Holman	Mayfield W.V.	
Tom Cover	Petersburg, W.V.	Yes
Doug Stalling	Mayfield Co. Va.	
Tom Stalling	Mayfield W.V.	NO
Jan Bridger	Stem Spring	NO
Merrill Foster	near Creek W.V.	NA
Tom W. Niteau	Paw Paw, W.Va.	
Richard Williams	Dud Run W.Va.	
K. W. Higgins	Paw Paw W.Va.	
P. J. Williams	NC 75 Dept 75 New River W.V.	Yes

REC'D SEP 17 1992

I Tom Cover representing the 885 members of the West Virginia Forestry Association recommend the following changes for licensing under the proposed rule for Sediment Control During Commercial Timber-Harvesting Operations.

1. That the license exemption of \$4,000 be raised to \$10,000 for small operators.
2. That the small operator (who receives the \$10,000 exemption) be able to cut on land other than his own.
3. That a copy of the license certificate serve as a minimum size for the sign on the landing instead of the sign containing three inch letters.

Signed: Tom Cover Date: September 16, 1992

WEST VIRGINIA FORESTRY ASSOCIATION

REC'D SEP 1 7 1992

III

LOGGING SEDIMENT CONTROL ACT
RULES AND REGULATIONS PUBLIC HEARINGS
SYNOPSIS OF TAPE RECORDED SESSIONS
SEPTEMBER 17, 1992

LICENSING

Jack Boone – did not address the issue

Anna Christian – concerned about the landowner \$4,000 limit and entry on the landowner's property

Ray Lockwood – pass

Scott Williams – pass

Robert Wayne – double taxation to have business license and a logging license Also felt it was wrong for landowner to buy license to operate on own property

Ferrel White – landowner should not be required to have license

Paul Christian – did not feel landowner should have to be licensed or get a waiver

Dick Waybright – represented 855 members – WVFA recommend the following changes: \$4,000 waiver be raised to \$10,000 – The waiver would allow you to cut on land other than your own – and that the license itself could be used as the sign on log jobs

Paul Frame – relinquished his time to Brent Nettles

Walter Beamer – landowner concerned about \$4,000 limit for waiver; already used up his \$4,000 limit when he purchased equipment; skidder...

Lester Lemon – he ^{should be} represented 5,000 people – government is taking away rights from people – the logging law is unconstitutional (*a logger*)

George Tenney – small logger cannot live with the Bill – \$50 not much money to some people – hard on small logger – Do need a license program to pay share of taxes; need program we can live with – big man creates problems

Mike Ross – unfair to small operators – will drive individuals out of business – attending meetings takes money – raise waiver to \$50,000 gross – \$4,000 gross would only net \$400 profit for most operators

Cliff Summers – lost freedom; regulations, taxes, solid waste – every Bill takes our freedom – teaching BMP's would be better than licensing – Forestry should help small operators – licensing forcing small operators out of business – more and more laws for sediment control – this law unconstitutional and the law should be repealed

Margaret Gregory – passed

Brent Nettles – Division of Forestry has not supplied enough information – people applying for contractor's license were given information – waiver should be for \$50,000 – it is a tax bill – had been told OSHA regulations would be worse than Forestry's – OSHA's are safety regulations; they are not a threat

Tim Hudkins – he is a small operator – big companies are the violators – there will be no work in this state because they are too hard on small operator – will put the small operator out of business

Butch Durand – timber industry up and down – harder and harder for people – taking flexibility out of industry – too many permits

Cam Hudkins – state agencies get away with polluting – sediment does not get into the creek if you take care of it – crack down of big man; not little man – we can police ourselves – state should take care of educating

Charles Gilchrist – WV has too many state employees – Bills are passed to give state workers a raise

Roy Wilmoth – majority of loggers is interested in the timber future

Brent Nettles (again) – have to have WV Business License and pay \$50 logger license – cannot enforce laws already on the books – Why?

Adjourned at 9:40 a.m.

Notes: Holders' names same as on previous permits

Attendance - (63)

PUBLIC HEARING
RE'D SEP 17 1992 Sediment Control During Commercial Timber-Harvesting Operations
Licensing and Cost Studies

Date Sept 17, 1992

NAME	ADDRESS	DESIRES TO SPEAK (YES OR NO)
Margaret Gregory	Rt. 2 Box 218 French Creek, MD	Maybe
Jack Boone	P.O. Box 375 Franctown, MD	Yes Both
Dorothy Reeder	Rt 4 S Box 5 Strongy Creek, MD	No
Anna Christian	MCR 77 Box 27 Upper Glade, MD	Yes
Ring Lockwood	38 W Victoria St. Buddmanor, MD	Yes Both
Erin Hopkins	Rt 66 Box 38 Corley, MD	Yes Both
Tim Hopkins	Rt 66 Box 38 Corley, MD	Yes Both
Scott Williams	Rt. 1 Box 106 Buckmanor	Yes Both
Robert Mayne	2900 Chapel Road Gassaway	Yes Both
Ferrel White	P.O. Box 2 Gassaway	Yes Both
Tom Sandry	Rt. 3 Box 14 Perkins	No
Roger Miller	Rosedale	No
Chrice Burns	Franctown	No
Jack Burns	Franctown	No
Richard Burns	Franctown	No

Witnessed by _____

REPORT 1 / 1992

PUBLIC HEARING
Sediment Control During Commercial Timber-Harvesting Operations
Licensing and Cost Studies

District W. Franklin

Date Sept 17, 1992

NAME	ADDRESS	DESIRES TO SPEAK (YES OR NO)
Roy Wilmoth	Box 262 Belington, WJ	No
Warren Moser Glook	151 Rockhollow St Buckhannon, WJ	No
Marie Singleton	251 Cutlip Fork Cassaway, WJ	No
Paul Christinn	MC Rt 77 Box 47 Upper Glade, 26266	Yes
Dick Loughbright	Riverswood, WJ	Yes
Paul Ffance	Fernald Creek, WJ	Yes Both
Brent Nettles	Elmiron, WJ	Yes Both
Nolan Reeder	Rt 4, Box 5 Strangers Creek, WJ	No
Walter Berner	255 Berner Dr. Sutton, WJ	Yes Both
Lester Lemon	Box 180 Chapel Rt. Cassaway, WJ	Yes Both
L.R. Prince	Menters, WJ	No
Ralph Bygnes	Napier, WJ	No
Charles Gilchrist	Alvin Bridges, WJ	No
Russell Groves	Rt. 2 Box 6 Weston, WJ	No
Robert Groves	Box 393 Lost Creek, WJ	No

PUBLIC HEARING
Sediment Control During Commercial Timber-Harvesting Operations
Licensing and Cost-Share

Date Sept 17, 1992

NAME	ADDRESS	DESIRES TO SPEAK (YES OR NO)
Darrell Cunningham	Lockney, MD	No
Susan Gould	Rt. 9 Box 347 Buckhannon, MD	No
Terry Gould	Rt. 9 Box 347 Buckhannon, MD	No
John Dillelonger	301 Andrews St. Elkins, MD	Yes
Jack Sturgill	P.O. Box 55 Petersburg, MD	No
Roy Tenney	612 Elk St Webster Springs	No
Lee Wolfe	Purchase Curtin Lbr. Co. Webster Springs	No
Richard Riley	Rt. 2 Box 125 French Creek	No
Cliff Summers	1 Coleman Place Buckhannon, MD	Yes
Leo Dilmoth	Rt 4 Box 557 D Buckhannon	No
Karen Robinson	Rt. 2 Box 41 French Creek, MD	No
Kenny Hamrick	Rt. 4 Box 4F Webster Springs, MD	No
James Hanna	P.O. Box 70 Webster Springs, MD	No
George Tenney	Rt. 2 Box 119 French Creek, MD	Yes Both
Mike Ross	Coalton, MD 26257	Yes Both

PUBLIC HEARING
Sediment Control During Commercial Timber-Harvesting Operations
licensing and Certification

Date Sept. 17, 1992

NAME	ADDRESS	DESIRES TO SPEAK (YES OR NO)
Bob Baker	Alum Bridge, MD	No
Jo Ann Krause	Alum Bridge, MD	No
Beth Durand	Sutton, MD	Yes
Roy Henderson	Sutton, MD	No
Nancy Groves	Rock Cove, MD	No
Anne Mollenex	Elkins, MD	No
Eldon Plaugher	Parsons, MD	No
Lumber Jack Logging	P.O. Box 665 Webster Springs	No
Paul Groah	General Delivery Camden, MD	No
Patsy Sears	Box 43 Floe, 25235	No
Malinda Murphy	Rt. 2 Box 235 Chloce, MD 25235	No
Carolyn Murphy	Rt. 1, Box 119C Chloce, MD 25235	No
William Giles	32 Erloncom Road, Cowen, MD	No
Jeff Giles	Cowen, MD	No
Bill Mace	Lockney, MD	No

REC'D 11/11/82

9-12-92

TO: RULES & REGULATIONS COMM.

FROM: MIKE ROSS - PRESIDENT WV TAX-STUDY ASSOC.
- DEMOCRATIC NOMINEE - STATE SENATE 15TH DIST.
- BUSINESS MAN - LANDOWNER & ~~LANDOWNER~~ COALTON, WV

RE: TIMBER BILL : 4669

THIS BILL IN ITS PRESENT FORM, ALONG WITH THE SO-CALLED EMERGENCY REGULATIONS, IS UNACCEPTABLE TO A MAJORITY OF: SMALL TIMBER CUTTERS, CONTRACTORS, FARMERS, LANDOWNERS, SAW MILL OWNERS AND IN GENERAL MANY SMALL BUSINESS OWNERS THROUGHOUT THE STATE OF WEST VIRGINIA. IN ITS PRESENT FORM: SINCE SEPT. 1, 1992, IT IS ALREADY DRIVING INDIVIDUALS OUT-OF-BUSINESS RESULTING IN MORE WELFARE CASES, LACK OF JOB OPPORTUNITIES, AS WELL AS CREATING MANY FAMILY HARDSHIPS ON INDIVIDUALS WHO HAVE BEEN ENGAGED IN MEETINGS (SUCH AS TODAY) TO TRY TO GET RE-FORM AND CONTINUE TO SURVIVE, WORK AND FEED THEIR FAMILIES WHILE BEING ENGAGED IN THE TIMBER INDUSTRY.

REFORMS NEEDED:

1. RAISE A BLANKET EXEMPTION TO AT LEAST \$50,000 GROSS INCOME PER INDIVIDUAL BUSINESS OR COMPANY - ANYBODY IN THE STATE CAN TELL YOU THAT A VERY FEW BUSINESSES (NO MATTER WHAT) HAVE A NET INCOME OF MORE THAN 10% OF GROSS, SO THIS WOULD ONLY RESULT IN MOST CASES OF AN INDIVIDUAL OR COMPANY MAKING A \$5,000 PROFIT.

REC'D 11/11/92

WE ALL KNOW THAT THIS IS AS MUCH A TAX BILL AS MUCH AS A SEDIMENT CONTROL BILL AND FOR AN INDIVIDUAL OR COMPANY TO HIDE TAX DOLLARS OR AVOID TAXES IS VIRTUALLY IMPOSSIBLE BECAUSE THEY HAVE TO SPEND MOST OF THIS MONEY TO SURVIVE. THE \$50,000 OPERATOR WILL KEEP THIS MONEY IN CIRCULATION AND TAXES WILL BE DERIVED ONE WAY OR ANOTHER. THE CURRENT EMERGENCY EXEMPTION OF \$4,000 ^{only} RESULTS IN \$400 PROFIT. CERTAINLY NOT MUCH OF AN INCENTIVE TO START A BUSINESS OR TO REMAIN IN BUSINESS.

THE RAISING OF THE EXEMPTION WOULD PUT TO REST MOST OF THE CONTROVERSY CURRENTLY GOING ON AND WOULD ALLOW MOST OF US TO GET BACK TO WORK.

2. YOU ARE GOING TO HEAR TODAY AND, IN THE NEAR FUTURE, MANY PROPOSED REFORMS FROM PERSONS DIRECTLY AFFECTED BY THIS LEGISLATION AND THEIR CONCERNS ABOUT THEIR LIVELIHOODS AND THESE COMMENTS SHOULD NOT BE TAKEN LIGHTLY AND HOPEFULLY THIS CAN BE WORKED OUT TO A MAJORITY'S SATISFACTION AND AVOID A MAJOR BATTLE FOR A TOTAL REPEAL OF THIS SO-CALLED BILL.

"A SURE WAY TO BE SUCCESSFUL IS TO LISTEN TO ANOTHER MAN'S POINT OF VIEW." (HENRY FORD)

THANK YOU.

Mike Ross

REC'D SEP 17 1992



WEST VIRGINIA FORESTRY ASSOCIATION

P.O. BOX 488
RAVENSWOOD, W. VA. 26164
PHONE (304) 273-8164

I am Dick Waybright representing the 885 members of the West Virginia Forestry Association recommend the following changes for licensing under the proposed rule for Sediment Control During Commercial Timber-Harvesting Operations.

1. That the license exemption of \$4,000 be raised to \$10,000 for small operators.

2. That the small operator (who receives the \$10,000 exemption) be able to cut on land other than his own.

3. That a copy of the license certificate serve as a minimum size for the sign on the landing instead of the sign containing three inch letters.

Signed: _____

Dick Waybright

Date: _____

9/17/92

REC'D SEP 1 1961

As a forester with timberland in four West Virginia counties and over fifty years experience in many areas of timbering operations, as well as a knowledge of the many present laws which, if enforced, would control the sediment effecting our streams today.

In my 77 years I have worked for Soil Conservation Service, U.S. Corps of Engineers, Dept. of Natural Resources, taught agriculture, Department of Highways, and have been a member of the Legislature.

I have been promoting good soil erosion methods for over 50 years. With my experience record I would like to know who will be teaching me the best management practices..

I believe an educational program, teaching our timber operators the best management practices would be much more productive than this program of helping to cause our many small timber operators go out of business.

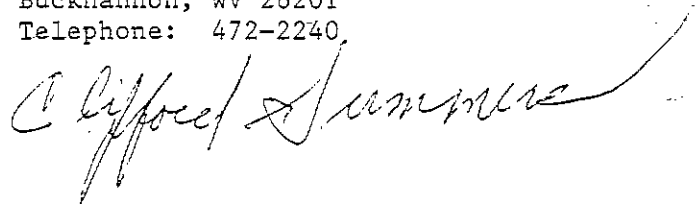
If we foresters would teach and help the small operators to become larger this would be much better than administering heavy fines which would only result in putting West Virginia to the bottom of the economic ladder.

I am amazed at the cowardly attitude our timber leaders have. Their idea is to "go with the present timber bill" because of the threat by our state leaders of putting in a worse bill. Sounds like blackmail to me!

The final and most important point I will make is that we now have more laws and regulations for sediment control than we can enforce or administer and this is just another way of creating more unemployment and failure of people in the timber industry.

I firmly believe this law should be repealed during the next Legislative meeting for these reasons as well as that of being unconstitutional.

Respectfully submitted
Clifford Summers
1 Coleman Place
Buckhannon, WV 26201
Telephone: 472-2240.



REC'D SEP 17 1932.

To Whom It May Concern,

I have been attending these timber meetings on this so called "timber legislation", and I was asked to write my comments down on paper, so here goes.

First of all it is the biggest bunch of bull I have ever read and I cannot live with it and I am not even going to try, because it is going against my constitutional rights.

What it means to me is that a handful of Charleston are trying to tell me that I don't have enough sense to manage my own stuff, so they are going to manage it for me. Well, I am here to tell you, that doesn't go with me!

Further more, they are calling timber a natural resource. To me it is a crop off of my land and I think I have enough sense to manage it myself.

I have always worked hard and tried to be a law abiding citizen, but the so called "laws" that are being passed now are ridiculous. I am not going to get a timber license and I am not paying any fine and you can count on that! This letter is a notice for all state officials to steer clear of my property or they will have to deal with me.

Dana Rose
Gassaway, W.V.

REC'D SEP 17 1992

Comments to the Forestry Dept.

I have several comments concerning H.B. 4669.

1. First and foremost is the four thousand (4,000) limit on an individual harvesting trees from his or her own land. If you own your land and pay taxes on it, there should be no limit on how many trees you harvest on that land.
2. I feel the fines should be much lower for the first offence and also that the violators should be tried in the county in which the violation occurred, by a judge and jury of their peers.
3. A sign displayed at job site with 3 inch lettering is unnecessary. Displaying your business license should be enough.
4. The fifty dollar extra license is just another tax on people who are ~~and~~ already taxed far too much.

3. The small timber man is
not the one harming our land

Thank You
Patsy Sears

This is a copy of our letter that is being sent to
the Secretary of State office as well as many other
state agencies.
Thank You.

Burton M. Murphy
Rt. 2 Box 235
Kloe, W.Va. 25235

REGD 171992

Office of Secretary of State
1900 Kanawha Blvd. E.
Building I Suite 157 K
Charleston, W.Va. 25305

I am writing to voice my
concerns regarding the Timber
Law (H. B. 4669).

This bill sets regulations, guidelines,
and penalties which the small time
timber operators are unable to live
with.

I feel this bill is targeting small
family run operations. There should
be a clause in the bill that
exempts landowners from obtaining
expensive licenses and permits as
long as they are timbering their own
land and/or their annual gross
income does not exceed \$50,000.00.

Another aspect of this law that meets with my disapproval is the requirement of two separate licenses. This is an additional revenue by targeting one occupation or business.

It is also my opinion that certain boundaries of privacy are disregarded. The fact that a state paid director from the Division of Forestry may come on, or remain on personally owned property, and conduct inspection, and initiate fines leaves no respect of private ownership.

I believe that failure to comply with Best Management Practices should result in only a warning to make corrections.

If after given a reasonable period of time the operation still goes on without meeting BMP standards there should be a decision rendered within the county and the fines set at this level. This should be

decided by a jury of peers and not by an appointed committee.

Many of the environmental regulations are so outrageous they are almost laughable. Many of the regulations dealing with sediment control are impossible to live with. A muddy stream does not kill animal life or damage the environment. How can one man fine another for the very thing mother nature dumps on us every time it rains.

This entire bill reeks of unconstitutionality. Our elected officials should not pass into law that which shows blatant disregard for our personal rights.

When a man's privacy and personal property can be regulated and controlled by the almighty power of the government, then Democracy has given way to Communism.

Burton M. Murphy

REC'D SE - 17 1992

Candyn Murphy
Rt 1 Box 117 C
Charlottesville, VA 22935

William H. Gillespie
WV Forestry Division
Charleston, WV

25305

As a concerned citizen of the state of West Virginia I write this letter asking for the repeal of the Timberland Bill (4669). I feel this bill was deceitfully passed and is unnecessary. I feel this bill was passed with little regard of the impact to the small timbermen and economy of this state. The environmental restrictions are too great as well as the fines for the so called violators. I feel the way the bill was passed is unconstitutional and very communistic like. I also think the landowner should be exempt from this bill being allowed to harvest any amount of timber from his property.

The landowner purchase his own property and pays taxes on it. It should belong to him, not the state! Landowners are tired of unfair laws and taxes in this state. That is the reason we left the rule of England to start with. It is time the people in legislature consider the welfare of the common people. Start listening to the voice of the working people, the few lucky enough to have jobs. Our economy is bad enough. It does not need laws to worsen matters. Let common people work without a lot of unnecessary laws and regulations to threaten their well being and means of survival. Environmentalists are overly concerned with everything but the existence of the human race. How long will it be before we are on the endangered species list? Not too long it seems. Please consider the hardships laws and regulations make before being so quick to pass them.

Very Concerned,
Carolyn Murphy

Sept 17, 1992

Dear Sir,

We feel that some parts of H.B. 4669 are unreasonable and should be revised.

A farmer should have the right to harvest a crop from his farm and that is exactly what timber is to a landowner, a crop. He should be able to harvest timber from his own land without any limit to amount and should not have to obtain a waiver to do so.

The small business is already taxed to the limit and the fees for certification plus license fees are too high to have to be paid each year. A one time fee on the certification classes should be sufficient.

Fines and penalties are too high for a small business man. One fine could put a small operator out of business and on to welfare.

The rights of entry clause takes away our rights to our own property.

The road grade and slope percentages are very unrealistic for hilly terrain such as most of us in W.V. have to work with.

if a logger is complying with Best Management Practices and Mother Nature causes erosion due to storms, etc. the logger shouldn't be penalized for this.

Any violation upon logger should be handled in own county or county where work is being done.

I fully support B.M.P. and try to do everything I can to reclaim and prevent erosion and I also think the first aid classes and first aid certification is great and something that should have been brought up years ago.

William H. Singleton
Marie Singleton
251 Cutlip St.
Gassaway, WV. 26624

REGD 171992

Sept. 17, 1940

To whom it may concern

I think that ~~the~~ the
Laws of West Virginia
are getting pretty darn
bad when a poor
working man has to go
through so much shit
to try to make a living
for his family. If
something isn't done
soon to correct this
BULL people are going
to be doing more steady
killing and god knows
what else. We need to
be able to mine and
timber without all the
hassle that we are getting
from our Government.
I think any of us
dumb old hillbillies

know how to run a
chain saw without
a license or permit
I know. I have used
one for several year
even though I am a
woman. But a damn
license or permit will
not help me run one
any better.

REC'D SEP 17 1992

To Whom it may concern

I think that the laws on the Logging and timber is pretty bad when you can't even cut it without all of these license and permits. All of the Bull that people has to go through to learn to cut timber and they already know how to do it is a Damn sham. The little people that has five or six kids to care for, that is the only way that they can suport them and they are not going to stand by and watch them go without food & thing like clothes, ~~shoes~~ What do you want them to do, go on relief and things. They are not going to stand by and watch this happen. Because something will happen and it will ~~probly~~ probly get pretty bad. And I do not belive in all these

Laws to show people how to do all
of them. And the thing about these
signs are a damn shame.
I do not agree with you on these
laws.

REC'D SEP 17 1992

To whom it may Concern,
I think that the laws on the Logging
and Timber is pretty bad when you can't
even cut it without all of these license
and permits. All of the BULL that people
has to go through to learn to cut
timber, and they already know how to.
It is a damn sham that the little people
are going to get hurt in all of this. They
are not going to stand by and watch you
cut them out of jobs and they can not
feed their families. They are not going to
put up with it and things could get
pretty bad and someone could get
hurt over all of this and maybe even
kill over this, is this what you ~~want~~
want to happen before you will open
your eyes to this.

REC'D SEP 17 1992

To whom it may concern i feel
that house bill H.B. 4669 is just
a way to stop the poor class
of people from working and trying
to make a living without living
on welfare

i disagree with all the regulations
that are proposed in this bill
there is no way anyone can tamper
and abide by all the regulations
proposed in house bill H.B. 4669
as far as i am concerned it is
no more than a political movement
to drive the poor class of people
out of the state of West Virginia

Bernard W. Groves

T. Groves

REG'D 1992

Committee on Logging Law

We have a State Business Certification
It's nonsense to have to have
two license to conduct the
same business. Per Tax collected
Exemption should be for
\$50,000 for landowner of farm
evaluation

Every other profession or
job, like surface miners when
it became necessary to certify
they got their certification based
on 180 hrs on job plus first
aid card. They only take 8 hrs
of Safety & First Aid per year.
Every Land Surveyor came under
the Grandfather Clause

Parade are unconstitutional
not gonna committee

Signs should be copy
of Business License

First Aid cert Fire Dept

9/17/92

REC'D SEP 17 1992

To whom it may concern,

The \$4,000 limit is unfair to the land owner - there should be no limit. People should not be able to come onto our property without a search warrant. A double license is unfair.

Sincerely,
Thomas Dandy

To whom it may concern;

The \$4,000 limit is unfair to the land owner - there should be no limit. People should not be allowed to enter our private property without a search warrant. A double license is unfair.

Sincerely,

Jack O'Keefe

9/17/92

REC'D [unclear] 1992

To whom it may concern;

The \$4,000 limit is unfair to the land owner - there should be no limit. People should not be allowed to enter our private property without a search warrant. A double license is unfair.

Sincerely,

Logan Z Miller

9/17/92

REC'D 1-7-1992

To whom it may concern;

The \$4,000 limit is unfair to the land owner - there should be no limit. People should not be able to come onto ~~our~~ our property without a search warrant. A double license is unfair.

Sincerely
Clarice Burns

9/17/92

REC'D ... 1992

To whom it may concern;

The \$4,000 limit is unfair to the land owner - there should be no limit. People should not be allowed to enter our ~~private~~ property without a search warrant. a double license is unfair. Sincerely,

Richard Burns

Sept 17 1992

To: Dept. of Forestry Division
Brent & William J Nettles

After July 1 1993 the only one who can apply for the Timbering operation notification form is a certified Logger. I don't feel it is right to charge \$50.00 fee to remain certified. So the Forestry Division will know what you are doing. If every three years is often enough for the school to be certified, it should be often enough for the fee

I don't think at any time should the Forestry Division have the right to take away a person's means of living away from them as stated in 22-3.5.

5.1 State in no event shall a recertification be issued prior to one year after a revocation

5.1.2 Being found in violation of either the logging sediment control act or the water pollution control act for a third time within any two-year period.

I feel if one is in violation - and does what is required for clean up, pays his fines, he should not have his means of living taken away

REC'D FEB 17 1992

2 of 2

What will the extra cost to timber operators do. Fee of \$50.00 Timbering Licence, \$50.00 Certified Logger Fee, and Appendix B minimum cost \$300.00 to become certified. Cost not added is extra paper work. It will put ~~the~~ the small operator out of operation.

I don't think there shouldn't be a dollar amount on how much ~~the~~ one could sell from his own land.

In the Exceptions 6.2, 6.3, 6.4, 6.5 you are Exempt provided the logs so produced are not sold for, or give away for product production purposes. If the regulation are for safety. How could this be safe. How much of these regulations are just a money maker for the Forestry Division.

Brent Nettles
Velma J. Nettles
P.O. Box 56
Elmira NY 12506

Committee on Sediment

REC'D SEP 17 1992

Loggers do not cut into deep rock formations to disturb groundwater

Most sediment from logging doesn't reach streams in large quantities

Nature this summer kept streams high & muddy almost daily and there was a fish kill in our area

When water is stirred up it makes no difference who is doing the stirring the logger or Corp of Engineers, or the State Highway Dept. It is stirred up & polluted. The Gov Agencies cause more pollution & all the logger. It is unfair & probably unlawful for private enterprise to be singled out to bear the fault

REC'D SEP 17 1992

September 17, 1992

To the Committee, Mr. Gillispie, Mr. Heckler, and Governor Caperton:

I am not breaking this letter down to much because I just want to say how I feel. I feel the bill and regulations are a joke. Almost as big of a joke as our government. We have lost alot of good men and women in wars protecting other countries from Communism and Nazism and we have it right here. Money and stupidity is running our state and country.

It has been anitted to me that our glorious representatives vote for bills they don't understand if no one is there to speak out against it. They said they didn't have time to ask the people about the bills brought up. I know they have time to get their pay checks and they have time to spend it.

I feel this bill (HB 4669) and others would have never been brought up if the fo forestry division had done their job. If they had informed the people of the voluntary registration program the people would have done it. This bill is all about more taxes and trying to get blood out of a turnips. Thes are poor hard working people trying to work and provide a living for their families. They don't want welfare or handouts. They want ot work like their fathers and their fathers before them.

Please help these people to keep their jobs. Don't let the big companies take over.

Thank you

Margaret Gregory

Margaret Gregory
Rt. 2 Box 248
French Creek, WV 26218

REC'D SEP 17 1992

September 17, 1992

To Whom It May Concern:

I feel that the regulations and the bill are unconstitutional. It is unconstitutional to have a Conference panel for a hearing.

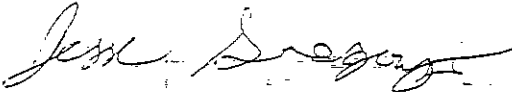
I feel that the limit of \$4,000 is crazy. A break down can cost more than that. A limit of \$75,000 is more reasonable.

The license is a joke. I already had a Business license to operate a business. I don't think it is necessary to pay \$50 for another license. I also do my severance tax. I feel I am already registered with the state.

With signs with 3 inch letters on it is costly and crazy. It just gives some people (they think) to come on the property and destroy the equipment.

There should be a grandfather clause in the bill and regulations. How are you going to teach people how to cut trees or other timber work when that is what they have done all their lives.

Jesse Gregory



REC'D SEP 17 1992

Robert D. Wayne
2900 Chapel Rd.
Gassaway, WV 26624

Braxton Co.

CONCERNING H.B. 4669

There are a few comments I would like to make on this subject. I strongly feel that it is totally unjust to set a limit on landowners that are cutting their own timber. They have already paid the taxes on their land and should own it to do with it as they please. Does the state own all the property? If so, this is a socialist government and not a democracy as we have been taught all our lives. There should not be a \$4,000 limit, nor a \$40,000 limit, nor even a \$400,000 limit. Let the state stay out of an individuals right to make the decision on the property he or she owns.

I feel the certification, if necessary, should not be an annual fee. The law, H.B. 4669, already has loggers buying 2 licenses. The \$15.00 business registration certificate only allows us to buy a loggers license at an annual cost of \$50.00. This is no more than double taxation in itself. If we pay for the classes we attend to be certified and take time off from our jobs which is an additional loss of revenue to us, then I ask why should we be charged \$50.00 per year to carry the certification card? This is over taxation. The people of this state can no longer stand by and say nothing while our elected officials waste our money and want more each year. It is time our government started managing their business as we have to do ours. We cannot spend what we don't have and they shouldn't either.

I feel that the fines that can be meted out under this law are much too severe for the crime. I know that this law says nothing of crimes or criminals but the working people of this state are being made to feel as though we are. All the loggers know that when the state regulators come to their job, the regulator will find some discrepancy, otherwise the regulator cannot justify his job. This is true of all industries and right on down to retail stores. All government agencies need to support themselves and what better way than to levy fines on the people they are regulating?

When loggers are found to be in violation of the law, they should be tried in their home county or where they are working. A government picked tribunal is not a fair way to handle this matter. Let a man be tried by a jury of his peers as the constitution has provided for.

The state has given itself the Right Of Entry on anyone's property at any time for any reason. This in effect says the people in this free land of ours have no right to privacy. The government and it's appointed officials have absolute authority over the people whose taxes go to pay their wages. I feel the government officials are employees of the people and not their masters!

If we do in fact have a government of the people, by the people, and for the people, this law, H.B. 4669, cannot be constitutional!

Robert D. Wayne

Dear Sir,

RECEIVED 17 1992

Furelly, White
P.O. Box 2
Gassaway W.V. 26624

HOUSE BILL 4669 IN HIS PRESENCE FORM COURT
FOR A SMALL TIMBER OPERATION OUT OF BUSINESS.

- ① FINES TO SEVERE MAXIMUM FINE (\$100.)
- ② LAND OWNER SHOULD NOT HAVE ANY LIMITS.
- ③ SHOULD NOT BE ANY LICENSE COST SINCE COMPANY IS ALREADY REQUIRED TO HAVE STATE BUSINESS LICENSE.
- ④ THERE SHOULD NOT BE ANY REQUIREMENT FOR TIMBER CUTTER TO ATTEND CLASS ON HOW TO RUN CHAIN SAW OR CUT A TREE. COMMON SENSE SHOULD TELL YOU THAT A PERSON COULD NOT POSSIBLY LEARN THE SIMPLE STEPS FOR PROPER CHAIN SAW OPERATION IN ONE CLASS.
5. SINCE THIS IS WEST VIRGINIA AND MOST PEOPLE CONCERNED WITH TIMBER CUTTING KNOW THE DANGERS AND HAVE EXPERIENCE OPERATING CHAIN SAWS, MORE RESTRICTIONS ARE UNNECESSARY & UNCONSTITUTIONAL.
6. THESE LAWS ARE FOR ONE PURPOSE ONLY MONEY
I SAY NO TO HB 4669.

My comment concerning Bill #4669
Timber Law is as follows:

REC'D SEP 1 1969

1. Landowners should be totally exempt from having to purchase license to cut anything on their own property.
2. We don't need two licenses to do one job. We have been working for years with one business license and feel that is sufficient.
3. We feel that one fee for being certified for one time is enough. A fee of \$50.00 for renewal is ridiculous. One time is enough!!
4. We feel that people that has been in the timber business for 5 years or longer should have a "grandfather" clause on certification.
5. Fines and penalties are entirely too high for small timber operators. \$500.00 fine would be a very high fine for any violation.
6. The appointed three men committee to enforce fines and penalties to loggers or anyone else is unconstitutional. We have had a court system in this land for sometime now and we feel that it is quite sufficient to enforce laws.
7. If violators should be tried in their own counties or in the county where their jobs are being done this would seem more fair than having them tried in Charleston or in some other district.
8. We are against giving every Tom, Dick, and Harry the right to come on our property this day and time is unsafe and totally against our morals.

We are asking for very few changes in these regulations. I feel these changes are most important to the small timber operators. If our officials would consider the welfare of the people who supported them over the years, it would be easy enough to make these changes. I also feel the laws that have been passed recently on the Timber Bill #4669 and the Contractors Law are unconstitutional.

Leslie J. Jensen

BRAXTON COUNTY TAX STUDY ASSOCIATION
TIMBERMEN COMMITTEE

Lester L. Lemon
Bob Wayne
Marie Singleton

REC'D 1 1992

Donnie Dobbins
Kevin Singleton
Cam Hudkins

Change limit on what land owners can harvest from own property from \$4,000.00 to \$50,000.00 and be exempt. Landowners should not have to obtain a wavier for this.

Don't need two licenses to do one job. We have been working for years under one license and feel that is sufficient.

Should not have to pay to recertify each year.

Should be "grandfather" clause on certification.

If logger is complying in B.M.P. and mother nature causes erosion, logger should not be penalized.

Any violations upon logger should be handled in their own county or the county where the work is being done.

Fines and penalties are entirely too high for small operators. One fine of \$2,500.00 could put a small logger out of business. A \$500.00 fine would be considered very high for a small three man operator.

The appointed court for the three men committee that has set themselves up to try loggers in violations is unconstitutional. We already have a court system in this country.

REC'D SEP 17 1992

PUBLIC HEARING ON LICENSING OF TIMBER OPERATORS
ORAL COMMENTS
SEPTEMBER 17, 1992

1. Lawrence T. Beckerle, P.O. Box 118, Craigsville, WV 26205; PH. 742-3639
- 2.1 BMP's were written on GUIDELINES not planned as MANDATORY RULES. There are exceptions to rules that are more protective of environment than BMP's.
EXAMPLE - SKID ROAD of 25 - 30% down southwest point will often cause less erosion than a 10% graded road on a wet face
 - 2.5 "or has the potential to contribute" - too broad, invites court disputes, creating unwieldy program should be dropped
 - 2.11 add words after tree "with less than 12" butt diameter"
Definition as now is entangles program with federally funded T.S.I. projects and interferes with use of waste in tops by firewood cutters and shiitake mushroom growers
 - 2.18 Drop "and haul roads" or add definition of "access roads: built at least three months prior to beginning of logging operation to be exempt from licensing." Definition now entangles program with federally funded FIP forest incentive program and SIP stewardship incentive program which will discourage federal money being used in state of West Virginia. Also may interfere with West Virginia Tax Department Managed Timber Program.
 - 6.2} Delete "or given away for" words will cause people to be regulated
 - 6.3} that were not intended by law to be regulated.
 - 6.4} Without above changes program will be unwieldy causing many legal, enforcement and environmental problems.
 - 6.7 Could apply to as little as two pickup loads of posts. Will discriminate against people who don't own property who need to cut firewood for summer income or supplemental income.
2. RANDY COOTS, FORESTER, COLUMBIA WV CORP., P.O. BOX 160, CRAIGSVILLE 26205
- 22-2-2.5 "Compliance Order"
- The wording in the compliance order is too vague. If an area is contributing to soil erosion, (as covered by Chapter 20, Article 5A "Water Pollution Control Act") then there is no question of a violation. However, when the phrase "has the potential to contribute" to soil or water pollution is thrown in makes the whole statement far too vague. Each inspector, forester, logger or landowner will have a different view of how to interpret this. There can be no consistency with this kind of wording.

REC'D SEP 17 1992

PUBLIC HEARING ON LICENSING TIMBER OPERATORS
PAGE 2
SEPTEMBER 17, 1992

RANDY COOTS, FORESTER, COLUMBIA WV CORP., P.O. BOX 160, CRAIGSVILLE 26205
22-2-2.1 "Best Management Practices" (BMP's)

The use of the BMP's as law is wrong. The BMP's were set up as guidelines and should be continued as such. There are many situations, which will make strict adherence to the BMP's, impossible to log. How can a landowner justify paying property taxes on property that he/she can no longer utilize?

3. BOBBY MCDOWELL, RT. 4, BOX 93, GLACE 24942, PHONE NO. 5363784
Posting of job at landing - Need permanent sign posted on loader.
Copy of license will not work. It would get wet.
Additional Comments: I don't think the \$4,000.00 maximum on selling
would products should be raised to \$10,000.00. This is supposed to
be a level playing field. If they can't afford \$50.00 they can't
afford to run their equipment.
4. ROBERT GRIST-WVFA BOARD OF DIRECTOR AND SPOKESMAN FOR BOARD IN DISTRICT 4
WVFA has 3 recommendations:
 1. Raise licensing exemption from \$4,000.00 to \$10,000.00.
 2. If they are allowed \$10,000.00 exemption let them cut timber on
other property.
 3. Copy of license could be used as sign posted on loader.
5. BOB KEILING - BEAVER COAL COMPANY
Most of what I was going to say has been said. I agree with Robert
Grist that the license exemption of \$4,000.00 be raised to \$10,000.00
for small operators. Small operators who receive the \$10,000.00
exemption should be able to cut on land other than their own. I don't
think a copy of license certificate should serve as a minimum size for
the sign on the landing instead of the sign contain three inch letters.
The copy of the license would get wet, so should not suffice.
6. DICK CARPENTER - WESTVACO
BMP's - I don't think they should be stipulated as law. It could come
a legal battle and end up in court. The judge would need exact
perimeters. I think BMP's should be voluntary.

REC'D SEP 17 1992

PUBLIC HEARING

Sediment Control During Commercial Timber-Harvesting Operations
Pesticide Certification



Date

9-17-92

NAME	ADDRESS	DESIRES TO SPEAK (YES OR NO)
LAWRENCE T. DECKERLE	P.O. Box 118 CRAIGSVILLE, W.V. 26205	YES
Randy Coats-Columbia, W.V.	P.O. Box 160 Craigs ville, WV 26205	Yes
Bobby M. Powell	AT 4 Box 93 Glace W. 26942	Yes NO
Robert Grist	1411. Otter Creek Rd. Climberville? 26978	YES
Robert E. Keeling	Box 1537 Beckley WV Boone Co. W. Va.	yes
	TOTAL of 15 present	
	only those signed above	
	made oral comments.	
	Jim Cook	

REC'D SEP 17 1992

Randy Coats

Forester, Columbia West Virginia Corp. 11
P.O. Box 1760
Craigsville, WV 26205

22-2-2.5 "Compliance Order"

C.E. - 8-28

In the wording of the compliance order, the vague phrase "an area is contributing to soil erosion" (as cited by Chap 20 article 5 of the Water Pollution Control Act) then there is no question of a violation. However, when the phrase "has the potential to contribute" to soil or water pollution is thrown in makes the whole statement far to vague. Each inspector, forester, logger, or landowner will have a different view of how to interpret this. There can be no consistency with this kind of wording.

22-2-2.1 "Best Management Practices" (BMP's)

The use of the BMP's as law is wrong. The BMP's were set up as guidelines and should be continued as such. There are many situations, which will make strict adherence to the BMP's, impossible to log. How can a landowner justify paying property taxes on property that he/she can no longer utilize?

22-2-2.2 "Certified Logger"

The licensing and/or certification of a logger is a good idea if it has a positive effect on increasing the safety of logging.

22-2-3.7

The positive status sign should be allowed to be placed on the stationary ladder at the landing area for a particular

9-17-92

Larry C. Foster
Columbia West Virginia Corp.

R. L. CARPENTER PH. 645-3246

133 KEARNS ST

HOWESBURG, WV 24967

REC'D SEP 17 1992

COMMENTS ON LICENSING REGULATIONS

2.8

"HAUL ROAD" SHOULD BE MORE CLEARLY DEFINED. IF A ROAD IS BUILT FOR LONG TERM MANAGEMENT, THERE SHOULD BE A BUILT IN EXEMPTION FROM THIS REGULATION. MAYBE A WAITING PERIOD BEFORE ANY LOGGING BEGINS.

2.13

NOTIFICATION — WHY 3 DAYS? WHY NOT 10 DAYS?
WHAT ABOUT EXPIRATION DATE AND RENEWAL OF CONTRACT?
DOES LOGGER HAVE TO NOTIFY DDF OF AN EXTENSION OF TIME ON CONTRACT? HOW MANY DAYS?

3.7

SIGN I THINK THAT AN EQUIPMENT SIGN NEATLY PAINTED ON THE LANDING SIDE LOADER SHOULD BE ACCEPTABLE.

2.1

BEST PRACTICES SHOULD REMAIN VOLUNTARY. IF THEY ARE MADE INTO "LAW" INSTEAD OF "GUIDELINES", THE COURTS WILL HAVE THEM PRECISELY DEFINED AS CASES COME INTO COURT. AFTER A LOGGER SIGNS ON IN THE REGISTRATION FORM, THERE SHOULD BE A CLEARLY DEFINED PERIOD OF RESPONSIBILITY.

RECORDS I 1305

Handwritten notes at the top of the page, including the name "R. I. ...".

2.8

Handwritten notes in the middle section of the page.

2.9

Handwritten notes in the lower middle section of the page.

2.7

Handwritten notes in the bottom section of the page.

2.1

BMP's currently in use were designed to be voluntary. Implementation of BMP's as law, may in some cases, cause more environmental damage, because flexibility in interpretation of BMP's will have been lost.

Charles W. Green

REC'D SEP 17 1992

9/17/92

Mark Babcock
106 Asbury Ct
Beckley WV

REC'D SEP 17 1992

Comments on Logger Licensing:

Section 2.1 Best Management Practices, I feel these BMP should remain a voluntary program, not a strict law because there are always exceptions to these rules.

Section 2.5 Compliance Order, I am concerned about the phrase "or has the potential to contribute, to soil erosion." This is too open a phrase and should be struck from the law.

Section 3.7 I feel a sign located on a dived loader at the landing should be sufficient.

Section 4.2.5 These BMP's should remain voluntary.

Mark E. Babcock

Written Comments

9-17-92

RECEIVED 17 1992

I think that a person should be able to cut fire wood or other wood for his own use and the use of his/her immediately family on his/her own property and the property of another without purchasing a license or attending any training or without signing or having to obtain any waiver.

Jim Cuck

HCA 33 Box 21

Williamburg, WV 24991

~~Handwritten text at top right~~

REPT

~~Handwritten text~~

~~Handwritten text, possibly a list or notes~~

Jim Child

Box 33

Williamburg, VA 23187

1

Public Hearing
Location: Milton
Date: 9-17-92
Time: 9:00 a.m.

Comments on Licensing Regulations

Herman Yeager
Columbia Natural Resources

My comment is - our concern on the licensing. We would like to have deleted from the exception 6.3 of Chapter 22, Article 2, Section 6.3 where it says "Persons severing trees incidental to the construction of access roads, well sites, gathering lines or transportation pipelines shall be exempt for that activity provided that the materials so produced are not sold, or given away, for wood product production purposes." We would like to have the words "not sold" or "given away" stricken from the exceptions. We have a problem that in some areas particularly on the national forests they don't want us to leave wood on the site in a lot of cases and our contractors would either have to be certified to give this stuff away or to sell it or what have you. Normally, on private landowners we will pay for right of way, pay for damages and give the timber back to the landowners. The landowners generally want the logs stacked somewhere in the area and there is some confusion over whether that might create a problem just giving them back to the landowner. Also, whether down the road it may come to the point where we will not be allowed to leave woody debris along right of ways and will be told again about what to do with this material. There's not enough dollar value or volume to really constitute a problem for anyone. That's my comments.

Lanny Williamson
Williamson Pallet

I'd like to wear two hats for this statement. One is of our own company and the other one is WV Forestry Association. First in reference to our own company, I think we have seen over recent years a real erosion of the number of small independent, entrepreneurial type loggers. I can remember probably 4 years ago and prior to that date, we would have coming into our sawmill at Southside, WV numerous small straight trucks, single axle trucks with logs that independent people had gotten. Today it is rare to see them. Today we see more and more tandems and basically tractor and trailers because so many of those small folks have gone out of business. I think a lot of them are maybe temporarily between jobs displaced from some other type of vocation, perhaps a farmer or something that was doing some logging in between times rather than being a full-time logger. I am not totally opposed to the timber regulatory law that has been adopted and certainly it is much, much preferred to what Speaker Chambers had originally proposed.

As president of the WV Forestry Association, I would like to see the following three recommendations taken into your consideration:

1. that the license exemption of \$4,000 be raised to \$10,000 for small operators.
2. that the small operator (who receives the \$10,000 exemption) be able to cut on land other than his own.
3. that a copy of the license certificate serve as a minimum size for the sign on the landing instead of the sign containing three inch letters.

Thank you.

Glen Snyder
Landowner

He has touched on the thing as a landowner that I am opposed to in this because, like you say, I've watched this too. I have a farm in another county of the state and I've often sold logs off of it to the small operator like he has that takes it in at special times if it's a walnut or some special tree. Now as I see it now this is going to effect the small logger that does it in his part time and he is going to have to go through certification. I am also not opposed totally to the regulations as I see that we need to control soil erosion and these types of things. But, I agree that it should be raised from \$4,000 to \$10,000 as a minimum and in my case there are neighboring farmers, which I do not live on my land, I live here in the valley but, at various times the adjacent farmer wishes to come on your land at certain times, especially if oak is relatively high at a certain time, he goes on, cuts a few trees, takes them to the sawmill and we benefit from this. I see this is going to cut down on this even more so that he is spoken to. And because the small logger is going out of business you are only playing in the hands of the large logger which the small farmer to me I see this as a way to get your foot in the door to tell the farmer which field he can plow, on what grade the land is and a few other things as a sediment control. I think it's an intrusion of the small farmer and the private landowner and this is my reason I'm against the way it's written because I think it takes something away from the privacy of the landowner, small landowner, especially.

Thank you.

Lanny Williamson
Williamson Pallet

Before we leave that I didn't address this when I spoke but I

think it is important for everybody to realize at least in my opinion, this bill is not just to address sediment control, that is the overlying issue but one of the main issues that this is to address is taxes. I mean I think that's a real consideration in this bill, that there's a lot of folks out of there that the state perceives that is not paying severance tax, not contributing to business license franchise tax, not paying unemployment taxes, not paying workers compensation taxes and this is a way of determining who those folks are and being able to gather in those taxes to the state. I'm not saying that's wrong, I'm just saying that I think it's important that everybody realize that this law is not only for sediment control.

Glen Snyder
Landowner

Well I'd like to add something there in my statement. I think these small operators should be exempt from license. I mean the small operator that doesn't do more than \$10,000 a year and is more or less a sideline to him and he has to go through all the OSHA regulations which I have dealt with OSHA and this thing can get ridiculous at times and make it almost impossible for an independent operator out here to meet the demands of OSHA because they get ridiculous sometimes with their regulations.

PUBLIC HEARING
Sediment Control During Commercial Timber-Harvesting Operations
Licensing

Date _____

NAME	ADDRESS	DESIRES TO SPEAK (YES OR NO)
Herman Yeager	Columbia Natural Resources Rt 2 Box 600 Charleston WV	Yes
Harry Williamson	2760 US 35 S Spawside WV 25157	Yes
Alvin Snyder	116 McCloud Rd Fort Deposit	Yes
Randy Cobb	Clearwood W Va	NO
Steve Saunders	Shenwood W Va	NO
Donald Sanders	Shenwood W Va	NO
James A. Decker	Crestview W Va	Yes
Michael A. Mason	Hammock W. Va	NO



WEST VIRGINIA FORESTRY ASSOCIATION

P.O. BOX 724
RIPLEY, W. VA. 25271
PHONE (304) 273-8164

September 17, 1992

RE: Comments for the Logging Regulatory Hearing
on September 17, 1992

The West Virginia Forestry Association makes three recommendations:

1. that the license exemption of \$4,000 be raised to \$10,000 for small operators.
2. that the small operator (who receives the \$10,000 exemption) be able to cut on land other than his own.
3. that a copy of the license certificate serve as a minimum size for the sign on the landing instead of the sign containing three inch letters.

Lanny Williamson, President
West Virginia Forestry Association

PUBLIC HEARING

[Handwritten mark]

SEDIMENT CONTROL DURING COMMERCIAL TIMBER-HARVESTING OPERATIONS
LICENSING

The public hearing for the "Sediment Control During Commercial Timber-Harvesting Operations Licensing Regulations" was held at 2309 Gihon Road, Parkersburg, West Virginia, District VI Office, September 19, 1992 at 9:10 a.m. The hearing was conducted by Gerald W. Waybright, District Forester. Thirty-three people were in attendance. The attached roster lists individuals attending and those who wished to speak.

The first speaker was W. G. Downey, Jr. His comments were to increase the waiver annual gross income from \$4,000 to \$10,000 for individuals. This \$10,000 annual income would also apply to anyone cutting and selling wood products on their own land or any other landowner's property. The size of the posted active landing sign be reduced from the three inch lettered sign to a copy of the actual license issued by the WV Division of Forestry. He asked the audience if anyone was opposed to his stated recommendations, there was no notable opposition.

The second speaker was James LeFew speaking on behalf of the WVFA and it's membership. He read their prepared statement which is basically the same as Mr. Downey's (copy attached.)

The third speaker was James C. Rymer. Mr. Rymer's prepared papers are attached covering both the licensing and certification regulations, as well as, comments on Article 1B, "Sediment Control During Commercial Timber Harvesting Operations" law. Mr. Rymer discussed each item highlighted in his papers (copies attached) and received response (applause) from some of those in attendance on some items.

The fourth speaker was Corinna Francis. Ms. Francis read her prepared statement (copy attached) and received response (applause) from some of those in attendance.

The fifth speaker was James Hill, Jr. Mr. Hill waived his opportunity to speak, but did ask questions pertinent to the laws and regulations that were answered by Mr. Waybright.

The sixth speaker was Haymond R. Plaughter. Mr. Plaughter spoke from prepared notes stating in general that he was in agreement with Mr. Downey and Mr. LeFew and stated that the landowner should have the right to cut and sell any amount of forest products off his property under the waiver and not be limited to \$4,000. He stated that it is getting to the point that farmers are going to take their land back and use it the way they see fit. The sign to be posted should be furnished by the WV Division of Forestry. All past producers should be "grandfathered" in and that he already pays taxes. He received response (applause) from some of those in attendance.

There being no further scheduled speakers, the District Forester opened the floor up to additional comments and questions.

Questions and comments from the audience included: the redirection of funds from the Forestry Enforcement Fund by the Legislature for other purposes (double taxation) and the right of entry on individual's land by the WV Division of Forestry. General discussion followed on legislative procedures, individual's rights, individuals becoming members of established organizations and associations working together for landowner and rural problems, current laws, regulations, and possible further legislation.

The District Forester asked for additional comments. Before the hearing was closed, Dave Posca stated that he was in total agreement with Mr. Downey's and WVFA's stated recommendations and stressed to the audience that all landowners should get involved to protect individual and landowner rights.

Additional comments and questions continued until the hearing concluded at 10:06 a.m.

Submitted by,

[Handwritten signature]

Gerald W. Waybright

District Forester - Hearing Chairman

PUBLIC HEARING
Sediment Control During Commercial Timber-Harvesting Operations
Licensing

Date 9-17-92

NAME	ADDRESS	DESIRES TO SPEAK (YES OR NO)
W. G. Ramsey, JR.	3370 Fritchman Lane, Rocky Mt. 25222	Yes ✓
Ralph E. Carpenter	3210 Parkburg - Roebig Ave 85270	NO
Jim Lefew	210 Walnut St Ravenswood 26164	Yes ✓
Alta Taylor	P.O. Box 495 St. Marys 26170	No
James J. Jones	P.O. Box 1 Palestine, TX 75252	
Robert E. Smith	P.O. Box 46 Smithville WA 96178	
W. S. Martin	Rt 2 Box 231 Cottageville, WV 25239	No
Eugene Smith	SIX main S. Oak Hill, WV	NO
Jed S. Sudd	Sally R 1 25252	NO
Ole F. Murray	Rt 1 Box 83 Palestine, TX	No
Blaine T. Murray	R 3 Box 213 Sandyville, WV	no
W. S. Murrain	RT 1 Box 219 PALESTINE WV 26160	
Norman Quiver	RT 1 Box 99C ELIZABETH WV.	NO.
James C. Rymer	Box 329 St. Marys, WV 26170	Yes ✓
John Bell	Box 278 Stone River, VA 26169	No

PUBLIC HEARING
Sediment Control During Commercial Timber-Harvesting Operations
Licensing

Date 9-17-92

NAME	ADDRESS	DESIRES TO SPEAK (YES OR NO)
Joe Garrett	RT 1 Box 194 Hornsills W Va	NO
Richard Calk	RT 2 WARDLEY W Va	NO
Lee Steller	810 Dooly Ave Stearns W Va	
Mark Clegg	P.O. Box 184 Stearns W Va	
Marjorie Shuff	P.O. #1 Box 292 Rt 271 W Va	No
Candy Shuff	P.O. #1 Box 292 Rt 271 W Va	NO
Lorraine Thomas	Rt. 1, Box 60 Marion W Va 26180	Yes +
William Thomas	" " " " " "	No
James H. Dooly	Rt. 1, Box 41, Washington, WJ 26181	Yes -
Ray Copson	P.O. Box 350 Elizabeth	NO
Ronald Calk	Rt 2, Waverly W Va	NID
Randa M. Hays	Rt 1 Box 407-A SALEM W Va 26426	NO
Raymond R. Hays	PATTERSON ST SALEM W Va 26426	yes -
Lance Davis	Rt 1, Box 411, Washington, W Va 26181	Yes
Ed Butler	Box 504	No

PUBLIC HEARING
 Sediment Control During Commercial Timber-Harvesting Operations
 Licensing

Date _____

NAME	ADDRESS	DESIRES TO SPEAK (YES OR NO)
Mary Johnson	Rt. 1, Box 24, Paducah, KY 26161	
Paul Snyder	Rt. 1, Box 314, Bellvue, WV 26133	
H. B. Snyder	Rt. 1, Box 314, Bellvue, WV 26133	

RECEIVED
SEP 17 1992
DISTRICT VI - FORESTRY

I am James. LeFev representing the 885 members of the West Virginia Forestry Association recommend the following changes for licensing under the proposed rule for Sediment Control During Commercial Timber-Harvesting Operations.

1. That the license exemption of \$4,000 be raised to \$10,000 for small operators.

2. That the small operator (who receives the \$10,000 exemption) be able to cut on land other than his own.

3. That a copy of the license certificate serve as a minimum size for the sign on the landing instead of the sign containing three inch letters.

Signed: James H. LeFev Date: 9/17/92

James C. Rymer
Box 329
Saint Marys, WV 26120
9/17/92

684-7085

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SEP 17 1992
DISTRICT VI FORESTRY

Comments on Proposed "Emergency" Regulations (H.B. 4669)
(Specific)

A. 19-1B-7

1. The 500 minimum for getting a Logger certified for each crew is too much expense for the small operators. Suggest \$50.00 every third renewal.
2. Less stirred sediment in streams could be better addressed by assigning DNR the task of scaring carp and other spawning fish away from the shallow areas. This would alleviate a muddy water problem which often exceeds sediment problems attributed to Logging.

B. 19-1B-4 Licensing

1. No access to private property should be authorized except as provided for in the state and Federal Constitutions. "Fishing expeditions" without proper warrants and other safeguards could make the director and/or chief liable for 20,000 fine and imprisonment under Title 18, Section 2384, United States Criminal Code, Seditious Conspiracy.
2. Under the Bill of Rights to both Federal and state constitutions, waivers should be automatic for all landowners to sell any amount of timber, firewood and other products from their own land without licensing and subsequent regulations under H.B. 4669, the 1991 H.B. 2377 discriminatory ground-water bill and other selective shut-down legislation. [Example of discrimination: State can dredge streams, but citizens cannot.]

3. A \$50,000 gross exemption per year from licensing and regulations should apply to sales from all timber and woodlot operations.

4. Fines are too high, and should not exceed \$50.00 for the small operators with gross sales less than \$10,000 per year.

5. The 3 member tribunal kangaroo courts of sorts created by the legislature are unconstitutional. All violations should be handled by magistrate and/or circuit courts.

6. All workers with 1 or more years experience should be grandfathered.

James C. Rymer

Letter of Protest to Whom it may concern

RECEIVED

SEP 17 1892

DISTRICT #1 : FORESTRY

The new laws and regulations that have been included by our government in Charleston concerning timbering industry & logging operations in the State of W. Va. are completely intolerable and will cost the State much more money than it will create for them.

As a logger and timber man I as well as many other business men in the State request a repeal of these laws and regulations immediately. (over)

Signed Thank You

Herman Lewis Full

Occupation

Logger

Wainman

Excavator

Agriculturist

Koy Copen

The country is in a terrible state right now. Americans are out of work, losing homes as well as those who have held steady jobs have been left holding an empty after 20 or more years of devotion to a company. When is it going to stop? When the backbone of America stands up for their rights, which is now. The big heads who sit behind their oak desks pushing pencils and finding ways to cut the throats of the working man. We are taxed over and over, we are licensed to death and yet, you push on. It seems you have no idea at all of what you are doing to America's backbone. The small man working force. For instance, the logging business is going to be a thing of the past if your thick heads have your way and do you not realize that many of your own jobs will be lost after you do the job you are now set out to do?? After we small business are.

out there won't be any one for you to go after. Where will you be then?

Top officials and campaigners say America needs small business men and yet they are standing by while you cut throats are causing us to go out. The way you have gone after a depressed work force to raise license fees, permits and a load of rules and regulations to enforce, the small man has no chance. Men are being forced to lay down their saws, park their trucks and go on public assistance.

At the same time the bureaucrats are yelling to get people off welfare such as food stamps, etc., and you people are sending us to the welfare offices.

The new rules and regulations as well as fees and licenses is something we cannot stand by and let happen. We are already seeing the effects of your crap and it has only just begun. The price

we are going to pay, is going to affect everyone. Building material is already taken a raise and more is to follow. Everything connected to tree harvest will take a raise.

It is hard enough to put food on the table and now we won't be able to buy the toilet paper to clean our selves. Any and all wood products will raise. Sales for homes, furniture, paper products will raise. Chain saws will go un sold, trucks will be parked, less gas oil and parts will be sold. You are forcing men with families to go to the welfare lines & soup kitchens.

We can not afford to buy timber, harvest timber, transport timber and be taxed for each transaction. We cannot stand by while you big heads put fees on land owners who sell their land products to pay your wages and benefits. But it won't be too long till you won't have your paying job will it at the rate you

are going. Business who sell heavy equipment, tires, gas products, oil products, insurance companies, in fact, most every product and or business will be affected.

Families are fighting to survive and to make ends meet while you strut around in your suits and shiny shoes eat in restaurants and get reimbursed for what you spend. The timberman works from day light to dark and lays down after a hard day to dream of tomorrows problems. His 200⁰⁰ dollar pay check does not cover his necessities + your fees etc. That 200⁰⁰ dollar check has to be stretched for break downs, which are an every day thing to a timberman. By the time rules, regulations fees, taxes and whatever notion you create to take to get our last penny, we are left with only a vision of what America is suppose to stand for. Some are the American dream of working to own a home, drive a car or send our

Children to school. The only
difference between you people
and Hitler is he used gas.

We will not stand by and let
you take any more from us, the
back bone of America, the working
man.

We are asking all to write to our
Congressman, Governors, President
and to form lines in protest at
our capital.

DELBERT E. TAYLOR
OWNER

(304) 684.7968

HARDWOOD LUMBER COMPANY
RT. #2. BOX ~~XXX~~ 495
ST. MARYS, WEST VIRGINIA 26170

RECEIVED
SEPT 7 1992
DISTRICT VI FORESTRY

REGARDING HOUSE BILL 4669

1. I am against this bill. I believe it takes away our rights as citizens guaranteed by the U. S. Constitution.

2. Solution Repeal the bill and these regulations.

Delbert E. Taylor

*Licensing - exempt anyone who has worked in
timbering for 10 yrs.*

REGARDING HOUSE BILL 4669

RECEIVED

SEPI 7 1992

DISTRICT VI FORESTAL

1. I am against this bill. I believe anyone following Best Management Practices is already meeting these standards.

2. Solution Repeal the Bill and these resolutions.

*Clifford Eugene
Taylor*

RECEIVED

SEP 17 1992

REGARDING HOUSE BILL 4669

DISTRICT VI: FORESTRY

1. I am against this bill and it's regulations. When a governmental department has to depend upon licensing, fining and collecting fees from the public for it's own support, it is against our constitutional rights, and sets a new precedent that could be implemented by all government departments and prove overwhelming.

2. Solution Repeal the Bill and these regulations.

Alta Mae Taylor

RECEIVED

FILE NO. 2552
X-20-1, 25252

SEP 17 1992

DISTRICT VI FORESTRY

To Whom it may Concern,

It is my belief that the logging legislation is ridiculous and has gone too far.

We are always hearing people say that people should try to stand on their own two feet, but everytime they try someone is always there to keep them from it. In many cases keeping them from doing the only thing they know how to do. You are expecting people to be able to support their own family and not live on welfare but with legislation like the logging bill they can't.

There is no way they can keep up with the new laws and regulations when they are barely getting by now. How are they supposed to keep up?

If they don't realize what this legislation is going to do to the public, they will be putting more people out of work and out on the street than they realize.

When will people wake up and realize that the little people are the ones that keep this country going.

Sincerely,
E. Gordon S. Sully
Georgia's Attorney

11-11-41
Sewell, N.J.

My Name is Samuel H. Saunders
I live on Seaman's Fork and
am a landowner. I want the
Limit raised to 10,000 Dollars.
I also don't want any more
regulations and no more
taxes - no more taxes

Samuel H. Saunders
Landowner

Rt 1 Box 92
Reedy 25270
W.V.

*General In
mailed
Comments*



REC'D SEP 15 1992

STATE OF WEST VIRGINIA
OFFICE OF THE GOVERNOR
CHARLESTON 25305

GASTON CAPERTON
GOVERNOR

September 11, 1992

*State wide Committee =
in legend =*

Mr. William Gillespie, Director
West Virginia Division of Forestry
State Capitol
Charleston, West Virginia 25305

Re: Promulgation of rules and regulations pursuant
to House Bill 4669 relating to timbering operations

Dear Director Gillespie:

Recently, a growing number of small timber operators have contacted me or others in my behalf, complaining that some of the rules being proposed by your agency for regulation of the timber industry pursuant to the above referenced legislation are unduly burdensome.

I am writing to alert you to the large number of operators expressing concern over some of the proposed rules and regulations, and respectfully ask that your agency carefully consider the comments of these small timber operators prior to final adoption of rules.

I am confident that with your expertise in the field of forestry, you will be able to address the concerns of small timber operators that there not be undue or unfair regulatory burden, yet still carry out the mandate of the Legislature to better preserve and promote our environment and natural resources.

Very truly yours,

Gaston Caperton
Gaston Caperton
Governor

GC/lc



west
virginia
highlands
conservancy

MAILING ADDRESS • P.O. Box 306 • Charleston, West Virginia 25321

Publishers of the Highlands Voice and the Monongahela National Forest Hiking Guide

FAX 7pp to 558-0143

September 17, 1992

William H. Gillespie
Administrative Forester
W.V. Division of Forestry
Guthrie Agriculture Center
Charleston, W.V. 25305-0570

RE: License & Certification Regulations
(Title 22, Series 2 & 3)

Dear Bill,

Enclosed please find comments on the proposed regulations for licensing and certification pursuant to the Logging Sediment Control Act (19-1B) which were filed as emergency regulations in the Secretary of States Office August 18th.

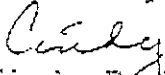
Due to other meetings and previous commitments I was unable to attend any of the public hearings on these regulations and was not prepared to send or even fax my comments to you before that date.

I send these remarks along now in the hope that you will accept them as the helpful suggestions they are meant to be, and will consider making some of the changes I suggest as we move through the legislative rule making review process.

Please feel free to contact me with any questions you might have.

I will be sure to convey any further thoughts I might have to you and other interested parties as appropriate.

Sincerely,


Cindy Rank, President
HC 78, Box 227
Rock Cave, W.V. 26234

(phone: 924-5802 or 6263)

COMMENTS ON: LICENSING REGULATIONS... TITLE 22. SERIES 2

-W.V. Division of Forestry: Logging Sediment Control Act (19-1B)-
September 17, 1992

submitted by: Cindy Rank, President, W.V. Highlands Conservancy
HC 78, Box 227, Rock Cave W.V. 26234 (924-6802)

SECTION 2. DEFINITIONS

2.2 Certified Logger By identifying a certified logger as an individual engaged in the "business" of severing trees for commercial purposes the definition appears to refer to timber operators more than individual loggers. A clearer definition would result from adding "ASSOCIATED WITH, OR PART OF the business of severing trees...". The definition would then include the individual running an endloader, or cutting, etc. who have no real direct part in the business transactions involved with the operation. Of course operators can well be "certified loggers," but all "certified loggers" are not necessarily going to be operators or persons directly involved with the business of buying and selling, etc.

2.8 HAUL ROAD This definition inappropriately includes the phrase "other than roads built under an active permit to comply with other laws or regulations." A haul road is a haul road is a haul road whether or not it is used and/or built for other purposes as well. This phrase should be removed from the definition. In any instance where two or more sets of requirements or regulations exist for a road being used for the transportation of logs from a landing to a state road or highway, or any portion of such a haul road, the most stringent requirement should apply. If the appropriate BMP's require more culverts, diversions, etc., then the BMP must be implemented in addition to the other permit requirements. A new section should be added RE: Applicability of Requirements that reads something like "Where the standards required by this rule are in conflict with standards or activities required by other regulations, statutes, etc. for the same road, the more stringent requirements shall apply."

2.10 LICENSE The definition allows for the approval of the application form for licenses, but does not indicate that the completed application must be approved (or denied) by the director. While the language in 19-1B-4 (c) uses the word "acquire," clearly the intent of that subsection was to require approval of the individual applications, as well as the application form itself. Licensing was not meant to be automatic, especially in the instance where an operator submitted false, misleading or inadequate information on the application. The words "AND APPROVAL" should be added before the comma and after the words "upon application."

2.13 NOTIFICATION... This definition is more appropriately titled "NOTIFICATION OF DURATION OF TIMBERING OPERATIONS" to be more consistent with the Act.

2.18 NOTIFICATION... Though I personally appreciate and approve of the action required by the final sentence of this definition, i.e. "If filed after the beginning of the operation, a brief statement shall accompany the notification form giving the reason for not filing earlier", this definition in this rule is not the proper vehicle to require this information. It would be better to include this requirement in some other policy directive that designates the method, manner and content of the notification according to Section 6(a) of the Act.

2.18 TIMBERING OPERATIONS Although this definition further defines the activities that are part of "timbering operations", as defined in the Act (19-1B-3(e)), it fails to complete the definition. I recommend 2.18 begin with the first sentence of the definition as it appears in the Act, i.e. "Timbering Operations means activities directly related to the severing or removal of standing trees from the forest as a raw material for commercial processes or purposes." Then continue on to say "SUCH ACTIVITIES ENCOMPASS all aspects of logging, including but not limited to severing and delimiting of trees, etc" (as now proposed in 2.18).

2.18 TIMBERING OPERATIONS To be consistent with the act and the definitions in the act, the exceptions in Section 6 of these proposed regulations (22-2-6.1 through 22-2-6.7) should be included in the definition of timbering operations as they are in the Logging Sediment Control Act itself. (See also the following comment on Section 6.)

SECTION 6 EXCEPTIONS

While I realize the definition of timbering operations in the Logging Sediment Control Act (19-1B-3(e)) is troubling to many and perhaps demands further clarification, the proposed Section 6 on exceptions only confused the situation even further, and, in fact, goes beyond the authority of the legislation as well, eg. the waiver in 22-2-6.7. Without attempting to change the statute, and certainly in these emergency regulations, this entire section should be dropped in favor of the original definition of timbering operations as it appears in the Act.

SECTION 3 LICENSE PROCUREMENT: POSTING OF A LICENSE NUMBER

3.6 This section doesn't clearly define the ramifications of operating without a license as set forth in the law. Any person operating without a license is in violation of the Act and subject to all penalties under the Act. The section should read "Any person found guilty of operating without a license as specified in these regulations AND THE LOGGING SEDIMENT CONTROL ACT (19-1B) SHALL BE SUBJECT TO THE IMMEDIATE SUSPENSION OF THE OPERATION and shall procure such license before resuming operations, AND FURTHER, SHALL BE SUBJECT TO CIVIL PENALTIES AS DEFINED IN SECTION 12 OF THE ACT."

3.7 It was clearly the intention of Section 4(d) of the Act to provide for notice to be posted in full view of the the public at large who may have legitimate concerns about an operation but have no way to identify the responsible party in order to register a valid complaint. As required by these proposed regulations the signs that are to be posted at each active landing site may well be in full view of the loggers on the operation, but it is quite likely that many if not all such landings are deep in the bowels of private property and hence totally hidden from persons who see the site from a public road but are prohibited entry to the property and operation. This section totally subverts the original intent of the requirement and should be changed accordingly.

SECTION 4 LICENSE SUSPENSION

4.1 For grammatical purposes, the first sentence should read "...nor more than 90 days when THAT PERSON IS found to be in violation..."

4.1 The second sentence is misleading and may be interpreted differently than similar language in subsection (d) of Section 5 of the Act (19-1B-5(d)). I recommend dropping the proposed language and reintroducing the Provision from Section 5(d) of the Act: "That one or more violations for the same occurrence may constitute only one violation for purposes of this subsection."

4.2.3 I assume the words "invalid or misleading information" are used to imply a less serious infraction than that described by "false information" in the conditions for revocation. If so, I would recommend that "invalid or misleading information" on a license renewal application should result in suspension of that license and, therefore, I recommend the addition of the words "OR LICENSE RENEWAL APPLICATION" at the end of 4.2.3.

SECTION 5 LICENSE REVOCATION

5.1.2. This was no doubt a last minute oversight, but reference to "4.1(a) through 4.1(h)" should be "4.2.1. through 4.2.8."

SECTION 7 RIGHT OF APPEAL

7.1 The Act does not contemplate, authorize or provide for appeal from anything but an "order" by the director. The use of the word "decision" of the director at the beginning of this section confuses the issue. As I read the Act, an order of the director to suspend a timbering operation because an operator is not licensed (19-1B-5(c)) is appealable, but other decisions about granting, denying, suspending or revoking a license for due cause under the Act or these regulations is not. Thus, Section 7.1 should be changed to reflect the limited appeal rights, i.e. change "decision" to "ORDER" at the beginning of the sentence.

COMMENTS ON: CERTIFICATION REGULATIONS TITLE 22, SERIES 3

-W.V. Division of Forestry; Logging Sediment Control Act (19-1B)-
September 17, 1992

submitted by: Cindy Rank, President W.V. Highlands Conservancy
NC 78, Box 227, Rock Cave, W.V. 26234 (924-5802)

This series of regulations was not authorized for emergency promulgation by Chapter 19 Article 1B. Discussions during the legislative session indicated there would not be any immediate need for additional money to enact the provisions of this section because the voluntary certification program has been in place for many years and working well enough to accommodate the new law as far as the certification process was concerned.

If, however, Forestry is able to demonstrate a real need at this time, I would hope that Series 3 be approved only if it contains some provision that would allow those loggers with valid certification under the voluntary program prior to the effective date of the new Logging Sediment Control Act to continue that certification until one year after the anniversary date of their last certification before being required to apply for renewal or to pay the annual \$50 fee. (See comment on Section 3.3 below.)

SECTION 2 DEFINITIONS

2.3 CERTIFIED LOGGER By identifying a certified logger as an individual engaged in the "business" of severing trees for commercial purposes the definition appears to refer to timber operators more than individual loggers. A clearer definition would result from adding "activities associated with or part of the business of severing trees...". The definition would then include the individual running an endloader, or cutting, etc. who have no real direct part in the business transactions involved with the operation. Of course operators can well be "certified loggers," but all "certified loggers" are not necessarily going to be operators or persons directly involved with the business of buying and selling, etc.

2.8 HAUL ROAD This definition inappropriately includes the phrase "other than roads built under an active permit to comply with other laws or regulations." A haul road is a haul road is a haul road whether or not it is used and/or built for other purposes as well. This phrase should be removed from the definition. In any instance where two or more sets of requirements or regulations exist for a road being used for the transportation of logs from a landing to a state road or highway, or any portion of such a haul road, the most stringent requirement should apply. If the appropriate BMP's require more culverts, diversions, etc., then the BMP must be implemented in addition to the other permit requirements. A new section should be added RE: Applicability of Requirements that reads something like "Where the standards required by this rule are in conflict with standards or activities required by other regulations, statutes, etc. for the same road, the more stringent requirements shall apply."

2.10 LOGGER CERTIFICATION To emphasize the sediment control measures boldly announced by the title of the Logging Sediment Control Act and proudly professed in the policy statement of the Act, but only minutely referred to throughout the same statute, the complete wording of 19-1B-7(b), sentence two, should be used. Therefore, before the period and after "best management practices" add the words "to prevent, in so far as possible, soil erosion on timber operations."

2.12 TIMBERING OPERATIONS Although this definition further defines the activities that are part of "timbering operations", as defined in the Act (19-1B-3(e)), it fails to complete the definition. I recommend 2.12 begin with the first sentence of the definition as it appears in the Act, i.e. "Timbering Operations means activities directly related to the severing or removal of standing trees from the forest as a raw material for commercial processes or purposes." Then continue on to say "SUCH ACTIVITIES ENCOMPASS all aspects of logging, including but not limited to severing and delimiting of trees,..." (as now proposed in 2.12).

SECTION 3 PROCEDURES FOR CERTIFYING...

ADD A NEW SECTION 3.1: The regulations should state the specific requirement from the Act that a certified logger be on every timbering operation at any time the operation is being conducted, i.e. "After the first day of July 1993, every timbering operation must have at least one person certified pursuant to this section supervising the operation at any time the timber operation is being conducted." (RENUMBER ALL SUBSEQUENT SECTIONS)

3.1 It is not appropriate to use the words "logging crew" unless defined in the law to clearly avoid the assumption that it is possible for "a logging crew" include large enough numbers of workers that the crew could be involved in several operations simultaneously. The clear intention of the Act was to have a certified individual supervising "every" timbering operation "at any time" the timbering operation is being conducted (19-1B-7(g)). Therefore, in sentence one change the word "crew" to "operation" and in sentence two change "logging crew members" to "individual loggers".

3.2 I doubt that the law meant to exempt the chief or any agent of the chief from all portions of the certification program other than the BMP training portion as is implied by this section.

3.2 The word "specially" is confusing, strange and unnecessary. I recommend a) just leave out that word, or b) leave it out and refer to the requirements of Section 7(c) of the Act, or c) drop the whole sentence and insert instead the second sentence from subsection (c) of section 7 of the Act (19-1B): "Each inspector under the jurisdiction of the chief shall attend a certification program free of charge and complete the certification requirements of this section."

WVHC RE: LOGGER CERTIFICATION 9/11/92 P 3.

3.3 Add the following: "Provided, however, that for a logger who had successfully completed the certification process prior to the effective date of the Logging Sediment Control Act that logger shall not be required to renew his or her certification or pay the annual certification fee until one year after the anniversary date of his or her certification training. Provided, also, that this renewal will count as the first renewal of the two allowed before the updated training required for the third renewal."

3.7 Change "crew" to "operation."

3.7 Any person found guilty of supervising a logging operation without a valid certification should not only "be eligible for" but should "be required to attend the next regularly scheduled course of instruction and to complete the certification process in a reasonable and timely fashion to be set forth in an order by the director, and may be subject to the civil penalties set forth in Section 12 of Article 1B of Chapter 19."

3.8 Once again, change the word "crew" to "operation".

3.9 The proposed language in this section undercuts the intention clearly stated in 19-1B-7(g) that "every timbering operation must have at least one person certified pursuant to this section supervising the operation at any time the timbering operation is being conducted. The section should be dropped and the language from the Act adopted as new 3.1 (previously suggested).

SECTION 4 LOGGER CERTIFICATION SUSPENSION

4.2.1. I assume the words "invalid or misleading information" are used to imply a less serious infraction than that described by "false information" in the conditions for revocation. If so, I would recommend that "invalid or misleading information" on a certification renewal application should cause suspension of that certification and, therefore, I recommend the addition of the words "OR CERTIFICATION RENEWAL APPLICATION" at the end of 4.2.3.

SECTION 5 LOGGER CERTIFICATION REVOCATION

5.1.2. Reference to "4.1(a) through 4.1(e)" should read "4.2.1 through 4.2.6".

SECTION 7 RIGHT OF APPEAL

7.1 The Act does not contemplate, authorize or provide for appeal from anything but an "order" by the director. As I read the Act, an order of the director to suspend a timbering operation because an operator is not licensed (19-1B-5(c)) is appealable, but other decisions about granting, denying, suspending or revoking a license for due cause under the Act or these regulations is not. Section 7.1 should be changed to reflect the limited appeal rights, i.e. change "decision" to "order".

* Copies of this letter
are being disbursed
to various legislators, Gov.,
and Sec. of State

Gillespie

9-16-92
Patty Cottrell
HC73 Box 58
Sand Ridge WV
2527.

REC'D SEP 18 1992

* Last night I attended a meeting
at Flatwoods WV where grass roots citizenry
expressed shock and outrage over these
pieces of legislation:

HB 2813	SB 409	HB 4758
HB 2377	HB 4669	SB 222
HB 4643	HB 4188	HB 4711

This net work of legislation appears to
me to violate the infrastructure of
both our State and Federal Constitutions.

Three aspects of these bills have
a common thread that particularly
concerns me

- 1) "Right of Entry." I've heard this
referred to a "Gaston's Gestapo."
Yup That's how I see it, too.
- 2) The provision for "kangaroo courts."
These legislations even provide their
own court systems. Ben Franklin
would have a coronary if he were
still here.
- 3) These bills all create a new
tax system.
Theres plenty now if it were
used judiciously.

I know our legislators are people. Surely they must be able to comprehend what is occurring here. How can our representatives go to a worship service, or peer at themselves in a mirror IF THEY HAVE CONSCIENCES?

When I offend someone, I think about it. Our 1991-1992 legislature should be thinking 24 hours a day.

There are LOTS of concerned, upset people in our state. They need to be listened to and OBEYED.

Patty Cottrell



REC'D

DIVISION OF FORESTRY
DEPARTMENT OF COMMERCE, LABOR AND
ENVIRONMENTAL RESOURCES

Gaston Caperton
Governor

John M. Ranson
Secretary

Post Office Box 38
French Creek, WV 26218
(304) 924-6266

William H. Gillespie
Administrative Forester

May 28, 1992

MEMORANDUM TO: William H. Gillespie
Administrative Forester

FROM: David G. Lilly, District Forester

SUBJECT: HB4669 Discussion Meeting *DGL*

I met with Margaret Gregory on May 28, 1992, in the French Creek Office to discuss her questions regarding HB4669. (Meeting arranged after her call to Governor's Office representative, Fred Williams, was referred to W. H. Gillespie and then on to D. G. Lilly.) Mrs. Gregory's husband, Jesse, is an independent logger who operates in Upshur and Webster Counties. She also is a representative in this area for logger action and had several signed petitions calling for a relaxing of provisions in HB4669. (Delegate Riggs drafted the petition and is supportive of this action. State Senate candidate Mike Ross also supports this drive.)

Question/Answer

- * Word is anyone who cuts one tree on their property must have a license? Incorrect, if for own use, license is for commercial operations.
- * Is it a requirement for a logger to get a new license each time he moves to a new job? Incorrect, license is for the logger, not the job.
- * It has been said by Dale Riggs and Mike Ross that only a registered engineer can prepare the logging registration map and cost could run into the thousands of \$? Incorrect, this can be prepared by the operator.
- * Will Rules and Regulations be discussed at Public Hearings? Yes, thirty-day comment period and public meetings around the State, authority W. H. Gillespie. (Call to WHG from DGL this date.)

Memorandum to: William H. Gillespie
Subject: HB4669 Discussion Meeting
Page 2
May 28, 1992

- * Why does Legislature want excess \$ in Timbering Operations Enforcement Fund (19-1B-8)? This is standard addition to revenue funds for possible future use by the State in other areas; however, shouldn't be an area of concern with small amount of \$ anticipated, authority W. H. Gillespie. (Call to WHG from DGL this date.)

Comments by Mrs. Gregory

- * The loggers are not in agreement with WVFA's position for favoring HB4669.
- * Fred Williams (Governor's Office) is suppose to set up an appointment for her with the Committee developing the Rules and Regulations.

Mrs. Gregory appeared sincere with her effort to find out information; but rumors have complicated her understanding of the new law. The areas of voluntary registration currently in effect, BMP use and safety training were also discussed.

Margaret Gregory
Rt. 2, Box 248
French Creek, WV 26218
924-5577

DGL:sp

Westvaco

August 14, 1992

William H. Gillespie
Administrative Forester
Division of Forestry
State Capitol
Charleston, WV 25305

Dear Bill:

I would like to propose two changes for your consideration. I received copies of the regulations, as sent to John Ranson today. I believe loggers who have more than one logging job operating at the same time should be allowed to supervise those jobs and be considered as the certified logger on each crew. As the owner of the company, he ultimately will be held accountable for any problems or errors in judgement. It will be his name on the license and his signature on the notification form. He will be responsible for making corrections or paying any fines.

The other change I would like you to consider is in the "Timbering Operation Notification Form". Number three under Best Management Practices on page two reads "Haul roads that intersect main highways will be graveled the first 200' from the highway". State highway employees are responsible for issuing entrance permits and requirements vary from district to district. Here in Greenbrier County, the standards call for 8" crushed stone for 50'. But, the local officials use good judgement and base requirements on what's needed to do the job correctly. That means some entrances need less and some need more. The system works as is, let's not change it.

If I can answer any questions or provide more information, please call me.

Sincerely,



H. S. McIlvaine
Supervisor

HSM:ps

REC'D 17 1992

Bleached Board Division
Wood Department
Covington, VA 24426-0950
Telephone 703 969-5000
Fax No. 703 969-5228

REC'D SEP 16 1992

September 14, 1992
624 Riverview Drive
Belmont, WV 26134

West Virginia of Forestry
1900 Kanawha Boulevard
East, Charleston, WV 25305-0180

As a land owner I think the following recommendations are excellent and needed, to implement the logging regulations:

1. That the license exemption of \$4,000 be raised to \$10,000 for the small operator.
2. That the small operator who receives the \$10,000 exemption be able to cut on land other than his own.
3. That a copy of the license certificate serve as a minimum size for the sign on the landing instead of the sign containing three inch letters.

I support the above regulations that the West Virginia Forestry Association recommends.

Respectfully,

J. Franklin Carpenter

J. Franklin Carpenter

BRAXTON COUNTY TAX STUDY ASSOCIATION
TIMBERMEN COMMITTEE

REC'D SEP 16 1992

Lester L. Lemon
Bob Wayne
Marie Singleton

Donnie Dobbins
Kevin Singleton
Cam Hudkins

Change limit on what land owners can harvest from own property from \$4,000.00 to \$50,000.00 and be exempt. Landowners should not have to obtain a wavier for this.

Don't need two licenses to do one job. We have been working for years under one license and feel that is sufficient.

Should not have to pay to recertify each year.

Should be "grandfather" clause on certification.

If logger is complying in B.M.P. and mother nature causes erosion, logger should not be penalized.

Any violations upon logger should be handled in their own county or the county where the work is being done.

Fines and penalties are entirely too high for small operators. One fine of \$2,500.00 could put a small logger out of business. A \$500.00 fine would be considered very high for a small three man operator.

The appointed court for the three men committee that has set themselves up to try loggers in violations is unconstitutional. We already have a court system in this country.

My comment concerning Bill #4669
Timber Law is as follows:

REC'D SEP 1 8 1992

1. Landowners should be totally exempt from having to purchase license to cut anything on their own property.
2. We don't need two licenses to do one job. We have been working for years with one business license and feel that is sufficient.
3. We feel that one fee for being certified for one time is enough. A fee of \$50.00 for renewal is ridiculous. One time is enough!!
4. We feel that people that has been in the timber business for 5 years or longer should have a "grandfather" clause on certification.
5. Fines and penalties are entirely too high for small timber operators. \$500.00 fine would be a very high fine for any violation.
6. The appointed three men committee to enforce fines and penalties to loggers or anyone else is unconstitutional. We have had a court system in this land for sometime now and we feel that it is quite sufficient to enforce laws.
7. If violators should be tried in their own counties or in the county where their jobs are being done this would seem more fair than having them tried in Charleston or in some other district.
8. We are against giving every Tom, Dick, and Harry the right to come on our property this day and time is unsafe and totally against our morals.

We are asking for very few changes in these regulations... I feel these changes are most important to the small timber operators. If our officials would consider the welfare of the people who supported them over the years, it would be easy enough to make these changes. I also feel the laws that have been passed recently on the Timber Bill #4669 and the Contractors Law are unconstitutional.

Leslie J. Tenor

304-364-5669

P.O. Box 372
Webster Springs, WV 26288
September 5, 1992

REC'D SEP 9 1992

Mr. William H. Gillespie
WV Division of Forestry
1900 Kanawha Boulevard, East
Charleston, WV 25305-0180

Dear Mr. Gillespie:

I write to you as Mayford Lake, a certified tree farmer in Webster County, and as one who knows some of the concerns of individuals in this area.

I write concerning the Sediment Control Act, especially the "Exceptions" section 22-2-6. I strongly recommend that the clause 6.7 be amended to read as follows:

6.7 Individuals severing trees occasionally or routinely on their own property or on the property of another for sale or for personal use, where the gross income or fair market value realized from these products; i.e., logs, props, posts, firewood, rails, etc., does not exceed four thousand dollars per annum may obtain a waiver from licensing, logger certification, and timbering operation notification, by applying to the division, on forms provided by the division, for such.

I sincerely believe this ^{will} clarify some questions as to what is legal. This would allow an individual to cut firewood, fence posts, etc. even on the property of another for his own use or for sale on a small scale without a lot of legal hassle. However,

I do believe anyone severing trees for sale should be required to obtain a business registration certificate from the State Tax Dept. before he can obtain a waiver from the requirements of the Sediment Control Act. I say this, not because I am fond of the law requiring business registration, but because it is already the law.

I also believe there should be a 6.8 which would read:

6.8 Individuals buying standing timber or logs for their own use, for resale, or for the manufacture of other wood products for their own use or for sale, where the gross income realized or the fair market value does not exceed four thousand dollars per annum may obtain a waiver from licensing, logger certification and timbering operation notification by applying to the division, on forms provided by the division, for such.

Once again the applicant for a waiver should be required to obtain a business registration certificate if he is buying for resale.

There are several folks who buy low value logs from mills and landing sites and produce firewood for themselves and for sale on a small scale, some of them retired, some unemployed. Surely we do not intend for these people to have to have a license to buy these logs or to be required to be certified loggers.

3.

Mr. Gillespie, I sincerely believe the clauses I have recommended to you will not only clarify certain issues, but they will increase the level of acceptance of the Sediment Control Act by landowners, loggers, and the general public. I am asking that you carefully consider these clauses. I hope that you will work to get them in the final version of the Sediment Control Act. I am willing to discuss these clauses with you at any time.

I will not attend any of the scheduled public hearings, but I do want this letter to serve as my comments for the hearings.

Sincerely,

Wayford R. Lake
Landowner, Tree Farmer,
and Registered Forester.

The BURKE-PARSONS-BOWLBY Corporation

P. O. BOX 231 • RIPLEY, WEST VIRGINIA 25271 • PHONE (304) 372-2211

PRESSURE TREATED
WOOD PRODUCTS

August 13, 1992

REC'D AUG 14 1992

William H. Gillespie
Administrative Forester
Division of Forestry
WVDOCLER
State Capitol (Guthrie Center)
Charleston, WV 25305

Dear Bill:

I would like to see the following changes made in the Logging Sediment Control Bill. If these changes cannot be made, please give me a call.

The following should be added to paragraph 3.7:

In lieu of a sign, the operator may post a readable certificate that was issued to them by the Division.

I do not agree with the exceptions part of the regulations.

Paragraph 6.2, 6.3, 6.4:

These paragraphs allow exceptions for severing trees related to other construction work not directly related to logging, then it takes the exception away if the wood is sold or given away for wood product production.

If the purpose of the law is to protect the environment, then it should not make a difference where the wood goes after it is cut.

These three exceptions are needed and the operator should be exempt regardless of what he does with the wood on these sites.

Example: This week we had an individual cut the

Law, not
reg's.



PLANT LOCATIONS: SPENCER, WV • GOSHEN, VA • STANTON, KY • DUBOIS, PA

Equal Opportunity Employer

August 13, 1992

posts off a right-of-way. He sold the posts to us. He would not have been able to do this under the current exceptions. I do not believe this individual would have become a licensed logger to cut approximately 500 posts.

Paragraph 6.7: This should read as follows:

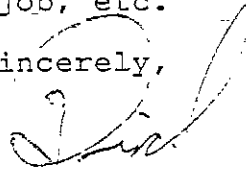
Individuals severing trees occasionally or routinely for sale on any property and does not exceed \$10,000 per annum, may obtain a waiver from licensing (unless the landowner requests a licensed logger) by applying to the Division, on forms provided by the Division, for such. This operator will be able to cut three days after mailing the waiver to the Division.

The law regulates logging operations but the law must provide exemptions for small operations, individuals, landowners and farmers trying to generate some income in very rural economic depressed West Virginia counties.

The landowner should have the right to require a licensed logger or to exempt this requirement for jobs so small a licensed operator is not needed.

This should be able to be determined by the landowner and the Division of Forestry. Criteria could be drawn up to consider, such as: lineal feet of roads required, size and amount of wood to be removed, economic feasibility of the job, etc.

Sincerely,



Richard E. Bowlby, President

REB/nms

Waiver
REC'D AUG 14 1992

Permit

REC'D SEP 10 1992

- 4.2.3. Providing invalid or misleading information on a notification form.
- 4.2.4. Failure to place a sign, as per 3.7, at the timbering operation.
- 4.2.5. Failure to use appropriate best management practices.
- 4.2.6. Failure to observe compliance orders from the director.
- 4.2.7. Failure to observe a timbering operation suspension order from the director.
- 4.2.8. Interfering with the director's or chiefs access to the operation for inspection purposes during reasonable working hours or for emergencies.

§22-2-5. License Revocation.

5.1 The license of any timbering operator, timber buyer or log buyer may be revoked for any of the following reasons:

- 5.1.1. Providing false data on the licensing application.
- 5.1.2. Being found in violation of either the logging sediment control act or the water pollution control act for a third time within any two-year period. Violations to be considered as causes for license revocation shall include, but are not necessarily limited to, the listing in ~~4.1(a)~~ through ~~4.1(h)~~ of this regulation.

4.2.1 4.2.8

§22-2-6. Exceptions.

6.1. Persons severing evergreen trees for sale during the traditional Christmas season shall be exempt from licensing for that activity.

6.2. Persons severing trees incidental to ground-disturbing construction activities shall be exempt from licensing for that activity provided that the logs so produced are not sold for, or given away for, wood product production purposes.

6.3. Persons severing trees incidental to the construction of access roads, well sites, gathering lines or transportation pipelines shall be exempt for that activity provided that the materials so produced are not sold, or given away, for wood product production purposes.

6.4. Persons severing trees incidental to the construction of highways or public utility rights-of-way or for the maintenance of existing highways or public utility rights-of-way shall be exempt from licensing for that activity providing that the trees so severed are not sold for, or given away for, wood product production purposes.

6.5. Companies regulated by the federal energy regulatory commission shall be exempt from licensing for the severing of trees incidental to the purposes for which they are so regulated.

6.6. An individual severing trees on the individual's own property with the intention of using the logs directly or for the manufacture of wood products for the personal use of the individual or the immediate family of the individual shall be exempt from licensing for that activity, provided that the individual does not have

5.1. An individual's certified logger certification may be revoked for any of the following reasons. Recertification shall be contingent upon again successfully completing the general certification procedures, but in no event shall a recertification be issued prior to one year after the revocation.

5.1.1. Providing false data on the application for certification.

5.1.2. Being found in violation of either the logging sediment control act or the water pollution control act for a third time within any two-year period. Violations to be considered as causes for certification revocation shall include, but aren't necessarily limited to, the listing set forth in ~~4.1(a)~~ through ~~4.1(e)~~ of this regulation.

4.2.1 4.2.6

§22-3-6. Reciprocity With Other States.

6.1. Reciprocity with other states with similar certification programs shall be on the basis of a written agreement signed by the director and the appropriate official of the other state.

6.2. Before signing a reciprocal agreement with another state, the director shall first determine that the program or aspect of the program under consideration is at least equal to that of the West Virginia logger certification program.

6.3. Standard first aid cards; i.e., Red Cross, Emergency Medical Technician, etc., showing competency in a course of first aid at least equal to that prescribed by the director, shall be acceptable as proof of competency for that part of the training.

§22-3-7. Right of Appeal.

7.1. Any person aggrieved by a decision of the director relative to his or her certification as a certified logger shall have the right to appeal the order to the district conference panel who shall, in writing, affirm, modify or vacate the order.



WEST VIRGINIA FORESTRY ASSOCIATION

P.O. BOX 488
RAVENSWOOD, W. VA. 26164
PHONE (304) 273-8164

July 9, 1992

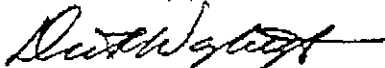
Bill Gillespie

Dear Mr. Gillespie:

In reviewing the Logging Sediment Control Regulations, I would suggest that an additional statement should be made to allow for those instances when loggers are using haul roads that are already bonded for mining or oil and gas. Those bonds sometimes require measures different than BMP's for logging.

The remaining regulations look fine to me.

Sincerely,


Dick Waybright
Executive Director

REC'D SEP 18 1992

I am writing concerning Bill 4669.
It totally outrageous what you
people in Charleston think the people
of WV will stand for.

Is there with the right of contract
which happened to the 5th Amendment
in the Constitution? No one in
WV is going to stand by and give up
any of their rights they have as
Citizens of the USA. So some idiotic
group with no reason as right wants
to be some time to give them over, to
be added to the Forestry Fund to be re-
appropriated for some really worth
while project do more money for
educating the smartest group of
young people we have ever had.

This is the justification of Power Law
Operators. Most of the men running
these saws have been doing so
for some years - Now they need
training, who or what sets the '60.00
that requires? Are you going to require
the instructor be certified first? By
Whom?

As for the \$4000.00 limit set on pri-
vate land owners. Do you realize some
people buy their land to create a job
because there are no public jobs to
be had? At \$4000.00 you are making
them work for \$1.36 - \$1.37 an hour
gross? Is that work 7 days a week

I live a day 365 days a year.
People aren't fighting to put food
on the table now, we are fighting
for the table & the roof overhead!
We stand a very good chance
of losing our home over this - at
five less than my men wage the only
way we may be able to keep a
roof over our head is to take bank
money after 33 years of marriage
at \$4000 a year. We cut a tree
the butt log goes to the mill (fits
good), next maybe a tie log, then
wedge blocks, more post & last
we make fire wood. All that's left
is twigs. Lay it averages out to
\$50.00 all together - that would let us
cut 80 trees a year. We have 94
acres that's less than a tree an acre.
\$300.00 a yr - \$450. land taxes -
159. truck license to hand - \$546.
Exp. on the truck - \$410. for power saw.
that leaves \$2575. payments on our
loan is 100.54 a month - \$1470. 48
leaves \$114.52 - \$600 for S.D. tax
= \$54.52 left for State tax - gasoline
fuel to run power saw & live on for
the year. Would you care to try it?
We want to clear some old
fields to grow trees, in order to
do that you are trying to force us
to burn wood that would be put
to better use.

If you would consider setting the limit
at \$15,000 - \$18,000 a year we might be
able to live with that. Though I do
want to go on record that I do
not think there should be a limit
set on what a private land owner
can make on his/her own property.

Anna Marie Christian
John Paul Christian

HCR 77 Box 47
Upper Shaden W.D. 26266
Shelburne County -

Phone 926-5959.

SUMMARY OF AMENDMENTS

At the conclusion of the hearings and the reading of the mailed-in comments, the consensus of opinion seemed to be that the \$4,000 limit on private landowners obtaining a waiver should be raised to \$10,000. The advisory committee considered this and voted unanimously for the increase.

After submitting the initial regulation, a typographical error was detected; i.e., letters for subsection have been included instead of Arabic numbers. This was corrected to correspond with the instructions of the Secretary of State.

PETITION TO REPEAL JOB DESTROYING LEGISLATION

Whereas, Dr. H. Reed McGrath, Dixy Lee Ray and other responsible environmentalists have exposed the bad science and bad journalism upon which extremists have exaggerated holes in the ozone, acid rain, global warming and other far out mythologies to mislead the public and legislators,

AND

Whereas, rich special interest lobbies have based much legislation upon the above and other unverified positions-together with meddling into the everyday work world of common people while essentially exempting themselves and erecting discriminatory barriers against the general public; enforced by governor appointed commissars, DNR and other non-elected regional government type officials who circumvent due process of law as provided for in our federal and state constitutions,

THEREFORE

BE IT RESOLVED, that we the undersigned request the WV Legislature to REPEAL the following and related legislation based upon bad science and rich special interest agendas:

1. The 1990 Clean Air Act. (H.B. 2813).
2. The 1991 discriminatory Ground Water Bill (H.B. 2377).
3. The 1992 H.B. 4643 which authorizes expanding bureaucracy to impose auto emission inspection fees and related costs together with interference with citizens' right to burn wood, coal and certain other fuels in their stoves.
4. The 1991 Contractors' Licensing Bill (S.B. 409) being used to persecute native WV workers with bureaucratic roadblocks, arbitrary fines and denial of due process of law.
- 5. The Draconian small timberland owner shut-down bill (H.B. 4669) deceitfully grease-rammed through the 1992 WV Legislature under the guise of "regulation of the harvesting of timber along scenic highways."
6. The 1992 H.B. 4188 authorizing regional government appointed tax authorities for rural areas.
7. The nightmare, poorly understood H.B. 4758 interlock bureaucracy funding tax bill under the guise of "woodlot improvement fees."
8. The 1989 S.B. 222 (which contains archaic, smoldering gun control provisions) and other interlock legislation setting state and local governments up to destroy private property rights which establish the foundation for freedom and prosperity.
9. The 1992 H.B. 4711 which further prices WV citizens out of the court system being increasingly dominated by rich special interests.

DRACO, or DRACON, the first inventor at Athens, appointed in 621 a.c. to codify and correct the existing law. Of his legislation we only know the provisions of the criminal law relating to the shedding of blood. His name has become proverbial for severity.

Furthermore, we request passage of a constitutional amendment to authorize Initiative, Referendum and Recall powers for citizens to implement the rights outlined in our federal and state constitutions.

U4 NAME	ADDRESS	PHONE NO.
Sierman Full	R#1 Teroy WVa 25252	304-275-6549
Lena Full	R#1 Teroy WVa 25252	304-275-6549
Delma / Norway	R#3 Box 213 Sandyville WVa 25275	304 275-6059
Ed Tucker	R#1 Teroy WVa 25252	304 275-8980
D. Tucker	R#1 Teroy WVa 25252	304-275-8080
Paul J. Francis	R#1 Box 83 Pulaski 26160	304 275-7600

In book.

Comment on Timber Regulations.

The exception for small operators & landowners should be at least \$10,000 before any regulations apply.

It should be state policy to encourage small business not to run small businesses & tax payers out of state.

Sept 17, 1992

Alvin L. Engle
HC 70 Box 295
Creston, WA
26741

(General) (See yellow sheets for specific)

Sixteenth American Jurisprudence, Second Edition, Section 256 affirms that the "Constitution is the SUPREME law of the land and any statute to be valid, must be in agreement. It is impossible for both the Constitution and a law violating it to be valid; one must prevail . . . an unconstitutional statute, though having the form and name of law, is in reality no law, but is wholly void, and ineffective for any purpose; since UNCONSTITUTIONALITY DATES FROM THE TIME OF ITS ENACTMENT, and not merely from the date of the decision so brandishing it . . . an unconstitutional law is void . . . it imposes no duties, confers no rights, creates no office, bestows no power or authority on anyone, affords no protection, and JUSTIFIES NO ACTS PERFORMED UNDER IT.

No one is bound to obey an unconstitutional law and no courts are bound to enforce it."

H.B. 4669 and subsequent rules filed under it are violations of both our Federal and State Constitutions:

1. The so-called "right of entry" (§19-1B-9) is in violation of citizen safeguards of Article IV of the Federal Bill of Rights and Article III, Section 6 of the WV Bill of Rights. (Nearly identical)
2. The "Creation of Conference Panels; Authority" (§19-1B-11) creates regional courts of jurisdiction which are not found in either Federal or State Constitutions. These appointed non-elected kangaroo courts of sorts ("Conference panels") are examples of regional government which is in violation of constitutional mandate which creates and sustains elected (not appointed!) magistrates and judges at local and state levels. Additionally, the financial burden is shifted to the accused, many of whom cannot afford to appeal to circuit court; thus effectively violating Article III Section 10 of the WV "Bill of Rights" which guarantees that "No person shall be deprived of life, liberty, or property without due process of law, AND JUDGMENT OF HIS PEERS. The "Conference Panels" are not peer groups; they are regional three-member tribunals appointed and controlled by the appointed heads of the Division of Forestry and DNR (Environmental "Protection").
- Many West Virginians have experienced the way the above type appointed "Politburos" function under the Contractors' Licensing Bill (S.B. 409 of 1991) and others: 1. Warning notices from inspectors. 2. Accused told that they would not, because of their cooperative attitude, be fined. 3. Subsequent fines levied against the accused, with no Miranda rights. 4. Accused effectively denied trial by peers.

3. The current H.B. 4669 was fraudulently promoted under the deceptive heading "regulation of the harvesting of timber along Scenic Highways" and grease-rammed through the WV Legislature without public hearings. This degree of arrogance and disregard for the general public during an election year is probably unprecedented--and warrants prosecution of the ring leaders under Section 2384, Title 18, United States Criminal Code, Seditious Conspiracy.

4. The additional regulations proposed subsequent to passage of H.B. 4669 (particularly in the absence of regulatory flexibility legislation) together with increased costs and bureaucratic imposed loss of productive time would mandate a confusing impossible to comply with prison of red tape and financial burden for most wood lot and timber operators. Such a criminal government mandated prison without physical walls or chains effectively nullifies the preamble to our Federal Constitution which guarantees "promotion of the general welfare, and blessings of liberty to ourselves and our posterity." When the preamble is violated, then the reason and purpose of the entire Constitution is compromised!

5. H.B. 4669 and subsequent regulations are simply modern revivals, without regard to racial barriers, of old Jim Crow type laws promulgated by fraudulent environmentalists, and which are illegal under the fourteenth amendment to our Federal Constitution. It now follows logically that the principle of Constitutional Law vs Legislation which is in conflict with the constitution applies: "When rights secured by the Constitution are involved there can be NO RULE-MAKING OR LEGISLATION WHICH WOULD ABROGATE THEM."

Miranda vs State of Arizona (Key No. 73, 86s 80002 of 1966).

Presented September 3rd.
(Special hearing, Secretary of State's Office)

Ⓢ i.e. certain Legislators,
head of the DNR, governor
Caperton.

Respectively,

James C. Rymer
Box 329
St. Marys, WV 26170

RECEIVED
SEP 17 1992
DISTRICT #1 - FORESTRY

9-17-92

REC'D SEP 17 1992

Submitted to public hearing for the Beckley area - proposed changes to the logging regulations

Recommended changes by the WVFA Board of Directors

1. License exemption of \$4000.00 be raised to \$10,000.00 for small operators
2. Small operator (who receives the \$10,000.00 exemption) be able to cut on land other than his own
3. Copy of license certificate serve as a minimum size for the sign on the landing instead of the sign containing three inch letters

Submitted by
Robert E. Crist
WVFA Board of Director
and spokesman for Board in West

1992

2.1 BMP's were written as GUIDELINES not planned as MANDATORY RULES. There are exceptions to rules that are more protective of environment than BMP's. EXAMPLE - SKID ROAD of 25-30% down southwest point will often cause less erosion than a 10% grade road on a wet face

2.5 "or has the potential to contribute" too broad invites court disputes, creating unworkable programs should be dropped

2.11 add words after "tree" "with less than 12" butt diameter" Definition is now in entanglers program with federally funded T.S.I. projects and interference with use of waste in logs by fire wood cutters and SHITAKE mushroom growers

2.18 Drop "and haul roads" or add definition of Access roads: built at least 3 months prior to beginning of logging operation to be exempt from licensing. Definition now entanglers program with federally funded F.I.P forest incentive program not S.I.P. stewardship incentive program which will discourage federal money being used in state of W.Va. Also may interfere with W.V. Tax Dept Managed Timber Program

6.2 Delete or given away for" words will cause
6.3 people to be regulated that were not intended
6.4 by law to be regulated

Without above changes program will be unworkable causing many legal, enforcement and environmental problems

Lawrence J. Beckwith

6.7 could apply to as little as two pickup loads of posts WILL DISCRIMINATE against people who own their own property who need cut firewood for survival in case of supplemental income

1992

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Without above changes program will be unworkable, causing many legal, enforcement and environmental problems

Lawrence J. Beckler

6.7 could apply to as little as two pickup loads of posts will DISCRIMINATE against people who don't own property who need cut firewood for summer income or supplemental income

First proposal - Raise limit from
4,000 to 10,000.

The reason for logging bill in first
place was a level playing field
of ~~small operator~~

If small operator cannot afford
a \$50 license fee, they cannot
afford to pay severance tax, income
tax, buy \$76 safety chaps, or
\$35 hat hard hat with ear muffs
and screen.

2nd - of all they can sell timber
in their name as well as
family member name this could
easily turn into \$40 \$50 thousand
dollars with no easy way of
tracking it.

2nd proposal -

The small operator should not
be permitted to cut on other
people land if so he is
producing timber for commercial
use ~~rather than for personal~~
use.

3th proposal -

~~In~~ Copy of a ~~copy~~ certificate
serve as a sign bill that
it has not been

Thursday

that people should be
required to wear masks

REMARKS

that the people should be
required to wear masks

ALSO

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