



**WEST VIRGINIA LEGISLATURE**  
*Legislative Rule-Making Review Committee*

*Building 1, Room MB-49  
1900 Kanawha Boulevard, East  
Charleston, WV 25305-0610  
(304) 347-4840  
(304) 347-4919 FAX*

*email: tanders@mail.wvnet.edu*

*Senator Mike Ross, Cochair  
Delegate Virginia Mahan, Cochair  
Debra A. Graham, Counsel*

November 20, 2002

*Joseph A. Altizer, Associate Counsel  
Connie A. Bowling, Associate Counsel  
Teri Anderson, Administrative Assistant*

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

TO: Joe Manchin, Secretary of State, State Register

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

FROM: Legislative Rule-Making Review Committee

Proposed Rule: **Sediment Control During Commercial Timber-Harvesting Operations - Logger Certification, 22CSR3**

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

- 1. Authorize the agency to promulgate the Legislative rule
  - (a) as originally filed
  - (b) as modified by the agency
- 2. Authorize the agency to promulgate part of the Legislative rule; a statement of reasons for such recommendation is attached.
- 3. Authorize the agency to promulgate the Legislative rule with certain amendments; amendments and a statement of reasons for such recommendation is attached.
- 4. Authorize the agency to promulgate the Legislative rule as modified with certain amendments; amendments and a statement of reasons for such recommendation is attached.
- 5. Recommends that the Legislative rule be withdrawn; a statement of reasons for such recommendation is attached.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**SCANNED**

ANALYSIS OF PROPOSED LEGISLATIVE RULE

NOV 09 2002

**Agency:** Division of Forestry

**Subject:** Sediment Control During Commercial Timber-Harvesting Operations - Logger Certification

**CSR Cite:** 22CSR3

**Counsel:** JAA

---

PERTINENT DATES

Filed for public comment: May 16, 2002  
Public comment period ended: June 17, 2002  
Filed following public comment period: July 23, 2002  
Filed LRMRC: July 23, 2002  
Filed as emergency: May 15, 2002 (Disapproved)

RECEIVED  
NOV 9 10 45  
DEPARTMENT OF STATE  
COMMONWEALTH OF VIRGINIA

**Fiscal Impact:** None.

ABSTRACT

Summary

New Section 2.14 defines "certified logger supervising" as directing and watching over the work and performance of others engaged in logging activities at a timbering operation, including severing, delimiting and logging of trees, management of skid roads, application of best management practices and application of first aid. New Section 8.1 inserts an exemption for certification for those persons exempt from the licensing requirements of 22CSR2.

AUTHORITY

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

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

---

ANALYSIS

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

No.

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

Yes.

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

No.

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

Yes.

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

Yes.

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

No.

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

Yes.

VIII. OTHER.

Counsel has technical modifications to suggest.