

WEST VIRGINIA CODE: §19-1B-5

§19-1B-5. Compliance orders; suspension of timbering operation license.

(a) Upon a finding by the chief that failure to use a particular best management practice is causing or contributing, or has the potential to cause or contribute, to soil erosion or water pollution, the chief shall notify the director of the location of the site, the problem associated with the site, and any suggested corrective action. Upon the failure of the director to take appropriate action within three days of providing notice to the director, the chief may seek relief through the conference panel in accordance with section eleven of this article.

(b) Upon notification of the chief or upon a finding by the director that failure to use a particular best management practice is causing or contributing, or has the potential to cause or contribute, to soil erosion or water pollution, the director shall issue a written compliance order requiring the person conducting the timbering operation to take corrective action. The order shall mandate compliance within a reasonable and practical time not to exceed ten days. The person subject to the order may appeal the order within forty-eight hours of its issuance to the conference panel in accordance with section eleven of this article.

(c) The director has the discretion to immediately suspend a timbering operator or operation, or any part of a timbering operation, in any part of the state if:

(1) The director believes that the observed damage or circumstances on a timbering operation are sufficient to endanger life or result in uncorrectable soil erosion or water pollution, or if the;

(2) The operator is not licensed pursuant to this article; or

(3) A certified logger is not supervising the timbering operation.

(d) The timbering operation, the operator, or both shall remain suspended until the corrective action mandated in the compliance order is instituted. The director shall not lift the suspension until compliance is satisfactory or until overruled on appeal. Failure to comply with any compliance order is a violation of this article. The timbering operator or operation subject to the compliance order may appeal to the conference panel in accordance with the provisions of section eleven of this article.

(e) For a second violation within any two-year period, the director may suspend the license of any operator conducting a timbering operation or the certification of any certified logger supervising a timbering operation for no less than thirty nor more than ninety days if the person is found in violation of this article or article eleven, chapter twenty-two of this code. One or more violations for the same incident is only one violation for purposes of this subsection.

(f) For a third violation within any two-year period, the director may revoke the license of any operator conducting timbering operations or the certification of any certified logger if the person is found in violation of this article or article eleven, chapter twenty-two of this code. One or more violations for the same incident is only one violation for purposes of this subsection. A revoked license is not subject to reissue during the current licensing period.

(g) The director shall notify the chief of any order issued or any suspension or revocation of a license pursuant to this section within thirty days of the director's action.