



MANAGED TIMBERLAND AND CARBON

Recently, Forest Carbon offset programs have begun operating on a wider scale within the State of West Virginia, prompting some questions about managed timberland owners participating in said programs. This document serves to outline the West Virginia Division of Forestry's ("Division") opinion on dual enrollment in both a forestry carbon program and the managed timberland property tax incentive. This opinion is rendered as of 7/18/23 and is subject to change as statutes or regulations, now or in the future, may require.

The Division relies on the following guiding clauses in establishing this opinion:

- WV State Code §11-1C-2 (b)(2) Any tract or parcel of real estate, regardless of its size, which is subject to a deed restriction, deed covenant or zoning regulation which limits the use of that real estate in a way that precludes the commercial production and harvesting of timber upon it.
- WV C.S.R. 110-01H-3.11.2.a. to remain in at least 40% or greater forest cover of well distributed commercially important trees
- WV C.S.R. 110-01H-3.11.2.b. to produce continuous crops of timber according to the site's productivity.

Using those guiding clauses, the Division infers that the Managed Timberland property tax incentive program was developed with the intent to serve as a financial incentive for landowners to commercially manage their timber stands for timber production. Though multiple use management is also required, a required objective is commercial timber production on a sustainable and regular schedule.

Thus, the forestry carbon and managed timberland are only compatible on stands where enrollment in a carbon program does not interfere with the commercial production of timber from enrolled acres. For any application, neither program bars enrollment in the other, but each program must be compatible with the other.

For examples of how these programs may or may not be compatible, consider the following scenarios:

- Scenario 1: A Landowner has recently harvested their stand and wishes to enroll in a Forestry Carbon program that restricts the harvesting of timber for 20 years. Due to the recent harvest, it is unlikely another timber sale would occur within the deferment period. Thus, the Carbon program participation is unlikely to interfere with the Managed Timberland plan.
- Scenario 2: A landowner has a stand of 80 year old poplar and oaks in highly productive soils that is at or close to economic maturity. A forestry carbon program contacts them seeking to enroll their entire acreage in a program that would restrict the harvesting of timber as part of a commercially viable timber sale for 20 years. This would interfere with the intent of Managed Timberland and thus the acreage involved in the carbon offset program would become ineligible for Managed Timberland for the duration of the enrollment.

- Scenario 3: A Forest carbon program contacts a landowner seeking to enroll their property in a 100 year program that allows the landowner to cut up to the growth on their property. Since Managed Timberland seeks sustainable timber harvesting and overharvesting is also not compatible with the program, this would be unlikely to lead to a conflict with Managed Timberland.

The compatibility of a forest carbon program and the managed timberland program must be determined on a stand by stand basis. If you have specific questions as to the qualification of your parcel, the Division encourages you to contact the forester who developed or is developing your management plan.

Need More Information and Forms

If you have any questions, please call Lana Evans (304) 558-2788 Option 2, or write the WV Division of Forestry, 7 Players Club Dr., Charleston, WV 25311.

The Managed Timberland Program Contract, Application, and Instructions can be found at the WV Division of Forestry website at www.wvforestry.com, Managed Timberland.