

Council on Forestry

Issue Brief

Issue Brief Title: Tax Law Dispute Resolution Process

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Expected Outcomes:

COF will be updated on the changes made to the Dispute Resolution Process after receiving comments from the public and staff.

Background:

The attached guidance was developed to provide an interim alternative dispute resolution process (DRP) to the existing binding quasi-judicial processes outlined in statute for challenging forestry related decisions on private lands associated with the Managed Forest Land (MFL), Forest Crop Law (FCL). The proposed Tax Law DRP is a voluntary process that can be used when disagreements regarding decisions made by the DNR on private lands enrolled in the Managed Forest Law or Forest Crop Law programs cannot be readily resolved between DNR foresters and private sector foresters (cooperators and others), loggers or landowners. Examples of situations where disagreements may occur include but are not limited to; order of removal, residual basal area, residual size distribution, productivity requirements, oak wilt restrictions, adequacy of regeneration present or regeneration techniques integrated into the practice, how BMP guidelines are applied, and/or restrictions on the type of equipment used.

The DRP was designed to: (1) be independent, objective and not promote bias towards one party or the other, (2) be able to be completed on a timely basis and, (3) facilitate ownership and trust in the process by those involved. It was developed by a committee consisting of representatives from the Division of Forestry, non-industrial private forest landowners, large block forest land managers, Society of American Foresters, consulting foresters and the logging, lumber and pulp and paper industries.

The Council of Forestry reviewed and discussed the draft at their November 13th meeting where they suggested minor changes. Comments on this guidance were then solicited from the public as well as department staff from November 20th – December 10th. The number of comments received was relatively small with 4 Division of Forestry staff and 5 individuals or organizations submitting comments. GLTPA and Wisconsin Consulting Foresters indicated their support of the DRP and did not suggest any changes. WWOA and Scott Fisher expressed concerns.

The Department's responses to the comments received can be seen in the document 'Final Response to DRP Comments' PDF which was also provided to the Council. Throughout the DRP document suggested changes that did not change the intent or direction of the DRP were incorporated.

Changes of Note:

1. Added the phrase, 'is consistent with the management plan and the landowner's objectives' throughout the document in order to clarify that the determination of whether or not sound forestry is (was) being practiced must be done not only within the MFL/FCL guidelines, but must also be consistent with the management plan and landowner objectives.
 - a. Comment s 27, 28, 30, 32, 33 in the Response to Comments document.
2. Changed title to 'Tax Law Dispute Resolution Process' to further differentiate it from and reduce confusion with the Cooperating Forester Resolution Process.
 - a. Comment 14 in the Response to Comments document.
3. Changed the title 'Forestry Specialist' to 'Forestry Mediator' to reduce confusion with the title of the Division of Forestry's statewide specialists.
 - a. Comment 2 in the Response to Comments document.
4. Added language to ensure Cooperating Foresters understand that Expert Panel may determine that the DNR should assess whether or not they were adhering to their Cooperating Forester agreement and that the Department may use the information, recommendations and determinations resulting from the DRP in the assessment in lieu of or addition to the Cooperating Forester Resolution Process in the Private Forestry Handbook.
 - a. Comment 17 in the Response to Comments document.

Supporting Documents:

1. ***DRP Handbook Final***
2. ***Response to DRP Comments Final***