

# DRAFT – TAX LAW DISPUTE RESOLUTION PROCESS

## BACKGROUND INFORMATION

*Revised November 2024*

### PURPOSE OF THIS DOCUMENT

The purpose of this document is to provide background on a Division of Forestry’s proposal to modify the Tax Law Dispute Resolution Process (DRP) ahead of a formal 21-day public input period. Modifications proposed will include removing the required third-party administrator while maintaining options for involving third-party consultants. This proposal is based on improved administration of Wisconsin’s Forest Tax Laws, lack of DRP cases received to date, lessons learned, and considerations related to the Division’s fiscal responsibility. The proposed updates are planned for a 21-day public input period in early 2025.

### BACKGROUND & HISTORY

#### Creation of the Forest Tax Law DRP

The current DRP (Chapter 310 of the [Forest Tax Law Handbook](#)) was initially developed in 2015 as an initiative of the Council on Forestry (CoF) in consultation with various stakeholders in the Wisconsin forestry community in an effort to address growing concerns and complaints of inconsistent administration of Wisconsin’s Managed Forest Law (MFL) and Forest Crop Law (FCL) programs.

Prior to CoF action, DNR had two Dispute Resolution Processes related to MFL and FCL:

- Cooperating Forester Dispute Resolution Process
- MFL Certified Group Dispute Resolution Process

The CoF first raised the question in January 2015 of whether a third-party dispute resolution panel should be developed to address conflicts between DNR, Cooperating Foresters and others involved in MFL and/or FCL as a potential FY15-17 budget proposal. Initial statistics informing the CoF on dispute resolution at DNR looked at the numbers from the cooperating forester process. A 10-year average shows that approximately 9-12 level one, 0.4 level two, and 0.3 level three disputes occurred per year. Initial proposals for a DRP were developed at CoF and taken back for stakeholder input by Council members.

The CoF initially sought funding for CoF operational functions and oversight of the proposed DRP but were unsuccessful in doing so. A statutory change would be necessary for CoF to assume oversight of the DRP, and Division of Forestry stepped in to improve the existing process addressing the needs of all stakeholders as an interim measure until a statutory change could occur. The CoF moved forward with a proposal for DNR to administer the DRP and put together a committee to provide guidance and develop operating policies.

The committee worked from September to November 2015 to create the DRP guidance and operating policies, which would eventually become adopted as a new chapter to the Forest Tax Law Handbook in January 2016. The Tax Law DRP was distinct from the Cooperating Forester DRP and the MFL Certified Group DRP. The Cooperating Forester DRP was updated in 2018 further distinguishing it from the Tax Law DRP and establishing the focus of the Cooperating Forester DRP to be disputes related to termination of a Cooperating Forester’s agreement. The Tax Law DRP was updated in 2021 to add forest certification to the scope and provide additional clarifications.

#### DRP Administrator Contracts and DRP utilization

As developed through the CoF initiative, the current DRP requires retention of a third-party administrator to oversee the process. From October 2016, through June 2024, the Department-contracted DRP administrators received a total of 14 contacts, only 3 of which were in scope for the DRP. Of these 3 eligible disputes, only one landowner made full use of the process.

- Steigerwaldt Land Services (SLS) was awarded the inaugural DRP administrator contract in July 2016. SLS initially based their proposal on an expected 10 level one and 5 level two disputes per year. The cost of these disputes was folded into the fixed administrator’s fee, which totaled \$60,555 per year. From October 1, 2016 through 2019 SLS administered no DRP cases and received 5 contacts. The contract with SLS was renegotiated for FY20, which removed the cost of DRP cases from the fixed administrator’s fee since the utilization of DRP had not met expectations thus reducing the annual fixed amount to \$9,600.

- In December 2020, a new DRP administrator contract was awarded to Renewable Resource Solutions (RRS) for an annual fixed administrator's fee of \$3,000. SLS, the only other bidder, also submitted a bid with an annual administrator's fee of \$20,994.00. RRS has invoked both 1 year renewal options under their contract, and their contract expired on June 30, 2024. From December 2020 through July 2023, RSS administered no DRP cases and received 7 contacts. A contact received in August 2023 resulted in the first formal DRP case. This contact was referred to the DRP by Tax Law staff.

Of the 14 contacts received by the DRP administrator over the 7 years of the current Tax Law DRP, 10 were out of scope, 3 were resolved without engaging the DRP, and 1 resulted in a level two case. Nearly all contacts have been between a landowner and forester or buyer or logger or DNR. One contact was between a logger and DNR, which was out of scope and logger was referred to DRP by former CoF chair. There have been no contacts for disputes between private sector foresters and DNR.

The single DRP case revealed that, although seemingly straightforward on paper, the actual timelines and implementation of the DRP are more complex. There is ambiguity on roles, expectations, and deliverables. There is also uncertainty on the extent to which a third-party expert panel can provide recommendations that are within the authority of DNR.

### Forest Tax Law Administration

At the time the CoF discussed and recommended a Tax Law DRP, tax law field implementation was distributed across approximately 140 DNR forestry field staff positions (Foresters and Forestry Technicians). MFL was also a frequent focus of the legislature, with changes to Statute or Code nearly every year from 2000 to 2016. Oversight of the tax law program was administered through bureau staff with no direct line to the forestry field staff implementing the program on the ground. The perception at the time was that conflict between tax law stakeholders and DNR was frequent and the process to resolve conflict was inadequate.

Concurrently with the planning and rollout of the Tax Law DRP, the DNR went through an alignment and the Division of Forestry went through a strategic direction process. In 2017, the Division of Forestry took additional steps as part of Strategic Direction 17-23 to improve administration of the Tax Law programs, focusing on a new service model which consolidated tax law work into fewer positions and intended to develop expertise in staff. The dedication of 48 positions to work exclusively in Tax Law provided a direct line from Forestry Division and tax law program leadership to field staff. Previously, tax law duties were spread across approximately 140 positions with no direct line to the tax law program. The consolidation has increased staff competency and improved administrative consistency through responsive and flexible guidance resulting in better customer satisfaction with less controversy as compared to the pre-2017 situation.

### Existing Process for Routine Disagreements

Regardless of the DRP, existing tax law section operations allow tax law forestry specialists to exercise professional judgement to navigate the flexibilities afforded by the law and the principles of sound forestry to facilitate landowners achieve compatible management goals while maintaining program integrity. When disagreements arise most are addressed at the lowest level possible and if necessary, work up the organizational chart to the tax law team leader(s) and then to the tax law leadership team (TLLT). When necessary, subject matter experts such as forest hydrologists, silviculturists, and others are integrated into the process at any stage. Additionally, TLLT, meets regularly to discuss issues, concerns and themes with consistency and complaints in real time, further achieving customer satisfaction and preserving the statutory intent of the program.