

CHAPTER 310: TAX LAW DISPUTE RESOLUTION PROCESS

I. PURPOSE and SCOPE

Wisconsin's Forest Tax Laws, the Managed Forest Law (MFL) and the Forest Crop Law (FCL) are complex, and the Department recognizes that disagreements and disputes relating to MFL and FCL implementation and administration inevitably occur. The majority of Tax Law dispute resolution occurs informally but may also advance through the Division of Forestry chain of command and include consultation with subject matter experts depending on the nature of the dispute.

This document serves to describe and codify the process and procedures for resolution of routine disagreements and the voluntary dispute resolution process (DRP) between the DNR and participants in the Forest Tax Law programs. The DRP is available to all landowners and the forestry professionals working on their behalf. The DRP applies to disputes related to conformance with MFL Certified Group rules, adherence to the principles of sound forestry and compliance with forest management aspects of MFL, including decisions about membership in the MFL Certified Group, department approval of management plans and decisions about implementation of forestry practices.

The Department provides a separate DRP to Cooperating Foresters for disputes related to the Cooperating Forester Agreement, found in the Private Forestry Handbook.

This DRP does not affect rights of individuals adversely affected by a Department decision to retain legal counsel and pursue any legal or equitable relief available, or to formally contest a Department decision. Requesting a contested case hearing under s. 227.42, Wis. Stats., may be an option if a landowner does not wish to engage with the Tax Law Section to resolve a dispute or refuses to accept a DNR decision. Certain conditions are required for a hearing to be granted.

II. POLICY

This DRP is meant to accomplish the following:

- Foster collaborative outcomes among landowners, forestry professionals, and DNR when disagreements and disputes arise.
- Facilitate mutual learning among the professional forestry community and Tax Law program participants.

Resolution is accomplished by progressively more formal involvement of Tax Law Section and Forestry Division leadership in evaluating the landowner's and the Department's positions in the dispute. At all levels, DNR seeks to offer flexibility and alternative options to comply with regulations, and to ultimately objectively decide on a mutually agreeable resolution to the dispute that adheres to sound forestry, is compatible landowner objectives, laws and regulations, and MFL Certified Group requirements as applicable. The Department may also consult forestry experts and advisory groups as needed. If an alternative perspective would benefit the DRP, the Chief State Forester may contract a cooperating forester to serve as a third party consultant paid with department funds. In order to participate in the DRP, the parties must agree to respect the State Forester's decision regarding the dispute, recognizing that ensuring sound forestry and adherence to the purposes of the Forest Tax Law Programs on all FCL and MFL lands are Department responsibilities. The DRP may inform the Department's thinking on a forestry topic, but DRP decisions are not Department guidance.

When landowners disagree with a certification or forestry-related Department decision rendered before or during their enrollment in MFL, they should reach out to their locally assigned Tax Law Forestry Specialist (TLFS). Routine disagreements are typically resolved to the satisfaction of all parties with the timely exchange of information between the forestry professionals involved and the landowner. This DRP is intended as an alternative voluntary process if an agreement cannot be reached between the Tax Law Section and the other parties in the dispute.

III. DEFINITIONS

"Parties in the dispute" means the Forest Tax Law program participant (landowner) and as applicable, the forestry professional(s) representing the landowner's interests, and the Department of Natural Resources (DNR) or "Department."

IV. PROCEDURES

A. Roles and Responsibilities

Landowners must actively participate in all phases of MFL or FCL, including securing a suitable Certified Plan Writer (CPW) during MFL enrollment, reviewing and agreeing to the management plan created by the CPW, and implementing their approved management plan and amendments as mutually agreed over the course of their 25 or 50 year order period. When disagreements arise within scope of this guidance, landowners who wish to elevate a routine disagreement to a formal dispute resolved by the Chief State Forester, have access to this DRP, provided

they commit to the process and actively participate in the DRP. Landowners may choose to contract a forestry professional to represent their interests in the DRP, and are responsible for any associated costs.

Tax Law Forestry Specialists (TLFS) Must ensure adherence to all program guidance including ensuring sound forestry in all aspects of Tax Law administration. TLFS decisions are made using good professional judgement and understanding of the Generally Accepted Practices (GAP) for sound forest management of Wisconsin's forests and evaluation of any scientific evidence presented to justify alternative practices. TLFS routinely consult with other TLFS on their team, department silvicultural and other experts, as well as Tax Law Team Leaders, when agreement with landowners regarding forestry matters cannot be achieved.

Tax Law Team Leaders (TL) Advise, coach and guide TLFS in Tax Law administration. Ensure landowners are offered the full flexibilities of the law and sound forestry, and options are provided as appropriate in pursuit of mutual agreement and understanding. TL are responsible for consulting with the Tax Law Leadership Team (TLLT) ahead of issuing a regional decision.

Tax Law Leadership Team (TLLT) is responsible for consistent statewide implementation of the Tax Law Programs. Led by the Tax Law Section Chief, TLLT includes Policy, Compliance, Operations and Administrative Tax Law Specialists and all four Team Leaders. Within the DRP, TLLT is responsible for deciding routine disagreements at the Section level that cannot be resolved regionally. TLLT may involve department experts and consult legal counsel in arriving at their decision. TLLT's decision about the dispute, typically embodying informal approval from Division of Forestry Leadership, is ultimately made by the Tax Law Section Chief. If routine disagreements cannot be satisfactorily resolved, the parties to the disagreement may write to request that the Section Chief elevate the disagreement to a formal dispute.

Tax Law Section Chief leads the Tax Law Section ensuring its alignment with Division and DNR direction. The Tax Law Section Chief provides the Section-approved decision to the landowner in writing after thoroughly discussing the disagreement with Tax Law staff, the landowner, and forestry professional representatives and ensuring the appropriate department experts and authorities have appropriately informed the Section-approved Department decision. If an agreement cannot be reached after the Section-approved decision is provided, upon receipt of a written request, the Section Chief elevates the disagreement to a dispute to be decided by the Chief State Forester and refers the dispute to the Chief State Forester with any accompanying information and a dispute summary.

Chief State Forester / Division of Forestry Administrator leads the Division of Forestry and is appointed by the DNR Secretary. The Chief State Forester provides the Department decision to formal disputes within the DRP. The Chief State Forester may contract cooperating foresters recommended by the parties in the dispute (as detailed in Appendix 310A) to serve as third party consultants and involve Department experts, legal counsel, and advisory councils as appropriate to inform the Department's decision. The Chief State Forester decides within reasonable timeframes and communicates the decision in writing to the parties in the dispute. The Chief State Forester periodically provides DRP activity updates to the Council on Forestry.

Department Experts include such statewide resources from other Divisions such as the Department Archeologist, legal counsel, Wildlife Biologists and Natural Heritage Specialists, and Forestry Division staff from outside of Tax Law. Department experts referred to in this document provide timely, state-of-the-art consultation, advice and guidance within their domains of expertise. Experts consulted are dedicated in whole or in part to supporting Forestry Division programs. Silviculturists, and forest ecologists, Forest Health Specialists and the Forest Hydrologist are among the most frequently consulted experts in Tax Law administration.

All parties to disagreements and disputes

1. Approach disagreements and the dispute resolution process in good faith with a commitment to the process and to sound forestry.
2. Be prompt and forthcoming in responding to other parties' requests for pertinent information.
3. Provide reasonable expected and desired timeframes for responses to inquiries and resolution of the disagreements and disputes, as applicable.
4. Respectfully discuss the issues and be willing to work toward collaborative resolutions to disagreements and disputes.
5. Be available to meet in person and provide access to the site.

6. Be respectful in discussions and refrain from adversarial conduct and interrogation-style questions.
7. Are encouraged to provide scientific evidence they believe relevant to support their position.

B. Identification of Disagreements and Disputes

Disagreements and potential disputes between landowners and the DNR are usually identified during discussions about implementation of management practices, management plans and cutting notices. If a disagreement arises about a forestry topic that the landowner prefers not to discuss directly with the locally-assigned TLFS, an independent method of contacting Tax Law leadership is provided to landowners. Contact information for the DRP is provided on DNR's public website.

C. Routine resolution of disagreements

Disagreements about forestry matters routinely occur during department approval of management plans and amendments, cutting notices and reports, and implementation of forestry practices. These disagreements are most commonly resolved by exchanging relevant information in order to achieve a mutually agreed upon approach to achieving program compliance while achieving the landowner's management objectives and adhering to the principles of sound forestry. Examples of this type of routine resolution at the local level involve the TLFS assigned to the land in question and the landowner and if applicable the forestry professional assisting the landowner. These disagreements result in mutual learning, and generally win-win solutions are found to disagreements, perhaps by including peers or department experts in the discussion.

When a disagreement cannot be resolved locally, a regional perspective is sought, and the TLFS consult their Team Leader who will formulate a regional decision. Consultation with Department experts and TLLT may inform the Team Leader's regional decision. If the disagreement persists once the Team Leader's decision is provided, TLLT will ensure an open and independent evaluation of the disagreement occurs and that all points of view have been considered. If after the receipt of the Section decision, the parties still disagree, the parties may request in writing that the Section Chief elevate the disagreement to a formal dispute.

D. Requesting the DRP and referral to the State Forester

When a disagreement cannot be resolved within the Section, it may be elevated to a formal dispute. Invoking the DRP begins with the submission of a written statement by a party to the dispute defining their position and requesting the DRP, including an agreement by the landowner to participate fully in the DRP to the Tax Law Section Chief requesting that the State Forester resolve the dispute.

The Tax Law Section Chief (or designee) receives the statement requesting the DRP, ensures that the issue is within scope for the DRP, and in consultation with the Bureau Director, prepares any needed information to include a dispute summary of relevant facts supporting each position and submits it to the Chief State Forester, copying the other parties in the dispute, and providing a recommended timeline for the dispute to be resolved.

E. Information gathering and sharing between parties

Information and scientific evidence provided to the Chief State Forester, including the dispute summary, will be provided to the other parties in the dispute also. If the landowner disagrees with any part of the dispute summary or wishes to provide additional evidence, they may submit it to the Chief State Forester for use in their evaluation and determination. The Chief State Forester may request additional information from the parties, gather direct evidence, meet directly with the parties in the dispute, and may consult others as they see fit, including advisory groups as deemed appropriate to inform their decision. The Chief State Forester has discretion to contract cooperating foresters as third-party consultants knowledgeable in Forest Tax Law, Great Lakes Silviculture, and capable of enhancing objectivity and supporting collaborative resolutions; guidelines for selecting cooperating foresters as DRP consultants are found in Appendix 310A. After considering all the information, the Chief State Forester will communicate the Department's written decision to all parties within reasonable timeframes commensurate with the nature of the dispute. The Council on Forestry will be informed of DRP activity periodically.

F. Chief State Forester Decision

The Chief State Forester's written decision resolving the dispute will be delivered to all parties to the dispute within reasonable timelines. The DRP is designed to facilitate learning among forestry professionals and Tax Law program participants, and the Chief State Forester's decision and parties' participation in the DRP may inform the Department's thinking on a forestry topic. Nevertheless, as a decision about a specific case, the decision does

not constitute Department guidance, and participation in the DRP does not limit any individual's rights to formally contest a Department decision.

V. BACKGROUND

Dispute resolution has manifested in several iterations within the Forest Tax Law programs. The prior version of the Dispute Resolution Process (DRP) was developed in 2015 as an initiative of the Council on Forestry in consultation with various stakeholders in the Wisconsin forestry community. The DRP required retention of a third-party administrator to oversee the process. From October 2016, through June 2024, the Department-contracted DRP administrator received a total of 14 contacts, only 3 of which were in scope for the DRP. Only one landowner made full use of the process. This single case demonstrated significant room for improvement in the DRP to maintain customer service while streamlining the process and reducing administrative costs. In 2024, the DNR suspended the use of a DRP administrator to oversee the process.

In 2017, the Forest Tax Law Section was created to implement Wisconsin's Forest Tax Laws. Dedicating 48 positions to working exclusively in Tax Law provides 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 resulted in greater consistency, responsiveness, and improved guidance and policy.

VI. REFERENCES AND RELATED DOCUMENTS

Requirement Source	Summary of Requirement
None	DRP is voluntary

Appendices

Appendix 310A: Guidelines for Contracting Cooperating Foresters as DRP Consultants

VII. DOCUMENT HISTORY

This version Replaces	Chapter 310 and Appendix 310A dated 9-24-2024. Appendices 310B and 310C are rescinded.
Summary of Changes from previous version	Complete rewrite from previous version of Chapter 310 and of Appendix 310A.