

Program name: Forest Tax Law

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Document name: Forest Tax Law Handbook HB2450.5 (Standard Tier)

Bureau Director Approval: Jim Warren and Date: 11/29/2021

Summary:

Forest Tax Law Handbook Chapter 601, which provides compliance procedures for implementation of mandatory forest management practices (“mandatory practices”). This ensures landowners complete their mandatory practices in a reasonable amount of time or are withdrawn from the program with tax and fee.

- Landowners must demonstrate that they are making progress towards completing the mandatory practices in their plan to avoid being withdrawn from the program and having to pay withdrawal taxes and fees. Showing the department that they have secured the services of forestry professionals to complete the practice is a satisfactory way for landowners to demonstrate compliance and avoid being withdrawn, but not indefinitely.
- Revisions to Chapter 601 limit the time a landowner can delay submitting a cutting notice after a mandatory practice becomes due and professional forestry services are secured to three (3) years.
- Revisions also clarify when mandatory timber harvests that can’t be completed commercially must be completed non-commercially to ensure the woodland stays healthy and vigorous.
- More specific timelines and procedures for sending warning letters and notices of investigation for failure to complete mandatory practices were also added in this revision.

The Forest Tax Law Handbook serves to digest the law relating to the forest tax programs and provide guidance for the administration and implementation of the Tax Law programs. The Handbook embodies statute and rule and provides greater procedural detail to ensure consistency in their application. As such, the chapters provided for your review have been updated to reflect changing regulations and operational efficiencies, as summarized above and detailed on the Stakeholder Input Page.

Updated Content Title	Content to be Replaced	Summary of Changes
CHAPTER 601: Mandatory Practice Compliance Procedures	This version rescinds and replaces info on mandatory practice compliance on pp 60-10 and 60-11.	Documents policy to allow mandatory practices (MP) which require a cutting notice only be allowed to remain in “services accepted” status for 3 years after the end of the year in which it is due; specifies that voluntary compliance agreements (VCA’s) be used for overdue MP that don’t require a cutting notice and the stand conditions that would mandate completion of regeneration harvests and thinning for sound forestry.

Comments due: 01/19/2022

CHAPTER 601: MANDATORY PRACTICE COMPLIANCE PROCEDURES

I. PURPOSE and SCOPE

These policies and procedures apply to Tax Law Staff, Landowners and Forestry Professionals involved in carrying out mandatory practices on Managed Forest Law (MFL) and Forest Crop Law (FCL) lands. Procedures include both proactive measures to gain compliance by providing informational letters as well as stepped enforcement procedures for mandatory practices that are unresolved after the calendar year in which they are due. Roles and responsibilities are provided, followed by procedures for gaining compliance and following through with enforcement in cases of non-compliant mandatory practices (MP). Procedures to gain compliance with the requirement to implement practices that do not involve cutting merchantable timber and those that do and thus require a cutting notice (CN) are different and treated separately in this document

II. POLICY

This policy establishes acceptable timeframes for completion of mandatory practices. The Department allows broad flexibility when ensuring that mandatory practices are completed. Ultimately, the Department must ensure that sound forestry principles are maintained on MFL and FCL lands. To set landowners up for success and prevent predictable issues with compliance the department is committed to working collaboratively with landowners and professional forestry partners. Management plans are adaptive tools and the mandatory practices they contain may need to change throughout the length of the order commitment. As mandatory practice due dates approach, TLFS will reach out to landowners and forestry partners with willingness to adjust MP as needed to accomplish sound forestry. Mandatory practices must be evaluated at the time they become due and stand conditions may warrant amending the practices via mutual agreement. Not all mandatory practices will be completed as commercial timber sales and may involve the implementation of noncommercial practices. When the mandatory practice is deemed necessary for sound forestry, the Department recognizes there may be challenges to completing the practice. Recognizing that fact, the department establishes reasonable timeframes for landowners and professional partners to accomplish mandatory practices and comply with program requirements to manage their forests. Nevertheless, if there are imminent threats to the health and vigor of the stand, MP must be completed, or if the parcel will remain 80% productive, the stand may be taken out of production and placed in the 20% allowable non-productive area.

Valid reasons to extend the date of completing MP beyond the year in which they are due include being on the services accepted list until the end of the 3rd year following non-compliance, and renewed cutting notices which extend the period to complete the practice if the landowner is in communication with the department and there are credible reasons to believe the practice will be completed. Once the timeframes allowed to show satisfactory progress towards mandatory practice resolution are exceeded, the Department will investigate to determine whether the land should be withdrawn. To guide the landowner to compliance, voluntary compliance agreements may be used.

III. DEFINITIONS

“Mandatory Practice” means a management practice required to accomplish sound forestry as determined by the department.

“Resolved” means the mandatory practice is in services accepted status, has an active cutting notice, is completed, rescheduled, removed or has been referred to the Compliance Specialist and is removed from practice status of “planned” in WisFIRS.

“Services Accepted” means objective evidence that professional forestry services are secured. Written evidence of services accepted is preferred. Verbal statements by the landowner if confirmed by the service provider may also be acceptable.

IV. PROCEDURES

A. Roles and Responsibilities

Landowners: As legal participants in the FCL and MFL programs, landowners are the parties responsible for the completion of the mandatory practice(s) as described and agreed upon in their approved MFL management plan or FCL schedule of practices. Landowners are responsible for contacting the Department if the MP in their plans will not be completed in the year they are due, and for responding to compliance correspondence from the Department.

Forestry Professionals: Entities that may serve to consult, administer, and/or implement MP for landowners as described in their approved management plans and are responsible to the landowner for services rendered. CPWs, Cooperating Foresters, other Consultants, Logging Contractors, and other forestry management contractors are included in this category. Cooperating Foresters are required to inform the TLFS when they agree to provide services to a Forest Tax landowner; other forestry professionals are also encouraged to contact the TLFS when they are working with a landowner to complete MP's on Forest Tax land.

Tax Law Operations Specialist: Creates and provides reports indicating Mandatory Practice status (i.e. Services Accepted, overdue, completed) and generates template letters for TLFS to send to landowners.

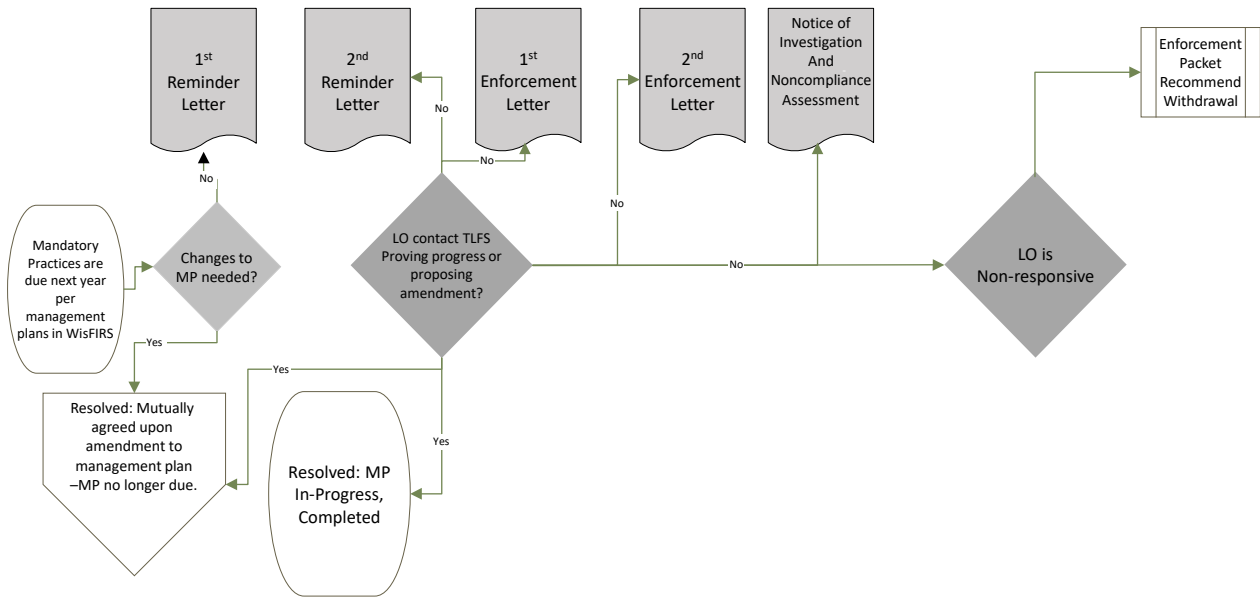
Tax Law Forestry Specialist (TLFS): Administers the Forest Tax Law programs at the local level, working with landowners, forestry professionals, and other partners. Responsibilities include monitoring, evaluating and verifying landowner's MP, communicating with landowners regarding MPs, and following up with compliance and enforcement actions as necessary.

Tax Law Team Leaders: Provide case-specific enforcement direction to TLFS regarding non-compliant landowners and MP's. Responsible for approving enforcement packets recommending involuntary withdrawal orders.

Tax Law Compliance Specialist: Provides support, consultation and expert guidance to Tax Law Section (TLS) staff, landowners, and partners to collaboratively resolve compliance issues in a timely and effective manner. Responsible for approving recommendations for involuntary withdrawals and other compliance measures for failure to implement MP.

B. Steps for Routine Resolution of Mandatory Practices

1. Compliance and Enforcement Process for Mandatory Practices (Figure)



2. Example Timeline for Routine MP Reminders and Compliance Progression (Table)

In compliance			Out of Compliance				All MP in "Planned" Status
Practice Due	1 st reminder letter	2 nd reminder letter	Practice Overdue	1 st enforcement letter	2 nd enforcement letter	NOI	Resolution
2021	1/2020	1/2021	1/1/22	By 3/31/22	By 4/30/22	By 5/31/22	By 9/1/22
2022	1/2021	1/2022	1/1/23	By 3/31/23	By 4/30/23	By 5/31/23	By 9/1/23

3. For practices in “planned” status: landowners will receive letters following the chart above until the practice is resolved. Resolution statuses may include rescheduled, removed, services accepted, cutting notice approved, cutting report submitted, and completed, see process flow diagram
 - a. If a landowner has multiple Order Numbers with practices due, the orders will not be consolidated into one letter, though mailing all letters for the same landowner in the same envelope is encouraged.
 - b. TLFS will save a PDF copy of each letter sent to the respective Order # in WisFIRS.
 - i. Stepped Enforcement (SE) Documents should follow this naming convention:
SE1_MP_DateSent_Order#
 - ii. Ex. SE1_MP_3-01-2019_05-138-2002
 - c. Letters should be saved as a “Correspondence” document type in WisFIRS.
4. If contact is made by the landowner at any point in this process, TLFS will work with them to resolve their mandatory practice according to acceptable timeframes.
5. If no contact has been made following the 2nd enforcement letter, TLFS will inform their Team Leader and the Compliance Specialist, and send a Notice of Investigation (NOI) by Certified Mail, giving the landowner 45 days to resolve the practice.
 - a. The NOI certifies to the local municipality the landowner’s failure to complete the practice, and the municipalities are provided a copy of the NOI along with an explanation of their authority to assess and collect the noncompliance assessments (\$250.00 per practice).
 - b. If the landowner does not respond to the NOI by the deadline, the TLFS will submit the case to the Compliance Specialist through the Team Leader following the stepped enforcement process to recommend involuntary withdrawal.

All practices should be resolved or referred to the Compliance Specialist through the Team Leader by September 1, the year after it is scheduled to ensure timely withdrawal from the program if necessary.

Once the landowner is in contact with the Department, follow the procedures below to ensure practices are completed within acceptable timeframes

- C. Ensuring compliance of practices on the Services Accepted (SA) List
 1. TLFS periodically monitor the list and
 - a. Identify and resolve all overdue practices that predate this policy
 - b. Verify list of practices in “Services Accepted” Status is accurate and valid
 - c. In collaboration with partners and landowners, verify that practices are still necessary; remove, reschedule and amend the plan via mutual agreement as appropriate.
 - d. Update completed practices in WisFIRS to remove them from the list.
- D. Ensuring that “Services Accepted” Timelines are followed—Cutting Notice Required
 1. Focus on practices that are overdue for resolution: the practice is overdue beginning in the year after it was scheduled; see table below.
 2. SA List Example Compliance Timelines (Table)

Practice Due	Overdue	Reminder letter of SA timeframe ending	SA Three Years acceptable timeframe ends	Begin sending NOI’s requiring CN be filed within 45 days
Calendar 2021	1/1/2022	6/1/2024	12/31/2024	1/2/2025
Calendar 2022	1/1/2023	6/1/2025	12/31/2025	1/2/2026

3. When informed that services are accepted, the TLFS informs the landowner of the 3 year maximum acceptable timeframe to file a cutting notice.
4. All landowners with MP in SA status will be reminded via letter six months before the acceptable timeframe for being in SA status ends.
5. If a cutting notice is filed, the landowner has achieved compliance.

6. If a CN is not filed for the practice the TLFS sends an NOI to the landowner providing the landowner 45 days to file a cutting notice. The NOI certifies to the local municipality the landowner's failure to complete the practice, and the municipalities are provided a copy of the NOI along with an explanation of their authority to assess and collect the noncompliance assessments (\$250.00 per practice).
7. If the landowner fails to file a cutting notice, the TLFS assembles an enforcement packet recommending withdrawal and submits it to the Team Leader and Compliance Specialist.

E. Ensuring practices described on approved cutting notices are completed in a timely fashion

1. The TLFS will annually renew cutting notices as long as the owner or authorized agent are in communication with the department and show that a plan for the cutting within a reasonable timeframe is in place.
2. If the practices are not completed while the CN is current, and the landowner or authorized agent are not in communication with the Department, the TLFS will send an NOI providing the landowner 30-45 days to request that the CN be renewed or to file a new notice. The NOI certifies to the local municipality the landowner's failure to complete the practice, and the municipalities are provided a copy of the NOI along with an explanation of their authority to assess and collect the noncompliance assessments (\$250.00 per practice).
3. If the landowner fails to respond or complete the MP in a timely fashion, the TLFS will assemble an enforcement packet recommending withdrawal and submit it to the Team Leader and Compliance Specialist.

F. Ensuring that "Services Accepted" Timelines are followed—No Cutting Notice Required (mandatory plantings, invasives control, etc.)

1. The three-year allowable timeframe for being in SA status only applies if a cutting notice is required to complete the practice.
2. Voluntary Compliance Agreements (VCA) should be used to develop acceptable timeframes to complete overdue MP where no CN is required.
3. Includes regeneration checks (and requiring supplemental planting) after harvest
4. If acceptable timelines reflected in the VCA are not met, send an NOI to the landowner. The NOI certifies to the local municipality the landowner's failure to complete the practice, and the municipalities are provided a copy of the NOI along with an explanation of their authority to assess and collect the noncompliance assessments (\$250.00 per practice).

G. Completion of MP that would normally require a cutting notice, but that cannot be completed commercially.

1. If the stand is beyond its biological life expectancy, is declining and will not regenerate to a productive stand without intervention, or is extremely overcrowded to the detriment of the stand, the TLFS will work with the landowner and forestry professional(s) to ensure completion of the practice.
2. Secure landowner agreement to complete MP. Use VCA to document steps and timeframes.
3. If acceptable timelines reflected in the VCA are not met, send an NOI to the landowner. The NOI certifies to the local municipality the landowner's failure to complete the practice, and the municipalities are provided a copy of the NOI along with an explanation of their authority to assess and collect the noncompliance assessments (\$250.00 per practice).

H. Submission of Enforcement Packets to the Compliance Specialist:

1. Prioritize chronologically, use the coversheet and remember to assemble complete packets, see the enforcement packet section of this Handbook for details.

V. V. BACKGROUND

Mandatory practice completion is typically a multi-year process, replete with the challenges presented by varying operability of sites and availability of forestry professionals across the state. Once services are accepted, common challenges to completing MP within a year of their due date in the management plan include:

- o Markets (example: white cedar); small pine stands;
- o Ground conditions (example: wet ground)
- o Silvicultural considerations (example: regeneration harvest to coincide with timing of mast fruiting)
- o Low volume. (example: sale was advertised but didn't sell)
- o Seasonal restrictions

VI. REFERENCES and RELATED DOCUMENTS

Related Documents:

Voluntary Compliance Agreement Procedure and Templates

Source	Summary of Requirement
s., Wis. Stats 77.81(3) “	“Merchantable timber” means standing trees which, because of their size and quality, are salable.
s. 77.86(3) Wis. Stats.	TIME LIMIT. All cutting specified in the notice under sub. (1)(b) shall be commenced within one year after the date the proposed cutting is approved or, if approval is not required under sub. (1)(b) 2. , within one year after the date on which the notice under sub. (1)(b) 1. is filed. <i>The owner shall report to the department the date on which the cutting is commenced.</i>
s. 77.876 Wis. Stats.	77.876 Noncompliance assessment. s 77.876(1) ASSESSMENT. The department shall certify to each municipality in which the property is located an owner's failure to complete a forestry practice during the period of time required under an applicable management plan, and the municipality shall impose a noncompliance assessment of \$250 against the owner for each failure. The department shall mail a copy of the certificate of assessment to the owner at the owner's last-known address and to the municipality.
s., NR 1.213(3)(b) Wis. Admin Code	(b) The cooperating forester shall manage private lands where the cooperator provides service in a manner which maintains the long-term capacity of the land to provide forest products, uses and values desired by landowners in accordance with the silvicultural guidelines in department handbooks and directives or a written, science-based forest management commitment submitted to and approved by the department in advance.
NR 46.185(3) Wis. Admin Code	EXPIRATION OF NOTICES OF INTENT TO CUT. If the cutting has not commenced within 1 year of cutting notice submission or approval, as provided in s. 77.86 (3) , Stats., the department may renew the cutting notice if all of the following apply: NR 46.185(3)(a) (a) The owner or filer are in communication with the department and have adequately shown that a plan for the cutting within a reasonable timeframe is in place. NR 46.185(3)(b) (b) A new notice would not be significantly different from the cutting notice on file, as determined by the department.
Private Forestry Handbook 2470.5	Cooperating Forester Responsibilities

VII. DOCUMENT HISTORY

This version Rescinds and Replaces	Info on mandatory practice compliance on pp 60-10 and 60-11.
Summary of Changes from previous version	Documents policy to allow mandatory practices (MP) which require a cutting notice only be allowed to remain in “services accepted” status for 3 years after the end of the year in which it is due; specifies that voluntary compliance agreements (VCA’s) be used for overdue MP that don’t require a cutting notice and the stand conditions that would mandate completion of regeneration harvests and thinning for sound forestry.