Division of Forestry Public Comment Cover Sheet **5/6/2021**

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: 3/5/2021

Summary: *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 it must be updated to reflect changing regulations and operational efficiencies. The chapter provided for your review has been updated as shown below. Please bear in mind as you review these procedures that decisions which may affect a landowner, or other person, under the forest tax programs must be based upon the statutes, administrative codes.*

Updated Chapter	**Current Handbook to be replaced**	**Summary of Changes**
205 UPDATING AND AMENDING MANAGEMENT PLANS	This version rescinds and replaces Appendix 14: Changing Management Plan Prescriptions on Existing Plans, and information on p. 20-48 and p. 20-56 regarding amending management plans.	Complete revision of prior guidance on amending, updating management plans and documenting mutual agreement. Includes rearrangement of content and inclusion of more headings (scope, policy, etc.)

Comments due: *06/04/2021 (at least 21 days after document is posted on website)*

CHAPTER 205: UPDATING AND AMENDING MANAGEMENT PLANS, INCLUDING LAND EXAM DATA AND DOCUMENTING MUTUAL AGREEMENT

I. PURPOSE and SCOPE

These procedures describe changes to practices in management plans which necessitate an amendment, including the use of field visits and data collection to inform the decision to amend plans, and how to document mutual agreement. Because the cutting notice is signed by the landowner and the department, it is an acceptable mechanism by which the landowner and the department mutually agree to amend the current management plan. The procedures in this section also include changes made outside of the cutting notice process. Staff and partners affected include Tax Law Staff, Certified Plan Writers (CPWs) and landowners.

II. POLICY

MFL orders are contracts, yet management plans must be dynamic to reflect conditions on the ground and promote sound forestry practices. Tax Law Forestry Specialists (TLFS) are expected to use sound professional judgement and be proactive in helping landowners sustainably manage their woodlands. Amendments to management plans must be made when conditions on the ground or science changes the appropriate silvicultural practice for the stands being managed. Landowners and the department must mutually agree to amend the management plan to reflect best science and current stand conditions. Mutual agreement will be documented via a letter to the owner giving the option to contest the amendment. If agreement cannot be reached, the landowner has recourse to the voluntary dispute resolution process (DRP). TLFS may also need to further investigate compliance with MFL requirements. This may result in the involuntary withdrawal of the property if program requirements cannot ultimately be met. Land Exam (Form 2450-128) data will be used to guide decisions related to management plan amendments and maps (2450-133) will be updated as appropriate. Corrections or updates to data and maps, do not constitute amendments to the plan.

III. DEFINITIONS

"Amendment" means a change to the plan that affects or changes a practice.

"Stand assessment" means a Tax Law Forestry Specialist's evaluation and judgement of the stand's conditions. It includes an evaluation of the existing Land Exam data (lines 1-15 on form 2450-128) and whether new data need to be acquired. May be used to inform proposed management plan amendments.

"Update" means data (including Land Exam data and maps) are made current, errors are corrected.

IV. PROCEDURES

A. Once the potential need for updated facts and/or practices in the current management plan have been identified, follow the procedures below to amend the plan via mutual agreement.

1. Determine whether a field visit is warranted.
   a. If yes, conduct a stand assessment, decide if updated Land Exam data is needed
      (i) If Land Exam data needs updating, collect the data and enter it into WisFIRS. Note which data were collected and update Land Exam date.
      (ii) If existing Land Exam is sufficient, simply note "stand assessment conducted" with the date in WisFIRS "stand conditions" field.
   b. If no field visit is needed, note in WisFIRS "stand conditions" that though changes to practices may be necessary, new data is not needed to justify the changes.
   c. If uncertain whether a field visit is warranted, consult with your team leader.

2. Determine whether changes to mandatory practices are warranted.
   a. If no changes to mandatory practices are warranted, no amendment is needed.
   b. If changes to mandatory practices are warranted, the management plan must be amended and mutual agreement must be documented by following step 3.

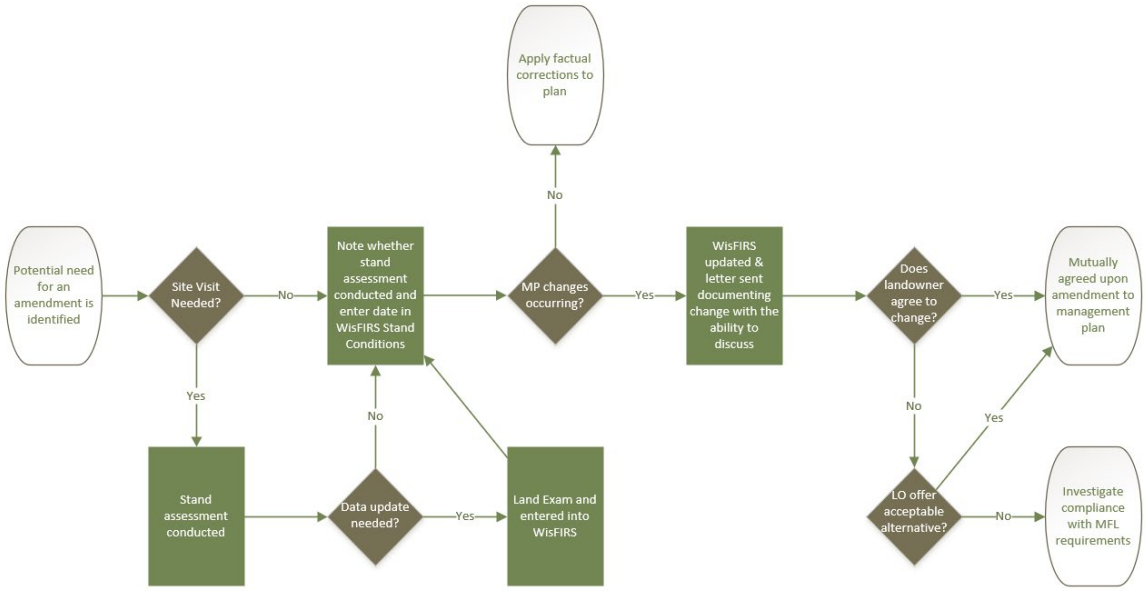
3. If warranted, amend the management plan and document mutual agreement:
   a. Update the practices in WisFIRS.
   b. Using the plan amendment template, generate a letter to the landowner describing the changes made to the management plan. This constitutes notice of the plan amendment.

(i) In the letter, include the landowner's option to disagree with the change within a given timeframe. Give the landowner at least 30 days from when you send the letter to respond. Lack of response constitutes the landowner's agreement with the change.
   a. Provide the landowner with the amended plan. A signature on the amended plan is not required since mutual agreement is via the uncontested letter.

(ii) The landowner may respond and propose an alternative amendment to the management plan. If the alternative is workable and reflects sound forestry, the revised amendment to the management plan may be mutually agreed upon as above.

If the landowner disagrees with the amendment to their management plan and does not propose an approvable alternative, we may need to investigate whether MFL designation should be withdrawn. The landowner may also choose to use the DRP to disagree with the amendment.

Figure 1 - Management Plan Amendment Workflow



V. BACKGROUND

Examples of instances that may prompt a proposal to amend a management plan (this list is not all-inclusive)

- Landowner requests change
  - Their management goals may have changed
  - The forestry professional they're working with may recommend a change
- Proximity to nearby practices being implemented
- Changes to stand conditions
  - Natural successional trends – conversion from one vegetation type to another, including the presence of native or exotic species that may impact regeneration of the timber types common to Wisconsin.
  - Harvest – stand condition changes following logging and removal.
  - Fire – man-caused or natural fire starts.
  - Insects – Emerald ash borer, gypsy moth, forest tent caterpillar, etc.
  - Diseases – oak wilt, beech bark disease, pine bark beetle, etc.
  - Weather – wind, ice, drought, extreme cold, etc.
  - Changing water tables – man-caused or natural causes.
  - Wildlife – deer browse, etc.
- Changes to statute, admin code, or FSC and ATFS certification standards

V. REFERENCES and RELATED DOCUMENTS

Source	Summary of Requirement
s. 77.82(11), Wis. Stats	MFL Orders are contracts
s. 77.82(3)(f), Wis. Stats	An owner and the department may mutually agree to amend a management plan.

s. 77.88(1)(a) Wis. Stats.	The DNR may investigate to determine whether the designation of MFL should be withdrawn
s. NR 46.18(10), Wis. Admin Code	Reasons for amending a management plan may include: changes to landowner goals, changes in on-the-ground conditions, and changes in science-based silviculture.

VI. DOCUMENT HISTORY

This version Rescinds and Replaces	-Appendix 14: Changing Management Plan Prescriptions on Existing Plans. -Information on p. 20-48 and p. 20-56 regarding amending management plans.
Summary of Changes from previous version	Complete revision of prior guidance on amending, updating management plans and documenting mutual agreement. Includes rearrangement of content and inclusion of more headings (scope, policy, etc.)