

**Program Guidance – Updates to Timber Sale (2461) and Public Forest Lands (2460.5) Handbooks
Summary of Public Comments and any Changes Based on Public Comments**

I notice that the Forester will now be able to enter 2460 cutting notice and reports into WISFIRS. When did that change? Will there be any type of training on how to do that entry?

Yes, foresters are able to enter 2460 data – that ability was offered in December of 2011 (see attached email). The training from January 2012 was recorded – if you would like me to send it I would be happy to mail a CD to you. A training manual can also be found at the following link: http://intranet.dnr.state.wi.us/int/land/forestry/Div_Overview/FR_Services/application/WisFIRS/support.asp?pg=support, and online help is available while in WisFIRS.

NO change to guidance.

I have a few quick questions regarding the proposed program guidance in reference to the ‘Revisions to Timber Sale and Public Forest Lands Handbooks’.

Q: Would any part of this proposal restrict people from hunting on public forest lands?

Q: Will this proposed handbook open the possibility of creating more public land use to the general public?

Thank you for reading my email and answering my questions. I look forward to hearing from you soon.

NO and NO, these are procedural items related primarily to timber sales on DNR and County Forest lands. Timber sales often result in improved habitat and consequently improved hunting for many game species, but do not typically limit any hunting opportunity nor do they create more public land for public use.

NO change to guidance.

What is the reason for creating Chapter 22 – Sales Adjacent to Property Boundary Lines? How many thousands of county and state timber sales have been successfully established without this “guidance”. I know this does not pertain to county lands (at least not yet), but we use the handbook and many look to the state for guidance. I question why this needs to be added at all.

Whenever we have a sale with a private line, we send out letters asking for some sort of signature. I would say we get about 10% of them back. Obviously, we don’t have a licensed surveyor on staff and the cost of obtaining a licensed survey on every sale, that has a private line, would be astronomical. Again, I understand this isn’t stating that we (the county) need to get a licensed survey on every sale, but it adds a level of accountability that wasn’t there before (formally on paper anyway) and, arguably, wasn’t needed before. Do we really need all of this extra “guidance”?

What is the reason for creating Chapter 22 – Sales Adjacent to Property Boundary Lines?

DNR foresters, technicians, supervisors, & property managers have repeatedly asked for guidance on what is or is not required of them when establishing timber sales adjacent to other ownership.

How many thousands of county and state timber sales have been successfully established without this “guidance”. ~ 200 DNR timber sales per year – for many years.

I know this does not pertain to county lands (at least not yet), but we use the handbook and many look to the state for guidance. I question why this needs to be added at all.

The timber sale handbook clearly denotes which sections apply to State or County or both. This is explicitly “State” guidance and does not need to be implemented by county forests – as it is up to each county to determine its own policies regarding boundaries (much like performance or bid bond requirements).

Do we really need all of this extra “guidance”?

The guidance has been requested by staff and based on conversations with a number of people it appears providing such guidance will improve consistency in the approach taken in establishing timber sale boundaries adjacent to other ownerships. The specific steps that are included in the draft guidance are a result of the public lands team’s work and review/input from DNR’s Bureau of legal services.

NO change to guidance.

Chapter 22 - Second paragraph: Is this to say if there is a certified and recorded survey in place, i.e. corners are established, a cutting line established by a forester and an agreement sought with neighbors is prohibited? And that the only remedy to establishing a cutting line is to employ a registered surveyor to establish said cutting line?

Or is it saying? - If there is a certified and recorded survey in place, a forester cannot establish a cutting line by virtue of connecting the corners to their abilities and disregard the need for a cutting line agreement, i.e. may assume they are in the right.

To answer your question “if there is a certified and recorded survey in place, a forester cannot establish a cutting line by virtue of connecting the corners to their abilities and disregard the need for a cutting line agreement, i.e. may assume they are in the right”. YES – This is what is being said.

NO change to guidance.

WCFA Comments on 8-11-14 revisions to Timber Sale and Public Forest Lands Handbooks

Suggested TIMBER SALE Handbook changes:

Pg. 22-1 (State Lands only)

Given the passage of WI. Act 358 it would now be appropriate to include a couple sentences that include the language required in WI. Stats. 443.14(16) that states that our maps in natural resources that depict an ownership change should include the disclaimer "This map is not a survey of the actual boundary of any property this map depicts".

*Of course this would not apply to maps where a professional land surveyor was involved.

Guidance changed to incorporate suggested changes. Appendix E of Public Lands Handbook also updated to incorporate this suggestion.

34-1 (County only) – Approval & Reporting Procedure for County Forest Lands

Step #3 (referencing duties of Forestry Team Leader in approval process):

3. Reviews and approves or disapproves. If questions arise *jointly* contacts area forestry leader / designee, **county forest administrator and liaison forester** for consultation.

**WCFA feels this collaborative approach would be the most efficient means of resolving issues on sale approval.*

Guidance changed to incorporate suggested changes.

General Comment (for Chapters 33 & 34): The routing process for 2460's is antiquated and overly cumbersome. WCFA feels given the high # of sales established on county forests annually, that uniform electronic routing / approval should be imbedded into WisFIRS. There is a great opportunity for the entire timber sale process to be streamlined via WisFIRS. Reporting would be much improved and public availability to data could be enhanced. All foresters should be trained in entering WisFIRS timber sale data and granted authority to do so on a county by county basis, subject to County Forest Administrator approval. There are those in DNR (Schwantes, K. Mather, T. Prichard) who have a good picture of how this could work and WCFA would be willing to participate as well. WCFA would like to see Public Financials initiated in WisFIRS and raised in priority.

Comments noted and shared with other DNR Division of Forestry Staff. NO change to guidance.

Suggested PUBLIC FOREST LANDS Handbook changes:

No suggested changes. Good clarity was added to 270-70 pertaining to Special uses / Land Use Agreements on County Forest lands.

NO change to guidance.

Breach of Contract comments are based in fairness to contractors and the desire to work efficiently and responsibly for the assets of the State. We see bad actors that are allowed to continue business with the State and are a high risk for failure to cover their costs. I understand the State's promotion of business and wonder if a stronger penalty could be given to repeat offenders?

Comment noted. The State could potentially implement additional penalty or longer ineligibility period for repeat offenders. This would need to be implemented in a fair and transparent manner, and involve due process, and be relative to the risk of damage to the State. However, given the very low rate of contractors that are determined to be ineligible bidders multiple times – no change in policy is currently going to be implemented. The effectiveness of current policies will continue to be monitored. NO change to guidance.

Property boundaries have been an issue for us for years. We have seen that many adjacent owners do not return the Line by Agreement forms. This is frustrating for TSE process. We generally go ahead with the sale using best available information and a land owner contact. I appreciate the effort to have TSE contracting funds available for the survey work. Like Craig says this all adds to the establishment time and process. With improved GPS units and accuracy we are confident the lines we establish, for the most part. If this is intended to give tools to the scattered state lands TSE process, that's good. We are thankful the NHAL has a history of line and corner information. The new documentation process is good for the field and should give confidence to others that we are on solid ground with our line establishment. NO change to guidance.

Page 74-1 – Breach of Contract and Termination of Contract – Suggested additions to: Potential Ramifications of a contract breach

- 1) If a contractor is in pre-pay status on a timber sale due to one or more late payment breaches the contractor would not be allowed to bid on or secure additional contracts until all outstanding late payments are received. This policy would not apply to balances on timber sale which are under 30-days. This could be applied on a per property basis or statewide. Contractors with payments past due could be contacted by the property where the breach occurred prior to an upcoming prospectus release. If past due balances are not be paid in full 30 days prior to the next bid

opening bids would not be accepted. The intention is not to limit bidding for a specified time period but only for the time period when the contractor has a past due balance.

Guidance changed to incorporate suggestion, on a property basis (not statewide – since it is difficult to track & communicate statewide) - page 74-1 amended.

In addition it seems prudent and good business practice to not allow additional contracts to be started if a balance is past due on a previous contract. It has been suggested that each contract is a stand-alone contract but the Department links them together if there are multiple payment breaches as all current contracts go to pre-pay status statewide under those circumstances.

- 2) If a contractor is in pre-pay status on a timber sale due to one or more late payment breaches the contractor would not be allowed to begin operations on an additional contract secured previously until all remaining past due accounts are paid in full.

Guidance changed to incorporate this suggestion - page 74-1 amended. Page 63-2 Timber Sale Contract, item 2b also updated to reflect this policy.

Background: Recently a contractor was allowed to bid while roughly \$60,000.00 was owed. Multiple late payment breaches occurred and this contractor was put into prepay status for all state contracts. Multiple crews were working on the sale in question with high volumes leaving the sale weekly. Two sizable billings were produced. The second one being submitted before 30 days had expired on the first. Neither remittance was paid off before the next bid package was released on the property. This balance had been carried for over 6 months at the time of the next bid and a sizable portion is still outstanding. The contractor was high bid on an additional contract and was awarded the sale. The contractor was allowed to start the newest contract without paying off the remaining balance on the past due contract.

Page 22-1 – Sales Adjacent to Property Boundaries

Paragraph 2: The need for a certified letter to be sent to an adjacent landowner is questioned. Would a formal letter sent regular mail suffice in this situation?

Guidance changed to incorporate suggestion – certified letter requirement changed to simple letter (not necessarily certified).

Paragraph 5: It appears that funding for surveys to establish property boundaries comes from the program responsible for management. If funding is not available what is the next step? In situations where survey corners are missing and a line agreement is not feasible will the project be delayed until funds are available. Foresters working on lands outside the Division may assume the cost of establishing the sale is entirely through the Division's budget including funding for needed surveys. Please clarify this. Property managers should work with their programs to prioritize and fund general property boundary management/maintenance. As per the question & reply below regarding paragraph 6, if the boundary line establishment is directly related to and required for establishing a timber sale, the harvest boundary establishment work associated with the timber sale may be accomplished via contracting with a cooperating consultant forester. This should not result in a long delay for the project and would not fund surveys on non-Division of Forestry properties from the Forestry Division's budget. NO change to guidance.

Paragraph 6: The use of cooperating consultant foresters (CCF) has been expanded through Act 166. Hiring a CCF to facilitate the hiring of a registered surveyor seems to be a fairly unique approach to the use of CCF's. An appendix example of the appropriate language and contract items to be included in this

type of arrangement would be helpful to the field. How to secure bids from CCF's to stay compliant with purchasing guidelines when we are asking them act as a middle man may be problematic.

Comments noted, additional example will be added to the Public Lands Toolkit

(<http://dnr.wi.gov/topic/countyforests/toolkit.html>, when available. NO change to guidance.

Can a CCF establish the cutting boundary through line establishment techniques (connecting surveyed corners) and staff then pursue a cutting line agreement? Or are they only to be used to facilitate the completion of a survey? Yes, a CCF may establish cutting line and then work with DNR staff secure cutting line agreements. NO change to guidance.

Additional comments: Is the Division of Forestry's Policy in-line with other programs within the Department? In localized areas property boundaries on Bureau of Facilities and Lands holdings are signed and maintained regularly through blue-line establishment and maintenance. Is there value in developing a budget item for similar treatment of Division of Forestry holdings. If our State Forest boundaries are signed and maintained many conflicts with adjoining landowners would be averted. These questions/comments are outside scope of guidance. Additional information on signage of DNR boundaries can be found in the DNR Sign Handbook/Manual Code 8672.05 – (particularly in ch 30, ch 50, & appendix E). NO change to guidance.

Also could the procedure for staff to request survey work without the use of a CCF be included here? Guidance amended to incorporate suggestion – reference to DNR Manual Code 8606.1 added to end of chapter.

Is a feasibility study needed to determine the budgetary effectiveness of reinstating a Division of Forestry Survey Crew?

This question/comment is outside scope of guidance. NO change to guidance.

It is also hoped by field staff that the increased work load and documentation procedures will be recognized by our leadership for what it is. The enhanced process will require more man-hours to maintain the same level of output in the timber sale program.

NO change to guidance.

The certification information contained in chapters 61 and 63 could be clarified and made consistent with the examples included in the recent Forestry Division Newsletter.

Guidance amended to incorporate suggestion.

The guidance contained in chapters 61 appears to be a revision of a previous version dated in 2010 (not the most recent dated 7/31/13).

Guidance amended to incorporate suggestion.

As a result of the above comments, the Department did make several changes to the guidance as outlined above. The final guidance was issued on July 21, 2014.

If you have any questions, please contact – Joe Schwantes at: joseph.schwantes@wisconsin.gov.