State of Wisconsin
Department of Natural Resources

Forest Tax Law Handbook

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Forest Tax Law Handbook

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INTRODUCTION

This Handbook is designed to digest the law relating to the forest tax programs and provide guidance for the administration and implementation of the programs. Final decisions which may affect a landowner, or other person, under the forest tax programs must be based upon the statutes, administrative codes or common law. When relying solely on guidance in the Handbook, verify the basis for your action with the Tax Law Section (TLS).

This document is intended solely as guidance, and does not contain any mandatory requirements except where requirements found in statute or administrative rule are referenced. This guidance does not establish or affect legal rights or obligations, and is not finally determinative of any of the issues addressed. This guidance does not create any rights enforceable by any party in litigation with the State of Wisconsin or the Department of Natural Resources. Any regulatory decisions made by the Department of Natural Resources in any matter addressed by this guidance will be made by applying the governing statutes and administrative rules to the relevant facts.

The purpose of the Managed Forest Law program is to "encourage the management of private forest lands for the production of future forest crops for commercial use through sound forestry practices, recognizing the objectives of individual property owners, compatible recreational uses, watershed protection, development of wildlife habitat and accessibility of private property to the public for recreational purposes." (s. 77.80, Wis. Stats.)

The purpose of the Forest Crop Law is to "to encourage a policy of protecting from destructive or premature cutting the forest growth in this state, and of reproducing and growing for the future adequate crops through sound forestry practices of forest products on lands not more useful for other purposes, so that such lands shall continue to furnish recurring forest crops for commercial use with public hunting and fishing as extra public benefits, all in a manner which shall not hamper the towns in which such lands lie from receiving their just tax revenue from such lands." (s. 77.01, Wis. Stats.).

Sound forestry practices are defined in s. NR 46.15(29) Wis. Adm. Code, as "timber cutting, transporting and forest cultural methods recommended or approved by the department for the effective propagation and improvement of the various timber types common to Wisconsin. "Sound forestry practices" also may include, where consistent with landowner objectives and approved by the department, the management of forest resources other than trees including wildlife habitat, watersheds, aesthetics and endangered and threatened plant and animal species."

Methods and guidance for implementing the MFL and FCL programs to meet program objectives are elaborated upon in this document.

The primary tool for landowners to practice sound forestry is the management plan. While participating in the MFL program is considered a contract with the DNR, this does not mean that management plans cannot change. Management plans must be responsive to changing science and on the ground conditions to be considered sound forestry.

Other documents besides the management plan provide guidance for land management decisions, including the Forest Management Guidelines, DNR Silviculture Handbook, Best Management Practices for Water Quality, Best Management Practices for Invasive Species, Ecological Landscapes of Wisconsin, and others. Most of these documents can be found on the DNR website at: http://dnr.wi.gov/ search keywords "Forest Management".

CHAPTER 10: OVERVIEW

PROCESSING SCHEDULE (All Laws)

January 1		New Managed Forest Law (MFL) orders begin. MFL open/close amended orders and open/close changes as a result of land transfers become effective. Withdrawals become effective (all laws).
January	TLS	Notifies landowners regarding completion of mandatory practices for the next year and sends a reminder letter if Tax Law Forestry Specialists do not know a landowner's efforts to complete the mandatory practice. Tax Law Forestry Specialists will need to update WisFIRS (Wisconsin Forest Inventory and Reporting System) so TLS has a list of landowners for mailing reminder letters.
February	TLS	Mandatory practices list (MFL & FCL) mailed to Department of Natural Resources (DNR) and cooperating foresters. List contains practice due in the current year and the next year. Listings for future mandatory practices are available upon request.
June 1		Deadline for submission of an application for entry effective the following January 1.
June	TLS	Sends notification to landowners and foresters of FCL and MFL orders expiring December 31 of the following year.
June 30	County	Pays the DNR the closed acreage fee for MFL closed lands.
By July 1	Division of Forestry	Aid in lieu-of-tax payments for MFL and FCL lands are paid to the local municipality.
	Landowner	Deadline for landowners who purchase FCL lands after the original landowner was notified of expiring FCL contracts to submit an MFL application for entry effective the following January 1.
August 15	TLS	MFL proof list mailed to county treasurer to check for delinquent taxes for lands applied for entry effective the following January 1. Response requested by October 1.
	TLS	Notifies municipalities of lands applied for entry effective the following January 1. Municipalities may provide information regarding why lands should not be enrolled.
September 15 – 30	County	Treasurer returns list of delinquent taxes on MFL applications to TLS.
	TLS	Contacts forester for those delinquent.
	Forester	Lets landowner know of pending denial if delinquent taxes are not paid.
	TLS	Approval in WisFIRS of all MFL applications by Tax Law Forestry Specialist for entry effective the following January 1 (NR 46.18(5)(bm)(1), Wis. Admin. Code)

October 1	Landowner	Deadline for submitting FCL Declaration of Withdrawal (Form 2450-008) to TLS to be processed and effective the following January 1.
	Division of Forestry	Resource Aid Payment made to counties s. 23.09(18), Wis. Stats.
October 15	Landowner	Verifies payment of delinquent taxes for MFL application.
By November 20	TLS	Order of Designation or Order of Denial issued for MFL applications. Deadline for FCL withdrawal orders received prior to October 1 to be issued for an effective date of the following January 1.
November 20 - December 20	Landowner	30 day period to review Orders of Designation and Orders of Denials for appeal purposes.
December 1	Landowner	Deadline for submitting MFL Declaration of Withdrawal (Form 2450-140) or request to change open/closed designation (as part of transfer or separate) to TLS to be processed and effective the following January 1.
December 14	TLS	Deadline for all MFL withdrawal orders and MFL amended orders (including changes in open/closed designation) received prior to December 1 to be issued for an effective date of the following January 1.
December	TLS	Follow up contact with landowners who have not initiated mandatory practices. Tax Law Forestry Specialists will be required to identify landowners who have not reported with progress on completing mandatory practices through WisFIRS.
December 31	Landowner	Final day to request that MFL application or part of the application be withdrawn for current year. Request must be postmarked by December 31.
	Landowner	Commence or complete mandatory practices scheduled in the plan.
Monthly	TLS	100% of MFL withdrawal taxes paid to local municipality or annually by June 30.
		Balance of FCL withdrawal taxes paid to local municipalities.

Must be sent through supervisory channels	**Must be sent to Tax Law Administration Specialist by Tax Law Forestry Specialist**
• Enforcement cases • Involuntary withdrawals	• Voluntary withdrawals (except if part of an enforcement case) • Transfers • Master file corrections • Name changes

DISTRIBUTION OF REVENUES FROM THE TAX LAW SECTION

The taxes and aid payments handled by the DNR follow a complex distribution. The following tables show the allocation of funds.

MFL Revenue Distribution

	Who Pays?	% To Municipality	% To County	% To DNR Conservation Fund
Acreage Share Tax ($.74/acre 1987-2004) ($2.04/acre 2005 and later*) ss. 77.84(2)(a), (am), (c), (cm) and 77.89(2)(a), Wis. Stats.	Landowner	80%	20%	0%
Closed Acreage Fee ($1.01/acre 1987-2004) ($8.16/acre 2005 and later*) ss. 77.84(2)(b), (bm), (c), (cm), and 77.89(2)(b), Wis. Stats.	Landowner	80%	20%	0%
Supplemental Fee for Proposed Ferrous Mining Site ($6.12/acre 1987-2004) s. 77.84(2)(bp), Wis. Stats. s. 77.89(2)(a), Wis. Stats.	Landowner	80%	20%	0%
Yield Tax (5% Stumpage) **NO LONGER COLLECTED**	~~Landowner~~	~~80%~~	~~20%~~	~~0%~~
Withdrawal Tax ss. 77.89(1)(a) & (2)(a) and 77.88(5), Wis. Stats.	Landowner	80%	20%	0%
Aid Payment ($.20/acre) ss. 77.85 and 77.89(2)(a), Wis. Stats.	DNR	80%	20%	0%
Resource Aid Payment (only to counties with 40,000 or more MFL and FCL acres) s. 23.09(18), Wis. Stats.	DNR	0%	100%	0%

* For 2005 and later entries, acreage share tax and closed acreage fee rates are recalculated every 5 years. These values are effective through 2022.

FCL Revenue Distribution

	Who Pays?	% To Municipality	% To County	% To DNR Conservation Fund
Acreage Share Tax ($.10 or $2.52/acre) ss. 77.04(2) and (3), Wis. Stats.	Landowner	80%	20%	0%
Severance Tax and Termination Tax (10% Stumpage) **NO LONGER COLLECTED**	~~Landowner~~	~~80%*~~	~~20%*~~	~~*Same as below~~
Withdrawal Tax ss. 77.10(2) and 77.04(3), Wis. Stats.	Landowner	80%**	20%**	**Before disbursing any revenue, the state first recovers aid payments that have been made under s. 77.05, Wis. Stats.
Aid Payment ($.20/acre) ss. 77.05 and 77.04(3), Wis. Stats.	DNR	80%	20%	0%
Resource Aid Payment (only to counties with 40,000 or more MFL and FCL acres) s. 23.09(18), Wis. Stats.	DNR	0%	100%	0%

WTL Revenue Distribution
Retain for Historical Purposes

(Reference information - last contracts expired December 31, 2000)

	Who Pays?	% To Municipality	% To County	% To DNR Conservation Fund
Acreage Fee ($1.67/acre) s. 77.16(6), Wis. Stats.	Landowner	100%	Not required	0%
Withdrawal Tax s. 77.16(11), Wis. Stats.	Landowner	100%	0%	0%

WISCONSIN FOREST TAX LAW HISTORY

1927	A Constitutional Amendment to allow an exception from uniform taxation for forest lands is adopted. The FCL is enacted the same year.
1928	First FCL entry (40 contiguous acres or more). All FCL contracts are 50 years in length, and both private individuals and county governments are eligible to participate. Annual FCL acreage share payment is set at $0.10/acre. Interest rate used in the FCL withdrawal tax formula is set at 5%. FCL withdrawals are allowed if 40 acres or more of contiguous land remained under the law.
1928 - 1932	There are no FCL penalties if the landowners fail to comply with the law.
1933	A double severance tax penalty is developed for destructive cutting on forest croplands.
1939	The Conservation Department is given additional authority to limit the amount of forest products to be removed in harvests, to insure adequate growing stock for the future.
1950 - 1963	FCL Special Classification designation applied to lands lying outside intensive forest protection districts. Annual acreage share payment is $0.20/acre. No severance tax.
1954	The Woodland Tax Law (WTL) is enacted to provide a forestry incentive program for owners of farm woodlots not large enough for FCL participation. All WTL contracts are 10 years in length. No voluntary withdrawals are allowed. The only way for a landowner to leave the WTL program is to use the land for a non-forestry purpose or to otherwise violate the law. Even then, no penalties are provided for. The annual acreage share payment is $ 0.20/acre. Private owners of lands less than 40 acres in area can apply. There is no minimum acreage requirement.
1962	The FCL and County Forest Law are separated into Chapters 77 and 28, Wis. Stats., respectively. Governmental units are no longer allowed to enroll land in the private forest tax programs.
1971	An annual aid payment is implemented to pay the municipalities and counties for each acre entered in FCL ($.20/ac).
1972	FCL contract length is changed to 25 years or 50 years, to be chosen by the landowner. FCL acreage share payment is raised to $ 0.20/acre with a 10-year interval formula adjustment. One year moratorium is declared for FCL entries (no 1972 entries). FCL eligibility criteria is revised to allow entry or withdrawal of only entire descriptions. Apportionment of FCL income is changed from 20% county/40% town/40% school to 20% county/80% town.
1973	Chapter NR 46, Wis. Adm. Code, is first published to interpret statutes regarding tax laws. WTL entries are required to be a minimum of 10 contiguous acres. A maximum 20% non-productive limit is established for FCL and WTL entries.
1976	The Wisconsin Legislature makes extensive revisions to the WTL: • The WTL contract length is changed to 15 years. • Presence of assessed improvements is prohibited on woodland tax lands. • Signed management plans (including mandatory practices) are required for the first time as a condition for entry. • WTL acreage share payment is raised to $ 0.40/acre with a 10-year interval formula adjustment. • A WTL withdrawal and declassification penalty is implemented.
1978	Interest rate used in the FCL withdrawal tax formula is raised to 12%.

1979 Initial proposals for a "Managed Forest Law" to unify the FCL and WTL are formulated. Numerous advisory groups make recommendations for changes to forest tax laws.

1980 Chapter NR 46, Wis. Adm. Code revision modifies the criteria for entry of land into WTL and FCL, including productivity requirements. These changes became effective on February 1, 1980, affecting FCL Orders issued after that date s. NR46.07 (1)(c) Wis. Adm. Code.)

1981 A Legislative Audit Bureau report prompts the DNR to prepare management schedules for all forest croplands in non-industrial private ownership.
A project to complete forestry plans for all existing FCL entries is initiated.

1982 FCL and WTL 10 year interval formulas for adjusting acreage share taxes are implemented.
An Attorney General's opinion determines that landowners must provide access to FCL lands across adjacent non-FCL lands.

1983 The FCL acreage share payment is raised to $0.74/acre.
The WTL acreage share payment is raised to $1.49/acre.

1985 The FCL and WTL are repealed, and the Managed Forest Law (MFL) is enacted.

1987 The first MFL entries take effect January 1.

- Minimum acreage requirement is 10 contiguous acres per parcel of MFL land.
- Maximum 20% non-productive limit per parcel of MFL land.
- Order period is 25 or 50 years, to be chosen by the landowner.
- Only lands in towns and villages allowed.
- Initial acreage share rate set at $0.74 and initial closed acreage fee set at $1.00. Rates to be recalculated in 1992 for use in 1993. Recalculation to be done every fifth year thereafter with adjustments used in the following year.
- Up to 80 acres can be designated as “closed” to public access per ownership per municipality.
- Public allowed to hunt, fish, hike, cross country ski, and sightsee on lands designated as “open”.

1989 Legislation is passed to decriminalize FCL cutting notice/report violations and provide for civil forfeitures.
Legislation is passed to provide citations and civil forfeitures related to posting open MFL lands.

1991 Legislation is passed to allow withdrawal of FCL, WTL, and MFL lands without assessment of a withdrawal penalty if the land is transferred to a governmental agency for parks, wildlife and fishery areas, or public forests, or if land is transferred for use as a public road, railroad, or utility right-of-way. In December, the 5-year study of MFL program is submitted to the Legislature by DNR and UW-Extension. The study found the program basically sound but recommended action on sixteen identified issues.

1992 5-year review mandated by Wisconsin Statutes. The Wisconsin Legislative Council initiates a "Study On Private Forest Lands Programs" but fails to reach consensus on major changes.

1993 Legislation included in the state budget bill changes the MFL petition deadline for non-industrial ownerships to January 31, allows adjustments in the petition fee, and makes other minor changes affecting closed areas and transfers. Prior to this an ownership was allowed to have 80 acres closed per contiguous ownership. This allowed for some owners to have more than 80 acres closed if their ownership was not contiguous.

Adjusted tax rates for FCL, WTL, and MFL acreage share payments and the MFL closed fee go into effect. The rates are increased as follows: FCL was raised to $0.83, WTL was raised to $1.67, MFL acreage share fee raised to $0.85 and MFL closed fee raised to $1.15 ($2.00 total) per acre per year.

1994 The Legislature enacts a law to allow FCL participants to roll into MFL enrollment without paying an FCL withdrawal tax. Petitions for an FCL to MFL conversion accepted between September, 1994 and January, 1998.

The definition of an MFL closed area changes to allow closure of up to 80 acres (or two quarter-quarter sections, two government lots or two fractional descriptions) per civil township regardless of the configuration of the closed areas. The closed area no longer has to be contiguous. The change benefits landowners whose woodlands may be separated by fields or other non-forest cover types.

1995 s. NR 46.16(2), Wis. Adm. Code, is changed to require the submission of property tax bills or other documents showing the county parcel identification numbers. These numbers are required on documents recorded at the Register of Deeds office in the counties.

1996 – 2001 Orders are issued converting FCL orders to new MFL orders, for FCL participants who chose this option. These orders are given sequence numbers from 200 to 499 to make them easily identifiable, e.g., 04 213 1997.

1997 Chapter 77, Wis. Stats., changes to direct the DNR to define "human residence" to include a residence of a petitioner regardless of whether it is the petitioner's primary or secondary residence.

1998 Adjusted tax rates for MFL acreage share payments and the MFL closed fee go into effect. The rates are adjusted as follows: MFL acreage share fee lowered to $0.74 and MFL closed fee lowered to $1.00 ($1.74 total) per acre per year.

December 15, 1998, list of 8 building characteristics is created in s. NR 46.15(9), Wis. Adm. Code, to judge whether a building being used as a dwelling should be considered a residence. Buildings meeting 5 or more of the 8 characteristics are considered a residence, and the land they are on (minimum 1.0 acres) must be excluded from MFL designation. This change applied and continues to apply to all new buildings on MFL lands regardless of date of entry. Some exceptions are granted depending on the date of the construction and the dates in implementation of this provision. Grandfathered buildings that exceed the allowed 4 characteristics include buildings that were present on January 1, 1999 prior to the effective date of s. NR 46.15(9), Wis. Admin. Code (effective date of January 2, 1999), and buildings that were built prior to September 2004 on lands that were entered on or before January 1, 1999 or on lands converted from FCL to MFL from 1996 through 2001. These buildings are allowed to remain on MFL lands but may not be renewed under MFL. See the MFL buildings pages for more information.

May 3, 2000 DNR was directed by the Joint Finance Committee to require that any management plan for the Forest Tax Law program, prepared with staffing or funding approved at the May 3, 2000, s. 13.10 (emergency funding) meeting, include a component dealing with gypsy moth pest management activities. Money and staffing approved at the May 3, 2000 s. 13.10 meeting included additional funds for contracting MFL plans with consultants and 1 FTE in the TLS. Gypsy moth funding was requested and approved at the same meeting. It was decided that all MFL plans would include a component on gypsy moth pest management, not just the contracted plans to provide uniformity.

Fall 2000 Deadlines for landowner filings are established by rule as follows:

October 1	FCL Declaration of Withdrawal
December 1	MFL Declaration of withdrawal
December 1	Requests to change MFL open/closed designations

New policy is established by rule stating when land is sold after a petition has been filed, the new owner must submit a new and separate petition. The new landowner cannot use the petition filed by the previous owner.

Last WTL contracts expired December 31, 2000.

2002 2001 Wisconsin Act 109 enacts several changes to the MFL and FCL including the following:

- Increases the MFL petition fee to $100 for petitions submitted without an approvable plan.
- Retains a $20 MFL petition fee for petitions submitted with an approvable plan and for additions to existing entries.
- Re-opens the opportunity for FCL participants to rollover/convert to MFL prior to the expiration of the FCL order without a withdrawal tax. Unlike the first window of opportunity, which was only available from September 1, 1994 through January 1, 1998, there is no ending date to this opportunity.

2003 Adjusted tax rates for FCL/MFL acreage share payments and the MFL closed fee go into effect. The rates are increased as follows: FCL was raised to $1.66, MFL acreage share tax was raised to $0.83 and MFL closed fee was raised to $1.12 ($1.95 total) per acre per year.

2004 2003 Wisconsin Act 228 modifies the MFL including the following: (Changes apply to all entries unless specifically noted.)

- Increases the MFL petition fee to $300 for petitions submitted without an approvable plan.
- Increases the transfer fee to $100.
- Creates a withdrawal fee of $300.
- Changes the MFL petition deadline from January 31st to July 1st (18 months prior to entry).
- Creates second petition deadline of May 15 for petitions submitted with a completed management plan package prepared by a certified plan writer, for entry effective the following January 1st. First available deadline is May 15, 2006.
- All legal instruments (deeds, land contract, etc.) must be recorded before submission with an MFL petition.
- Additions to 1987-2004 MFL entries no longer allowed.
- Additions to new MFL (2005 and after) entries will be allowed.
- Increases allowable closed acreage to 160 acres, but only 80 of the 160 can be entered in 2004 or earlier. The closed acreage entered may exceed 80 acres only if it consists of 2 entire legal descriptions (or due to past wording in statute or due to past interpretations).
- Establishes new formula for calculating the MFL tax rates. Applies to all lands entered in 2005 and later. Acreage share tax equal to 5% of the average statewide tax on forest land. Closed acreage fee equal to 20% of this average.
- The open/closed designation of MFL land can be modified up to 2 times.
- Creates a $250 non-compliance penalty to be used in the enforcement process when landowners fail to complete the mandatory practices.
- No yield tax in first 5 years of 2005 and later MFL entries. Does not apply to FCL conversions or MFL renewals.
- MFL land may be withdrawn if personal property tax for buildings on the MFL land is delinquent.
- Land within a city is eligible for entry.

2005 2005 Wisconsin Act 25 modifies petition process.

- Required DNR to certify independent certified plan writers (ICPW) and to promulgate rules that specifying the qualifications that a person must satisfy to become a CPW.
- Requiring charging of a plan preparation fee for plans written by DNR foresters. PPF for 2008 entries set at $375 plus $5.60/acre.
- Petition fee decreased from $300 to $20.

2005 Wisconsin Act 64

- Effective date of Act 25 changed from July 1, 2005 to July 2, 2005 so all applications for 2007 were subject to the same provisions of the law.

- Two exceptions added to the 5 year yield tax exemption. Expiring Forest Crop Law lands being entered in to managed forest law and Withdrawal and Re-designations are not exempt from paying yield tax the first 5 years of the managed forest land order.
- Withdrawal taxes for Withdrawal and Re-designation modified. If lands are withdrawn and re-designated any subsequent withdrawals will be the sum of a withdrawal tax for the original acres using the tax rate established the year before withdrawal and re-designation PLUS a withdrawal tax using the previous year's tax rate for all acres designated by the withdrawal and re-designation order. This unique withdrawal tax stays in effect until the original acres order will have expired. For the remaining order years the normal MFL withdrawal tax calculation applies.

Chapter NR 46, Wisconsin Administrative Code creates procedures for administering the Certified Plan Writer Program.

- Referral process developed for landowners petitioning to enter MFL without a prepared management plan. Petitions put on referral list for 60 days if petition submitted without a plan and landowner has not hired a Certified Plan Writer. List made available for Certified Plan Writers the first of each month.
- Procedure developed for DNR foresters to write management plan for landowners not offered a plan by the Certified Plan Writer referral process. Department forester writes plan if landowner does not receive an offer from a Certified Plan Writer.
- Draft deadline for May 15 entries set to March 1st.
- s. NR 46.18(2)(c), Wis. Adm. Code, modified to read "Release of conifers *and hardwoods* from competing vegetation".
- s. NR 46.18(2)(e), Wis. Adm. Code, modified to read "*Pre-harvest and* post-harvest treatment to insure adequate regeneration".

Forestry Operations Team (FOT) (now known as Field Operations Team) approved unmarked thinning in pine plantations on Managed Forest Law and Forest Crop Law lands.

2005 2005 Wisconsin Act 299

- Petition by ownership not by municipality allowed. Made it possible to enter lands in multiple municipalities on one petition.

2007 NR 46 Administrative Rule Changes

- Catastrophic loss provision increased the reduction in yield tax payment for tree mortality due to fire from 30% to 70%. Also decreased acreage to qualify for catastrophic loss from 10 acres to 5.
- Application fee modified to $20 per county to pay for recording of MFL lands in multiple counties.

2007 Wisconsin Act 20

- New statutory provision created to prohibit the receiving of consideration for recreational activities on MFL lands. Exceptions exist for non-profit organizations as described in the Internal Revenue Codes.

2008 Tax rates adjusted for MFL acreage share payments and the MFL closed acreage fee go into effect. The adjusted tax rates are as follows: MFL acreage share tax for lands entered before 2005 (1987-2004) decreased to $0.67; MFL acreage share tax for lands entered after 2004 (2005 and later) increased to $1.67; MFL closed acreage fee for lands entered before 2005 (1987-2004) decreased to $0.90; and MFL closed acreage fee for lands entered after 2004 (2005 and later) increased to $6.67.

2009 Policy Changes

- Lands in which certified surveys were completed and recorded within recorded subdivision plats are no longer allowed entry under MFL. All lands within recorded subdivision plats must be legally vacated before entry into MFL. The policy is effective for lands entered on or after January 1, 2011. (Note: This policy supports criteria in NR 46.15(18), Wis. Admin. Code.)
- Lands that are sold by land contract must meet the transfer requirements and are no longer allowed to be partitioned in a manner not allowed under the law. The policy is effective for all transfers received by the Department on May 15, 2009. (Note: This policy supports criteria in NR 46.14(23), Wis. Admin. Code.). Land owned per deed and land owned per land contract are no longer considered different ownerships and a separate application for each is no longer required (i.e. acreage under a land contract should be on the same application as acreage owned through a deed provided the ownership is the same).

2010 NR 46 Administrative Rule Changes

- Consideration definition added.
- Ownership definition changed to include trusts as an ownership.
- Ability for landowner to amend application after application deadline.
- Multiple municipality applications are allowed only if lands on either side of a municipal line do not qualify on their own.

2009 Wisconsin Act 365

- New statutory revision to combine March 31, May 15 and July 1 deadline to June 1.
- DNR has new enforcement authorities
  - Issue a citation for failure to file cutting report
  - File a cutting report when landowner fails to do so
  - No longer need to prove intent for filing false report and cutting contrary to the management plan or approved notice
- Real estate disclosure requirement
- Withdrawal tax estimates given by DOR
- Stumpage values removed from rule making process

2009 Wisconsin Act 186

Created exemption from withdrawal tax for up to 10 acres of land withdrawn from MFL due to the placement of a public safety communications tower.

2009 Wisconsin Act 28

Tribal lands transfer

2011 NR 46 Administrative Rule Changes

- Application fee is increased to $30 per application and county.
- Landowners who purchase lands from a large landowner are required to submit a management plan to the DNR Forester within one year of the date of the transfer.
  - It was the responsibility of the DNR to prepare the plan if lands were transferred prior to January 1, 2012, but new owners will have to hire a CPW to prepare the plan.
- Large landowners who lose their status as a large landowner under NR 46.18(4), Wis. Admin. Code are required to submit a management plan to the DNR Forester within one year of losing large landowner status.
- Conditions under which DNR may agree to develop an MFL application are changed so that if by the January 1 prior to the application deadline services from a certified plan writer are not available in the county in which the MFL land is located DNR may develop the MFL application.

2012 Private Forest Land Open to Public Recreation Web Mapping Tool developed to show the location of MFL-Open and FCL lands. (Effective March 11, 2013.)

Landowners who no longer qualify for Large Ownership classification required to prepare and submit site-specific management plan within one year of losing Large Ownership classification. (Effective Jan. 1, 2012)

2013 — 2013 Wisconsin Act 1 allowed landowners to conduct bulk sampling of their lands for ferrous ore material without withdrawal from the MFL program. Sampling sites cannot exceed 5 acres. (Effective March 11, 2013)

2013 Wisconsin Act 20 allowed landowners who enrolled lands in the MFL Program prior to October 11, 1997 to withdraw one to three or more acres from the MFL program for the purposes of building a residence. The withdrawal option affects landowners with effective dates of January 1, 1997 or earlier.

2013 Wisconsin Act 81 allowed landowners within a proposed ferrous mining site to temporarily close MFL-Open lands to public recreation which are within 600 feet of fixed sampling equipment and roads used for ferrous mining activities. Lands would be taxed as MFL-Closed the following year. A supplemental fee for a proposed ferrous mining site would be assessed on lands that were originally enrolled in MFL in 1987-2004.

2015 — 2015 Wisconsin Act 55 made the following changes to the MFL and FCL programs:

Cutting Notices (MFL and FCL)

- DNR approval is no longer required for cutting notices that are submitted by any of the following and the cutting is required under the terms of the management plan:
  - A Cooperating Forester
  - A forester accredited by SAF, WCF, or ACF

Supplemental Distributions to Municipalities

- $1,000,000 in fiscal year 2015-16 and $1,000,000 in fiscal year 2016-17:
  - The distribution to the municipality is based upon the MFL closed acres within the municipality as compared to the statewide total of MFL closed acres.
  - The municipality pays 20% of these monies to the county and retains the remaining 80%.

MFL Certification Group Opt-In

- An MFL landowner must now affirmatively elect to have their MFL land enrolled under the MFL Certification Group (opt-in). Previously, an MFL landowner's MFL land was automatically opted-in to the MFL Certification Group unless the landowner affirmatively elected to not enroll it under the Group (opt-out).

2016 — 2015 Wisconsin Act 358 made a number of changes to the MFL and FCL programs.

Severance/Yield taxes:

- Severance and yield taxes will no longer be collected by the department beginning 4/16/16

FCL Termination taxes:

- For lands that expire on 12/31/2016 or later, the DNR will no longer be requiring the payment of FCL termination taxes

Cutting Notices (MFL and FCL):

- DNR approval is no longer required for cutting notices that are submitted by any of the following **and** the cutting is required under the terms of the management plan
  - A Cooperating Forester (2015 Wisconsin Act 55)
  - A forester accredited by SAF, WCF, or ACF (2015 Wisconsin Act 55)
  - A person who has 5 years of full-time experience engaged in managing forests (includes timber harvesting, wildlife management, water quality and recreation to maintain a healthy and productive forest)

Buildings and Improvements (MFL):

- For 2017 and future entries (or renewals), buildings or improvements associated with buildings are prohibited on MFL lands. According to statute an improvement does not include any of the following:
  - Public or private road
  - Railroad or utility right-of-way
  - Fence, unless the fence prevents the free and open movement of wild animals
  - Culverts
  - Bridges
  - Hunting blinds
  - Structures and fixtures needed for sound forestry (examples of structures and fixtures needed for sound forestry practices are described in Chapter 20)

Minimum Acres (MFL):

- The minimum acreage requirement per MFL parcel has been increased from 10 to 20 acres for all 2017 and future entries.
- Pre-2017 MFL landowners seeking to renew their land in the program may be eligible for a one-time exception to the 20 acre requirement.

Access (MFL):

- All land designated as MFL-open (to public recreation) must be accessible to the public on foot by public road or from other land open to public access.

Leasing (MFL):

- The prohibition of leasing MFL lands was repealed.

Closed Acreage Limit (MFL):

- The amount of land a MFL landowner can designate as closed to public recreation has increased from 160 acres to 320 acres.

Additions (MFL):

- Additional land can be added to any MFL order as long as the addition is at least 3 acres in size, has no buildings or improvements, is under the same ownership and at least part of the lands being added must be contiguous to the exiting MFL entry. Productivity requirements must also be met (evaluated on additional + contiguous current land).

Withdrawal Taxes and Fee (MFL):

- Calculations for withdrawal taxes have been changed. Additionally, the withdrawal tax calculation now distinguishes between landowners who own more or less than a total of 1,000 acres that are enrolled in a forest tax program (FCL and/or MFL).

Voluntary Withdrawals (MFL):

- There are two new withdrawal types
  - Landowners can now withdraw 1 to 5 whole acres for the purpose of a construction or small land sale.
    - Landowners can use this withdrawal type 1 time per parcel for a 25 year order, and 2 times per parcel for a 50 year order.
    - A withdrawal tax and fee will be assessed for this type of withdrawal.
  - Landowners can now withdraw land for productivity and sustainability if the land has become less than 80% productive or more than 20% unsuitable for producing merchantable timber due to environmental, ecological, or economic factors.
    - Landowners may be required to attempt a restoration plan for areas that can be restored if the land has become less than 80% productive due to a **natural disaster**.
    - A withdrawal tax and fee may not be assessed for this type of withdrawal.

Transfer of Ownership (MFL):

- When land enrolled in the MFL program is sold, the transferred and remaining land will be evaluated to see if they meet the eligibility requirements.

- If the transferred land does not meet the program requirements the stepped enforcement process will be initiated and a withdrawal tax and fee may be assessed.
- If the remaining land does not meet the program requirements the stepped enforcement process will be initiated and a withdrawal tax and fee may be assessed.

Contracts (MFL):

- All current and future MFL orders are now considered contracts.

Renewals (MFL):

- If a landowner of MFL land meets several criteria (see s.77.82 (12), Wis. Stats.) and the renewal application is submitted by the June 1st before the current entry/order expires, they are eligible for a renewal and renewal applications are not required to include a MFL management plan.
- Current MFL entries that are less than 20 acres may be eligible for a one-time renewal if all other criteria are met.

Supplementary Distributions to Municipalities

- $4,600,000 in fiscal year 2016-17; $6,000,000 in fiscal year 2017-18; and $7,000,000 in fiscal year 2018-19:
  - The distribution to the municipality is based upon the MFL closed acres within the municipality as compared to the statewide total of MFL closed acres.
  - The municipality pays 20% of these monies to the county and retains the remaining 80%.

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TAX LAW COMPARISON TABLE

	Woodland Tax Law (Enacted 1954 – Repealed 1985) Last WTL expired 12/31/2000	**Forest Crop Law** (Enacted 1927 - Repealed 1985)	**Managed Forest Law** (Enacted 1985)
Tax Rate	$1.67/acre/year.	$0.10/acre/year for entries prior to 1972. $2.52/acre/year for entries after 1972. All special class entries have expired. Rates will be re-adjusted in 2022 and every 10th year thereafter for lands enrolled after 1972.	**Years 2013 – 2017**: $1.87/acre/year on closed lands (1987-2004 entries); $0.79/acre/year on open lands (1987-2004 entries). $10.68/acre/year/on closed lands (2005 and later entries); $2.14/acre/year on open lands (2005 and later entries). $6.40/acre/year on closed lands within a proposed ferrous mining site that was enrolled in MFL in 2004 and earlier. **Rates will be adjusted in 2017 (applied in 2018) and every 5th year thereafter.**
Public Access	Not required.	Open to hunting and fishing only (not trapping or use of vehicles).	Open lands must permit hunting, fishing, sightseeing, hiking, and cross-country skiing (does not include trapping or use of vehicles). Up to 320 acres may be closed to public access per municipality, per ownership.
Enrollment Period	15 years	25 or 50 years	25 or 50 years
Timber Harvest Tax	None	Beginning in 2016, no severance taxes are collected.	Beginning in 2016, no yield taxes are collected.
DNR Cutting Notices*:	No DNR cutting notice required, but harvests must conform to the management plan.	Must be filed at least 30 days before cutting is planned. Approved notices are valid for one year. Cutting reports due within 30 days of the approval year for partial harvests. No cutting report required on Special Class.	Must be filed at least 30 days before cutting is planned. Cutting must commence within one year. Cutting reports due within 30 days of completed harvest.

** A county cutting notice, to be filed with the county clerk, is required for all timber harvests on private land in Wisconsin. The county may deny permission to harvest timber if there are unpaid property taxes on a parcel.*

State Aid Payments	None	$0.20/acre/year	$0.20/acre/year

	Woodland Tax Law (Enacted 1954 – Repealed 1985) Last WTL expired 12/31/2000	**Forest Crop Law** (Enacted 1927 - Repealed 1985)	**Managed Forest Law** (Enacted 1985)
Minimum Acreage:	Minimum 10 contiguous acres not to include a full quarter-quarter section, government or fractional lot (no more than 20% of area may be non-forested).	After 1972, full quarter-quarter section, fractional or governmental lot (no more than 20% of area may be non-forested). Pre 1972, minimum of 40 contiguous acres.	For land entered in 2017 or later, minimum 20 contiguous acres (at least 80% of area must be capable of producing 20 cu. ft. of merchantable timber per year). For 2016 and earlier entries (and some 2017 and later renewals), minimum 10 contiguous acres (at least 80% of area must be capable of producing 20 cu. ft. of merchantable timber per year).
Withdrawal Tax:	1% of average F1 value in county in year prior to withdrawal multiplied by the number of acres multiplied by the number of years. Partitions allowed only under limited circumstances.	Difference between ad valorem tax and forest crop tax paid with credit for annual acreage share payments to the town plus 5% or 12% simple interest less any severance tax paid plus interest. Authorized withdrawals and transfers vary with year of entry.	Withdrawal tax is defined by property type, years enrolled, and ownership. See withdrawal tax section for details.
Termination of Contract or Order	No penalty for non-renewal.	For lands that expire on 12/31/16 and later, there is no penalty for non-renewal.	No penalty for non-renewal.
Management Requirements:	Follow signed management plan	Use sound forestry practices.	Follow signed management plan and follow sound forestry practices. A $250 non-compliance penalty will be assessed when the landowner fails to complete mandatory practices on time.
Transfer of Ownership	Transfer required within 30 days of the conveyance.	Notify DNR within 10 days of the conveyance on an official transfer form.*	Notify DNR within 30 days of the conveyance on an official transfer form. Pay a $100 transfer fee.*
	**Failure to file a DNR transfer form could result in declassification from the forest tax law program and assessment of a substantial withdrawal tax.*		
Expiration Dates	The last WTL contracts expired December 31, 2000.	The last FCL contracts expire December 31, 2035.	New designations are now only MFL entries, enrolled for 25 or 50 year order periods.
Building Restrictions	No improvements whatsoever are allowed	Non-commercial buildings, hunting cabins, and seasonal cabins are allowed (but taxed as personal property). No permanent residences are allowed.	For 2017 and later orders, no buildings or improvements associated with buildings are allowed. For 2016 and earlier entries, non-commercial buildings, hunting cabins, and seasonal cabins are allowed (but taxed as personal property). No domiciles (places of permanent or secondary residence) or buildings for human residence (NR 46.15(9), Wis. Admin. Code) allowed.

CHAPTER 20: MANAGED FOREST LAW

PURPOSE OF THE MANAGED FOREST LAW

(ch. 77, Wis. Stats., and ch. NR 46, Wis. Adm. Code)

Wisconsin's Managed Forest Law (MFL) is a landowner incentive program that encourages sustainable forestry on private woodlands in Wisconsin. While enrolled in the program, landowners pay an acreage share tax in place of their ad valorem property tax. Landowners who close their lands to public recreation (access) also pay an additional closed acreage fee.

Wisconsin statues s. 77.80, state that the primary purpose of MFL: "…is to encourage the management of private forest lands for the **production of future forest crops for commercial use through sound forestry practices**, recognizing the objectives of individual property owners, compatible recreational uses, watershed protection, development of wildlife habitat and accessibility of private property to the public for recreational purposes."

Together with landowner objectives, where compatible, the law incorporates timber harvesting, wildlife management, water quality and recreation to maintain a healthy and productive forest. Sustainable forest management benefits Wisconsin's economy, hunting, fishing, wildlife, recreation, soils, waterways, and air quality, and renews our beautiful forests for everyone to enjoy. Both the statutory definition of forestry, and the administrative code definition of sound forestry include provisions for the management of ecological and non-timber resources along with the timber resource.

WisFIRS

Wisconsin Forest Inventory and Reporting System (WisFIRS) is an online computer program that records landowner names and addresses, land description, stand reconnaissance (recon), management recommendations, completed land management practices and other information regarding private lands enrolled in the Forest Tax Law programs (MFL and FCL). All data entry will be completed in the WisFIRS by TLS Staff, and Certified Plan Writers (CPWs), including data for:

- New MFL entry
- Renewal of MFL lands
- Additions to existing MFL entry
- FCL to MFL conversions
- Cutting notice and report tracking
- Transfer tracking
- Entry of a new owner(s) due to a partial transfer of MFL or FCL
- Creation of new stand numbers for MFL or FCL
- Recon update to an existing stand for MFL or FCL
- Address updates/corrections for landowners

Information on completing the WisFIRS data fields will be provided in a separate document and through HELP menus in the WisFIRS program. Data that is entered into WisFIRS will be printed on corresponding forms and reports for landowner and lien holder signatures. CPWs must ensure that landowners have had an opportunity to review the MFL application and supporting documents before the MFL application is submitted to the Tax Law Forestry Specialist for review. Paper copies of the documents and recon data can be printed for filing in the landowner's file.

To correct errors or discrepancies in the data in WisFIRS and to make changes due to new surveys or name changes that are not the result of a transfer of ownership, submit form 2450-156, Master File Change Request (available to DNR staff at: http://intranet.dnr.state.wi.us/int/land/forestry/Div_Overview/FR_Management/ftax/2450-156.pdf) with an explanation for the change requested and provide copies of any pertinent documents (e.g. survey, documentation from the county, etc.). Generally, a correction or amended order will be issued for these changes. See Correction Orders for more details.

WAMS Access

CPWs and Cooperating Foresters will be required to obtain a Wisconsin Web Access Management System (WAMS) user identification name and pass code before obtaining access to WisFIRS. WAMS is a system that is used across various state agencies to provide web-based services to the public. CPWs and Cooperating Foresters will be provided instructions on obtaining a WAMS ID once accepted into the CPW and Cooperating Forester Programs.

MFL ORDERS – GENERAL INFORMATION

Order Period

(s. 77.82(2)(h), Wis. Stats.)

Landowners have a choice of a 25 or 50 year order period. The order length cannot be changed during the order period.

MFL orders are considered contracts. If a statute is enacted or a rule is promulgated in the future that materially changes the terms of the order, a landowner must accept the modifications to their contract or voluntarily withdraw the land without withdrawal tax and fee. This does not mean that plans cannot change. Plans need to be responsive to changing science and on the ground conditions to be considered sound forestry. See Appendix 14 for information on changing existing management plans.

Order Number

MFL order numbers are assigned through the WisFIRS program. The order number is a combination of a 2 digit county code, 3 digit sequence number and 4 digit entry year (xx-xxx-xxxx). The order number for an existing entry is located on the Master File List and in WisFIRS. The order number assigned after a partial transfer is located on the Transfer Order, the following year's Master List and in WisFIRS.

Annual Tax

(s. 77.84, Wis. Stats.)

Landowners pay an annual acreage share tax in lieu of regular ad valorem property taxes. Landowners who choose to close their lands to public recreation also pay a closed acreage fee. MFL acreage share taxes and closed acreage fees must be paid with the first installment of general property taxes on or before January 31 or it will be considered delinquent (i.e., cannot be paid in installments).

Every 5 years the acreage share tax rates and the closed acreage fees are adjusted by the Department of Revenue based on the formulas provided in s. 77.84(2)(c) & (cm), Wis. Stats. The next tax rate adjustment will be in 2018.

Current tax rates can be found at dnr.wi.gov, search keyword: "MFL" and select "Tax Rates" from the side bar menu.

MFL Expiration

Landowners are notified roughly 1.5 years prior to the expiration of the term of their MFL order period and given the opportunity to enroll lands back into the MFL program. To reenroll in the MFL program landowners may submit an application through the same process as for new enrollment, or the landowner may be eligible for a renewal (see Applications for Renewal).

No withdrawal tax or fee is assessed if the lands are not renewed or reenrolled.

Large Ownerships
(s. NR 46.18(4), Wis. Adm. Code)

A landowner granted **large account** status must have a management plan; however the management plan does not need to be a site-specific management plan nor be on file with the department. Large accounts are required to have an approved management commitment that describes the management plan and outlines the procedure used to update and amend the management plan. The management plan must be available for audit by the department. Large account entries have no stand data or practices in WisFIRS and are not included in the MFL Certified Group. All other statutes and rules for MFL and FCL apply to large ownership entries. If large ownership MFL or FCL lands are purchased by a small landowner or if the landowner loses their status as a large ownership, the landowner must have a CPW (Certified Plan Writer) submit a site-specific management plan for the property within one year of the transfer order to continue under MFL or FCL designation. If no plan is completed within the one year time frame, the enforcement process should be initiated(See Chapter 60, Enforcement).

Landowners must request the large ownership status in writing. A review of the following criteria will be considered:

- Landowners who own at least 1,000 acres of land either already enrolled or being enrolled into the Managed Forest Law and Forest Crop Law under the same ownership. We will not accept a combination of multiple smaller ownerships that if combined will total at least 1,000 acres.
- The Department will not grant large ownership status to landowners who have been in violation of the provisions of their past Managed Forest Law or Forest Crop Law contracts unless they have taken steps to fully comply with their requirements, provisions of NOI's or other outstanding enforcement actions.
- The Department will not grant large ownership status to any landowner who cannot demonstrate continuous access to competent technical forestry assistance through staff or contracted services. The landowner will be required to list how this will be accomplished. This must include a list of forestry staff or individual(s) or firms with foresters' names and contact information that have been contracted with to provide assistance. A landowner who is granted large ownership status is required to contact the Department to provide updated contact information if any changes are made to this list of staff, individual(s) or firms.
- The Department will not grant large ownership status to any landowner who does not provide to the Department an approvable management commitment. The commitment is designed to describe an underlying plan. The commitment is there to help the Department decide whether that underlying management plan will result in the practice of sound forestry.

Minimal items addressed in a management commitment include:

1. An agreement to comply with all Wisconsin Best Management Practices for Water Quality.
2. An agreement to comply with the statutory requirement to file a Cutting Notice and Report as required in ss. 77.86(1) and (4) and ss. 77.06(1) and (4), Wis. Stats.
3. A description of the forest inventory for the property; including the types of information collected, if it is stand level or strata level, and how often it is updated.
4. A statement on how the landowner plans to have competent professional forestry advisement, either through staff or from an external consulting forester or firm.
5. A breakdown of the various timber types found on the property.
    - How the timber types are defined (e.g. aspen type is defined as 50% aspen by volume).
    - What the landowner's objective, or range of objectives, are for each type.
    - What silvicultural systems and what harvesting/cutting methods will be employed to meet the land owner's objectives by type (e.g. uneven-aged single tree selection for northern hardwood, even-aged coppice for aspen, etc.).
    - What stand characteristics would trigger management (e.g. rotation ages for even-aged systems, stand basal area limits that would trigger the owner to schedule a harvest or thinning, expected re-entry intervals, etc.).
6. A statement on how the owner plans to comply with ss. 29.604 and 23.27(3), Wis. Stats., as they pertain to Natural Heritage Inventory (NHI) and threatened and endangered plant or animal occurrences on their lands enrolled in MFL or FCL. This may be as simple as describing how an owner will check for known occurrences for each harvest and a statement that they plan to take appropriate steps depending on pertinent laws and owner objectives.

Records

Public records requests
(Ch. 19, subch. II, Wis. Stats.)

Members of the public may request copies of records held by the department. Examples include mandatory practices, land open to public access (use available order form), mailing labels, etc. Many records, including those listed as examples, can be found on the DNR web site at http://dnr.wi.gov, and search keyword "MFL". There may be a charge for requested information.

Personally identifiable information, including name, address, home and cell telephone number(s) and email addresses are not generally confidential by law and are subject to disclosure upon a written or verbal request through the open records law. Procedures for providing information that contain personally identifiable information is found in the Records Management Handbook.

Some personally identifiable information has restrictions to its access by the public, including the following.

- Social security numbers – DNR does not collect social security numbers to administer the MFL or FCL programs, therefore these numbers are not available through an MFL or FCL open records request.
- Credit card numbers – DNR has not historically collected credit card numbers. As technology changes to allow payment of application, transfer and withdrawal taxes and fees, credit card numbers may be collected in the future. The Records Management Handbook outlines a process for redacting credit card numbers.
- Bank account and routing numbers – DNR may have copies of checks in microfilm or individual landowner files. These records should not be provided under an open records request or should be redacted according to the procedures outlined in the Records Management Handbook.
- Law enforcement records pertaining to children (s. 48.396, Wis. Stats.). Please contact DNR Supervisors and/or Legal Services regarding requests for information pertaining to children.

Tax Law Section (TLS) staff may get telephone calls from the public regarding access to MFL-Open or FCL lands. Since telephone numbers may be provided through an open records request, TLS staff should generally provide telephone numbers to callers in order to facilitate calls between recreational users and landowners. However, telephone numbers may be withheld where there is a known risk of harassment or other safety concerns.

TLS staff should record in the landowner's case file any information regarding access to MFL-Open or FCL lands, such as:

- **Whether the landowner wants to be contacted.** Landowners are required to provide access to MFL-Open lands (see access requirements). Contacting the landowner is a courtesy for the recreational user to learn of additional hazards or concerns the landowner may have to make the experience pleasurable for both parties. Landowners who are not concerned with how a recreational user accesses their lands may prefer not to be contacted.

- **Whether the landowner has designated a route for recreational users to access lands.** Landowners may ask the Tax Law Forestry Specialist to relay information to a recreational user how to access their lands in order to reduce the number of telephone calls the landowner receives. Tax Law Forestry Specialists who have this information may share it with recreational users.

Please note that telephone numbers and email addresses are not currently posted on the Private Forest Lands Open for Public Recreation web site.

Records retention

TLS records shall be retained for the period of time outlined in the Records Disposition Authorization (RDA) Schedules. Any documents that are not covered by an RDA cannot be thrown away.

Forestry MFL, FCL and State Land Timber Sales – Records Retention/Disposition Authorization

Stumpage Value Calculations
(s. 77.91, Wis. Stats.)

Annually, stumpage values paid on privately-owned timber sales from lands enrolled in the Managed Forest Law (MFL) and the Forest Crop Law (FCL) programs throughout Wisconsin are reported by private-sector Cooperating Foresters with additional values reported by Tax Law Forestry Specialists. Stumpage values are financial payments received by private landowners for timber products sold from their lands.

Stumpage values are used in the assessment of MFL withdrawal taxes in some limited circumstances and for determining penalty amounts for cutting merchantable timber in violation of s. 77.86 (and s. 77.06) Wis. Stats.. The annual calculation process of stumpage values is based on a weighted 3 year average and meets the statutory requirement in s. 77.91(1) Wis. Stats. The publication of the tax rates derived from the average stumpage values is required in s. 77.91 (2) Wis. Stats. . Stumpage rates do not and cannot represent current market rates.

Stumpage values are calculated by the following procedure.

Time of Year	Who	What
July 1	DNR and Cooperating Foresters	Submit current timber sale data.
July	Administration and Operations Specialists	Compile data and develop preliminary stumpage value
August	Operations and Policy Specialist	Public comment period
September	Operations and Policy Specialist	Finalize values based on comments
November 1		Stumpage values are effective

The preliminary stumpage values are calculated using the following formula:

$$\frac{\left[\begin{array}{c}\text{wtd avg}\\ \text{current year minus 3}\\ \text{stumpage value}\end{array} + \begin{array}{c}\text{wtd avg}\\ \text{current year minus 2}\\ \text{stumpage value}\end{array} + \begin{array}{c}\text{wtd avg}\\ \text{current year minus 1}\\ \text{stumpage value}\end{array}\right] + \begin{array}{c}\text{wtd avg}\\ \text{current year minus 1}\\ \text{stumpage value}\end{array}}{\text{\# of years of wtd avg stumpage values}} = \text{Weighted Average Stumpage Value}$$

2 (if there is a wtd avg current year minus 1 stumpage value, otherwise it's 1)

$$\begin{array}{c}\text{wtd avg}\\ \text{current year}\\ \text{species stumpage value}\end{array} = \frac{\text{Sum of (volumes X stumpage value) by}}{\text{Sum of volumes by species}}$$

Right of DNR Employees to Enter MFL Land
(ss. 77.82(6), 77.88(1) ,Wis. Stats.)

DNR employees have the right to enter private property in the administration of the Managed Forest Law (MFL) and Forest Crop Law (FCL) programs, including the following:

- Evaluating applications for designation.
- Determining compliance with MFL and FCL requirements.

DNR employees do not have the right to enter private property to administer standards of the MFL Certified Group except with landowner permission. Failure to provide permission to DNR employees and auditors to ensure that certification criteria are being met is cause for decertification from the MFL Certified Group. *(Note: There are few situations in which DNR employees would be required to investigate certification standards that are also not required as part of the MFL program. A list of the certification standards can be found in Chapter 21, Forest Tax Law Handbook.)*

Forestry Research Projects

Landowners are generally prohibited from conducting silvicultural or other research on MFL lands that would lead to the implementation of practices (even to a limited extent) that are contrary to the range of silvicultural practices detailed in the Silvicultural Handbook or would promote uses specifically prohibited by rule or statute (an example is domestic livestock grazing).

Exceptions can be made on a case by case basis for research that may lead to a change in our current definition of sound forestry. In making a determination on whether a proposed research trial would be allowed on MFL lands the Tax Law Forestry Specialist (in consultation with TLS) should evaluate the proposal for its likelihood of yielding peer reviewed and replicated research. Answers to these questions will help to evaluate the proposed research:

- Are the trials limited to this property or are they part of a large trial that covers a wider range of site variables and stand characteristics.
- Is the proposal supported by a well-known researcher, a University or research organization?
- Are the trials replicated and is the experimental design done in such a way that it will yield statistically viable results?
- Is the research independent of the landowner?
- Will the results be published or is the researcher willing to share results with the Department?
- Is the research trial longer term, so as to draw conclusions over a longer time frame?

If research is approved on MFL lands the landowner will receive written notification of the conditions of the research.

Compatibility with Other Programs

Lands enrolled in the MFL program may also be enrolled in other conservation and/or tax programs, including Farmland Preservation, Environmental Quality Incentive Program (EQIP), Conservation Reserve Program (CRP), Deer Management Assistance Program (DMAP), Young Forest Initiative (YFI) or other programs as long as the following conditions are met:

- Lands continue to meet all provisions of the MFL program.
- Sound forestry continues according to the landowner's management plan.

Other program provisions do not subordinate MFL provisions. Landowners may need to decide which program is best suited to their needs if program provisions are not compatible.

OWNERSHIP

Owner Name(s) and Addresses

(s. 77.82(2)(a), Wis. Stats., & ss. NR 46.15(23), 46.16, Wis. Adm. Code)

Land is entered into MFL based on ownerships. An ownership includes all entities that hold interest in a property. For the purposes of MFL, any person who has interest in the property should be listed as an owner. In cases where there are formal organizations of owners (i.e. trusts, corporations, etc.), the name of the organization should be indicated as the landowner—not all of the individuals. When owners are required to sign forms, the required signatures for different types of ownerships can be found under *Signatures*.

All owners of a piece of property must be entered into WisFIRS. It is very important that CPWs and Tax Law Forestry Specialists check the WisFIRS database to determine if the landowner name is already present in WisFIRS. If owner names are missing, CPWs and Tax Law Forestry Specialists will be able to enter the missing landowner. Errors or changes in names have to be processed by Tax Law Administration Specialists.

Addresses must be checked through the U.S. Postal Service database. WisFIRS will direct CPWs and Tax Law Forestry Specialists to check the database and accept the proper address. CPWs and Tax Law Forestry Specialists will be able to accept addresses if the U.S. Postal Service address is missing or not available. Errors or changes in addresses can be processed by the Tax Law Forestry Specialist in WisFIRS.

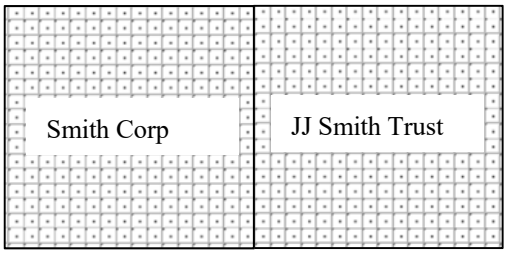
Proof of Ownership

(s. 77.82(2)(cm), Wis. Stats., & s.NR 46.16(2), Wis. Adm. Code)

A copy of the recorded legal instrument giving interest in the property must be provided with the MFL application and must be recorded prior to the application deadline. The copy of the proof of ownership does not have to be certified or notarized. The most common documents transferring title or ownership interest in property are deeds, land contracts, probate documents, and judgments. Insurance policies, abstracts, title insurance, real estate transfer returns, satisfactions of mortgage or tax receipts are not sufficient proof of ownership. The DNR may require additional ownership information to assure eligibility, proper open/closed areas, and mapping of the land applied for entry. Certified documents may be required if the authenticity of copies is in doubt. (s. NR 46.16(2), Wis. Adm. Code).

Partnerships, corporations, and trusts are different ownerships even if the names (signature requirements) are the same. A separate application is required for each separate entity.

> *For example:* John and Jake Smith have 40 acres they would like to enroll in MFL, the legal instrument that shows their entire ownership of this land is under a trust, JJ Smith Trust. John and Jake also own the western adjacent 40 as Smith Corp. Because these are two different ownerships, even though the signature requirement may be the same, a separate application is required for each separate entity.



If an individual listed on the ownership document(s) is deceased, verification of who obtained the interest in the land must be provided. Normally, there would be a recorded probate document showing who obtained the decedent's interest in the land, or there may be a deed from the individual's estate to the new owner.

If there are unresolved problems involving the deed or on-the-ground property boundaries, the DNR may reject lands until such questions are resolved by the landowner.

Per a 2009 decision, land owned per deed and land owned per land contract are no longer considered different ownerships and a separate application for each is no longer required (i.e. acreage under a land contract should be on the same application as acreage owned through a deed provided the ownership is the same).

Common Types of Land Ownership

Sole or Individual Owner, an unmarried person

Sole ownership of the property is granted to the person listed on the deed. An unmarried individual owner can transfer lands at any time to another person. Upon death, the lands go through probate court to determine the new owner.

Sole or Individual Owner, a married person

Wisconsin is a marital property state, which means that property purchased by one spouse while in a marriage is owned jointly by the other spouse. The listing of one name on the title to property does not automatically make it individual property, however the un-named spouse does not have the right to manage and control that property. The law requires the titled spouse to treat the non-titled spouse fairly if the item is marital property. Upon death of a married person, the estate will consist of the individual property plus half of all marital property. The deceased spouse may leave his or her estate to whomever they choose, including property. If the property is given to someone other than the living spouse, the living spouse must consent to the transfer of the real property to others and give up certain rights, such as the dower and curtsey or statutory share rights.

Husband and wife, as survivorship marital property

Ownership is by a husband and wife during a marriage. Upon death of one spouse all of the marital property goes to the surviving spouse without passing through a will. The survivor must record a copy of a termination of decedent's interest at the register of deeds to change the name on the MFL lands.

Joint Tenancy

Ownership is held by more than one individual and each person owns an undivided interest in the entire forest parcel, with all parties having the right to use the land and the right of survivorship. Upon the death of one owner the other owner(s) retain title of the deceased person's share of the land. If one of the joint tenants is deceased, the survivor must record a termination of decedent's interest and record the document at the register of deeds.

Tenants in Common

Ownership is held by two or more persons with an undivided interest in the property and an equal right to use the land, even if the percentages of interests are not equal. There is no right of survivorship if one of the tenants in common dies. Each interest may be sold separately, mortgaged or willed to another.

Corporations (Corp., Inc.)

A corporation is typically owned by shareholders and managed through a board of directors. A corporation is created under chapters 180, 181, or 182, Wis. Stats. All lands acquired by a corporation are the property of the corporation and not of the members individually. Corporations may purchase, convey, mortgage, pledge, lease, exchange or otherwise dispose of all or any part of its property. Individuals may become members through purchase of publicly traded stock or through established operating procedures.

Limited Liability Companies (LLC)

Ownership of land that blends elements of a partnership and corporate structures and that provides limited liability to its owners. A limited liability company is created under ch. 183, Wis. Stats. All lands acquired by a limited liability company are the property of the limited liability company and not of the members individually. Lands may be transferred by any member in the name of the LLC, or if management of the LLC is vested in one or more managers, lands may be transferred by any manager in the name of the LLC. Individuals may be accepted into the LLC if other members unanimously agree and in accordance with the LLC operating agreement.

Partnership

A partnership is an association of 2 or more persons to carry on as co-owners of a business for profit. All partners are jointly liable for everything chargeable to the partnership, including debts and obligations of the partnership. A partnership is created under ch. 178, Wis. Stats. All lands acquired by a partnership can be conveyed only in the partnership name. A partner has an equal right with other partners in property. A partner's right in specific partnership property is not assignable except in connection with the assignment of rights of all the partners in the same property. On the death of a partner, the partner's specific partnership property vests in the surviving partner or partners.

Limited Liability Partnership (L.P., LP, L.L.P. or LLP)

A partnership formed by two or more people and having one or more general partners and one or more limited partners. General partners have all responsibilities for a general partnership; however limited partners are not liable for the obligations of the LLP unless he or she is also a general partner or participates in the control of the business. Interest in an LLP is personal property; therefore an LLP interest is assignable in whole or in part. On the death of a partner, the partner's personal representative, guardian, conservator, or other legal representative may exercise all of the partner's rights for the purpose of settling his or her estate or administering his or her property, including any power the partner had to give an assignee the right to become a limited partner.

Trust

A trust is a relationship whereby property is held by one party for the benefit of another. A trustee holds in trust, i.e. takes all title of the settler or other transferor, and holds title subject to the duties bestowed through the trust document for the benefit of a beneficiary. Trusts are created under ch. 701, Wis. Stats. A trustee has complete power to sell, mortgage or lease trust property without notice, hearing or order. On the death of a trustee a successor trustee is appointed by the court. If one of several trustees dies, resigns or is removed, the remaining trustees shall have all rights, title and powers of all the original trustees.

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Signatures

(s. 77.82(3)(e), Wis. Stats., & ss. NR 46.16(1), 46.18(2), Wis. Adm. Code)

Signatures of landowners are required on the MFL application, transfers, voluntary withdrawals and open to closed changes according to the following list. Landowner signatures are not required on the MFL management plan since the MFL management plan must be submitted with the MFL application. It is expected that all plan writers will have reviewed the MFL management plan with landowners prior to submitting the MFL application.

Required Signature for Various Legal Documents		
If the Legal Document is:	Signatures Needed	Justification
Warranty Deed	All owners	All individuals having ownership rights in a property must agree to MFL enrollment.
Quit Claim Deed	All owners	All individuals having ownership rights in a property must agree to MFL enrollment.
Partnerships	Any partner	The signature of any partner binds the partnership unless the Department knows that a particular partner lacks the authority to bind the partnership. The signature of all partners should be requested, however. Partnership documents are not required.
Limited Partnership (LP)	The general partner who makes the business decisions.	An LP has a general partner who makes all of the business decisions and is personally liable for business debts. An LP may also have other "limited" partners who may invest in the business but are not making daily decisions about the business.
Limited Liability Partnerships (LLP)	Any partner	The signature of any partner binds the partnership unless the Department knows that a particular partner lacks the authority to bind the partnership. The signature of all partners should be requested, however. Partnership documents are not required.
Corporation	President	It is presumed that the president has the authority to enter into the agreement on behalf of the corporation. If a corporate officer other than the president (e.g. vice president, secretary, treasurer) has signed the form, a copy of the documentation (corporate by-laws) that gives the corporate officer the authority to enter into such an agreement on behalf of the corporation should be provided.
Limited Liability Companies (LLC)	Any member	The signature of any member binds the LLC unless the Department knows that particular member lacks the authority to bind the LLC. The signature of all LLC members although not required should be requested. (LLC documents are not required.)
Life Estate, Life Lease	Life Estate Holder(s), Life Lease Holder(s)	Life estates and leases are limited ownership interests and are often retained when parents deed land to their children giving the individuals the right to live on the land and use it until they die. The life estate or lease holder is an owner and must sign the application. Life estate or lease holders with land management rights must agree to the management prescriptions before signing the MFL application. If the life estate or lease is no longer valid, documentation must be provided.
Marital Property	Owner	Land acquired after January 1, 1986 falls under the marital property laws of Wisconsin. Based on a 2004 decision, non-titled spouses from marital property no longer need to sign the application or other tax law forms because they do not have a management or control interest in the land.
Encumbrance Holder	All Holders	Encumbrance holders must sign the application, including vendors, mortgagee's (loan officer), timber right holder or easement holder where the easement controls/restricts the management of the land. (s. NR 46.16(3), Wis. Adm. Code). Encumbrance holders do not need to sign the transfer form, but by signing the form. By signing the transfer form, the landowner is indicating that encumbrance holders agree to the designation.
Trusts, Sub-Trusts, Uni-Trust, etc.	Any trustee	The signature of all trustees is preferred, but as long as we have the signature of one trustee we can accept the form as complete. Trust documentation is only required in the case where trustees are listed on the deed and the person who has signed is not one of those trustees.
Transfer on Death (TOD)	Current owner	Transfer on death allows successors an interest in land upon the death of the owners. People listed as successors upon death do not have an interest in the land until after the death of the owner; therefore signatures of the successors are not required on an MFL application. Upon death of the owner transfers will be required since the "ownership" will have changed at that time. If the successors have not changed from the original TOD, an Application for the Termination of Decedent's Interest and Confirmation of Applicant's Interest in Property, or other similar document, is required as proof on the transfer of ownership.

ELIGIBILITY REQUIREMENTS

Definition of Forest Parcel

(s. 77.82(1)(a), Wis. Stats,. & ss. NR 46.15(4), 46.15(25), 46.17, Wis. Adm. Code)

Eligibility criteria for land entered into MFL is evaluated on each forest parcel. A forest parcel is defined in s. NR 46.15(25), Wis. Adm. Code as the acreage of contiguous land described in the application which is under the same ownership. Lands joining at one point are considered contiguous (s. NR 46.15(4), Wis. Adm. Code). A lake, river, stream, flowage, public or private road, railroad, or utility right-of-way does not render a parcel non-contiguous (s. 77.82(1)(a)1., Wis. Stats.).

Land entered into the MFL program in 2017 or later must be a minimum of 20 contiguous acres per MFL forest parcel (s. 77.82(1)(a)1., Wis. Stats.).*

> *Exception: land entered before 2017 that is less than 20 acres per forest parcel but more than 10 acres, may have the opportunity to renew their land in the program once without meeting the 20 acre minimum requirement (see Renewals).

Land entered into the MFL program prior to 2017 (i.e. entered in 2016 or earlier), must be a minimum of 10 contiguous acres per MFL forest parcel. **

> **Exception: Forest parcels that are part of a 2016 or earlier entry that are less than 10 acres as a result of a land conveyance that occurred prior to April 16th 2016 may remain in the program (are grandfathered in) if they are otherwise eligible until the entry expires. However, these grandfathered parcels that are less than 10 acres will not be eligible for transfer, or renewal. This provision only applies to lands remaining after a land conveyance, not the conveyed lands. If a transfer form has not yet been filed, follow the enforcement steps outlined in chapter 60.

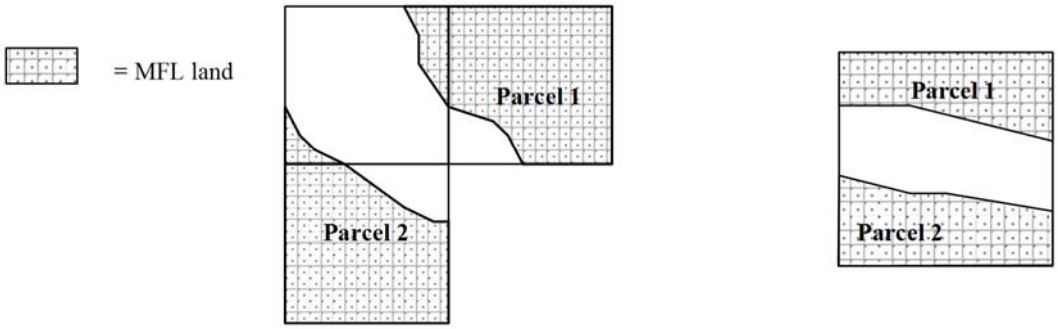
An application may include more than one forest parcel (s. 77.82(2) Wis. Stats.). Each forest parcel must meet the following requirements:

- At least 80% of each forest parcel must be capable of producing a minimum of 20 cubic feet of merchantable timber per acre per year (s. 77.82(1)(a)2., Wis. Stats., & s. NR 46.17(1)(a), Wis. Adm. Code).
- At least 80% of each forest parcel must meet the minimum stocking levels. Mandatory planting to bring the land up to the 80% productivity standard **after** entry is not permitted (s. NR 46.17(1)(a), Wis. Adm. Code).
- No more than 20% of each forest parcel can be unsuitable to produce timber products, including non-productive lands (NR 46.17(1)(b), Wis. Adm. Code).
- A minimum width of 120 feet. Lands less than 120 feet wide may be eligible for entry if the length to width ratio does not exceed 4:1(s. NR 46.17(2), Wis. Adm. Code).
- Landlocked forest parcels with no legal or practical access are still eligible for entry, however landowners are obligated to complete the practices scheduled for their property. Therefore, plan writers should be clear that management practices must be completed and it is the landowner's responsibility to obtain this access before mandatory practices are implemented. Lands may be withdrawn if mandatory practices are not completed as scheduled (s. 77.88(1)(b), Wis. Stats). Land with no legal or practical access is not eligible to be designated as open-MFL.

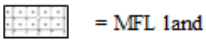
REMEMBER: For the purpose of MFL, parcels are defined in administrative code and are not the same things as a tax parcel.

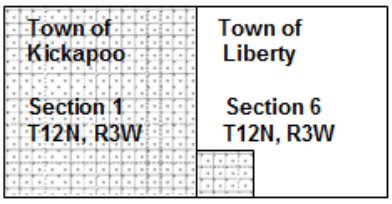
Forest Parcel Examples

1. Both examples below have two forest parcels for purposes of entry because the land is not contiguous. For land enrolled in MFL in 2017 or later, each forest parcel must meet the eligibility requirements upon entry (20 acres or more, 80% productive, no more than 20% unsuitable, etc.).

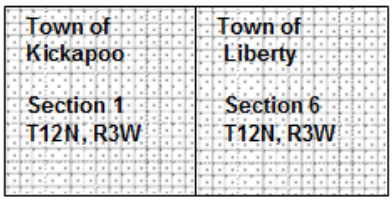


2. For purposes of entries that cross municipalities, this is considered one forest parcel when one of the descriptions would not qualify on its own. In cases where land that crosses municipal boundaries where both sides qualify on their own, separate applications are required.



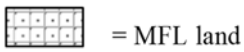


Example A. The land crosses municipal boundaries. The portion of land in the Town of Liberty does not meet requirements on its own, and therefore can be considered one parcel with the land in the Town of Kickapoo and can be entered on the same application.

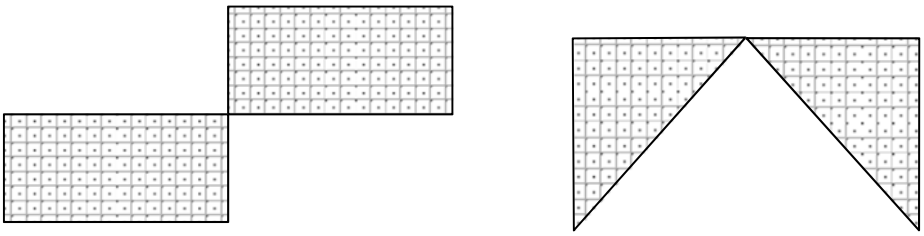


Example B. The land crosses municipal boundaries. The land in each municipality meets the requirements on its own. Therefore they should be entered on separate applications.

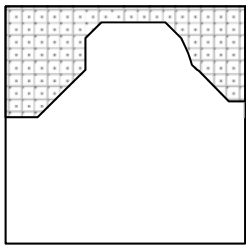
3. For purposes of entry, these are considered one forest parcel.



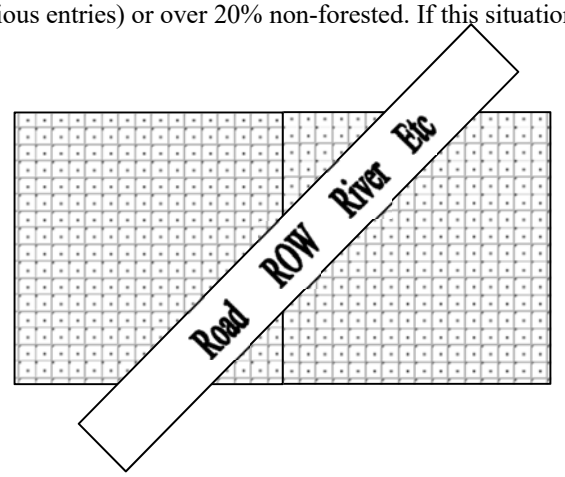
- Joined at a single point is considered contiguous (s. NR 46.15(4), Wis. Adm. Code).



- A narrow connecting strip, less than 120 feet wide, but meets the 4:1 ratio established in s. NR 46.17(2), Wis. Adm. Code.



4. Land divided by a public or private road, utility ROW, lake, river, stream, or flowage is considered contiguous (1 forest parcel) for purposes of entry and withdrawal. Recreation trails on a railroad right-of-way do not render a parcel non-contiguous since railroad rights-of- way, when converted to public trails, must stay or remain available as transportation corridors. These trails meet the definition of a railroad rights-of-way, and most likely the Department's interpretation of public roads, under Wis. Stats. s. 77.82(1)(a)1. Lands that are divided by a public or private road, utility ROW, lake, river, stream, or flowage is usually only an issue when one side of the division is under 20 acres (for 2017 and later entries, or 10 acres for previous entries) or over 20% non-forested. If this situation occurs the total area must meet the eligibility requirements.



Land Entered Into MFL

If only part of the land owned in the description is being entered into the MFL program, the acreage should be in **WHOLE NUMBERS**. Partial acreages can be enrolled under the following circumstances. More information on enrolling lands in MFL can be found in the sections on Buildings and Improvements; and MFL Maps.

- **There is a certified survey showing the exact acreage of the land being entered.** An example may be that a landowner had purchased all of the land in Lot 1 and wishes to enroll the entire acreage. The CSM showed that the land contains 20.56 acres. All of the lands can be enrolled into MFL since the CSM and tax statement shows that the acreage owned by the landowner is 20.56 acres.

- **There is a certified survey showing the exact acreage of the land being excluded.** An example may be that a landowner purchased all of the land in SESE and part of the SWSE. A Certified Survey Map was created to identify the lands that were purchased and included Lot 1. The landowner has decided to exclude Lot 1 from entry into MFL as a potential building site to make it easier to obtain building permits and a mortgage. Since the entire acreage purchased equals 50.75 acres, and since Lot 1 equals 5.0 acres, the lands that can be enrolled in MFL is 45.75 acres (50.75 – 5.0 = 45.75).

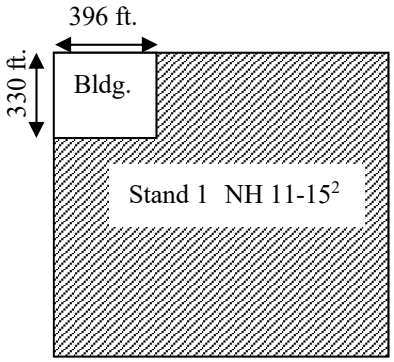
- **All land owned within the Parcel ID number is being entered.** This situation can arise when multiple parcel ID numbers occur within the same or multiple legal description(s). An example may be that a landowner purchased Lots 4 and 5 in the CSM and wishes to enroll all lands into MFL. Lots 4 and 5 are contiguous, and located in both the NWSE and the SWSE and together total 22.4458 acres. Since both lots together meet the MFL eligibility requirements, both lots can be enrolled in the MFL program. Foresters will need to enter acreage by legal description for each lot. Foresters may need to determine the acreage within each legal description for recording into WisFIRS. The acreage determinations should be made in conjunction with the taxing authorities (assessor, property lister, etc.).

  The Forester determines in conjunction with the local taxing authority that the lands contain the following acreages:

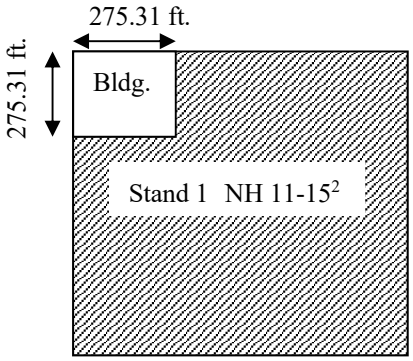
  NWSE – 10.392 acres
  - Lot 4 = 8.707 acres
  - Lot 5 = 1.685 acres

  SWSE – 12.054 acres
  - Lot 4 = 1.792 acres
  - Lot 5 = 10.262 acres

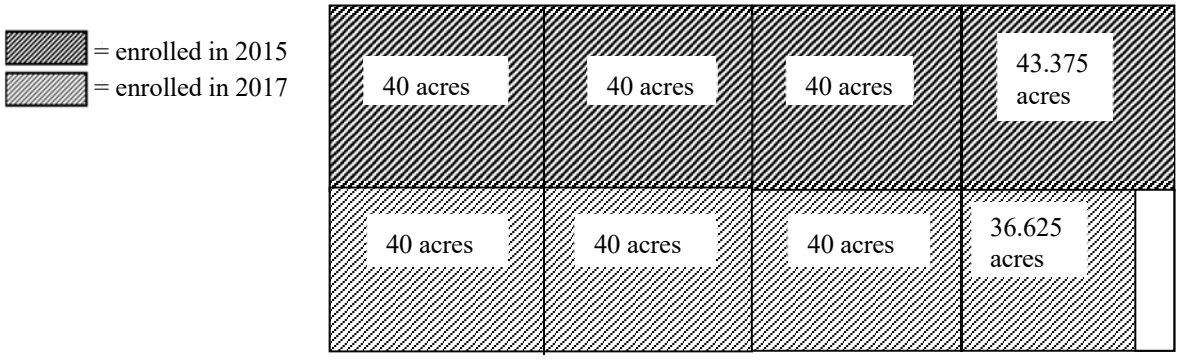
- **The excluded area is a whole acreage and the dimensions for the excluded area are shown on the MFL map.** An example may be that a landowner desires to enroll as much land as possible into the MFL program and is currently living on the property. The legal description is 39.75 acres according to landowner's property tax statement. The house, garage, tool shed, lawn and garden take up 1.1 acres of land, however the landowner wants to ensure that a little more land is excluded from entry. Dimensions are included on the map (330' x 396') for a 3.0 acre exclusion. The land that can be enrolled into MFL are 36.75 acres (39.75 – 3.00 = 36.75).



- **The dimensions of the excluded land are for partial acres and the dimensions are shown on the MFL map.** An example may be that a landowner desires to enroll as much land as possible into the MFL program and is currently living on the property. The legal description is determined to be 39.75 acres according to the landowner's property tax statement. The house, garage, tool shed, lawn and garden take up 1.1 acres of land, however the landowner wants to ensure that a little more land is available to put up another storage shed and increases the excluded area to be 1.75 acres. The dimension of the excluded area is included on the map (275.31' x 275.31') for a 1.75 acre exclusion. The land that can be enrolled into MFL are 38.00 acres (39.75 – 1.75 = 38.00).



- **A partial acreage is needed to bring the closed acreage up to the 320 acre limit.** An example may be that a landowner has enrolled four descriptions of land into MFL, one being a fractional description, in 2015 for a total of 163.375 acres. In 2017, the landowner purchased the lands directly south of the MFL lands and is enrolling these lands under MFL as well. The landowner would like to close the maximum amount of acreage to public recreation and keep the remaining lands on the regular property tax rolls. The additional lands that can be enrolled is 156.625 acres (320 - 163.375 = 156.625).



When the on-the-ground acreage differs from the property tax bill acreage, the application should correspond with the property tax bill acreage. These are the acres on which the landowner is being taxed. Enrolling more or less acreage than the county reports could have an unexpected and negative impact on the landowner's tax bill. Comments on acreage discrepancies should be described in the "General Comments" section of the Overview screen in WisFIRS.

Certified Plan Writers (CPWs) and/or Tax Law Forestry Specialist should inform the landowner of the discrepancy and the landowner can follow up in resolving the situation. The CPW can inform the county/municipality of the issue and resolve the discrepancy if an agreement can be made quickly, but the CPW is not responsible for this.

If the county updates the acreage after enrollment based on new surveys or technology that more clearly calculates the acreage of lands enrolled, the Tax Law Administration Specialist will correct the acreage accordingly. This may require adjustments to the amount of closed acreage (320 closed acre limit).

Acreage for each timber stand is listed in whole numbers. Areas of less than 2 acres are not considered cover types, therefore they are not to be given stand numbers nor considered in determining the 20% non-productive acreage (s. NR 46.18(3)(b)1., Wis. Adm. Code). If the on-the-ground acreage differs from the county (tax bill) acreage, use the county acreage. Discrepancies like these will require the prorating of on-the-ground acreage to match the county acreage. Do not prorate a stand to be less than 2 acres since the minimum stand size is 2 acres. Percentage of non-productive land should be calculated using on-the- ground acreage.

Road Rights-of-Way

(s. 77.82(1)(a)1., Wis. Stats.)

A public or private road that separates any part of a forest parcel from any other part does not render that parcel of land noncontiguous (s. 77.82(1)(a)1., Wis. Stats.).

Public roads may be owned by a public entity or developed for a road whereby the underlying ownership remains with the landowner. Many counties have been removing town road easement acreage off of landowners' property tax bills, even if the landowner owns the land. In review of this policy with legal staff, DNR could find no basis for where the ownership description information can be changed to exclude a road right-of-way except in cases where land has been deeded or sold for a road.

CPWs and TLS staff should be aware of this practice and ask landowners if acreage on the tax statement includes or excludes the road right-of-way, and whether they wish to enter the road right-of-way acreage or delete it from their application. Maps must be drawn to reflect the acreage and area being entered.

Private roads are developed and maintained by an individual landowner or groups of landowners, especially in rural housing areas where roads are not dedicated to the public. Lands that appear to be dedicated for future road development and are forested or in another vegetation type at the time of MFL enrollment are not considered roads. Landowners who have access to their lands through private roads must ensure that timber management practices are completed.

Productivity and Unsuitability

Productivity

(s. 77.82(1)(a) 2., Wis. Stats., & ss. NR 46.15(2), 46.17(1)(a), Wis. Adm. Code)

At least 80% of each forest parcel must be producing, or capable of producing, a minimum of 20 cubic feet of merchantable timber per acre per year and meet minimum stocking levels (s. 77.82(1)(a) 2., Wis. Stats., and NR 46.15(22), Wis. Adm. Code). Please refer to the Productivity Charts in Appendix 5 to determine if timber stands are growing at 20 cubic feet of timber per acre per year.

Minimum Stocking Levels for Entry	
Seedlings	200 trees/acre
Saplings	100 trees/acre
Poletimber	3 cords/acre
Small Sawtimber	1.3 MBF/acre
Large Sawtimber	1.3 MBF/acre

Contiguous areas less than 2 acres are not defined as cover types and therefore are not given stand numbers, nor are they considered in determining the 20% non-productive acreage. If a forest parcel exceeds the 20% non-productive limitation, the land included on the application should be adjusted to meet the eligibility requirements prior to submitting the application.

Unsuitability

(s. 77.82(1)(b)1., Wis. Stats., & ss. NR 46.17(1)(b), 46.15(22), Wis. Adm. Code)

Up to 20% of each forest parcel may be unsuitable for producing forest products (s. 77.82(1)(b)1., Wis. Stats., & s. NR 46.17(1)(b), Wis. Adm. Code). Examples of unsuitable lands include:

- **Non-productive lands.** Lands that are not growing 20 cubic feet of merchantable timber per acre per year or meeting the minimum stocking level, including black spruce or black ash swamps, oak or pine growing on extremely dry sites, water, marsh, keg, bog, rock outcrop, sand dune, farmland (defined as former agricultural land lying idle and presently not producing 20 cubic feet of merchantable timber per acre per year (s. NR 46.15(14) Wis. Adm. Code)), railroad and utility right-of-ways (s. 77.82(1)(b)1., Wis. Stats.).
- **Other unsuitable lands.** Lands that contain critical sites (steep, red clay soils) or habitats (e.g. pine/oak barrens).
- **Designated no management zones.** Lands chosen by landowners where land management options do not produce timber products, including oak savannah, old growth forest, aesthetic zones, or other situations.
- **Non-stocked lands.** Lands that are capable of producing 20 cubic feet of merchantable timber per acre per year but not adequately stocked with appropriate forest trees meeting one of the size and minimum density classification of trees (s. NR 46.15(22), Wis. Adm. Code). This may include inactive farmland (CRP, CREP), grass openings, log landings, wildlife food plots, private roads etc.

If the tax record acreage is different than the on-the-ground acreage, base the percentage of non-productive and unsuitable area on the actual on-the-ground acreage.

When dealing with additions, it is the entire forest parcel(s) that needs to meet the 80% stocking/productivity and unsuitability requirements (s. 77.82(7)(b)2., Wis. Stats.). This means original acres plus contiguous added acres must be 80% productive, and if entire separate forest parcels are added along with the contiguous acres, then the separate forest parcels must be 80% productive on their own.

Buildings and Improvements
(s. 77.82(1)(b)3., Wis. Stats.)

Rules for land entered in 2017 and later

Buildings and improvements associated with a building are prohibited on land enrolled in MFL in 2017 or later (s. 77.82(1)(b)3., Wis. Stats.). Building means any structure that is designed or used for sheltering people, machinery, animals or plants, for storing property or for gathering, working, office, parking or display space. Camping trailers and recreational vehicles that are fully self-contained and are used as temporary living quarters for recreation, camping or seasonal purposes are not considered buildings for the purposes of the MFL program. Fully self-contained means not connected to utilities or set upon a foundation where the trailer or vehicle is resting for more than a temporary time, in whole or in part, on some other means of support than its wheels.

> Buildings such as storage facilities for tools, equipment, ATVs, etc., are **not** allowed on MFL land for 2017 and future entries and renewals.

An improvement is defined as any accessory building, structure, or fixture that is built or placed on the forest parcel for its benefit or any landscaping done on the forest parcel (s. 77.82(1)(bp)1., Wis. Stats.).

An improvement does not include any of the following (s. 77.82(1)(bp)2., Wis. Stats.):

- A public or private road
- A railroad or utility right-of-way
- A fence, unless the fence prevents the free and open movement of wild animals across any portion of the parcel*
- Culverts
- Bridges
- Hunting blinds
- Structures and fixtures needed for sound forestry practices. Examples of structures and fixtures needed for sound forestry practices may include skid trails, landings, deer exclosures and clear-span bridges.

*Fences are prohibited if both of the following criteria are met:

- They are associated with a building; and
- The fence prevents the free and open movement of wild animals

Fences are allowed if:

- They are not associated with a building (whether they prevent the free and open movement of wild animals or not);
- They are associated with a building but they do not prevent the free and open movement of wild animals; or
- They meet the criteria outlined below (s. 77.82(1)(bp)3. Wis. Stats.):
  1. Land is owned by a 501 (c) nonprofit beagle club that holds a dog training license under s. 169.20 (3)
  2. Fences must be used for dog club training purposes
  3. The beagle clubs (registered non-profits that hold a dog club training license from DNR) will be able to renew/reenroll and stay in the program indefinitely
  4. Only existing fences as of 1/1/17 on closed MFL are allowed, but can be maintained or replaced

Improvements are not allowed on MFL land if they are associated with a building or structure that would not qualify for designation. This includes improvements associated with buildings on lands that are not enrolled in the program. The improvement cannot be on MFL, even if the associated building is excluded from the entry (i.e. both must be excluded). Examples of these types of scenarios can be found in the improvement example table. Landowners should keep this in mind when identifying building and improvement sites they leave out of the program. It is recommended that a minimum of one acre be excluded for buildings or improvements associated with a building unless the landowner can provide documentation for a more precise acreage. Documentation for a more precise acreage can include CSMs or dimensions written on the map. Landowners should be advised to match municipal building acreage requirements whenever possible to ensure that if buildings are sold or mortgaged the resulting actions will not affect lands in MFL.

Rules for land entered in 2016 and earlier

Act 358 made a number of changes to the MFL program, including changes to buildings. Buildings that exist on 2016 and earlier orders can continue to be present on and be built on those orders as long as the building is not a residence or domicile as defined in s. NR 46.15(12), Wis. Adm. Code, or developed for human residence as defined in s. NR 46.15(9), Wis. Adm. Code. Any lands enrolled or renewed in the future will need to exclude buildings and improvements.

Buildings that contain 5 or more of the following 8 characteristics are defined as "developed for human residence" (s. NR 46.15(9), Wis. Adm. Code):

a. 800 sq. ft. or more in total area, using exterior dimensions, of living space (finished basements count as living space), including each level and not including porches, decks or uninsulated screen porches.
b. Indoor plumbing, including water and sewer piped to either municipal or septic system.
c. Central heating or cooling, including electric heat, a furnace, or heat with a circulation system.
d. Full or partial basement, excluding crawl spaces and frost walls.
e. Electrical service by connection to the lines of a power company.
f. Attached or separate garage, not to include buildings for vehicles used primarily for work or recreation on the property.
g. Telephone service based locally.
h. Insulated using common insulation products (logs in a log cabin do not count as common insulation).

Solar energy, composting toilets and other energy efficient structures or equipment may become more popular in building construction, yet these devices were not as popular when the 8 building characteristics were developed in 1997 so they are not specifically addressed in the 8 building characteristics. Landowners who are building structures with any of the following devices need to know how they fit into the current building characteristics- see improvement example table.

On 2016 and earlier entries, buildings a landowner uses for working or recreating on the property, including workshop and storage buildings, are acceptable if the adjacent land is not landscaped or improved with ornamental plantings. Vegetative management for hazard reduction on fire prone property is allowed. All buildings located on managed forest land are taxed as personal property.

Rules for land entered in 1999 and earlier

A rule was developed and published on December 31, 1998 (s. NR 46.15(9), Wis. Admin. Code). This rule became effective on January 2, 1999, wherein landowners were allowed to have cabins, secondary or vacation homes on MFL lands, as long as the lands were not landscaped or used as a permanent residence or domicile.

Prior to September 2004, landowners were assumed to be grandfathered under the old building criteria. DNR announced in September, 2004 to all MFL landowners that new buildings must meet the criteria established in s. NR 46.15(9), Wis. Adm. Code. Landowners who had built a secondary or vacation home prior to the September, 2004 announcement are allowed to keep the lands in the MFL program, but will not be eligible to re-enroll those lands. Landowners who built a secondary or vacation home after the September, 2004 announcement are required to follow the building requirements in s. NR 46.15(9), Wis. Adm. Code. Structures that existed on MFL lands on January 1, 1999 or earlier will be allowed to continue until the expiration of the MFL term, but new associated structures must follow the structure and building policy for pre-2017 orders. These structures will not be eligible for re-enrollment in MFL. Any lands enrolled or renewed in the future will need to exclude buildings and improvements.

Examples of buildings and structures and when they are permitted or prohibited on MFL lands.				
If the building/structure is a:	**And the use is for:**	**And the year of entry is:**	**Then the building/ structure is:**	**Justification:**
Permanent Residence	A domicile	Any year	Not allowed	MFL does not allow human residences or domiciles (s. NR 46.15(12), Wis. Adm. Code).
Secondary or vacation home	Recreating on the land enrolled in MFL	2017 or later	Not allowed	Buildings are prohibited on 2017 and later entries (s. 77.82(1)(b)3., Wis. Stats.).
		2000-2016	Not Allowed	A change in the MFL law on October 11, 1997 prohibited landowners from having human residences on MFL lands. A human residence is defined as having 5 or more building characteristics as identified in s. NR 46.15(9), Wis. Adm. Code. S. NR 46.15(9), Wis. Adm. Code became effective on January 2,1999, allowing landowners applying for entry on January 1, 2000 to have full knowledge of the building criteria.
		1999 or earlier	Conditionally allowed	The effective date for s. NR 46.15(9), Wis. Adm. Code was January 2, 1999. Landowners were allowed to have cabins, secondary or vacation homes on MFL lands, as long as the lands were not landscaped or used as a permanent residence or domiciles. Prior to September 2004, landowners were assumed to be grandfathered under the old building criteria. DNR announced in September, 2004 to all MFL landowners that new buildings must meet the criteria established in s. NR 46.15(9), Wis. Adm. Code. Landowners who had built a secondary or vacation home prior to the September, 2004 announcement are allowed to keep the lands in the MFL program, but will not be eligible to re-enroll those lands. Landowners who built a secondary or vacation home after the September, 2004 announcement are required to follow the building requirements in s. NR 46.15(9), Wis. Adm. Code.
Cabin	Recreating on the land enrolled in MFL	2017 or later	Not allowed	Buildings are prohibited on 2017 and later entries (s. 77.82(1)(b)3., Wis. Stats.).
		2016 or earlier	Conditionally allowed	Administrative Code identifies characteristics common in buildings (s. NR 46.15(9), Wis. Adm. Code). A building for human residence is determined to have 5 of the building characteristics. Cabins that have 4 or fewer of the building characteristics are allowed under MFL, but will be taxed as personal property.
Storage Rental Unit	Renting for storage of personal property	Any year	Not allowed	Buildings are prohibited on 2017 and later entries (s. 77.82(1)(b)3., Wis. Stats.). Additionally, lands are developed for industry (s. 77.82(1)(b)2., Wis. Stats. & s. NR 46.15(10), Wis. Adm. Code). Storage units represent a commercial use for the purpose of conducting trade.

Examples of buildings and structures and when they are permitted or prohibited on MFL lands.				
If the building/structure is a:	**And the use is for:**	**And the year of entry is:**	**Then the building/ structure is:**	**Justification:**
Storage/ Pole Sheds/Garage	Storing tools used for working or recreating on the property Or, storing firewood to be used on the property.	2017 or later	Not allowed	Buildings are prohibited on 2017 and later entries (s. 77.82(1)(b)3., Wis. Stats.).
		2016 or earlier	Conditionally allowed	Storage sheds that hold tools and machines for working and recreating on the property are allowed, including chain saws, pruning saws, ATVs, snowmobiles, trailers, etc. Buildings are taxed as personal property. **However,** buildings that store a landowner's tools, equipment, furniture, or other household items that are not used for working or recreating on the property indicates a developed use that is incompatible with the practice of forestry (s. 77.82(1)(b)2., Wis. Stats. & s. NR 46.15(11), Wis. Adm. Code). Additionally, buildings that store tools and equipment for industrial use, including conducting trade, or production of manufacturing activities other than forest products are prohibited (s. 77.82(1)(b)2., Wis. Stats. & s. NR 46.15(10), Wis. Adm. Code).
Church/Information center	Ceremonies, meetings and other activities.	Any year	Not allowed	Buildings are prohibited on 2017 and later entries (s. 77.82(1)(b)3., Wis. Stats.). Additionally, the building is not used by the landowner for working or recreating on the property and is incompatible with the practice of forestry (s. 77.82(1)(b)2., Wis. Stats. and s. s. NR 46.15(11), Wis. Adm. Code).
Barn	Housing of animals for agricultural purposes	Any year	Not allowed	Buildings are prohibited on 2017 and later entries (s. 77.82(1)(b)3., Wis. Stats.). Additionally, land that is developed to house animals is developed for industry (s. 77.82(1)(b)2., Wis. Stats. & s. NR 46.15(10), Wis. Adm. Code).
	Housing of pets	Any year	Not allowed	Buildings are prohibited on 2017 and later entries (s. 77.82(1)(b)3., Wis. Stats.). Additionally, land that is developed to house pets is developed for a use incompatible with the practice of forestry (s. 77.82(1)(b)2., Wis. Stats. & s. NR 46.15(11), Wis. Adm. Code).
Maple syrup boiling shack	Boiling down sap for home use or retail	2017 or later	Not allowed	Buildings are prohibited on 2017 and later entries (s. 77.82(1)(b)3., Wis. Stats.).
		2016 or earlier	Conditionally allowed	Buildings may be allowed depending on the size and scale of the operation. CPWs and Tax Law Forestry Specialists should consult Tax Law personnel with specific situations if unsure whether the boiling shack should be allowed under MFL.
Maple syrup processor	Boiling and packaging sap for retail	Any year	Not allowed	Buildings are prohibited on 2017 and later entries (s. 77.82(1)(b)3., Wis. Stats.). Additionally, land that is developed to process maple syrup is developed for industry (s. 77.82(1)(b)2., Wis. Stats. & s. NR 46.15(10), Wis. Adm. Code).

Examples of improvements and when they are permitted or prohibited on MFL lands.				
If the improvement is a:	**And the use is for:**	**And the year of entry is:**	**Then the improvement is:**	**Justification:**
Power supply	Providing electricity to tools or for other temporary uses not associated with a building	Any year	Allowed	Improvements **not** associated with buildings or structures that would not be allowed on MFL are permitted (s. 77.82(1)(b)3., Wis. Stats.).
	Providing electricity to a building/structure, or for an activity associated with a building/structure	2017 or later	Not allowed	Improvements associated with buildings or structures are prohibited on 2017 and later entries (s. 77.82(1)(b)3., Wis. Stats.).
		2016 or earlier	Conditionally allowed	If the building/structure or related activity is not permitted on the MFL land, then the power supply associated with it is also not permitted. For 2016 and earlier entries, this would count towards a building characteristic in s. NR 46.15(9), Wis. Adm. Code.
Wells	Water supply not associated with a building or structure	Any year	Allowed	Improvements **not** associated with buildings or structures that would not be allowed on MFL are permitted (s. 77.82(1)(b)3., Wis. Stats.).
	Water supply for a building/structure, or activity associated with a building/structure	2017 or later	Not allowed	Improvements associated with buildings or structures are prohibited on 2017 and later entries (s. 77.82(1)(b)3., Wis. Stats.).
		2016 or earlier	Conditionally allowed	If the building/structure or related activity is not permitted on the MFL land, then the well associated with it is also not permitted. For 2016 and earlier entries, this would count towards a building characteristic in s. NR 46.15(9), Wis. Adm. Code.
Free standing solar panels, wind turbines	Not associated with a building/structure	Any year	Allowed	Improvements **not** associated with buildings or structures that would not be allowed on MFL are permitted (s. 77.82(1)(b)3., Wis. Stats.). An evaluation of whether or not the improvement interferes with forestry or is otherwise incompatible with the program should be done on a case-by-case-basis.
	For a building/structure, or activity associated with a building/structure	2017 or later	Not allowed	Improvements associated with buildings or structures are prohibited on 2017 and later entries (s. 77.82(1)(b)3., Wis. Stats.).
		2016 or earlier	Conditionally allowed	Solar chimneys, solar roofs, solar rooms with living spaces, and composting toilets will be evaluated as part of the 8 characteristics used to determine whether or not a building is allowed on MFL lands for 2016 and earlier entries. Solar windows, solar walls, solar rooms without living spaces and photovoltaic or solar cells will not be evaluated as part of the 8 characteristics. An evaluation of whether or not the improvement is incompatible with the program should be done on a case-by-case-basis.

Examples of improvements and when they are permitted or prohibited on MFL lands.				
If the improvement is a:	**And the use is for:**	**And the year of entry is:**	**Then the improvement is:**	**Justification:**
Parking Lots (Not highly developed as could be considered incompatible with forestry)	Not associated with a building/structure	Any year	Allowed	Improvements not associated with buildings or structures that would not be allowed on MFL are permitted (s. 77.82(1)(b)3., Wis. Stats.).
	For a building/structure, or activity associated with a building/structure	2017 or later	Not allowed	Improvements associated with buildings or structures are prohibited on 2017 and later entries (s. 77.82(1)(b)3., Wis. Stats.)
		2016 or earlier	Conditionally allowed	If the building/structure or related activity is not permitted on the MFL land, then the parking lot associated with it is prohibited
Permanent targets for shooting/archery practice	Target practice for recreational hunting	Any year	Conditionally allowed	Targets for shooting/archery practice for hunting are considered an allowable activity when permitted by landowners. These improvements are not generally considered associated with a building, and unless developed to the extent that would be considered incompatible with forestry, are allowed. Note: Target practice is an activity regulated by each individual landowner. The public should not install or use targets on open-MFL lands without landowner permission.

Delinquent Property Taxes

(s. 77.82(7)(a)5., Wis. Stats., and NR 46.16(4), Wis. Adm. Code)

All property taxes must have been paid in order for lands to be eligible for entry or renewal in the program. If split payments are made or if there are delinquent taxes, the landowner, upon request of the DNR, must provide proof of full payment (s. NR 46.16(4), Wis. Adm. Code).

By August 15 of the year in which the MFL order will be issued, DNR will notify each county treasurer of MFL applications to determine if there are unpaid property taxes. Notifications are mailed after the July 31 split property tax payment date.

If the department is notified of delinquent taxes, Tax Law Forestry Specialist shall assist the landowner and determine if taxes are paid or if the application will be denied entry. For delinquent property taxes on already enrolled MFL, see Involuntary Withdrawals.

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Deed Restrictions and Encumbrances

If the deed has a **restriction against timber cutting**, the application must either be rejected or the deed changed. Tax Law Forestry Specialists reviewing an application that has a deed restriction should work with the CPW and landowner to establish a reasonable time frame in which the cutting restriction will be removed. If the deed states that another party holds the timber interest or that the other party has control of the management, both the landowner and the other party must sign application. The same applies for conservation easements and restrictive covenants that may or will affect the management of the property. People holding management rights must agree with the management prescriptions before signing the MFL application.

Easements do not transfer title to land but are given to allow a specific use by the individual(s) named. Generally, they do not affect the eligibility of the land, but you must read the easement to make that determination. The most common easement is for purposes of ingress (entrance) and egress (exit) given to the grantor and their heirs and assignees. These types of easements generally do not interfere with the entry's eligibility because the use is compatible with the practice of forestry and does not affect the percent of non-productive land. Land with an easement for a cell tower or airstrip would not be eligible for entry because these uses are considered incompatible with the practice of forestry. Conservation easements may or may not be compatible with the practice of forestry and will be assessed on a case by case basis.

Plats

Recorded Subdivision Plats

(s. NR 46.15(18), Wis. Adm. Code)

Lands within a recorded subdivision plat created under ss. 236.02(12) or 236.03(1), Wis. Stats., including outlots, are **not eligible** since the intent is to subdivide. If the recorded subdivision plat has been legally "vacated" then the land is **eligible**.

Lands that are platted for a subdivision after entry into the MFL program are no longer eligible to remain in the program and must be withdrawn with all associated withdrawal taxes and fees assessed. Landowners should be given the chance to legally vacate the new subdivision plat to have lands remain designated as MFL as part of the enforcement actions in Chapter 60.

Other Plats and Certified Survey Maps

Lands within an assessor's or condo plat created under s. 70.27, Wis. Stats., are **eligible** for entry. These plats are created by a governing body whenever any platted or unplatted land is owned by two or more persons and when the description of one or more of the parcels is not sufficiently certain and accurate for purposes of assessment.

Lands within a certified survey map are **eligible** for entry. Certified survey maps are created by landowners to delineate the boundaries of properties and are recorded at the register of deeds office. A copy of a recorded certified survey map(s) (CSM) must be submitted with an application for the land applied for entry, if applicable.

Plats of survey are stored with the zoning office and are used as verification for acreage changes and adjustments.

Consideration for Recreational Uses - Leasing

(s 77.83(2)(ar), Wis. Stats.)

Landowners are allowed to receive consideration or lease their lands for recreational uses when enrolled in the MFL program (s. 77.83(2)(ar), Wis. Stats.). Recreational uses for the purpose of leasing include: hunting, fishing, sight-seeing, cross-country skiing, horseback riding, and staying in cabins. Any leasing activity that interferes with or deters the public from recreating on MFL-open lands is prohibited.

All leasing activities should be evaluated on a case by case basis to determine if the activity is incompatible with the practice of forestry. Land incompatible with the practice of forestry is **not eligible** for enrollment into MFL (s. 77.82(1)(b)2., Wis. Stats. & s. NR 46.15(11), Wis. Adm. Code).

Examples of permissible and prohibited leasing activities:			
If the land is used for:	**And the reason is to:**	**Then the activity is:**	**Justification:**
Renting cabins	Use the cabin as a rental unit	Not allowed	This would be considered developed for human habitation and is not allowed on lands enrolled in MFL (s. NR 46.15(9), Wis. Adm. Code.).
	Lease the cabin occasionally	Dependent on year enrolled.	Landowners can lease their land for recreational activities. When warranted, an evaluation of whether or not the activity is incompatible with forestry should be done on a case by case basis. Buildings are not allowed on 2017 and later MFL entries (s. 77.82(1)(b)3., Wis. Stats.), therefore leasing cabins would not be allowed on land entered in 2017 or later. Cabins on MFL lands entered in 2016 or earlier must follow the building rules (may not be a residence or domicile and must have no more than 4 of the 8 characteristics).
Camping	Allow customers a place for camping in developed areas	Not allowed	This would be considered developed for commercial recreation because these developed areas may impede, interfere with or prevent the practice of forestry
	Lease land for recreators to camp (undeveloped)	Conditionally allowed	Landowners can lease their land for recreational activities. When warranted, an evaluation of whether or not the activity is incompatible with the practice of forestry should be done on a case by case basis.
Skiing/biking/other recreational activities	Provide developed trails, lifts and other amenities for recreation	Not allowed	This would be considered developed for commercial recreation because these permanent structures may impede, interfere with or prevent the practice of forestry. More minimally maintained trails may be allowed.
	Lease land for recreation (undeveloped)	Conditionally allowed	Landowners can lease their land for recreational activities. When warranted, an evaluation of whether or not the activity is incompatible with the practice of forestry should be done on a case by case basis.
Ropes courses	Recreation or training	Not allowed	This would be considered developed for commercial recreation since ropes courses generally have permanent structures that would interfere with the practice of forestry.
Maple syrup tapping	Lease land for maple syrup tapping	Conditionally allowed	Landowners, may be allowed to lease land for maple syrup tapping as long as the enrolled land contains a reasonable amount of tree taps and there are no permanent structures that would interfere with the practice of forestry. An evaluation of whether or not the activity is incompatible with forestry should be done on a case by case basis.

Land Incompatible with the Practice of Forestry

(s. 77.82(1)(b)2., Wis. Stats., & s. NR 46.15(11), Wis. Adm. Code)

Land that is incompatible with the practice of forestry is **not eligible** for enrollment into MFL (s. 77.82(1)(b)2., Wis. Stats.). Section NR 46.15(11), Wis. Adm. Code defines "developed for use incompatible with the practice of forestry" as shown below. This definition allows DNR to determine if the lands are held for the growing of forest products, compatible recreational uses, watershed protection, development of wildlife habitat and accessibility of private property to the public for recreational purposes or if the land uses impede, interfere with or prevent the practice of forestry.

> **NR 46.15(11)** *"Developed for use incompatible with the practice of forestry" means the alteration or use of the land for any purpose which impedes, interferes with or prevents the practice of forestry.*
> **Note:** This definition does not prevent activities authorized in a department approved management plan.

The department has also defined "developed for commercial recreation" and "developed for industry".

> **NR 46.15(8)** *"Developed for commercial recreation" means the alteration of the land or its features or the addition of improvements which impede, interfere with or prevent the practice of forestry.*
>
> **NR 46.15(10)** *"Developed for industry" means the alteration or use of the land for the purpose of conducting trade, production or manufacturing activities other than forest products production.*

Determining if a land use/activity is incompatible with forestry

Note: often it will be necessary to evaluate an activity or land use from more than one perspective.

Land Management

Generally accepted forestry practices are used to determine if land uses and management practices are compatible with the practice of forestry. Generally accepted forestry practices are outlined in two major documents:

- Forest Management Guidelines - http://dnr.wi.gov/topic/ForestManagement/guidelines.html
- Silviculture Handbook - http://dnr.wi.gov/topic/ForestManagement/silviculture.html

Practices that are not considered a generally accepted forestry practice generally fall into the category of incompatible with the practice of forestry. To determine whether a land use is incompatible with the practice of forestry the forester must determine if the practice would normally be prescribed to provide or enhance forest products, forest growth, forest health, wildlife habitat, water resources, and other natural resource characteristics or values. Examples of these types of practices may include:

- Harvesting
- Prescribed burning
- Thinning
- Rip-rapping
- Planting
- Contouring
- Releasing
- Gating
- Salvaging
- Fencing
- Seeding

If a landowner's goal is not one of these, the forester must ask if the MFL law allows it. Wisconsin's Legislature allowed for certain uses to occur on MFL lands that do not promote forest resources or may appear to be in conflict with other MFL provisions, including:

- Allowing buildings on MFL lands (for 2017 and earlier entries)
- Receiving consideration for public recreation
- Public recreation on MFL-open lands

Commercial Activities

Any commercial activity that occurs on lands should be evaluated to determine if the land is used for the purpose of conducting trade, production, and/or manufacturing activities other than forest products production (i.e. developed for industry).

Landscaping

Lands that are decorated or altered for personal pleasure are **not allowed** because landscaping alters the land in a way that impedes forestry. Additionally, landscaping is commonly associated with buildings and areas developed for human residence (i.e. is an improvement associated with a building).

Foraging and Harvesting

Foraging and harvesting of naturally occurring foods and resources for family use or for sale **may be allowed** as long as there is no cultivation or detrimental effect on forest productivity or the forest ecosystem. In addition, these activities are considered subordinate and will not take precedence over timber harvesting when the two objectives may conflict. Cultivation is not permitted on MFL for multiple reasons, including:

- It generally prevents tree seedling establishment and growth of small trees
- The landscape is generally altered in ways that are not for the primary purpose of providing or enhancing forest products, forest growth, forest health, wildlife habitat, water resources, and other natural resource characteristics or values
- The use of the land is for the purpose of conducting trade, production or manufacturing activities other than forest products production

Examples of activities that may be considered foraging or harvesting include berry picking and maple syrup tapping.

To determine if a "crop" is being cultivated, look for maintained rows; irrigation systems; mulching; cutting of the understory; areas reminiscent of a grove, orchard or farm; mowed trails for vehicular access; or planting that would be affiliated with cultivation.

Recreation and other activities

Recreation and other activities that are not included in the statutory definition of recreation (i.e. hiking, cross country skiing, hunting, fishing and sight-seeing) **may be allowed** as permitted by the landowner unless the activity or associated developments interferes with forestry. All of the following would be true if the activity is not interfering with forestry:

- The land has not been developed or altered for the purpose of the activity in a way that is incompatible with the program
- The use of the land for the activity does not supersede forest products production
- The activity and any associated development would not or will not interfere with forestry or other land management activities.

Examples of evaluations of land uses that commonly occur on MFL lands:			
If the land is used for:	**And the reason is to:**	**Then the activity is:**	**Justification:**
Buildings and Improvements- (Remember: Buildings are only allowed on 2016 and earlier entries)			
Storage shed or other rental unit	Rent units to customers	Not allowed	The land used for the purpose of conducting trade activities other than forest product production (i.e. developed for industry).
Vegetable and fruit stand	Sell produce to customers	Not allowed	The land used for the purpose of conducting trade activities other than forest product production (i.e. developed for industry).
Retail store and shops	Sell consumer goods, products or services.	Not allowed	The land used for the purpose of conducting trade activities other than forest product production (i.e. developed for industry).
Oil change garage	Service motorized vehicles and other equipment	Not allowed	The land used for the purpose of conducting trade activities other than forest product production (i.e. developed for industry).
Storage garage	Store equipment for a business other than for producing timber products	Not allowed	Any legal buildings on MFL entries (buildings are only allowed on 2016 and earlier entries and must meet the building criteria) must be used for working or recreating on the property. Buildings used for any other use have a residential, commercial, industrial or trade use.
Barn or shed	House domestic animals and/or their feed	Not allowed	The land used for the purpose of conducting trade activities other than forest product production (i.e. developed for industry).

Examples of evaluations of land uses that commonly occur on MFL lands:			
If the land is used for:	**And the reason is to:**	**Then the activity is:**	**Justification:**
Buildings and Improvements- (Remember: Buildings are only allowed on 2016 and earlier entries)			
Communication equipment and towers	Provide cell phone, radio, television, internet and satellite services.	Not allowed	Structures provide a commercial service and are separate from a utility right-of-way. NOTE: Lands with public safety communications towers that are purchased or leased by a public entity are withdrawn from MFL and landowners are exempt from payment of withdrawal taxes and fees.
Towers and equipment of any type	To provide any type of service other than for forest products, including collection of weather data.	Not allowed	Lands underneath any tower, structure or equipment that does not provide sound forestry and are either an industrial use or incompatible with the practice of forestry.
Advertising bill board	Advertise products along roadways.	Not allowed	The land used for the purpose of conducting trade activities other than forest product production (i.e. developed for industry).
Land Use or Alteration			
Gravel pit	Gravel is mined, sold or given away to customers and used off site.	Not allowed	The land used for the purpose of conducting trade, production or manufacturing activities other than forest product production (i.e. developed for industry).
	Gravel is used to improved infrastructure on the MFL property for creation and maintenance of forest access roads.	Conditionally allowed	Sound forestry would require that access to timber is available. Lands must be included as part of the 20% unsuitable to produce timber products if two acres in size or larger.
Fish farm or pond	Conduct all activities authorized under a Type 2 or Type 3 DATCP Fish Farm License.	Not allowed	The land used for the purpose of conducting trade, production or manufacturing activities other than forest product production (i.e. developed for industry).
	Fishing, with or without a fee.	Allowed	The public is allowed to fish on lands open to public recreation. Landowners are allowed to lease lands for recreation.
	Restricting public access to MFL-Open ponds that are registered as a Fish Farm under a DATCP License.	Not allowed	Lands that are enrolled in MFL as open to public recreation must allow fishing regardless of Fish Farm license status from DATCP.
	Collecting eggs from own brood stock, raising bait for personal use.	Conditionally allowed	A person may collect fish eggs from their own ponds if the ponds are natural and show no additional developments of improvement. Ponds that show excessive improvements or structures may be determined to be developed for a commercial or industrial use.
	Selling or distributing live fish/fish eggs to a food processing plant, retail store, or restaurant.	Not allowed	These activities would place the fish ponds in a land use that is developed for industry, since use of the ponds would be for the purpose of conducting trade and production of food products other than forest products in violation of NR 46.15(10), Wis. Admin. Code.
	Raise bait for sale or trade, raising, buying, trading, or importing live fish/fish eggs for resale, stocking, processing, or exchange.	Not allowed	These activities would place the fish ponds in a land use that is developed for industry, since use of the ponds would be for the purpose of conducting trade and production of food products other than forest products in violation of NR 46.15(10), Wis. Admin. Code.
Garden	Grow food or flowers	Not allowed	Gardens are commonly associated with buildings and areas developed for human residence. If garden is maintained for selling crops, then the land is also held for conducting trade of non-forest products.

Examples of evaluations of land uses that commonly occur on MFL lands:			
If the land is used for:	**And the reason is to:**	**Then the activity is:**	**Justification:**
Land Use or Alteration			
Frac Sand Mining	Extracting sand for use in the petroleum industry or any other industry.	Not Allowed	The land is held for an industrial use. Leases to use lands for frac sand mining are acceptable until mining begins.
Orchard and vineyard	Grow and sell fruits for wholesale or retail.	Not allowed	The land used for the purpose of conducting trade, production or manufacturing activities other than forest product production (i.e. developed for industry).
Game farm	Game animals are raised for the commercial sale of meat.	Not allowed	The land used for the purpose of conducting trade, production or manufacturing activities other than forest product production (i.e. developed for industry).
Wildlife Food Plot	Provide additional food sources for wildlife and enhance recreational hunting opportunities.	Conditionally allowed	Wildlife food plots are compatible with the practices of forestry and may meet landowner recreational goals. (Note: Wildlife food plots have been excised from the MFL Group Certificate so genetically modified organisms (e.g. Roundup Ready® corn or soybeans) that may be used as wildlife food sources are allowed but not encouraged under the MFL program. FSC prohibited chemicals may also be applied on wildlife food plots; however use of alternative, FSC approved chemicals is encouraged.)
Mowed grass area	Decorate lands for personal pleasure.	Not allowed	Lawns are commonly associated with domiciles and areas developed for human residence.
	Provide fire protection following FireWise recommendations	Conditionally allowed	Mowing to protect buildings from wild fire constitutes a sound forestry practice. Acreage would be included in the 20% unsuitable category if 2 acres in size or larger. FireWise guidelines recommend mowed grass within 30 feet of a building and thinning, pruning and fuel management up to 100 feet from buildings. One acre would be plenty of defensible space for most buildings.
Harvesting and Foraging			
Apple trees	Sell picked apples at a farmers market	Conditionally allowed	Picking of apples for home use or sale at a farmer's market can be done as long as the apple trees are not cultivated. The absence of an orchard should be readily apparent.
	Improve wildlife habitat	Conditionally allowed	Apples provide a food source for many species of wildlife. Planting of apple trees should be done in accordance with a site specific project plan. Consult with the local wildlife biologist for help in determining if the planting of apple trees will provide missing wildlife habitat components on the landscape.
Berry patches	Sell picked berries at a farmers market	Conditionally allowed	Picking of berries for home use or sale at a farmer's market can be done as long as the berry patch is not cultivated. Berry patches would be allowed to seed in with trees and convert to a fully forested condition. Cultivation of berry patches is akin to an agricultural or farming practice since it prevents tree seedling establishment and growth of young trees in order to maintain environments that promote berries. Look for maintained rows of berries to facilitate berry picking and growth, irrigation systems, mulching, and other methods of cultivation.
Sphagnum moss harvesting	Sell the moss for uses such as gardening	Conditionally allowed	The harvesting of sphagnum moss is similar to harvesting boughs, mushrooms, or ginseng. Harvesting must not have a detrimental effect on forest productivity or the forest ecosystem.

Grazing
(s. 77.875, Wis. Stats.)

Grazing by domesticated animals is not permitted (s. 77.875, Wis. Stats.). DNR has considered browsers to also not be permitted on MFL lands, since browsers (i.e. goats) have the same effect on the landscape as animals that are generally considered grazers.

Christmas Tree Plantations

Christmas tree plantations are acceptable for entry, but must meet and maintain a minimum medium density (s. NR 46.18(2), Wis. Adm. Code) of stocking and must be managed in accordance with normal guidelines of the industry. Increasing the stocking level to meet the minimum medium density may be a mandatory practice.

Bulk Sampling for Ferrous Ore
(s. 77.883, Wis. Stats.)

On March 11, 2013, Wisconsin adopted a new iron mining law, 2013 Wisconsin Act 1. While the law mainly addresses regulatory requirements for mining operations, it also included amendments to Forest Crop Law (FCL) and Managed Forest Law (MFL). 2013 Wisconsin Act 1 makes it easier for landowners to test their lands to determine if ferrous minerals are present in quantities worthy of mining before undertaking land conversion activities.

The 2013 mining bill allows landowners to test their FCL and MFL lands for ferrous minerals and to cut trees or engage in other activity as necessary to conduct the sampling without withdrawal from FCL or MFL. The legal term of the testing is called bulk sampling. The bulk sampling area that can be affected by cutting trees or other activities cannot exceed 5 acres. The acreage does not need to be contiguous.

Bulk sampling means excavating in a potential mining site by removing less than 10,000 tons of material for the purposes of obtaining site-specific data to assess the quality and quantity of the ferrous mineral deposits and of collecting data from and analyzing the excavated materials in order to prepare an application for a mining permit or for any other approval. (s. 295.41(7), Wis. Stats.)

In order to engage in bulk sampling, a bulk sampling plan must be on file with the DNR and all approvals that are required for bulk sampling have been issued by the DNR. A re-vegetation plan is a part of the bulk sampling plan and must include forestry practices that will ensure that the timber, forest crops, and other vegetation that will be cut or otherwise affected will be restored to the greatest extent possible. Currently, bulk sampling application forms do not exist, however landowners are expected to submit their plan by providing all information requested in ch. 295, Wis. Stats.

The requirement to have a re-vegetation plan addressing timber and forestry practices does not apply to FCL or MFL lands that are within a mining site described in a pre-application notification under s. 295.465 or in an application for a ferrous mining permit under s. 295.58. A pre-application notification assumes that a person is planning on developing a mining operation after having conducted sampling, so other rules and regulations apply. The DNR is required to prepare a comprehensive environmental impact statement for any proposed mining project. Within the environmental impact statement the DNR will need to address any withdrawal of lands from FCL and MFL as a result of the proposed mining operation. Approval of a ferrous mining permit assumes that all conditions identified in a reclamation plan will minimize adverse effects to the environment to the extent practicable.

Tree cutting does not need to conform to an MFL management plan, nor is the DNR required to assist the landowner with developing an acceptable cutting plan before approving the cutting if all the requirements for ferrous mining testing are met. Filing of cutting notices and reports still apply, however.

The DNR is the state agency with primary responsibility for regulating environmental aspects of metallic mining activities. The DNR has the lead role in reviewing applications for mining permits and coordinating the required environmental impact analysis of a proposed mining project. Mining operations may also require permits from a number of programs including Waste and Materials Management, Watershed Management, Drinking Water and Groundwater and Air Management programs. Specialists from a number of other programs - for example, Fisheries, Wildlife and Forestry - are also involved in the review of any major mining project.

MFL-OPEN LANDS AND MFL-CLOSED LANDS

Designation of Land as Open or Closed to the Public

(s. 77.83, Wis. Stats., & s. NR 46.19 Wis. Adm. Code)

The landowner may designate portions of their entry as open or closed to public access for hunting, fishing, hiking, sightseeing, and cross-country skiing. The designation of MFL lands as open or closed may be adjusted **twice** during the order period (s. 77.83(1m), Wis. Stats.). These designated areas may also be adjusted as a result of transfers or withdrawals (s. 77.83(1)(c), Wis. Stats.). Adjustments made during a transfer do not count toward the two-time limit.

Changes to open/closed designation during the order period

The request to change must be in writing through the MFL Public Access Modification Request (Form 2450-193). The open/closed designation must meet the closed area criteria as specified by law. The Tax Law Forestry Specialist is responsible for updating the map in WisFIRS identifying the change in open-closed designations. Changes in closed/open acreage designations are done by Amended Orders. Orders issued before December 15 will take effect January 1 of the following year. The request to change the open and closed designation must be received by the Tax Law Forestry Specialist by December 1 in order to be effective the following January 1.

Changes to open/closed after a Transfer

If all or any part of an owner's closed managed forest land is transferred, the landowner may designate a different or additional area as closed. The new closed area must also meet the criteria allowed by law (s. 77.83(1)(c), Wis. Stats.). For transferred land, the request to change the open/closed areas may be written on the MFL Ownership Change Request Form (Form 2450-159). These designation changes do not count toward the two-time limit.

If the acquisition of additional closed MFL land results in an ownership exceeding the allowable closed acreage, the landowner(s) must decide which lands will be "open" to public access and which lands will be "closed". The closed acreage limitation of 320 acres must not be exceeded (s. 77.83(1)(c), Wis. Stats.).

Additions to Existing Entries

Additions may be designated as closed at the time of entry if the total closed area per ownership, per municipality meets the requirements of the law (s. 77.83(1)(b), Wis. Stats.).

Identifying Open and Closed Areas

Landowners are responsible for identifying the specific on-the-ground boundaries of MFL areas closed and/or open to public access and place signs indicating these locations, if desired, or in some cases required (see Signing – MFL and FCL).

The designated closed or open area on the application may require adjustment after field inspection and/or discussion with the landowner. The MFL map is the legal documentation of the location and acreage of closed lands. Lands that are open to public recreation are posted on the DNR internet site at http://dnr.wi.gov/, search keywords "*MFL open lands*". Open areas are not required to be posted to identify they are MFL, except in specific situations (see Signing – MFL and FCL).

Closed area must be designated with cross hatching (\\\) on the MFL map and by description on the application. Open areas must be designated by highlighting the area in yellow (see MFL Map).

If a specific access point or route to an MFL-open area is identified, this route needs to be generally shown on the MFL map and signed on the ground (see Signing – MFL and FCL).

Closed Areas
(s. 77.83, Wis. Stats., & s. NR 46.19, Wis. Adm. Code)

Closed Area Acreage Limitations

An owner may designate an area(s) of managed forest land as closed to public access not to exceed 320 acres per municipality per ownership (s. 77.83(1)(am), Wis. Stats.) regardless of the year of enrollment.

Closed Area Options
(s. NR 46.19, Wis. Adm. Code)

A closed area may consist of An area or areas consisting of any combination of:

- an entire parcel(s) of MFL.
- all of an owner's MFL within a quarter-quarter section(s), government lot(s) or fractional lot(s).
- an additional block of acreage within a legal description not exceeding a length to width ratio of 4:1 unless limited by the size of the entry, to complete the total closed area.

Unless the owner is closing an entire forest parcel (see 1a. above), they must close all acres in one legal description before closing additional acres in another description. Options 1b. and 1c. above were created to prevent a narrow strip of land being closed around an entry.

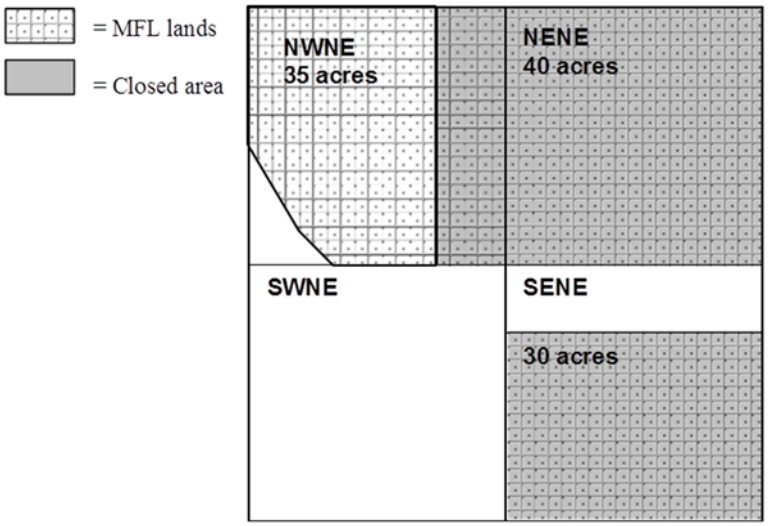
Remember, existing MFL closed acreage under the same ownership and in the same municipality is part of the total closed acreage limitation.

Examples of Closed Areas

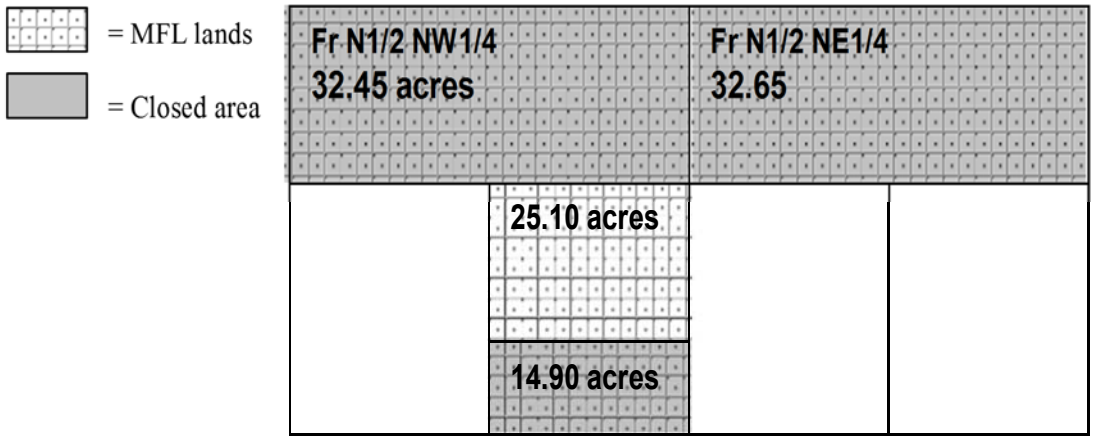
1. 320 acres (or less) designated as closed:

An entire quarter-quarter section:	All MFL in NENE (40 acres)
All MFL within a description:	All MFL in SENE (30 acres)
An additional block of acreage:	Land in the NWNE (10 acres)

The additional "block" does not have to be contiguous to the rest of the closed designation, but it must have a length to width ratio of 4:1 or less. Only one additional block is allowed.

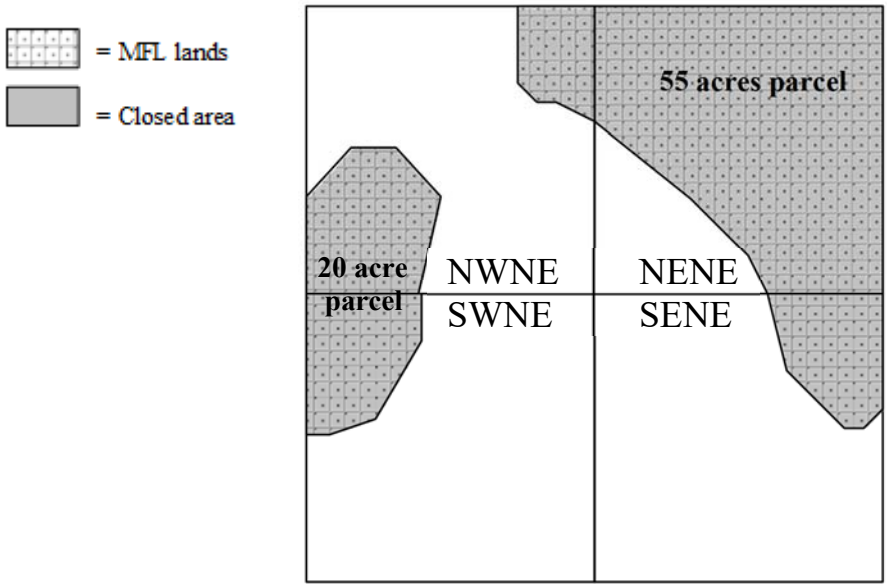


2. A combination of all land within a fractional lot(s) and an additional block for a total of 320 acres (or less) closed for public access.



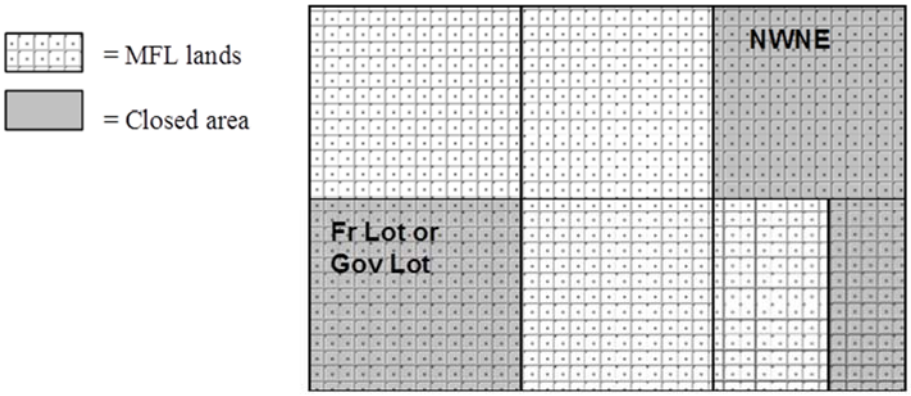
3. One or more entire forest parcels closed:

Entry is 75 acres in two parcels. Entire entry is designated as closed.



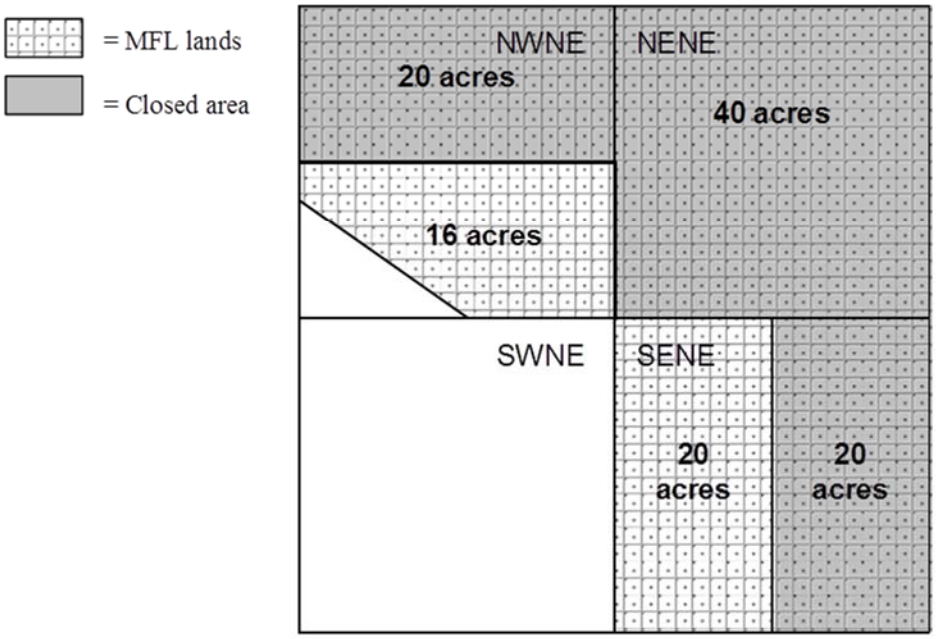
4. 320 acres (or less) designated as a closed area:

An entire quarter-quarter section, a fractional lot (government lot), and an additional block of acreage is closed for public access. The entire area is being entered.



5. **This combination of land is <u>NOT</u> <u>ELIGIBLE</u> TO BE CLOSED BECAUSE IT INCLUDES MORE THAN <u>ONE</u> "ADDITIONAL" BLOCK OF LAND.** You must close all the MFL acres in a legal description before moving to another legal description to close additional acres. The only exception to this is when an entire parcel is being closed.

Note: Assume the MFL land being entered is a 36 acre parcel in the NWNE, all of the NENE (40 acres) and all of the SENE (40 acres).



Open Areas
(ss. 77.83(2), 77.82(1)(b)4., Wis. Stats.)

Public Access for Recreation

Lands under MFL are open to public access unless specifically designated as closed. A landowner may not restrict the number of people who access land designated as open-MFL for an approved use.

Approved uses include only the following recreational activities: hunting fishing, hiking, sightseeing, and cross-country skiing (s. 77.83(2)(a), Wis. Stats.). It is the position of the DNR for purposes under 77of the Wisconsin Statutes that hunting does not include trapping, bear dog training, target practice, sighting a rifle or driving of motorized vehicles for any reason. Recreational users who wish to conduct recreational activities not authorized under the MFL or FCL programs must obtain the permission of the landowner.

Activities associated with a recreational use on MFL-Open lands			
If the activity is:	And the Reason is to:	Then the activity is:	Justification
Temporary tree stands and temporary hunting blinds	Hunt animals according to established hunting seasons	Allowed	Hunting from tree stands is an acceptable hunting method conditional upon no damage to the property, including cutting trees, brush, building permanent blinds or tree stands, putting nails in trees, etc. Temporary stands should be removed at the end of the day, unless authorized to leave up by the landowner.
Permanent tree stands or tree stands left overnight or the hunting season	Hunt animals according to established hunting season	Not allowed except with landowner permission	The MFL law does not grant the public the right to leave or erect their own personal property on another person's private lands without the landowner's permission. Landowners should be directed to call their local sheriff's department or law enforcement agency for damage and trespass problems.
Trail camera	Take pictures of deer and other wildlife.	Not allowed except with landowner permission	The MFL law does not grant the public the right to leave or erect their own personal property on another person's private lands without the landowner's permission. Landowners should be directed to call their local sheriff's department or law enforcement agency for damage and trespass problems.
Bait stations	Lure animals to specific locations in order to hunt wildlife	Allowed	Bait stations are an accepted and allowable method of hunting. Section NR 10.07(2m), Wis. Admin. Code, regulates baiting of animals, including deer and bear baiting. For circumstances where baiting is legal, bait can be placed on the ground following all baiting regulations as determined by law and made available to the public through DNR hunting regulation pamphlets. Bait or feeding sites which contain any animal parts or byproducts, or which contain metal, paper, plastic, glass, processed wood or other similar processed materials is a violation of the state baiting and feeding regulations and may be considered littering and subject to local ordinances and state littering laws. Landowners and hunters should be referred to the deer and bear hunting regulations for baiting requirements and specifications.
Vehicle access, including ATVs	Access lands for any recreational reason	Not allowed except with landowner permission	Access by motor vehicles or snowmobiles may be prohibited by the landowner on open as well as closed lands. The landowner should contact the local sheriff's department or law enforcement agency for trespass problems. In some circumstances, credentialed DNR staff may be available to assist (s.77.83(2)(c), Wis. Stats.). Tax Law Forestry Specialists may assist landowners with wording on signs which prohibits vehicle access. See Signing – MFL and FCL for examples.

Evaluating Public Access
(s. 77.82(1)(b)4., Wis. Stats.)

All land designated as MFL-open (to public recreation) must be accessible to the public on foot by public road or from other land open to public access (s. 77.82(1)(b)4., Wis. Stats.). See the following for how to evaluate whether or not MFL land meets the access criteria.

Access is available from a public road or other public land.
If MFL-open lands are accessible to the public from other land open to public access *on foot*, then the access requirement is met.

Other lands open to public access may include:

- Other land open to the public
  - Public lands (state, county, federal)
  - MFL-open land
- Land accessible by easement or other agreement may qualify as open to public access (see Access by Easement or Agreement of Neighboring Landowner).

Please keep in mind the following items related to "other lands open to public access":

- Generally FCL land is not considered open to public access except for purposes of hunting and fishing.
- Federally designated and listed tribal trust lands, which are typically listed as "USA" or "USA trust" in plat books, whether within or outside of established tribal reservations, are not open to public access. Failure to obtain tribal permission to cross those lands could subject a member of the public to a trespass citation.

Access Across Land Under the Same Ownership
The owner is required to provide access to open lands, even if it involves crossing their adjacent non-MFL land or their adjacent MFL land designated as "closed". Public access may be limited to a reasonable corridor or location designated by the owner (s. NR 46.20, Wis. Adm. Code). If a specific access point or route is identified, signs indicating its location are required (s. NR 46.21(3)(c), Wis. Adm. Code) and the route needs to be generally shown on the MFL map.

Access by Easement or Agreement of Neighboring Landowner
If the MFL landowner can only obtain access to their MFL property by easement or other written agreement, the landowner must ensure that the public can also use the easement/agreement or secure a different easement/agreement for public use. If the landowner cannot obtain permission for the public to use the access and there is no other access point, the land may not be eligible to be designated as MFL-open.

Ultimately it is the responsibility of the owner of the MFL-open to ensure that the public can access the land. In situations where an easement or written agreement cannot be obtained that ensures public access and that the public access route can be signed, the landowner can request to change to MFL-closed designation or may face withdrawal from the program.

If the access route is limited to an easement or agreed upon area, then the access route is required to be signed (s. NR 46.21(3)(c) Wis. Adm. Code) and the route needs to be generally shown on the MFL map. The MFL landowner must work with the neighboring landowner to ensure they are given permission to place signs indicating the location of the easement or agreed upon route so that the general public is aware of the designated access route to the MFL-open.

MFL-Open (and FCL) Access in Relation to Wisconsin's Trespass Law

Landowners who have enrolled their lands as MFL-Open or FCL have expressly consented that their lands are available for access by the public for recreational activities according to program requirements, including crossing MFL-Closed, lands not enrolled in the program or through an access by easement or otherwise if access is solely by crossing the landowner's contiguous lands (i.e. other public access is not available).

Recreational users who access MFL-Open or FCL lands are encouraged to contact landowners to understand the location of designated access routes, however if recreational users are unable to contact the MFL or FCL landowner access is still available according to program requirements.

Recreational users should report to local Tax Law Forestry Specialist if landowners are preventing or restricting access to MFL-Open or FCL.

Although the department's long-standing interpretation and position is that enrollment in the MFL as MFL-open and enrollment in the FCL program constitutes an express waiver by an owner from being able to prohibit trespassing on enrolled property for the purposes allowed for and in the manner allowed for in the MFL and FCL programs, be advised that some landowners may attempt to get a sheriff's department or other local law-enforcement to intervene and issue a citation for trespass under s. 943.13 Wis. Stats. after expressly warning members of the public to not recreate on their land. Although the department's position remains the same, recreational hunters or fishers or hikers or cross-country skier should keep this in mind when being threatened by a landowner and should be encouraged to contact their local Tax Law Forestry Specialist so that appropriate measures can be taken. The allegation should be investigated according to the enforcement procedures outlined in Chapter 60, Forest Tax Law Handbook.

Landowner Regulated Uses

This list of landowner regulated uses, or retained rights, is not all inclusive. Landowners reserve all property rights that are not prohibited or inconsistent with the purpose of the program.

Retention of Hunting Rights

In a few cases, the grantor of MFL land has retained hunting rights upon sale of the land and the new owner has chosen to designate the land as open. The department does not have the authority to force the new owner to change the designation of the land to closed. The new owner is responsible if the previous owner restricts public access to the land designation as open. Retention of hunting rights on the deed should be viewed as an encumbrance holder, similar to a mortgage holder (s. NR 46.15(23), Wis. Adm. Code).

Property Damage

Landowners may prohibit any activity associated with public use of open MFL land which may cause property damage (e.g. cutting trees, brush, building permanent blinds or tree stands, putting nails in trees). Temporary tree stands are an accepted and allowable method of hunting conditional upon no damage to the property, including the tree. **Temporary stands should be removed at the end of the day, unless authorized to leave up by the landowner.** The landowner should contact the local law enforcement agency for damage and trespass problems.

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Restricted Access
(s.77.83(2)(b), Wis. Stats.)

The landowner may restrict public access to any area of open MFL land within 300 feet of any building.

Access may also be restricted within 300 feet of an active commercial logging operation that conforms to the management plan. Signs may not restrict public access prior to the date cutting begins on the timber sale. Restricted signing may be continued only if the sale is active (i.e. 50% or more of the timber sale volume is cut within one year of the date cutting begins) (s. 77.83(2)(b), Wis. Stats., and s. NR 46.21(4), Wis. Adm. Code).

Vehicle Access
(s. 77.83(2)(c), Wis. Stats)

Access by motor vehicles or snowmobiles may be prohibited by the landowner on open as well as closed lands. The landowner should contact the local sheriff for trespass problems. In some circumstances, credentialed DNR staff may be available to assist (s. 77.83(2)(c), Wis. Stats.). TLS staff may assist landowners with wording on signs which prohibits vehicle access. See Signing – MFL and FCL for examples.

Signing - MFL and FCL
(s.77.83(3), Wis. Stats., & s. NR 46.21, Wis. Adm. Code)

For posting violations, refer to the Enforcement chapter (Chapter 60).

Landowners are required to post signs in certain situations where access is unclear or restricted (see Evaluating Public Access). When signage is not required, landowners may also post signs specifying the designation of the area. Signs must identify permitted activities or any restrictions which apply, be a minimum size of 11" x 11" and be in conspicuous view. Words that identify access points must be in print of equal size to other print on the sign. Signs must be a minimum of 4 feet above the ground and at intervals of at least two per one-quarter mile on the boundary of the designated area (s. 77.83(3), Wis. Stats., and s. NR 46.21, Wis. Adm. Code).

Closed areas may be posted with commonly used “no trespass” or “private property” signs in conformance with s. 943.13, Wis. Stats.

If landowners have open MFL land surrounded by their own closed or non-MFL land, and they post the closed/non-MFL land, signs must also be posted indicating that there is open MFL land and the designated access point if one exists. If a landowner chooses to place "no trespassing" or “private property” signs on non-MFL land or closed MFL land which is the only access to the open MFL land, signs must list the allowable uses and be located to provided reasonable notice to those attempting access.

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Example wording for signs on tax law lands:

MFL landowners may restrict the access of motorized vehicles.
FCL landowners may restrict the access of motorized vehicles; however, there is no statutory reference.

OPEN MANAGED FOREST LAND
NO MOTORIZED VEHICLES OR
SNOWMOBILES ALLOWED.
(Wis. Stats. 77.83(2)(c))
PUBLIC USES PERMITTED: HUNTING, HIKING
FISHING, X-COUNTRY SKIING, SIGHT SEEING
(Wis. Stats. 77.83(2)(a))

MFL and FCL landowners may restrict any uses not authorized under the law, but the sign must state the uses that are permitted.

OPEN MANAGED FOREST LAND
NO BERRY PICKING PERMITTED

PUBLIC USES PERMITTED:
HUNTING, HIKING, FISHING, X-COUNTRY SKIING, SIGHT SEEING
(Wis. Stats. 77.83(2)(a))

FOREST CROP LAND
NO MUSHROOM PICKING

PUBLIC USES PERMITTED:
HUNTING, FISHING
(Wis. Stats. 77.01)

On open MFL, the access may be restricted within 300 feet around any buildings.

OPEN MANAGED FOREST LAND

NO PUBLIC ACCESS WITHIN 300 FEET OF
BUILDINGS (Wis. Stats. 77.83(2)(b))

PUBLIC USES PERMITTED ON REMAINING OPEN
MANAGED FOREST LAND: HUNTING, HIKING,
FISHING, X-COUNTRY SKIING, SIGHT SEEING
(Wis. Stats. 77.83(2)(a))

On open MFL, access can be restricted around a commercial logging operation.

OPEN MANAGED FOREST LAND

COMMERICAL LOGGING OPERATION,
NO PUBLIC ACCESS WITHIN 300 FEET
(Wis. Stats. 77.83(2)(b))

PUBLIC USES PERMITTED ON REMAINING OPEN MANAGED FOREST LAND: HUNTING, HIKING, FISHING, X-COUNTRY SKIING, SIGHT SEEING
(Wis. Stats. 77.83(2)(a))

Landowners are required to provide access to their open-MFL properties. If access to open-MFL land or FCL land is across closed-MFL or non-tax law land, the owner may place "no trespassing" or “private property” signs on the "closed" or non-tax law land. This is with the condition that signs with lettering of equal size are placed next to them indicating the presence of open-MFL land/FCL land, the permitted public uses and the access to it (if one is designated) (s. NR 46.21, Wis. Adm. Code). The landowner may want to include a map or air photo showing the location of the open MFL/FCL land and access route.

ACCESS TO
OPEN MANAGED FOREST LAND IS
FROM (describe location*)

PUBLIC USES PERMITTED ON
OPEN MANAGED FOREST LAND:
HUNTING, HIKING, FISHING, X-COUNTRY SKIING, SIGHT SEEING
(Wis. Stats. 77.83(2)(a))

ACCESS TO
FOREST CROP LAND
IS FROM (describe location*)

PUBLIC USES PERMITTED:
HUNTING, FISHING
(Wis. Stats. 77.01)

** Describe the location in this section such as:*

1. *At a point 1/4 mile south of County Road P*
2. *From County Road P along the south fence line*

Additional signs should be placed along the access route.

ACCESS TO

OPEN MANAGED FOREST LAND

ACCESS TO

FOREST CROP LAND

Many landowners in Wisconsin are becoming involved in "Quality Deer Management" (QDM). While this program is not in conflict with the tax law programs, signing for the program cannot infer a restriction on what deer can be harvested. The following signs were drawn up using wording from a pre-printed sign for quality deer management.

MANAGED FOREST LAND
PUBLIC USES PERMITTED:
HUNTING, HIKING, FISHING, X-COUNTRY SKIING, SIGHT SEEING
(Wis. Stats. 77.83(2)(a))

LANDOWNER SUPPORTS QUALITY DEER MANAGEMENT (QDM)
ON THIS PROPERTY

QDM IS A VOLUNTARY PROGRAM

QDM – PROMOTES AN ADEQUATE HARVEST OF ADULT DOES.
RESTRAINT IN HARVESTING 1.5 YEAR OLD BUCKS,
COOPERATION & EDUATION IN DEER MANAGEMENT, SAFE &
ETHICAL HUNTING, OBEYING TRASPASSING LAWS.

Additional Deer Quality Management signs:

FOREST CROP LAND
PUBLIC USES PERMITTED: HUNTING, FISHING
(Wis. Stats. 77.01)

LANDOWNER SUPPORTS QUALITY DEER MANAGEMENT (QDM)
ON THIS PROPERTY

QDM IS A VOLUNTARY PROGRAM

QDM – PROMOTES AN ADEQUATE HARVEST OF ADULT DOES.
RESTRAINT IN HARVESTING 1.5 YEAR OLD BUCKS,
COOPERATION & EDUATION IN DEER MANAGEMENT, SAFE &
ETHICAL HUNTING, OBEYING TRASPASSING LAWS.

MFL MAP

(s. 77.82(3)(c)4., Wis. Stats., & s. NR 46.16(2)(g), Wis. Adm. Code; Form 2450-133)

Map Standards

All tax law entries (MFL or FCL) require a map for each description entered under the law. The map is the legal document describing the designated areas open to public access for MFL and FCL entries and closed to public access for MFL entries. A copy of the map should be retained in the Tax Law Forestry Specialist's file. Photocopies of aerial photographs are not acceptable maps. Use of GIS (Geographic Information Systems) or digital maps are acceptable, and must clearly identify the land location and areas to be enrolled or currently enrolled in the MFL or FCL programs. It is important that the map be neat and easy to read to determine the land being entered, stand boundaries, and closed/open designations. Maps are recorded at the county register of deeds offices. Maps with lands open to public access will also be linked to the web mapping tool on the DNR public web site at http://dnr.wi.gov/, search keywords "*MFL open land*". This will allow the public to view the actual MFL map for a particular property when looking for lands open to public recreation. All maps must be scanned and submitted in COLOR regardless if there are any MFL-Open lands.

A separate map is required for each section. Maps must be 8 1/2 " x 11" for photocopying purposes. Map fractional lots or government lots by adjusting section and description lines. Changes in scale must be approved by TLS.

If the land exceeds the 20% limitation for total percent of non-productive, non-stocked lands and lands unsuitable for producing merchantable timber, then the map must exclude the excess non-productive and unsuitable acreage and must correspond to what is actually being entered.

Maps must be updated and sent to the landowner following a required update (see When Updated MFL Maps are Required).

Required items for MFL and FCL lands:

For more requirements see the MFL Checklist in WisFIRS

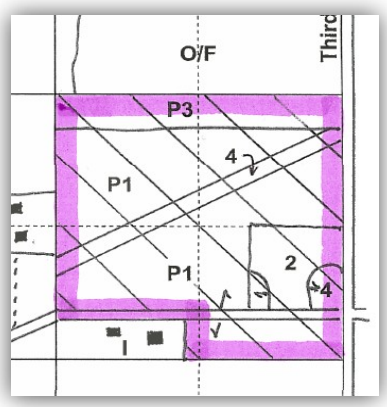
- Order number.
- Landowner name. If there is more than one owner, list the contact owner and check the multiple owner box. Note: WisFIRS automatically lists as many landowner names that will fit in the box.
- Legal description including county name, town, village, or city name, township number, range number and direction, and section.
- Total acreage designated as closed to public access.
- Total acreage remaining open to public access (MFL) or total acres for FCL.
- Map preparer.
- Date the map was prepared.
- ½ inch margin at the top of the page and ¼ inch on the sides and bottom. These margins are required by the register of deeds and are needed for recording purposes. Failure to leave these margins may result in the map not being recorded.

- A scale of 8 inches equals one mile is required for MFL, but not for FCL. When showing less than a full section for correction sections, **identify ¼ corners, section corners, and lines**.

- Outline the acreage to be entered using a highlighter that consistently shows up when photocopied but doesn't obscure information on the map with a green (or purple) highlighter. The highlighting must be placed <u>inside</u> the entry boundaries.

- Building sites that are being excluded from entry should be clearly identified on the map and include the dimensions of the exclusion as necessary to clearly show the lands to be enrolled and the land that is left on the regular property tax roll. Distances from a known point (e.g. survey pipe, property corner, etc.) may be provided on MFL maps which contain an exclusion of land if known, this level of detail is not required under the MFL law. In circumstances where there are known landscape features that clearly indicate the location of the exclusion it is not necessary for the dimensions to be provided.

  For example, on the map to the right, there are known landscape features that clearly indicate the location of the lands being excluded from entry into the MFL program. On the west and south sides, the quarter-quarter lines are the boundary. On the north side, the road is the boundary. On the east side, the pine plantation is the boundary. A person should be able to determine what land is enrolled in MFL and what land is not enrolled, especially the landowner if/when they want to place any non-conforming uses on their non-enrolled land. The map preparer should alert the Tax Law Forestry Specialist to the way in which known landscape features border the exclusion, and the Tax Law Forestry Specialist should take that information into consideration when reviewing the MFL application and determining whether to return or approve the MFL Map.



- Highlight all lands open to public recreation in yellow. In an effort to make the location of lands open to public recreation more easily interpreted on the MFL maps, the open lands on all MFL maps are required to be entirely filled using a yellow highlighter, yellow colored pencil, yellow crayon, or permanent yellow marker. If you are using GIS software to prepare your MFL maps, you may also fill the open lands using a semi-transparent yellow fill. Maps that have both open and closed lands should be shown, with the open land filled in with yellow.

- On all MFL maps, the Open/Closed legend boxes in the header must be highlighted with green or purple highlighter, and the Open Area box must be filled with yellow highlighter. These requirements are needed for all MFL applications regardless of whether there are any MFL-Open lands.

- Land features, such as roads, lakes, streams, fences, power lines, etc.

- Stand locations.

- Indicate the area closed to public access with diagonal slash marks (\\\\\\). There is no required number of lines or spacing for the diagonal slash marks (\\\\\\), however, the slash marks should not be so far apart that their purpose is not clear nor so many that the lines obscure the underlying information on the map. Areas without slash marks and highlighted in yellow will be considered open to public access.

- Stand numbers.

- Map legend. Include all symbols represented on the map using the symbols or labels as described in Appendix 3. Any additional symbols used that are not described in Appendix 3 should also be described in the legend. In most cases the legend should be on the same page as the map. When the entire section is being enrolled in MFL and the legend cannot be placed on the same page as the map without obscuring important information, a second page legend is acceptable. For large ownerships, map legends must also include stand acreage since large landowners are not required to submit forest stand data into WisFIRS.

  Note: If you are using the MFL map template from within WisFIRS Private Lands (which pre-populates the information in the header), keep in mind that a legend is not pre-populated. It is always the map preparer's responsibility to develop the appropriate legend for the MFL map.

- Timber types including size and density (e.g. PR 5-9[2]). (Can be included in the map legend instead of in the mapped area.)

- Major land features (forested and non-forested lands) such as lakes, rivers, ravines, roads, buildings, fences, etc. Refer to Appendix 3 for conventional mapping symbols and cover types. Since areas of less than 2 acres are by definition not cover types, they need not be mapped and should not be considered in determining the 20% non-productive/unsuitable acreage.

- For additions, the map should show all acres under the order that fall within the area of the section map (original plus addition if possible). All land should be highlighted since this will be the new official map for this legal description. The open and closed acreage listed in the header should reflect the land under the order in the area depicted (original plus addition).

- If the on-the-ground acreage differs from the county (tax bill) acres, report the discrepancy in the WisFIRS overview. In the application and map header list the open and closed acreage as reported on the tax bill, however draw the map to reflect the on-the-ground acreage.

- Adjacent ownership and land use around the MFL entry in the section in which the MFL lands lie should be noted using the symbols/labels as described in Appendix 3. Label the adjacent land use frequently enough so that it is clear what the adjacent ownership is around the entire entry. Order numbers of adjacent MFL/FCL may be included but are not required; therefore it is not necessary to label adjacent MFL entries as "O/MFL" or "O/FCL." If this labeling is used in the map it should be described in the legend, however. It is not a requirement to list the adjacent MFL or FCL Order Number.

  Note: Adjacent land use in the margins of the map is not required since the map represents the section in which MFL lands lie. Placing adjacent land use in the margins would require that a Forester place information from an adjacent section onto the MFL map. Many times adjacent land use placed in the margin cannot be photocopied; therefore it does not provide much extra data to determine if lands as shown on the map are eligible for entry.

- Fractional or government lots should be mapped maintaining the required map scale and margins, and displaying as many sections and quarter corners as possible. A minimum of two (2) section corners should be displayed whenever possible. When not possible to include two section corners, a minimum of one (1) section corner and two (2) quarter corners are required. Keep in mind this map is intended to be a map of the section. All visible section and quarter corners should be labeled.

When Updated MFL Maps are Required

After Harvest/Tree Planting

MFL maps and stand data should be updated after a mandatory harvest or tree planting is completed.

New Entries

MFL maps are required as part of the application process. These maps are generally developed by a CPW unless there are no CPW services available.

Renewals

MFL maps are required as part of the application process. These maps are generally developed by a CPW unless there are no CPW services available.

Additions

MFL maps are required as part of the application process. These maps are generally developed by a CPW unless there are no CPW services available.

Partial Transfers

Following a partial transfer, updated MFL maps are needed for the transferred and remaining lands. The Tax Law Forestry Specialist can update the maps to correctly identify the land under each ownership. This map should be updated in WisFIRS once the order is processed.

Partial Withdrawals

With the submission of a partial withdrawal form, an updated MFL map is needed for the remaining lands. The Tax Law Forestry Specialist can update the map to correctly identify land remaining after the withdrawal. This map should be updated in WisFIRS once the order is processed.

Change in Open/Closed designation

Following the change in open/closed designation on lands enrolled in MFL, an updated map is needed to identify which lands are open to public access and which are not in the Private Forest Lands Open for Public Recreation Web Map. The Tax Law Forestry Specialist can update the map to correctly identify what is open vs. closed. These maps should be updated in WisFIRS but should not replace the previous map until the change goes into effect (January 1st of the following year).

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MFL APPLICATIONS

(s. 77.82 Wis. Stats. & s. NR 46.16 Wis. Adm. Code)

The following sections include general information for MFL applications. There are four types of MFL applications:

- **New Entry**: New entry applications are for land being entered into the program.
- **Addition**: Addition applications are for land added to an existing MFL entry. The process for additions is similar to that for new entries, but certain additional criteria must be met.
- **Renewal:** Renewal applications are for land renewed in the program immediately following the expiration of an existing order.
- **FCL Conversion:** FCL Conversion applications are applications to convert land currently in the FCL program to the MFL program.

Filing an MFL Application

Application Materials

A MFL application must include the following materials. The MFL application is submitted by a CPW through WisFIRS to the Tax Law Forestry Specialist responsible (listed in WisFIRS).

*Some requirements are different for renewals than the other types of applications. Requirements that differ for renewals are indicated below by "**". See Renewals for more information on these differences.*

1. These items must be reviewed with the landowners. See Signatures for more information on who must review and sign the application.
   - MFL Application (s. NR 46.16(1)(intro.), Wis. Adm. Code and s. 77.82(2) Wis. Stats.)
   - MFL Stewardship Forestry Plan (s. NR 46.16(2)(f), Wis. Adm. Code & s. 77.82(2)(dm) Wis. Stats) **
   - MFL Map(s) (Form 2450-133) (s. NR 46.16(2)(g), Wis. Adm. Code & s. 77.82(2)(g) Wis. Stats.) **

2. These items must be uploaded or entered into WisFIRS and reflect the lands that are being enrolled.
   - Copy of recorded proof of ownership (s. NR 46.16(2)(a), (c) & (d), Wis. Adm. Code & s. 77.82(2)(cm) Wis. Stats.)
   - Copy of tax bill(s) which includes the PIN (s. NR 46.16(2)(b), Wis. Adm. Code)
   - Copy of applicable, recorded certified survey maps (CSM) (s. NR 46.16(2)(e), Wis. Adm. Code)
   - Enter recon data. This will populate the Land Exam and Practices Report Form 2450-128. (s. NR 46.16(2)(h), Wis. Adm. Code) **

3. This item must be sent to the local Tax Law Forestry Specialist.
   - Application fee (s. NR 46.16(1)(e), Wis. Adm. Code, & ss. 77.82(2m), (4) Wis. Stats.)
   - Printed remittance form (from WisFIRS). The remittance form is used to properly deposit the application fee into the bank account used to pay recording fees.

Large account/ownership MFL applications must include the MFL application, map, recorded proof of ownership, tax bill(s) listing the PIN, and the landowner's approved commitment (s. NR 46.18(4)(a)4., Wis. Adm. Code). The remittance form and application fee must be mailed to Tax Law Forestry Specialist. No stand information is entered, so no land exam or management plan can be generated in WisFIRS.

Application Fee

(s. NR 46.16(1)(e) Wis. Adm. Code, & ss. 77.82(2m), (4) Wis. Stats.)

A non-refundable application fee of $30.00 is required for each county indicated on the application. The application fee must be received by the Tax Law Forestry Specialist within 14 days of application submittal.

Application Deadline
(s. 77.82(7)(c), Wis. Stats. & s. NR 46.16(1)(a), Wis. Adm. Code)

Applications are due on or before June 1. All applications must be entered in WisFIRS by 11:59 PM on June 1 and the application fee and remittance form received within the next 14 days.

Qualified Foresters Required to Develop MFL Applications
(s. 77.82(3) Wis. Stats & ss. NR 46.16 (9), NR 46.165 Wis. Adm. Code)

Since late 2003, only qualified foresters may develop an MFL application. A qualified forester is defined in s. NR 46.15(26m), Wis. Adm. Code, to mean any person meeting either the definition of "department forester" in s. NR 1.21.(2)(d), Wis. Adm. Code, or "forester" in s. NR 1.21.(2)(e), Wis. Adm. Code. There are two types of qualified foresters: (1) Certified Plan Writers, and (2) Tax Law Forestry Specialists.

Certified Plan Writer
Landowners are required to hire a certified plan writer (CPW) to develop their MFL application. Costs for CPW-prepared plans are negotiated between the landowner and the CPW. A list of CPWs can be found on the DNR public web site at www.dnr.wi.gov, search keyword: “CPW”.

The CPW Program was created in response to modifications made to the Managed Forest Law (subch. VI, Ch. 77, Wis. Stats.), in 2003 Wisconsin Act 228. A CPW is a private professional forester who has received special training in preparing MFL management plans and met the requirements in s. NR 46.165 Wis. Adm. Code. Refer to Chapter 22 for complete details.

Tax Law Forestry Specialist
Tax Law Forestry Specialists may develop an MFL application if services from a CPW are not available by January 1 in the year the MFL application is due. DNR will consider services to be unavailable if the following conditions occur.

- Landowners had requested services from CPWs in the county in which their land is located through the Forestry Assistance Locator, which is found on the DNR public web site. (www.dnr.wi.gov, search keyword “Forester”)
- Landowners have received a request for services by January 1 in the year the application is due.
- Team Leaders have verified with all CPWs in the county that services are not available. This can be done using the Forestry Assistance Locator, by sending an email to all CPWs in the area.

Management Plan Fee
Certified Plan Writers charge landowners a fee for their services based on a negotiated price between the landowner and the CPW. If services from a CPW are not available, Tax Law Forestry Specialists may develop an MFL application plan with supervisor approval. If DNR develops an MFL application the landowner will be billed a management plan fee (s. 77.82(2m)(ac), Wis. Stats. and s. NR 46.18(8) Wis. Adm. Code). The management plan fee is calculated annually based on the comparable commercial market rate charged by Certified Plan Writers (s. 77.82(2m)(ac), Wis. Stats.).

1. When the MFL application, management plan, map and all other supporting documents have been prepared and are ready to be sent to the landowner for review and signature, the Tax Law Forestry Specialist requests an invoice for the management plan fee from Tax Law Administration Coordinator. The order number and exact number of acres being enrolled into the MFL program will be required.
2. Tax Law Administration Coordinator e-mails the Tax Law Forestry Specialist an invoice.
3. The Tax Law Forestry Specialist prints and sends this invoice to the landowner, along with the MFL application and supporting documents. The invoice is due within 30 days, so the invoice and plan should be sent immediately.
4. The management plan fee must be paid by October 1 of the year prior to entry (s. NR 46.18(5)(bm)2., Wis. Adm. Code) to ensure enrollment.

If DNR develops an MFL application and management plan, and the landowner withdraws the MFL application and has not received a copy of the management plan and invoice, the management plan fee will not be assessed. If the management plan and invoice are sent to the landowner, the invoice must be paid, regardless of whether the landowner decides to continue with or withdraw the MFL application for designation.

Applications by Municipality
(s. 77.81(4), Wis. Stats., & s. NR 46.16(5), Wis. Adm. Code)

Lands within incorporated cities, towns and villages are **eligible** for entry (s. 77.81(4), Wis. Stats.). A municipality is a civil/political division of land, i.e. town, village, city as defined in s. 77.81(4), Wis. Stats., and not a surveyed division of land, e.g. Township 24 North, Range 13 East. Only one order will be issued for all lands under the same ownership applied for enrollment in one year in the same municipality (s. NR 46.16(5), Wis. Adm. Code). If multiple applications are submitted, they must be combined into one MFL Order.

A multiple municipality application is allowed when contiguous lands on either side of the municipal line do not meet eligibility requirements, including acreage, productivity and unsuitability requirements. Each municipality will receive its own order number to facilitate tracking of the lands by municipality. WisFIRS will identify the MFL orders that were enrolled as a multiple municipality, since this information will be needed if lands on either side of the municipal line are withdrawn from the MFL program. One application can be submitted for a multiple municipalities; however, if the multiple municipality application includes multiple counties, $30 application fee must be submitted for each county for recording at the respective register of deeds offices.

Parcel Identification Numbers (PIN)

The county assigned PIN is required on all documents recorded in Wisconsin. A copy of the most recent property tax bill must be submitted with MFL applications and transfers because it contains information useful in the identification of the property, including acres owned, owner name and address, legal description, and volume and page of the legal title.

If the owners have just acquired the land and do not have a copy of the tax bill in their name, they should get a copy of the tax bill or other documentation showing legal description and matching PIN from the former owner, municipal clerk/assessor, or county treasurer.

PINs on the deed are not sufficient when there are multiple descriptions on the deed or the deed only transfers title of part of the description. It is not always possible to match the PIN to the correct description and a new PIN may be assigned to the land after a land transfer has occurred.

MFL applications must identify the number of acres enrolled by legal description and PIN. This requirement is new for 2014 MFL applications in order to help local taxation districts correctly apply MFL tax rates to MFL lands.

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MFL Stewardship Forestry Plan

(s. 77.82(3), Wis. Stats., and s. NR 46.18, Wis. Adm. Code)

A written management plan is a condition of entry and transfer to comply with the requirements of the MFL law. The management plan identifies resource management concerns, including endangered, threatened or special concern species or plant communities, archeological and historical sites. Management practices and silvicultural methods used to achieve the land management goals are prescribed for each timber stand on the MFL property. Wildlife management and aesthetic concerns are incorporated into the management practice through modifications to forestry practices or through specific management practices. All plans must be developed by a Certified Plan Writer or a Tax Law Forestry Specialist.

Mandatory and non-mandatory practices for each stand must be identified and described in the management plan, indicating the completion year, for the entire term of the MFL order.

An owner and the department may mutually agree to amend a management plan (s. 77.82(3)(f), Wis. Stats.). Management plans may be amended for a change in landowner goals, changes to sound forestry practices, or changes in stand conditions, etc. See Appendix 14 for information on changing existing management plans. *Note: Landowners should be made aware that changes to sound forestry and stand conditions may require that changes to mandatory practices are required, since Tax Law Forestry Specialists can only approve cutting notices if the practice conforms to the landowner's management plan and is consistent with sound forestry practices (s. 77.86(1)(c), Wis. Stats). The process for evaluating and reviewing cutting notices can be found in the section on Cutting Notices.*

All management plans must be developed using the WisFIRS program. Data entered into WisFIRS will be printed onto the landowner's management plan. The WisFIRS program will help plan writers enter the proper data, however information that plan writers need to determine prior to using WisFIRS is shown below.

1. **The landowner's written management objectives.** Landowners do not often provide detailed objective statements or goals. Plan writers are expected to understand landowner objectives and write the objective on the management plan after visiting the site and talking with the owner. By signing the MFL application, the landowner accepts the land management objectives. Below are examples of landowner objectives.
    - Grow aspen, oak, and pine species for forest products.
    - Maintain oaks for long periods as mast producers for wildlife food.
    - Provide wildlife habitat for deer, turkeys, grouse, woodcocks and song birds.
    - Improve and add shallow ponds for waterfowl and wildlife water supply.
    - Protect threatened sundew plants found in a wetland community on the property.
    - Enjoy the property for hunting, nature observation, camping and hiking.

2. **Natural Heritage Inventory (NHI).** Plan writers will use WisFIRS to create a list of species and plant communities that may be present on the MFL lands based on the legal description entered. Plan writers will be required to do the following in order to conduct the NHI search and to evaluate the results.
    a. Obtain the permission of the landowner to conduct the WisFIRS NHI search and check the box to certify that permission was received.
    b. Evaluate the species and plant communities to determine whether the species or suitable habitat exists on the MFL lands and note that occurrence into WisFIRS. If suitable habitat is present, consideration will be made while recommending management practices to protect the species and habitat, as afforded by state and federal endangered and threatened species laws, and forest certification standards. Links in WisFIRS will take plan writers to the public web site for information on habitat, species and community requirements, threats, opportunities and mitigation techniques. Additional information is often available for landowners who wish to maintain or enhance habitat for rare species and high-quality habitats.
    c. The special features section of the management plan can be used to identify mitigation practices necessary. Landowners should be supplied with information regarding the NHI occurrence, however only mitigation should be documented in the management plan. Appendix 10 contains other information needed to complete a review of the NHI database.

3. **Stand number.** Assign a consecutive number to each stand (including lakes, roads, etc.) in the entry. If the same stand occurs in more than one section of an entry, it should be assigned the same number throughout the entry. Different stand numbers can be assigned to stands of the same timber type (cover type, size class, density) if it is necessary due to the stands having different prescriptions. See Applications for Additions section for rules on numbering stands in an addition.

4. **Prefix, if applicable.** There are two (2) prefix codes.
   - P Plantation
   - Z "No timber management" zone (These stands are included in the 20% non-productive or not suitable.)

5. **Timber Types.** Choose only one primary type, one secondary and one understory type based on basal area (poles and sawtimber) or stems/acre (seedlings and saplings). Always try to record a secondary and/or understory type because they provide insight into the species composition of the primary type, and the next successional stage most likely to occur. The secondary and/or understory type data is valuable when reviewing the data in the office. Include the size class and density where appropriate (e.g. A 5-112). Refer to Appendix 3 for cover types, size class, density, and additional information.

6. **Acreage.** Round the acreage to the nearest whole number. WisFIRS will check if the total of the stand acreages is within 3% of the acreage listed for the MFL application.

7. **Habitat Type.** Use only where the habitat classification system is applicable. WisFIRS allows plan writers to choose a habitat type that exists in the county in which the land lies. Habitat types are useful to help plan writers and landowners determine successional trends in order to determine silvicultural systems and management practices. Plan writers are encouraged to review the Silviculture Handbook for more information on habitat types.

8. **Year of Origin for Even-aged Timber Types.** Use borings of dominant and co-dominant trees, planting records, adjacent stand data, or fire or harvest records.

9. **Total Height for Even-aged Timber Types**. Report height in whole numbers for primary types only. Measure dominant and co-dominant trees to calculate the average height of the stand.

10. **Quadratic Mean DBH.** Record the quadratic mean DBH in whole numbers. WisFIRS has a calculator that determines the mean DBH. Plan writers using this tool should collect representative sample tree diameters prior to entering data into WisFIRS.

11. **Site Index for Even-Aged Types.** Site index helps plan writers understand the site capability of the land. Site index curves, interpolation, similar nearby stands, timber sale records, or the "5-year intercept method" for red pine or white pine less than 25 feet tall may be used. WisFIRS will calculate site index based on age and height for tree species with site index curves. Site index is not required for northern hardwood (NH) or other timber types that can be managed as all aged unless it is being managed on an even-aged basis. (See the Silviculture Handbook, 2431.5 for more information.)

12. **Basal Area and Stocking.** Stocking guidelines are found in Appendix 3. Plan writers must input the total basal area, cord and board foot volume for the entire stand, and for the top four tree species (based on basal area). Guidelines to remember when determining stocking of timber stands.

    a. A stand may have a density of 1, but not meet the minimum stocking level.
    b. For the stand, record the average basal area per acre for all trees 5” dbh and larger, inclusive of live culls. If the stand is converting from saplings to poles, the basal area should include all dominant and co-dominant trees even though some are less than 5” dbh.
    c. For the stand, record the total net volume of all species per acre, including both boards and cords.
    d. For each of the top four tree species, record the basal area and total net volume of the species per acre, including both boards and cords.

13. **Silvicultural System.** Determine the silvicultural system that will move the stand to the desired future condition. The desired future stand condition is not limited to the 25- or 50-year term of the MFL program, but to the entire rotation of the stand. Silvicultural system options are listed in WisFIRS.

14. **Mandatory practices (productive stands).** Mandatory practices should be scheduled based on the silvicultural requirements of the stand and limited to mandatory practices specified by s. NR 46.18(2), Wis. Adm. Code. Factors such as current timber markets, product specifications, or other factors which have only temporary effects should not affect the scheduling of a mandatory practice. Only the following practices may be made mandatory.

- Harvesting mature timber according to sound forestry.
- Thinning plantations and natural stands for merchantable products.
- Release of conifers and hardwoods from competing vegetation.
- Reforestation of land to meet minimum medium density classifications (ch. NR 46.18(2)(d), Wis. Adm.
- Code).

Seedlings	800 trees/acre for natural stands
	400 trees/acre for planted stands
Saplings	400 trees/acre for natural stands
	300 trees/acre for planted stands
Poletimber	7 cords/acre
Sawtimber	3,000 board feet/acre

- Post harvest and pre-harvest treatment to ensure adequate regeneration.
- Soil conservation practices to control erosion from forestry practices. BMPs for water quality are prescribed to control erosion on MFL lands when management practices are implemented. The MFL management plan template provides brief information on BMPs for water quality and directs landowners learn more about BMPs for water quality through links to the DNR public web site.

Choose the management practice that supports the silvicultural system. Include all practices that must be completed during the 25 or 50 year order period and the year the practice must be completed. Practices can be scheduled beyond the order period by certified plan writers, but may not be scheduled outside the order period by Tax Law Forestry Specialists. A practice may need to be implemented multiple times within a stand during the order period (e.g. intermediate thinning in white pine, selection harvest in northern hardwood). When scheduling future practices (20+ years) it may be necessary to refer to stocking charts.

All management prescriptions require:

- **Year of completion.** Management practices are considered to be completed by December 31. The year of completion for mandatory practices must be the year following the land examination or later. For example, if the land exam is completed in 2012, the scheduled completion year would be 2013 or later, even if silviculturally the stand was mature in 2001.
- "M" for mandatory practices

Note: Specific harvest requirements, e.g. basal area residuals, numbered order of removal, number of trees per acre, species to be favored or planted, percent crown closure, specific stocking levels, follow up activities, are determined at the time a harvest is established. These requirements are determined based on current stand conditions and science, and are documented on the MFL cutting notice.

15. **Sound Forestry Management Prescriptions (all stands).**

Best Management Practices for Water Quality. BMPs for Water Quality help protect water quality, fish, and other aquatic organisms during forest management activities. Implementing BMPs for water quality is mandatory under the MFL program on all management activities as they are part of sound forestry practices and are required to be addressed in the management plan (s. NR46.15(29) Wis. Adm. Code and s. 77.83(3)(c)7. Wis. Stats.). Specific BMP practices must be identified at the time the management practice occurs. Landowners are directed to review the BMPs on the public web site. Plan writers should discuss BMPs with landowners when developing the MFL management plan.

Best Management Practices for Invasive Species. BMPs for invasive species reduce the impact that invasive plants, insects, diseases, animals and other organisms have on the ecosystem. Wisconsin's Forestry Best Management Practices

for Invasive Species can be found on the DNR public web site. Implementing BMPs for invasive species is mandatory in certain situations and highly recommended under the Managed Forest Law program as they are part of sound forestry practices (s. NR46.15(29) Wis. Adm. Code). The mandatory requirements are found in NR 40, Wis. Adm. Code.

While violations of NR 40, Wis. Adm. Code may not require withdrawal of lands from the MFL program, violations may be prosecuted through civil court and may require decertification from the MFL Certified Group for a landowner's failure to comply with ATFS Standard 2 regarding compliance with all relevant federal, state, county and municipal laws, regulations, and ordinances, and with FSC Principle 1 regarding respecting (i.e. following) all applicable laws of the county in which they (the lands) occur, and international treaties and agreements to which the country (United States of America, state of Wisconsin) is a signatory, and comply with all FSC Principles and Criteria.

16. **Non-mandatory practices.** Include all non-mandatory practices recommended within the 25 or 50 year order period that will help achieve the landowner's management objectives (e.g. wildlife, watershed, and aesthetics) that are specific to individual stands. Choose the best option included in the WisFIRS Private Lands drop-down menus. Please do not use the OTHER menu choice to describe non-mandatory practices if there are other options currently present. Remember that many WisFIRS Private Lands menu options allow for plan writers to insert additional information.

    Practices that divide clear-cuts into smaller blocks; shorten or lengthen rotations; create irregular cutting boundaries; modify species composition, substitute partial cuts for clear-cuts or vice versa, etc. are handled through delineation of timber stand boundaries, choices in silvicultural systems, and modification of management practices through the sub-menus imbedded in the MFL management plan template.

    Practices that are common to the entire property, such as leaving snags, den trees, mowing of trails and access roads, etc. are documented in the MFL management plan template, but are not included as menu choices in the MFL management plan template unless the certified plan writer or Tax Law Forestry Specialist determine that this practice is especially important to highlight for the landowner. Most of the practices common to the entire property are allowed on MFL lands and are compatible with sound forestry. Landowners learn more about non-mandatory practices through links to the DNR public web site.

    Plan writers can recommend openings and other non-productive areas as long as it doesn't make the forest parcel more than 20% non-productive/unsuitable. Stands must be 2 acres in size to be included in the 20% non-productive/unsuitable category. Examples of non-productive areas include the following:

    i. **Wildlife food plots.** Wildlife food plots may be planted to provide food for wildlife and enhance recreational hunting opportunities. Wildlife food plots are not allowed to be harvested as food crops for human consumption or feed crops for domestic animals. Food plots less than 2 acres in size may be mapped as inclusions in the existing stands, but are not to be included as part of the 20% unless individual food plots meet the definition of a stand (NR 46.18(3)(b)2.a., Wis. Adm. Code). (Note: Wildlife food plots have been excised from the MFL Group Certificate so genetically modified organisms (e.g. Roundup Ready® corn or soybeans) that may be used as wildlife food sources are allowed but not encouraged under the MFL program. FSC prohibited chemicals may also be applied on wildlife food plots; however use of alternative, FSC approved chemicals is encouraged.)

    ii. **Reserved old growth and managed old growth stands** . (See the Old Growth and Old Forest Handbook, 2480.5, for definitions). Landowners may choose to provide habitat and aesthetic needs through development of reserved old growth or managed old growth stands. These management techniques do not provide timber products and are included in the 20% non-productive/unsuitable category.

    Extended Rotation ages are allowed to meet landowner goals if they conform to guidelines in the DNR Silviculture and Old Growth and Old Forests Handbooks and are included in the 80% productive forest category. Tax Law Forestry Specialists should monitor stands with extended rotations to insure that declining health and decreasing stand growth rates would not significantly alter merchantable timber values or allow the average growth rates to drop below the minimum required standards (i.e. 20 cubic feet per acre per year).

    iii. **Unsuitable for producing timber products.** Lands unsuitable for producing timber products may include critical sites (steep, red clay soils) or habitats in which timber harvesting or management may adversely impact NHI species. Lands that are unsuitable for producing timber products are included in the 20% non-productive/unsuitable category.

iv. **Lands designated for non-timber management.** Lands in which management is done to enhance non-timber resource values may include oak savannah, native prairie, and aesthetic zones. Lands that are designated for non-timber management are included in the 20% non-productive/unsuitable category.

Other sound forestry practices that may impact MFL eligibility and/or forest certification requirements include:

- **Forest health restrictions and recommendations.** Forest health issues impact management practices when practices are established. Landowners learn more about forest health issues through links to the DNR public web site. CPWs, Cooperating Foresters and Tax Law Forestry Specialists are encouraged to review the forest health links to ensure that prescribed management practices are sound. Modifications to management practices can be made at the time practices are due to address forest health issues.

- **Invasive species management.** Invasive species are plants, animals, insects and pathogens that are typically non-native, giving them a competitive advantage over native counterparts. If invasive species prevent or restrict the successful completion of a mandatory practice(s), such as forest regeneration, then the management of the invasive species will be mandatory until the practice is successfully completed. For additional information refer to "Best Management Practices for Preventing the Spread of Invasive Species" guide.

- **Forest certification requirements.** Forest certification through ATFS and FSC are included in the MFL management plan template and describe requirements for landowners. Landowners learn more about forest certification requirements through links to the DNR public web site.

Note: Specific forest certification requirements, e.g. tree retention, are determined at the time a harvest is established. Tree retention requirements are determined based on current stand conditions and science, and are documented on the MFL cutting notice.

17. **Overview.** The information in the WisFIRS overview section is used to help determine land eligibility and to understand current stand and land use conditions. Wording in the General Comments section is not included in the landowner's management plan. Information should include the following topics:

    a) **Non-productive and unsuitable percentage of <u>each</u> forest parcel**. Each forest parcel must be 80% productive and have no more than 20% unsuitable lands, including forest lands that are non-stocked, unsuitable for producing merchantable timber or a combination of both (NR 46.18(3)(b)1., Wis. Admin. Code). The percentage of non-productive and unsuitable lands should be recorded for each parcel of land.

    b) **Recorded plats**. Documentation regarding recorded plats.

    c) **Any other pertinent information relevant to the entry of these lands under the MFL**. Include zoning information if it interferes with or prohibits forestry practices. Include former owner's name for partial transfers.

    d) **Acreage Discrepancies**. If the on-the-ground acreage differs from the county (tax bill) acres, list the on- the-ground acreage by stand for future reference. Include any helpful notes (e.g. enroll all acreage in the description; enroll only closed land, size of exclusion).

MFL Approval Process
(s. 77.82(7), Wis. Stats.)

Tax Law Team Leaders are responsible to ensure that all reviews are completed within 45 calendar days using the MFL Packet Review Checklist or comparable WisFIRS procedures. Reviews may be completed by the Team Leaders or delegated to other forestry staff.

The reviewer has the responsibility for the accuracy of the facts and the mandatory practices documented in WisFIRS. Each entry / order number must be checked for completeness, accuracy, consistency, and inclusion of sufficient information to support the recommendations.

MFL applications may be approved or returned to the CPW for amendments. Return reasons will be provided to the CPW. The CPW is expected to work with the landowner to revise the application. Amendments that affect land eligibility requirements, program requirements or future management of the land will need initialing and dating by landowners and all those with management rights. Approved applications must be resubmitted in WisFIRS before October 1.

If all MFL eligibility requirements are met, TLS will issue an Order of Designation or Denial Order on or before November 20. The MFL Orders become effective January 1 of the following year. Orders issued on or after November 21 take effect on the second January 1 after the date of issuance. The original Order of Designation and map are mailed to the Register of Deeds for recording. Copies of the Order of Designation and map(s) are mailed to the landowner, Department of Revenue, supervisors of assessments, clerk of the municipality, assessor of the municipality, and the Tax Law Forestry Specialist. Electronic copies of the files are kept in WisFIRS.

Landowners may withdraw an area of land or their entire MFL application on or before December 31 in the year prior to the effective date of the MFL Order of Designation by submitting a signed letter to the Tax Law Forestry Specialist explaining what portion is to be removed from the application or if it is the entire application.

Landowners may also change the length of the order period for their MFL application on or before December 31 in the year prior to the effective date of the MFL order of designation by submitting a signed letter to the Tax Law Forestry Specialist explaining the change. If the landowner is choosing to change the order length from 25 to 50 years, additional practices must be supplied by a CPW and approved by the department for the change in order designation to be approved.

Public Notice and Hearings
(s. 77.82(5) & (6), Wis. Stats.)

By August 15 of the year in which the MFL order will be issued, DNR will notify each municipal clerk of MFL applications to provide notice of lands to be enrolled into MFL (s. 77.82(5)(a), Wis. Stats.).

The governing body, a resident, or a taxpayer of the municipality may request that the DNR deny the MFL entry on the grounds that the lands (or the entire forest parcel in case of addition) fail to meet eligibility requirements. A written request must be submitted to the DNR within 15 days after notice has been provided. The request must specify the reason for ineligibility. (s. 77.82(5)(b), Wis. Stats.)

The DNR may, but is not required to, schedule a public hearing to take testimony relating to the eligibility of the lands. At least 10 days prior to the hearing, the DNR will mail a notice of the date, time, and place of the hearing to the landowner, persons requesting the denial of the application, and the clerk of the municipality (s. 77.82(6), Wis. Stats.).

After the public hearing, the DNR will approve the application if (s. 77.82(7), Wis. Stats.):

- The land (or total forest parcel for additions) meets the eligibility requirements.
- All the facts on the application are correct.
- 80% of the land is productive.
- The use of the land as managed forest land is compatible with existing uses.

- There are no delinquent taxes on the lands.
- For additions, the landowner agrees to amend the management plan.

If the application is denied, TLS notifies the landowner in writing on or before November 20 specifying the reason for denial. The landowner may request a hearing on the decision, which will be handled by the Bureau of Legal Services (s. 77.90, Wis. Stats.)

Denials of Entire Entries
(s. 77.82(7), Wis. Stats.)

MFL applications can be denied if any of the eligibility requirements are not met, however it is expected that Tax Law Forestry Specialists work with certified plan writers to adjust or reconfigure application boundaries, amend management plans or provide additional documentation to meet eligibility before recommending denial where practical, reasonable and based on workload. This would occur through the 'return' and 'resubmittal' process in WisFIRS.

If the Tax Law Forestry Specialist's recommendation is to deny entry for any reason, the recommendation to deny is recorded in WisFIRS. Tax Law Forestry Specialists are required to explain why denial is recommended and communicate that recommendation to the certified plan writer and landowner. If denied, the Department shall state the reason for the denial in writing. The Tax Law Forestry Specialist should include all supporting documentation in WisFIRS.

Reasons for Denial	Explanation	Legal Reference	Handbook References
Unpaid Property Taxes	The county treasurer reported delinquent property taxes on the land subject to the MFL application and the landowner failed to provide proof that taxes were paid	s. 77.82(7)(a)5., Wis. Stats.	Delinquent Property Taxes
Less than 20 acres (not renewal)	The application contains less than 20 contiguous acres of eligible forest land.	s. 77.82(1)(a)1., Wis. Stats.	Acreage
Renewals less than 10 acres	The application contains less than 10 contiguous acres of eligible forest land.	s. 77.82(1)(a)1., Wis. Stats.	Acreage
Renewal for non-identical lands	Lands must be identical to qualify for a renewal.	s. 77.82(12)(a)2., Wis. Stats.	Renewals
Contains building or improvement associated with a building	Buildings and improvements associated with buildings are prohibited on MFL lands.	s. 77.82(1)(b)3., Wis. Stats.	Buildings and Improvements
Lands are not 80% productive	Less than 80% of the land is producing or capable of producing 20 cubic feet of merchantable timber per acre per year.	s. 77.82(1)(a)2., Wis. Stats.	Productivity
Lands are more than 20% unsuitable to produce timber products	More than 20% percent of the land is unsuitable for producing merchantable timber.	s. 77.82(1)(b)1., Wis. Stats.	Unsuitability
Incompatible land uses	Lands are developed for commercial recreation, for industry or for any other use determined by the department to be incompatible with the practice of forestry.	s. 77.82(1)(b)2., Wis. Stats.	Land Developed for Industry; Land Incompatible with the Practice of Forestry
Human residences and platted lands	Lands are developed for a human residence or land is located within a registered subdivision plat as defined under s. 236.02(12), Wis. Stats., or pursuant to s. 236.03(1), Wis. Stats.	s. 77.82(1)(b)3. Wis. Stats.; ss. NR 46.15(9), (18), Wis. Admin. Code	Buildings and improvements; Recorded Subdivision Plats
No approved management plan	Landowner and DNR could not come to agreement on the forestry practices, including harvesting, thinning and reforestation that will be undertaken during the term of the order, specifying the period of time in which each will be completed.	s. 77.82(3)(ar), Wis. Stats.; ss. NR 46.18(5)(am), (bm)1. & 3., Wis. Adm. Code	MFL Approval Process

Reasons for Denial	Explanation	Legal Reference	Handbook References
Corrected application not re-submitted for review and approval on or before October 1	Failure to have a management plan approved on or before October 1 of the year in which the order of designation will be issued or a later date agreed to by the department will result in a denial of the application.	ss. NR 46.18(5)(bm)3., Wis. Adm. Code	MFL Approval Process
Missing encumbrance holder signatures	The signatures of all encumbrance holders were not obtained.	s. 77.82(2)(f), Wis. Stats.	Deed Restrictions
Missing owner signatures	An application for designation of land as managed forest land does not contain the required landowner signature(s).	s. NR 46.16(1), Wis. Admin. Code	Signatures
Missing proof of ownership	A copy of an instrument that has been recorded in the office of the register of deeds of each county in which the property is located that shows the ownership of the land subject to the application is missing.	s. 77.82(2)(cm), Wis. Stats.	Proof of Ownership
Lands not wide enough	Lands do not meet the minimum width of 120 feet or exceed the length to width ration of 4 to 1.	s. NR 46.17(2), Wis. Admin. Code	Definition of Forest Parcel
Additions less than 3 contiguous acres	Lands to be added to an existing MFL are less than 3 contiguous acres.	s. 77.82(4), Wis. Stats.	Additions
Currently designated as FCL or MFL	Lands may be enrolled into MFL if they are currently on the regular property tax rolls. Lands that that are already designated as MFL or FCL cannot be enrolled into MFL. Options available for lands already enrolled in MFL or FCL are FCL to MFL Conversions.	s. 77.82, Wis. Stats.	FCL Conversions
Applied lands are sold or transferred	The ownership of the lands subject to the application changed after the application was filed and before the MFL Order of Designation was issued.	s. NR 46.16(1)(d), Wis. Admin. Code	Ownership Changes Prior to MFL Effective Date
Landowner failed to follow current management plan on date filed for MFL renewal	Landowners are out of compliance with their current MFL management plan on the date that a renewal application is filed.	s. 77.82(12), Wis. Stats.	Failure to Comply with Current Management
Landowner(s) deceased	Lands cannot continue with the MFL designation if all landowners are deceased. If deceased landowner's ownership transfers to an existing owner(s) of the land and no new owners are added to the land ownership (i.e. no new signatures are needed), the MFL application may continue when proof of the land transfer is provided.	ss. NR 46.16(1), (1)(d), Wis. Admin. Code	Signatures

Harvesting Prior to Entry

Harvests can be established and conducted during the application period, and if so, the CPW can indicate this in WisFIRS Private Lands. This notification allows Tax Law Forestry Specialists to understand which stands will need follow-up monitoring for updating management plans and/or obtaining cutting notices if harvests are not completed by January 1.

In the event that the timber harvest does not conform to the recently written management plan or sound forestry practices, DNR is required to work with the landowner and/or CPW to amend the management plan to reflect the new stand conditions. The process to amend the plan is different based on the situation:

If the MFL application has not been approved and harvesting occurs that does not conform to the landowner's management plan or sound forestry, the Tax Law Forestry Specialist should return the MFL application to the CPW and require that an amended management plan be developed. Amended management plans should be re-submitted as soon as possible, and no later than October 1st. Management plans that cannot be approved by October 1 will be denied, however the landowner can re-apply for MFL at the next available application deadline.

If the MFL application has been approved and harvesting that does not conform to the landowner's management plan or sound forestry occurs **prior to January 1st**, the Tax Law Forestry Specialist has the responsibility to amend the management plan unless that landowner desires to hire a CPW. If the MFL application has been approved and harvesting that does not conform to the landowner's management plan or sound forestry occurs **after January 1st**, the Steps to Successful Compliance and Enforcement should be initiated (see chapter 60).

Ownership Changes Prior to MFL Effective Date

If the land applied for entry is **sold after the application is filed** and **before the MFL Order is issued,** the new owner(s) must file a new application. The new application will be processed for entry based on the date it is received. Exceptions may be made for one of the following reasons:

- For transfers where the change in ownership is only a removal of one of the owners and no new owners are being added or,
- When the individuals who applied for entry transfer their interest to a trust, LLP, or LLC and no new signatures are required for the new entity.

Tax Law Forestry Specialists should recommend denial in WisFIRS.

If the land is sold **after the order is issued** and **before January 1**, it may be handled as a normal transfer or the new owner may stop the entry (s. NR 46.16(1), Wis. Adm. Code).

If only part of the land under the application was sold, the piece remaining under the original landowner's name(s) may continue if eligible, but a new application is needed for the piece sold. If the piece sold is expiring from FCL (Special Class Lands not included) and a new application for this piece is filed, this application may be processed under the entry year of the original application.

Voluntary Withdrawal of Application by the Landowner

The landowner **must** indicate in writing the desire to withdraw the MFL application or parts thereof. This should include the legal description of the land or the MFL order number and the date and signature(s) of the owners. The signature of all owners is preferred but as long as we have the signature of one, the application will be withdrawn. The letter must be uploaded into WisFIRS and the Tax Law Forestry Specialist can retain a copy in the landowner's file.

If the landowner elects to withdraw his application after the order has been issued, but before the effective date (January 1), the Tax Law Administration Specialist will issue a rescinding correction order. If the request is made after the effective date, it must be handled as a withdrawal, and the owner must complete a Declaration of Withdrawal form. All withdrawal taxes and fees will apply.

Revision to Management Plans

Revisions to Proposed Management Plans Prior to MFL Entry

If the department does not approve the proposed plan it shall inform the CPW of the changes necessary to qualify the plan for approval upon subsequent review. If the CPW fails to resubmit the application and management plan by October 1st, the application will not be approved (s. NR 46.18(5)(bm)3., Wis. Adm. Code).

Revisions to Management Plans after MFL Entry

Changes to management plans must be mutually agreed upon by the department and the landowner. See Appendix 14 for more information on changing existing management plans. There are several reasons for revising management plans.

- By mutual consent of the DNR and the landowner for such reasons as change of ownership, change in objectives, new management methods, etc.

- Tax Law Forestry Specialists comes across old MFL plans that prescribe FSC prohibited pesticides.
- Amend management prescriptions based on current stand conditions and current science. See Appendix 14 for guidance on amending management prescriptions after or prior to a natural catastrophic event, including fire, insect, disease, weather or other natural disturbances.
- To amend management practices and dates after completion of management practices.

Revision takes place once new recon data is entered. A new management plan should be printed and given to landowners as a record of changes that have occurred.

Applications for Renewal

(ss. 77.82(2), 77.82(12) Wis. Stats. & s. NR 46.16 Wis. Adm. Code)

At the end of an order period, a landowner may have the option to renew their land into the MFL program if eligibility requirements are met. No withdrawal tax or termination tax is assessed for lands that are not renewed at the end of the order period.

The process for filing a renewal application is the same as the process for new entry applications, but it allows existing MFL management plans to be updated. See Filing an MFL Application.

Eligibility

(s. 77.82, Wis. Stats.)

To be eligible for a renewal:

- The land in the renewal application must meet all eligibility requirements under s. 77.82(1), Wis. Stats.
  *Land entered into MFL in 2016 or earlier that is between 10 and 20 acres may be eligible to apply for a **one-time** renewal without meeting the 20 acre requirement; however, all other criteria must be met. See Parcels less than 20 acres.
- The landowner must be in compliance with their current management plan. See Failure to Comply with Current Management Plan.
- A new management plan must be submitted; OR the existing management plan must be completely updated. See Process for Renewals.
- There are no delinquent taxes on the land.

The department will approve eligible renewal applications that contain the following:

- **MFL parcel that is less than 20 acres that contains a building or improvement associated with a building** if the landowner files a voluntarily withdraw form to withdraw the building or improvement site prior to the renewal application deadline. The parcel must be identical to the existing MFL, except for the withdrawal site, be at least 10 acres, and meet productivity and all other eligibility requirements.

- **MFL parcel that is less than 20 acres that does not contain a building or improvement associated with a building** if the parcel is identical to the existing MFL, is at least 10 acres, and meets productivity and all other eligibility requirements.

- **MFL parcel greater than or equal to 20 acres that contains a building or improvement associated with a building**. The parcel does not need to be identical to the existing entry, but the building site must be excluded from the renewal. The parcel must be at least 20 acres, and meet productivity and all other eligibility requirements.

- **MFL parcel greater than or equal to 20 acres that does not contain a building or improvement associated with a building.** The parcel does not need to be identical to the existing entry. The parcel must be at least 20 acres, and meet productivity and all other eligibility requirements.

Parcels less than 20 acres

If there is a MFL parcel that is less than 20 acres in the existing order that qualifies for a one-time renewal in s. 77.82(1)1. Wis. Stats., that parcel must be identical on the renewal application to the current order (s. 77.82(12)(a)2., Wis. Stats.). However, a renewal application may contain multiple parcels less that are 20 but more than 10 acres from different orders if all of the following apply:

- The existing orders expire in the same year;
- The parcels are in the same municipality unless they qualify for a multiple municipality application (see Applications by Municipality);
- The parcels are under the same ownership; and
- Enough information has been provided to show that the parcels less than 20 acres on the renewal application are identical to the existing orders.

Parcels that are less than 10 acres are not eligible for renewal.

Land not identical

If land on the renewal application is not identical to the current enrollment, the application must contain all requirements provided for in s. NR46.16(2) Wis. Adm. Code and s. 77.82(3) and (3) Wis. Stats. to account for all lands under the application.

Any parcel that is less than 20 on the renewal application as a result of a one-time renewal as provided in s. 77.82(1)(a)1., Wis. Stats., must be identical to the parcel that is less than 20 acres under the existing order.

There are some scenarios where, upon renewal, it may be determined that the existing order should have been previously corrected due to erroneous information. These types of corrections would not render a parcel not identical for the purposes of renewals. Here are some examples:

- **Acreage change due to county re-surveying.** This occurs when a county determines that what was once thought to be a "true" forty (40.000 acres) is determined to actually be, for example, 39.980 acres. In this scenario, the land would still be considered "identical" because the boundaries of the land and the land itself are not changing; the area of land is just being described with a more accurate acreage.
- **Type or extent of legal description was incorrect at the time of enrollment.** These types of "corrections" assume the type/extent is all that was incorrect and the acreage was correct and is not changing. Examples of this are:
  - Land was enrolled as "NWSW" and should have been enrolled as "FR N ½ W ½ SW ¼" according to the original land survey of Wisconsin. This is not a change in the boundaries of the land; the area of land is just being correctly described as a fractional legal description. The same would be true if land was enrolled as a standard legal description and should actually be a government lot according to the original land survey of Wisconsin.
  - Land was enrolled as "NWSW" and should have been enrolled as "NWSW, PART OF" or "NWSW, EX ROW".
- **Other types of acreage corrections**. If at the time of renewal it is determined that an acreage correction is needed due to the acreage being erroneous upon enrollment, these may be considered identical, but only upon review by the DNR. One example of this is a closer look at the deeds reveals that the MFL landowner never owned all of the land in the legal description; a small sliver was actually owned by the neighbor according to the deeds that existed at the time of original enrollment. The acreage therefore needs to be corrected to remove the acreage never owned by the original enrollee. After review, the DNR may be able to consider the lands applied for renewal as identical.

If it is determined that one of these "correction" scenarios applies to the renewal application, the landowner or CPW will be responsible for providing documentation to support the correction with the application. The correction should be noted in the "general comments" section in WisFIRS. DNR will have the final discretion in determining whether the lands are identical or not based upon the documentation provided.

Failure to Comply with Current Management Plan

Tax Law Forestry Specialists must fully evaluate the facts associated with the landowner's efforts to comply with their current MFL management plan and articulate reasons why renewal of the lands should be denied. Supporting documents must be provided for the landowner's file, since a denial under this provision may be cause for the landowner to file a contested case hearing or judicial review. The following chart can be used to help DNR staff determine when to request denial of MFL renewals.

Examples of When MFL Renewal Requests Should Be Approved or Denied			
If the situations is:	And it is determined that:	Then renewal should be:	Justification
The landowner is currently implementing a mandatory practice.	The mandatory practice was scheduled late in MFL order period and the landowner has not had the time to complete the practice.	Approved	A landowner who is implementing a mandatory practice is complying with the current management plan, regardless of whether the practice is completed.
The landowner is currently implementing a mandatory practice, but enforcement action was taken to gain compliance.	An NOI had been issued before the landowner complied with the mandatory practice.	Approved	A landowner who is implementing a mandatory practice is complying with the current management plan, regardless of the stage within the stepped enforcement process.
The landowner is not implementing a mandatory practice.	An NOI has been issued, yet the landowner has not made a good faith effort to begin implementing the mandatory practice.	Denied	Landowners are showing that they are not committed to completing their mandatory practices. Tax Law Forestry Specialists can justify recommending denial of the application by submitting copies of the enforcement case, even if the compliance deadline is after the date the MFL renewal application is submitted.
The landowner was given a deadline to complete a mandatory practice, yet hasn't finished the practice.	The landowner is making a good faith effort to complete the mandatory practice, but has been unable to finish it due to specific sets of circumstances.	Approved	Unfavorable weather conditions, equipment limitations, contractor conflicts, etc. may be acceptable reasons for delaying implementation. Tax Law Forestry Specialists must justify that the reasons for the delay are reasonable when compared to similar circumstances encountered by other MFL landowners.
The landowner was given a deadline to complete a mandatory practice, yet hasn't finished the practice.	The landowner is not making a good faith effort to complete the mandatory practice.	Denied	Landowners must make good faith efforts to complete their mandatory practices within the time frames allowed. Unfavorable weather conditions, equipment limitations, contractor conflicts, etc. may be acceptable reasons for delaying implementation. Tax Law Forestry Specialists must justify that the reasons for the delay are unreasonable when compared to similar circumstances encountered by other MFL landowners.
The landowner has chosen not to continue implementing a mandatory practice.	Various reasons provided by the landowner.	Denied	Tax Law Forestry Specialists should immediately begin the stepped enforcement process to document landowner refusal to complete a mandatory practice. Tax Law Forestry Specialists can justify recommending denial of the application by submitting copies of the enforcement case.
The landowner has cut in violation of the cutting notice and management	The landowner has made restitution or remediated the violation.	Approved	Landowners have come back into compliance with their current management plan by the date of the MFL renewal application is filed.
The landowner has cut in violation of the cutting notice and management plan.	The landowner has not made restitution or remediated the violation.	Denied	Landowners are showing that they are not committed to practicing sound forestry. Tax Law Forestry Specialists can justify recommending denial of the application by submitting copies of the enforcement case, even if the restitution or mediation deadline is after the date the MFL renewal application is submitted.
Renewals less than 10 acres	The application contains less than 10 contiguous acres of eligible forest land.	Denied	The land does not meet the minimum acreage requirement for a renewal.
Renewal for non-identical lands	Lands must be identical to qualify for a renewal.	Denied	The land does not meet the standards for a renewal.

Process for Renewals

The process for a renewal is similar to the process for a new entry **except** an entire new management plan **may not** be needed. A renewal application must include all of the following:

- Application form, deed, tax bill
- Map (new or updated within 5 years of the date of the application)
- A new management plan; OR a completely updated existing management plan. An updated management plan includes all of the following requirements:
    - The management plans contain management practices during the term of the renewed order (i.e. the next 25 or 50 years) if the DNR determines such practices are required.
    - The mandatory practices in the management plan must have been reviewed and updated within the 5 years prior to the application date of the renewal.
    - The management plan must have been reviewed and updated within the 5 years prior to the application date of the renewal to reflect the completion of mandatory practices.
    - Other items in WisFIRS (reviewed and updated within 5 years of the date of application). Other items include:
        - Name, address, legal descriptions, acreage, owner goals/objectives, Natural Heritage Inventory, archeological historical and cultural prescriptions, ecological landscape

Unless already obtained by the landowner and entered into WisFIRS, these components must be submitted prior to, or with the application for renewal. Similar to the process for new entries, landowners must work with a CPW on the application.

The local Tax Law Forestry Specialist should be contacted if there are any questions regarding whether the land is eligible to be renewed and what additional information is needed to be updated for the renewal to take place.

At certain times during an order, Tax Law Forestry Specialists may update maps and stand data following the completion of mandatory practices. Tax Law Forestry Specialists may continue to perform this task; however, Tax Law Forestry Specialists should not complete any part of the updates described above for the sole purpose of making land eligible for a renewal, except as provided under s. 77. 82(3), Wis. Stats.

Applications for Additions

(s. 77.82(4), Wis. Stats.)

Eligibility Criteria for Additions

Land may be added to any MFL entry if it meets the requirements below. Once added, the addition will have the same expiration date and tax rate as the order to which it is added.

- Any added parcel must be at least 3 contiguous acres in size.
- The addition must be contiguous to an existing MFL entry. Only contiguous acreage can be added; any noncontiguous parcels that are eligible for the program must apply for new entry.
- All owners of the addition must be identical to the current owners of the existing order.
- The addition must not contain a building or an improvement associated with a building.
- If the addition is to be open to public access, it must be accessible on foot.
- After the addition, each MFL forest parcel must meet the 80% productivity requirement.

Contiguous land can be added to an existing entry if the above criteria are met, even if it crosses municipal boundaries.

Note: Amended Orders of Designation for additions will amend the original order, but will list only the acreage being added.

Process for Additions

Additions to current MFL entries should be processed in the same manner as a new entry. See section on Filing an MFL Application for more detailed information. When starting the application for the additional land, the CPW will have the option of "add land to an existing MFL plan". When prompted with this, enter the order number that the land is being added to and some of the information will automatically populate. Like all new entry applications, applications for additions are due on June 1st and follow the same process.

Stand Numbers

If the timber types and supporting recon data for the stands in the addition are *different* from the original order, use the next consecutive number available. For example, if the original order included stands 1, 2 and 3, then the stand number for the addition should start with stand 4. If the timber type and supporting recon data for the stands in the addition are the same as the original entry, the stand acreage must reflect the additional acreage only.

Stand numbers for additions can be handled in three ways:

a) Assign the next stand number to the first stand in the addition. For example, if the original order included stands 1, 2, and 3, then the stand number(s) for the addition should start with stand 4.
b) Use the same stand number for identical stands. List the acreage of the stand for the added portion only.
c) Assign a different stand number to the addition, keeping the two stands separate for record keeping purposes. For example, although the stands are identical, the CPW or Tax Law Forestry Specialist retains stand 1 of the original order as 15 acres and assigns stand 4 to the addition's 10 acres (the next consecutive number available).

Map

The map should show all acres under the order that fall within the area of the section map (original plus addition). All land should be highlighted since this will be the new official map for this legal description. The open and closed acreage listed in the header should reflect the land under the order in the area depicted (original plus addition).

The map for the addition must be uploaded to WisFIRS.

Effective date

Approved applications for additions will go into effect on January 1st of the year following the year of application (e.g. applications submitted by June 1st 2019 would go into effect on January 1st 2020).

FCL Conversion Applications

(s. 77.82(4m), Wis. Stats.)

Owners of Forest Crop Law (FCL) land may apply to convert their FCL land to a new MFL order **prior** to the end (expiration) of the FCL order. This should not be confused with an expiring FCL order which the landowners choose to enroll in the MFL program as a new entry. Conditions of FCL conversion are listed below. More information is available in Chapter 30 (Forest Crop Law).

- The application must include all FCL lands under the same ownership in the municipality or municipalities for which the application is submitted, regardless of entry year.
- **All** FCL land within the municipality or municipalities must meet the eligibility requirements. If any of it fails to meet the minimum requirements, none of the FCL lands within the municipality or municipalities may be converted.
- Same application deadline and fees apply to FCL conversions as other MFL entry types. Landowners are required to hire a certified plan writer to develop applications for FCL conversion.
- Begins a new 25-year or 50-year order period.
- Only land being converted from FCL may be included on the Conversion and Designation Order. This is to clearly identify lands that are converted. Lands may be added in years following the conversion. (e.g. lands converted in 2005 can have additions beginning in 2006).
- Conversion and Designation Orders have or will have sequence numbers in the 200, 300, or 400 series (e.g. 27 205 1996). Conversion and Designation Orders may no longer have sequence numbers in the 200, 300, or 400 series after the WisFIRS reporting system becomes effective.
- Special withdrawal taxes apply to conversions withdrawn during the first 10 years of the order. (See Withdrawal Tax and Fee)

Owners of land entered as forest cropland under s. 77.02, Wis. Stats., subject to an ownership change within 18 months prior to the end of the FCL contract period must submit an application to the local Tax Law Forestry Specialist for review on or before July 1 or later for good cause to be considered for designation effective the following January 1. Tax Law Forestry Specialists should contact the Tax Law Operations Specialist before approving or accepting MFL applications for July 1.

SALE OR TRANSFER

(s. 77.88(2), Wis. Stats., and s. NR 46.23, Wis. Adm. Code; Form 2450-159, MFL Ownership Change Request Form)

Transfer Requirements

What can be transferred?
(s. 77.88(2), Wis. Stats.)

All, or parts, of an entry may be sold/conveyed. This is a change due to 2015 Wisconsin Act 358 where transfers can occur even if the transfer "splits" a legal description.

When a land conveyance occurs, the new landowner must either file a MFL Ownership Change Request (Form 2450-159) within 30 days of the date of the deed or withdraw all of the land in the MFL entry under their ownership. Transfers with a change in open and closed designation must be received by the Tax Law Forestry Specialist by December 1 in order for the transfer order to be issued before December 15 and the change to be effective the following January 1.

When land that is enrolled in MFL is conveyed, the Tax Law Forestry Specialist will evaluate the conveyed land and any land remaining under the original order number to determine if both pieces of land meet eligibility requirements. For both the conveyed and remaining land to stay in the MFL program all eligibility criteria must be met. This means:

For 2017 or later entries:

- Each parcel at least 20 contiguous acres
- Each parcel at least 80% productive
- No buildings or improvements associated with buildings
- Land not developed for commercial recreation or industry
- Minimum width of 120', if less if 4:1 is not exceeded
- If designated as open, land is accessible by foot and signed according to s. NR 46.21(3)(c), Wis. Adm. Code if the access route is limited to a corridor or location

For 2016 and earlier entries:

- Each parcel at least 10 contiguous acres
- Each parcel at least 80% productive
- If buildings or improvements, 4 of the 8 characteristics are not exceeded
- Land not developed for commercial recreation or industry
- Minimum width of 120', if less if 4:1 is not exceeded
- If designated as open, land is accessible by foot and signed according to s. NR 46.21(3)(c), Wis. Adm. Code if the access route is limited to a corridor or location

For parcels under 20 acres because of a one-time renewal:

- Each parcel at least 10 contiguous acres
- Each parcel at least 80% productive
- No buildings or improvements associated with buildings
- Land not developed for commercial recreation or industry
- Minimum width of 120', if less if 4:1 is not exceeded
- If designated as open, land is accessible by foot and signed according to s. NR 46.21(3)(c), Wis. Adm. Code if the access route is limited to a corridor or location

Ineligible lands cannot be transferred; any ineligible lands must be withdrawn. Conveyed land that is ineligible because it is not 80% productive that becomes eligible after a partial productivity/sustainability withdrawal is allowed to transfer.

The key questions that a forester should ask when evaluating the eligibility of conveyed and remaining land are:

1. When was the land enrolled? (this will impact acreage and building eligibility requirements)
2. What is the productivity of the transferred land?
3. What is the productivity of the remaining land?
4. What is the amount of open/closed-MFL of both ownerships?

Withdrawal of lands after a land conveyance
(ss. 77.88(2)(am) & (c), Wis. Stats.)

Any land that does not meet the eligibility requirements after a land conveyance will need to be withdrawn. Tax Law Forestry Specialists will need to initiate the stepped enforcement processes if voluntary withdrawal does not occur (Chapter 60). In certain instances where productivity requirements are not met after a land conveyance, landowners **may** be eligible for a withdrawal without a tax and fee. In other instances landowners will be invoiced a withdrawal tax and fee for ineligible lands. In cases where all the land under a new ownership is to be withdrawn the landowner is not required to submit a transfer form and may go directly to submitting the withdrawal form.

See Withdrawals for more information on withdrawing land from MFL.

Transfer Process

Standard Operating Procedures

The goal of this is to ensure that the Tax Law Forestry Specialist reviews transfer packets within the 30 day timeline.

If there is a vacancy in a Tax Law Forestry Specialist staff position responsible for MFL transfers, the vacant position's direct supervisor will ensure that the review and approval of transfer packets happens within the 30 day timeline.

STEP 1	Tax Law Forestry Specialists must date stamp the transfer packet upon receipt. The date of receipt must be entered into the transfer tracking tool in WisFIRS Private Lands. Data entry by the forester into WisFIRS Private Lands transfer tracking tool should occur when review of packet begins.
STEP 2	Tax Law Forestry Specialists **must** complete the **For Department Use Only** portion of the MFL Ownership Change Request Form (2450-159). As part of step 2, the TLS staff should review the **Transfer Checklist** to ensure that the transfer will not cause any eligibility problems, but if it does, the Tax Law Forestry Specialist should present the landowner with the appropriate correction or withdrawal options. Options for correcting a transfer that would make land ineligible **may** include (situation dependent): ▪ Putting the land back together ▪ Reconfiguring the part transferred **The** Tax Law Forestry Specialist **must contact the landowner/submitter if the transfer packet is not complete and/or if the following issues apply:** • the land will be ineligible after the transfer (e.g. productivity or acreage requirement not met)***** • the closed lands acreage limit for the ownership has been exceeded. • the deed(s) submitted with the transfer packet do not show 100% ownership of the land enrolled in the MFL program. • the transfer fee is missing. • a landowner signature(s) is missing. • the deed(s) are not recorded (see below). ***If the conveyed lands and/or the remaining lands do not meet MFL eligibility requirements, the TLS staff must present the appropriate, potential withdrawal options to the landowner(s). Withdrawal form(s) can be sent in any time to the TLS. If MFL land has been sold/changed ownership and the new landowner does not want to be enrolled in MFL, the new landowner does not have to submit a transfer form and they may go directly to submitting the withdrawal form for the land they have acquired.** Tax Law Forestry Specialists may return the transfer packet for completion to the landowner/submitter if needed to correct error(s)/omission(s). When a transfer packet is returned, the Tax Law Forestry Specialist **must** communicate with the landowner/submitter why the transfer packet was returned. Upon return of the transfer packet, the Tax Law Forestry Specialist needs to enter a "Return Date" in WisFIRS and click the "Returned" button. When the transfer is

	resubmitted, the Tax Law Forestry Specialist can find the existing tracking record in WisFIRS, enter the "Re-Submittal Date" and click the "Re-Submitted" button. ▪ **In general, when** Tax Law Forestry Specialists **receives a transfer packet, they should make an attempt to fix all aspects of the packet that need to be fixed in an effort to avoid sending the transfer packet back to the landowner/submitter if possible. This can include legal description errors, missing or errors in parcel ID numbers, missing tax bills, etc.** • In the case of a missing fee or signature, if the missing check or missing signature can be easily and prudently obtained by the forester, this "fix" would be preferred over returning the packet to the landowner/submitter. • In the case of an unrecorded deed, instead of returning the packet, Tax Law Forestry Specialists should try to obtain a recorded copy of the deed in the most expedient manner. In doing this, if the forester discovers the deed has never been recorded, the packet must be returned to the landowner/submitter. Tax Law Forestry Specialists do **not** need to acquire "in-between deeds" to show prior ownership transfers. A Tax Law Forestry Specialist's review must be limited to the deeds submitted with the transfer packet. If the current deed(s) submitted with the transfer packet show 100% ownership of the lands enrolled under an MFL Order, then that portion of the review is completed. • Verify that current ownership on the recorded deed matches the current landowner(s) signature(s) on the transfer form. (It does not matter and does not need explaining if the landowner listed in WisFIRS does not match the seller/grantor on the recorded document submitted with the transfer.) Tax Law Forestry Specialists should communicate with their supervisor about a returned transfer packet to determine whether to begin the enforcement process in Chapter 60. If the transfer is approvable and all documentation has been acquired, the Tax Law Forestry Specialist continues the transfer process.
STEP 3	The Tax Law Forestry Specialist **scans and uploads** the transfer form, legal documents showing ownership, tax bill, and if applicable, a Certified Survey Map (CSM) in WisFIRS Private Lands and completes the transfer tracking.
STEP 4	The Tax Law Forestry Specialist **sends only the payment and remittance form** to the Forestry lockbox (DNR Cashier's Office, PO Box 93151, Milwaukee, WI 53293-0151)
STEP 5	The Tax Law Forestry Specialist will keep original transfer packet in their files. If the Tax Law Administration Specialist determines they are unable to complete the transfer process for any reason (e.g. incorrect legal description, an ownership exceeding closed acreage limits, certification opt in/out choice not selected), the Tax Law Administration Specialist will notify the Tax Law Forestry Specialist that the transfer is being rejected in WisFIRS and delete the Tax Law Forestry Specialist approval of that transfer (it will appear as SUBMITTED on the Tax Law Forestry Specialist's "To Do" tab in WisFIRS). The Tax Law Forestry Specialist will be responsible for promptly evaluating the transfer and addressing the issue(s), for example contacting the landowner to acquire missing information or returning the form to the landowner for a signature, etc. Tax Law Administration Specialists will continue to mail local government copies of transfer orders on a periodic basis, and will continue to mail transfer orders to the Tax Law Forestry Specialists when the copy of the transfer order is mailed to the landowner. *In the future when transfer transactions can be processed in WisFIRS, transfer orders will be saved in WisFIRS under an order number.* Tax Law Forestry Specialists *will be able to access, view, and print these orders from WisFIRS Private Lands. How* Tax Law Forestry Specialists *will be electronically notified when the transfer order is issued and placed in WisFIRS Private Lands has yet to be determined.*
STEP 6	Updated MFL map(s) are required to be uploaded to WisFIRS by the Tax Law Forestry Specialist when a transfer is completed (processed and new order number(s) assigned, etc.)
STEP 7	Updating and mailing of management plans and maps. • Tax Law Forestry Specialists **must** follow the current process to update and send the management plan(s) and map(s) to the new landowner. Tax Law Forestry Specialists are required to send an updated management plan(s) and map(s) to the new landowner within 1 year of the transfer order being issued to the landowner. The completion of this final step must be entered in WisFIRS transfer tracking.

Transfer Checklist

I. Proof of Ownership and Other Legal Documents

a. Deed(s) represents all acreage being transferred
b. Deed(s) are recorded
c. Deed(s) submitted must represent 100% of ownership
d. Deed(s) shows all land under same ownership
e. Land not part of recorded plat
f. Tax bills enclosed

II. MFL Ownership Change Request Form

a. Most recent revision date of the transfer form submitted (Form 2450-159)
b. Certification statement for opting in or out
c. Signatures of all owners, see Signatures
d. Landowner contact information correct and legible
e. Fee attached and all required documents submitted including CSMs, if applicable to the land transferred
f. Correct MFL land information, including: order number, location, correct acreage, legal description(s) and parcel ID #(s) listed
g. Open/closed designation is indicated and is appropriate/eligible within the closed allowable limits
h. 'Department Use Only' box completed

III. Verifying Eligibility (s. 77.82(1) Wis. Stats.)

a. For 2017 or later entries:
    1. Each parcel at least 20 contiguous acres
    2. Each parcel at least 80% productive
    3. No buildings or improvements associated with buildings
    4. Land not developed for commercial recreation or industry
    5. Minimum width of 120', if less if 4:1 is not exceeded
    6. If designated as open, land is accessible by foot and signed according to s. NR 46.21(3)(c), Wis. Adm. Code if the access route is limited to a corridor or location.

b. For parcels under 20 acres because of a one-time renewal:
    1. Each parcel at least 10 contiguous acres
    2. Each parcel at least 80% productive
    3. No buildings or improvements associated with buildings
    4. Land not developed for commercial recreation or industry
    5. Minimum width of 120', if less if 4:1 is not exceeded
    6. If designated as open, land is accessible by foot and signed according to s. NR 46.21(3)(c), Wis. Adm. Code if the access route is limited to a corridor or location

c. For 2016 and earlier entries:
    1. Each parcel at least 10 contiguous acres
    2. Each parcel at least 80% productive
    3. If buildings or improvements, 4 of the 8 characteristics are not exceeded
    4. Land not developed for commercial recreation or industry
    5. Minimum width of 120', if less if 4:1 is not exceeded
    6. If designated as open, land is accessible by foot and signed according to s. NR 46.21(3)(c), Wis. Adm. Code if the access route is limited to a corridor or location

d. Remaining lands of a partial transfer (if applicable):
    1. Meets all eligibility requirements listed above based on year of entry

IV. Updating a Map

a. For partial transfers, the Tax Law Forestry Specialist should update the map for the transferred and remaining lands

Special Transfer Types

Land Contracts
Lands can be sold and transferred by land contract as long the transfer criteria are met. Vendees (buyers) of the land contract have ownership in the land and therefore must transfer lands to their names. Vendors (sellers) of the land contract have an interest in the land similar to that of a mortgage holder or bank. Landowners who buy land by land contract and have their transfer forms received by Tax Law Forestry Specialists on or after May 15, 2009 must meet the transfer requirements.

Easements
When an easement is given, the title to the land does not change, and therefore, a transfer is not required. Whether or not the land can continue under MFL after an easement is given will depend on what use the easement is for. If the land still meets the **eligibility requirements** listed earlier in this chapter, then it can continue.

The most common easement is for purposes of ingress (entrance) and egress (exit) given to the grantor and heirs and assignees. These types of easements generally do not cause a withdrawal because they are not incompatible with the practice of forestry and do not affect the percent of non-productive land.

An easement given for a cell tower or airstrip would result in a withdrawal because these uses are considered incompatible with the practice of forestry and are not eligible for entry.

Division by "Will"
MFL land cannot be divided by a "will" and allowed to remain under MFL. A "will" transfers the ownership and must follow all rules associated with transfers.

"Trust" Transfers
When a title changes to a "trust" it is considered a transfer of ownership, even if the title goes from one individual or individuals to the same individual or individuals as trustee(s) of a trust.

Transfer to a Governmental Unit
(Form 2450-162, Declaration of Withdrawal – Exempt)

Land conveyed to a governmental unit (federal, state, local) must be withdrawn from MFL designation. Some of these withdrawals may be exempt from withdrawal taxes and fees. See Government Exempt Withdrawals.

Transfers from a Large Account Landowner to a Small Account Landowner
Large landowners have a management commitment on file with the DNR instead of a management plan. Land transfers from a large landowner to a small landowner are processed by Tax Law Forestry Specialists within 30 days of the date the transfer is received, unless there are extenuating circumstances.

Small landowners who purchase lands from a large account landowner on or after January 1, 2012 are required to develop a management plan through a certified plan writer within one year of the date the MFL – Transfer Order is issued. The management plan must be submitted through WisFIRS for approval. Until the new management plan is developed, the small landowner must follow the management commitment on file for the large account landowner.

If landowners fail to submit a proposed management plan within one year of the date of the transfer, they are in violation of the MFL program and subject to enforcement actions, including withdrawal from the MFL program. The new owner should be made aware of this obligation.

If the DNR disapproves the management plan, landowners will be given a reasonable amount of additional time to amend the proposed management plan where practical, reasonable and based on workload, but cannot exceed statutory and administrative rule requirements. Tax Law Forestry Specialists shall inform the certified plan writer of the changes necessary to qualify the plan for approval upon subsequent review.

Lands transferred from a large account landowner to a small account landowner must meet all eligibility requirements under s. 77.82(1), Wis. Stats. including minimum size requirements, 80% productive, and no more than 20% unsuitable,. Landowners who purchase largely non-productive lands may no longer be eligible to keep the lands under the MFL program. If lands have the ability to be brought back into compliance through tree planting, silvicultural work or any other type of activity, management plans should include these activities and a reasonable time frame established for the landowner to comply. Lands that fail to meet eligibility must be withdrawn and a withdrawal tax and fee may be assessed (see withdrawal types).

When a Transfer Form is Required

If the original ownership type is:	And the change in ownership is to a:	Then a transfer is:	Justification
General Liability Partnership	Limited Liability Partnership (LLP) where the partnership and entity are still the same.	Not needed	The lands are still in a partnership with the same owners. The only change is that the partnership type changed from general to limited. Documentation must be provided to show the change in partnership type. Example: Black River General Partnership conveys land to Black River LLP.
General Liability Partnership	Limited Liability Partnership (LLP) where the partnership and entity are different from the General Partnership	Needed	An entire ownership change has occurred. Example: Bob and Tom Smith, General Partnership, conveys land to Jacobsons LLP. This transfer is to an entirely different and unrelated party.
Corporation	A merger of several corporations into a single entity	Not Needed	Mergers of companies do not convey ownership in the same manner as changes in deeds. Companies that acquire ownership of property pursuant to a merger need to file forms with the Department of Revenue indicating the properties that have been merged. Documentation that a merger has occurred and a list of the legal descriptions affected need to be provided in order to process a name change in the MFL database.
Corporation	A conversion of one corporation type to another	Not Needed	Conversions of company types do not convey ownership in the same manner as changes in deeds. Companies that convert ownership type of property need to file forms with the Department of Revenue indicating the properties that have been converted. Documentation that a conversion has occurred and a list of the legal descriptions affected need to be provided in order to process a name change in the MFL database.
Husband and wife, with survivorship marital property	One spouse passes away.	Not Needed	A death certificate or Termination of Decedent's Interest is required.
Husband and wife, where no other ownership relationship is stated	Husband or wife transfers their interest in the land to another person	Needed	An ownership change has occurred.
Husband and wife, where no other ownership relationship is stated	The husband or wife passes away and the lands are transferred to another person	Needed	The deceased person's interest in the land goes into an estate. Once the estate is settled, the lands are transferred to a new person, causing a change in ownership.
Joint Tenants	One of the joint owners passes away.	Not Needed	An affidavit of death of joint tenant, death certificate or other document is needed to remove the deceased person's name from the record
Joint Tenants	One of the joint owners sells or conveys their land to another person other than a joint tenant	Needed	The joint tenancy is broken and the new landowner has a tenancy in common.
Individual Owner	Owner transfers land to children and keeps a life estate	Needed	The lands have been transferred by deed to another person or persons. A transfer is needed to show that additional people have ownership interest in the land.

If the original ownership type is:	And the change in ownership is to a:	Then a transfer is:	Justification
Multiple individual owners	Percentage changes where one owner(s) is/are buying out ownership right(s) from another owner(s) over time.	Not needed	A transfer of percent ownership between the same landowners does not require new signatures.
Life Estate and Individual Owners	Life estate holder passes away.	Not Needed.	The life estate holder has ownership in the land as long as they live. Upon death, the ownership interest of the life estate holder reverts to the original owner of the land. A death certificate is required to remove the life estate holder from the MFL documents.
Life Estate and Individual Owners	Transfer of life estate to a third person.	Needed	A transfer in ownership of the life estate holder to a third person allows the third person to use the lands as long as the third person lives or the first life estate tenant lives. A transfer is needed to show that an additional person has an interest in the lands.
Life Estate and Individual Owners	Individual owner passes away.	Needed	The deceased person's interest in the land goes into an estate. Once the estate is settled, the lands are transferred to a new person, causing a change in ownership. The person holding the life estate remains an owner in the land until their death.
LLC or Corporation	Changes in officers and members	Not Needed	The entity is the owner, not the individual officers or members.
LLC or Corporation	Sale or transfer of land to a different owner	Needed	An ownership change has occurred. Example: High Cliff LLC sold lands to Jeffery Johnson LLC.
LLP or Partnership	Change in partners	Not Needed	The entity is the owner, not the individual officers or members.
LLP or Partnership	Sale or transfer of land to a different owner	Needed	An ownership change has occurred. Example: Smith and Smith, Partnership sold lands to The Henderson Corporation.
Survivorship Marital Property	Sale or transfer of land to a different owner	Needed	An ownership change has occurred.
Tenants in Common	Sale or transfer of land to a different owner	Needed	An ownership change has occurred.
Tenants in Common	An owner passes away.	Needed	The deceased person's interest in the land goes into an estate. Once the estate is settled, the lands are transferred to a new person, causing a change in ownership.
Individual person	Transfers lands to a trust, where the same individual is the trustee of the trust.	Needed	An ownership change has occurred.
Trust	Sale or transfer of land to a different owner.	Needed	An ownership change has occurred.
Individual Landowner	Name change as a result of marriage or divorce	Not Needed	Documentation that a name change has occurred and a list of the legal descriptions affected need to be provided in order to process a name change in the MFL database. Other eligibility criteria need to be evaluated to determine if lands can continue as MFL or FCL. For example, a split of ownership within a legal description due to a divorce.

Please note the following guiding principles:

- If ownership changes due to a deed or document change, a copy of the recorded ownership change is required.
- If ownership changes due to a death and does not require a transfer, a copy of the death certificate or termination of decedent's interest is required.

Correction orders for lands enrolled in 2008-2011

Lands that were listed as a trust on legal documents and that were enrolled with an effective date of 2008, 2009, 2010 and 2011, or transferred under Managed Forest Law (MFL) during the periods of July 28, 2006 through February 28, 2010 listed the trustee as the owner instead of the trust. An administrative code change effective March 1, 2010 now requires the name of the trust to be listed as the owner on new entries and transfers. Since administrative code cannot be made retroactive, and since DNR has a desire to ensure that county land records match MFL land records, DNR will issue correction orders to correct the name on the MFL record to the name of the trust. The following guidance should be followed to determine if a correction order is required on lands enrolled in the name of trustee or where lands were transferred in the name of a trustee.

1. Determine if lands were enrolled in the years 2008, 2009, 2010 or 2011. If the name on the MFL Order of Designation lists the names of the trustee instead of the name of the trust, a correction order will be issued.
2. Determine if lands were transferred from July 28, 2006 through February 28, 2010. If transfers to a trust were complete during this time frame a correction order will be issued. Note: Transfers to trust that do not meet this requirement are processed using normal MFL transfer procedures.

Transfer Examples

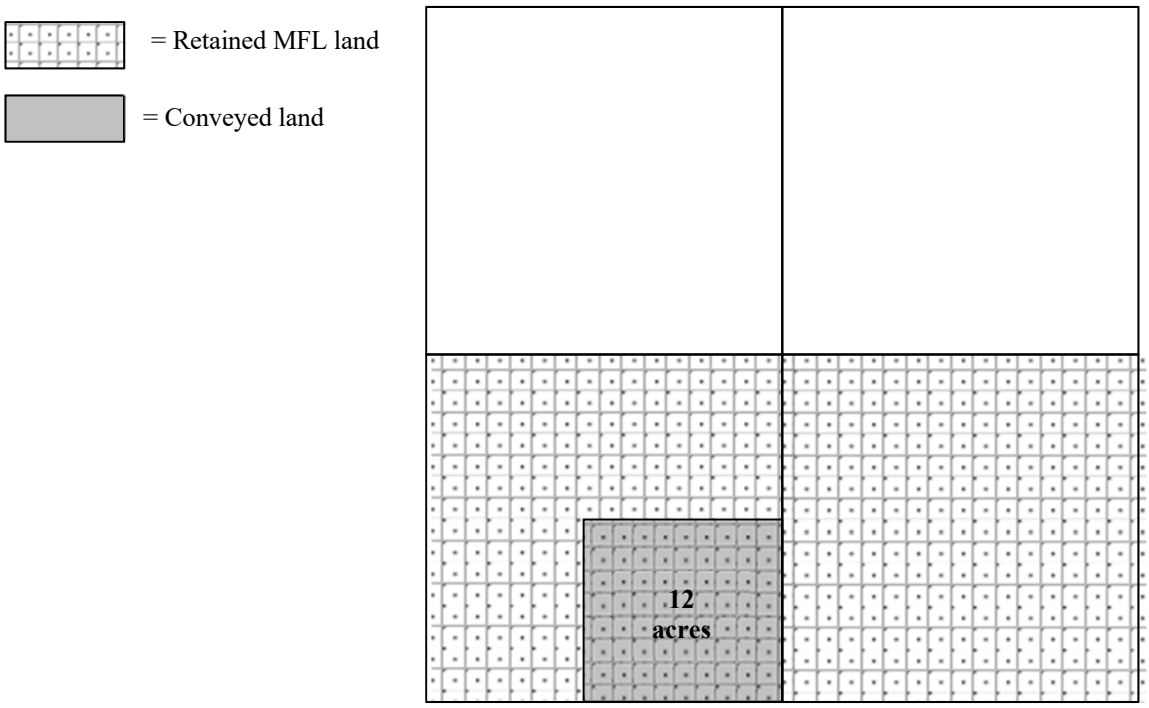
1. **a. Can the 12 acres of conveyed MFL land continue?**

IF 2016 or earlier entry, YES, the conveyed land can remain in the program if all other eligibility requirements are met (productivity). A transfer form must be filed.

IF 2017 or later entry, NO, the minimum acreage requirement for MFL parcels is 20 acres. If this were a 2017 or later order, the 12 acres would need to be withdrawn. The owner of the 12 acres can file a withdrawal form and does not need to file a transfer form since all of the land under their ownership in this order will be withdrawn.

b. Can the retained MFL land continue?

YES if all other eligibility requirements are met. Both transferred and remaining land must meet minimum eligibility requirements to continue in MFL.



2. a. Can the conveyed MFL land continue?

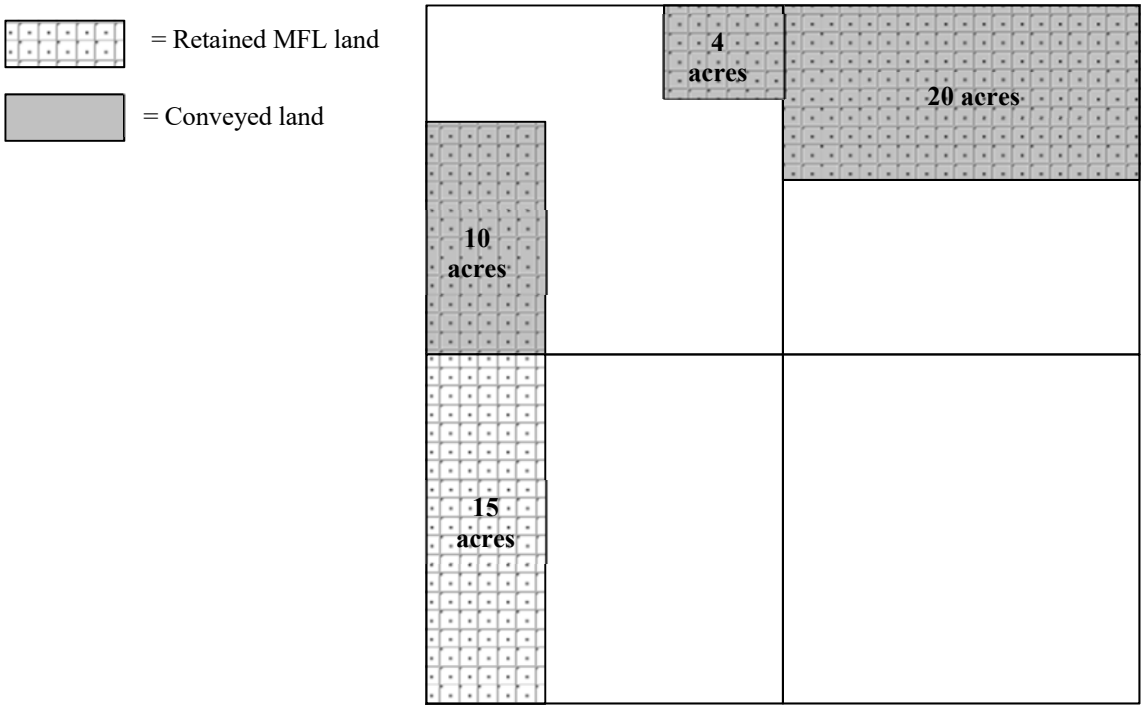
IF 2016 or earlier entry, YES, the conveyed land could remain in the program since all parcels are greater than or equal to 10 acres, if all other eligibility requirements are met. A transfer form must be filed.

IF 2017 or later entry, only the 24 acre parcel (20+4) could continue in MFL. The minimum acreage requirement for MFL parcels is 20 acres. If this were a 2017 or later order, the 10 acre parcel would need to be withdrawn. Since the withdrawal would not be for all the acreage under the new ownership in this order, a transfer form must be filed prior to the withdrawal of the 10 acre parcel.

b. Can the retained MFL land continue?

IF 2016 or earlier entry, YES, the 15 acre parcel could continue if all other eligibility requirements are met (productivity). A transfer form must be filed.

IF 2017 or later entry, NO, the minimum acreage requirement for MFL parcels is 20 acres. If this were a 2017 or later order, the 15 acres would need to be withdrawn.



3. a. Can the conveyed MFL land continue?

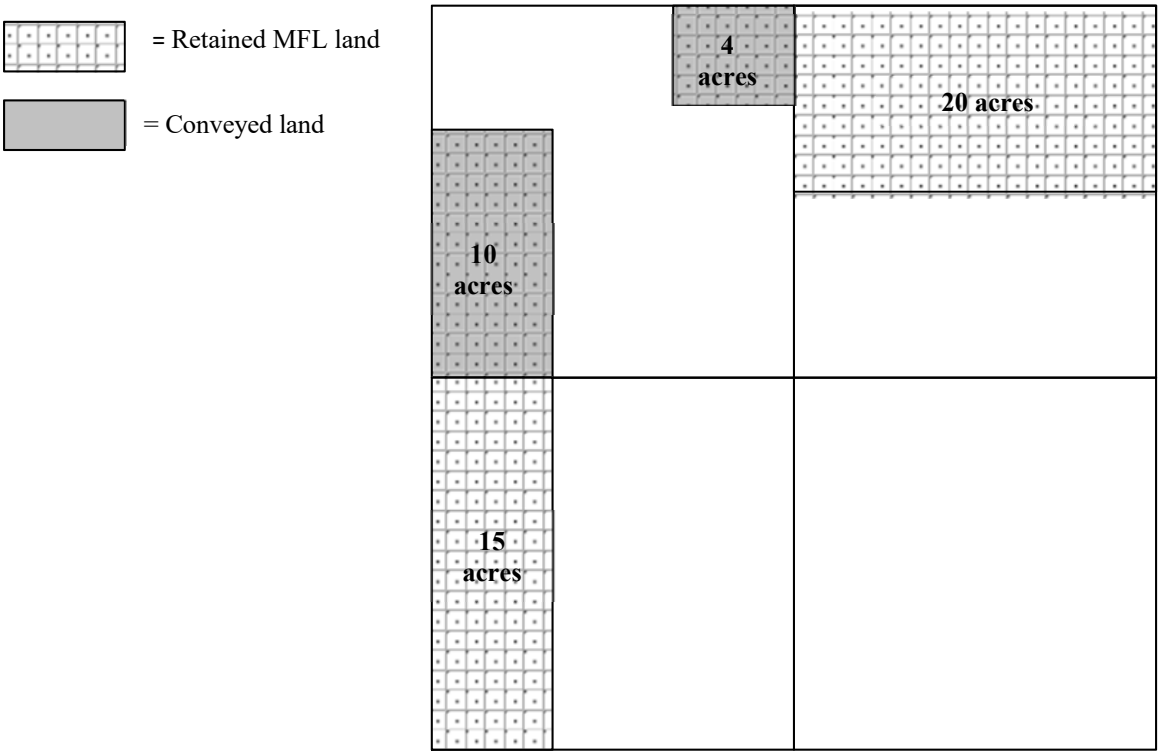
IF 2016 or earlier entry, only the 10 acre parcel could continue (if it meets all other eligibility requirements). The 4 acre parcel would need to be withdrawn because it does not meet the minimum acreage requirement. Since the withdrawal would not be for all the acreage under the new ownership in this order, a transfer form must be filed prior to the withdrawal of the 4 acre parcel.

IF 2017 or later entry, NO, the minimum acreage requirement for MFL parcels is 20 acres. If this were a 2017 or later order, all of the transferred land would need to be withdrawn. The new owner can file a withdrawal form and does not need to file a transfer form since all of the land under their ownership in this order will be withdrawn.

b. Can the retained MFL land continue?

IF 2016 or earlier entry, YES, both parcels could continue if all other eligibility requirements are met (productivity).

IF 2017 or later entry, only the 20 acre parcel could continue. The minimum acreage requirement for MFL parcels is 20 acres. If this were a 2017 or later order, the 15 acres would need to be withdrawn.



HARVESTING ON MFL

The primary purpose of the MFL program is the production of forest crops, however multiple uses are allowed when compatible. Both the statutory definition of forestry, and the administrative code definition of sound forestry include provisions for the management of ecological and non-timber resources along with the timber resource.

Wisconsin statutes s. 77.80, state that the purpose of the Managed Forest Law Program (MFL): "…is to encourage the management of private forest lands for the **production of future forest crops for commercial use through sound forestry practices**, recognizing the objectives of individual property owners, compatible recreational uses, watershed protection, development of wildlife habitat and accessibility of private property to the public for recreational purposes."

In Wisconsin Adm. Code s. NR 46.15 (29), sound forestry practices, for the purposes of MFL, are defined as : "timber cutting, transporting and forest cultural methods recommended or approved by the department for the effective propagation and improvement of the various timber types common to Wisconsin. 'Sound forestry practices' may also include, where consistent with landowner objectives and approved by the department, the management of forest resources other than trees including wildlife habitat, watersheds, aesthetics, and endangered and threatened plant and animal species."

Wisconsin Administrative Code defined the following six mandatory practices, which shall be addressed, if applicable, in a landowner's management plan:

- Harvesting mature timber according to sound forestry practices
- Thinning plantations and natural stands for merchantable products according to sound forestry practices
- Release of conifers and hardwoods from competing vegetation
- Reforestation of land to meet size and minimum medium density classifications established in s. NR 46.18(2)(d), Wis. Adm. Code.
- Post-harvest and pre-harvest treatment to insure adequate regeneration
- Soil conservation practices that may be necessary to control any erosion that may result from department approved forestry practices

Fundamental Principals of Sound Forestry

All the following Principles of sound forestry, herein referred to as the Principles, must be met when practicing sound forestry for the purpose of the MFL program when considering current and future forestry practices:

A. The management of the productive forest stand is for the primary purpose of timber production, taking into consideration other compatible landowner objectives (s. 77.80, Wis. Stats.), which cannot supersede, and are compatible with, timber production.
B. Management decisions should be based on scientific information, and considers current and future site capability, productivity and forest health concerns, in order to achieve ecological, economic and social benefits from forestry.
C. The practice will meet one of the following conditions:
    1. If the practice is a regeneration treatment, the stand will be adequately regenerated.
    2. If the practice is a tending treatment, the stand productivity is maintained or improved.

Justification of Proposed Practices

In order to evaluate if a proposed practice is considered sound forestry, adequate justification for the practice must be provided and the Tax Law Forestry Specialist (TLFS) should use professional judgement, supported by best available science and field experience. This section outlines what is needed to provide justification for a proposed practice, and what TLFS should take into consideration when evaluating a practice.

When applicable, conversations between the landowner, landowner's agent, and TLFS should occur so that the landowner understands how they are agreeing to manage their woods. If an alternative practice is being proposed, or there are concerns about the practice, the TLFS should be involved early in the conversations.

Justification Provided by Submitter

When a management practice or prescription is proposed on the cutting notice or in the management plan, the practice must be clearly described to encourage transparency with the landowner and to allow the department to consistently evaluate and determine if sound forestry will be followed. Less information may be allowed if the proposed practice follows recommended department guidance and is generally considered an approved practice for the stand and site. More justification may be required for uncommon or higher risk practice proposals.

When applicable, conversations regarding practices should occur with the landowner(s) and their agent, since the responsibility for falling out of compliance with the program ultimately lies with the landowner(s). TLFS should be involved in these conversations if an alternative practice is proposed.

The justification for the proposal should be included in the management plan and/or on the cutting notice (whichever applies to the situation at hand). To be considered a complete justification, the following must be answered:

1. How will the proposed practice achieve the Principles (A-C, as applicable)?
2. How does the proposed practice achieve landowner objectives for the treatment?
3. What resource, background information, or previous experience is the proposed practice based on?
4. If the practice is unsuccessful, what mitigation steps will be taken to bring the land back into compliance with productivity standards?

If stand conditions have changed from that indicated on the management plan in such a way that the planned practice is no longer appropriate, updated stand data will be required.

If the cutting notice proposes a prescription that does not match the management plan, or if it includes any management activities that are not identified in the management plan, all landowners must approve the cutting notice. If approved by the TLFS, the cutting notice serves as a mutual agreement to amend the management plan. If the cutting notice proposal matches the management plan or elaborates upon or further details the mandatory practice within the management plan, only one landowner signature is required since all landowners previously agreed to the practice.

Evaluation of Justification

In many cases, TLFS may need to use professional judgement to determine if the Principles are met. Professional judgement, supported by best available science and field experience, should be used to determine if information presented and proposed practices are acceptable. TLFS may make reasonable requests for additional information when needed to determine whether the Principles will be met, if the proposed management practice is not clear. When using professional judgement, if a proposed practice is likely to achieve the Principles, it should be approved. If the TLFS, in their professional opinion, feels that Principles may not be met, the TLFS should work with the submitter and landowner to develop an acceptable proposal. These conversations should happen early in the planning process.

Team leaders should be informed of controversial proposals. In instances when a proposal is denied, and the submitter or landowner disagrees with the determination, the submitter or landowner may initiate a Dispute Resolution Process (DRP, Chapter 31).

The following should be used to help evaluate the justification provided for a proposed practice to ensure it meets the Principles. This list is not all inclusive, and other reasonable site appropriate considerations may be warranted to evaluate if the proposed prescription will achieve the Principles.

- Silvicultural strategies that do not place the production of forest products, as defined in s. NR 46.15(33), as the primary objective are not compatible with the program.
- Program density standards must be able to be met within a reasonable period of time following a treatment. Environmental and ecological factors will influence what is considered a reasonable period of time.
- Economic objectives for prescribing a practice are acceptable if the practice will achieve the Principles.
- Appropriate regeneration methods should be identified based on site capabilities and cover type.
- Subsequent management activities that are needed to ensure adequate regeneration should be identified.
- Intermediate treatments will be scheduled and implemented to maintain stand stocking levels within the acceptable

limits of variation from identified targets using recognized stocking guides or other appropriate resources.

- Any probable risks to success of the practice meeting the Principles are identified and any necessary mitigation strategies are adopted in the management plan. Examples of probable risk may include: high deer population, poor regeneration survival, invasive species, forest health concerns, and other characteristics to be evaluated on a site-specific basis.
- Management strategies that lack consideration for specific tree species or forest stand silvics are not considered sound forestry.

Compliance

MFL landowners are responsible for complying with program requirements. Potential actions for not following sound forestry:

- Requiring the landowner to implement actions to get lands back into compliance with MFL eligibility requirements, such as planting, site preparation for natural regeneration, and release of conifers and hardwoods from competing vegetation (at the landowner's expense)
- Issuing citations for harvesting violations (see page 60-14)
- Involuntarily withdrawing lands from MFL for failure to conform with an eligibility requirement, with MFL Program requirements, or the landowner's management plan, if compliance cannot be achieved

Other Laws and Regulations

It is important to note that the landowner is responsible for adhering to all other laws, regulations, permits, or authorizations. Frequent laws and regulations that the landowner may run into include:

- Bureau of Natural Heritage Conservation (NHC) Species Guidance for Threatened and Endangered Species
- Archaeological, Historical, and Cultural Resource Practices
- Waterway and Wetland Permits
- County Cutting Notice of Intent to Harvest (Wis. Stats. s. 26.03)

Cutting Notice and Report – MFL and FCL

(MFL - s. 77.86(1)(b), Wis. Stats., FCL - s. 77.06(1), Wis. Stats.) (Form 2450-32)

The Cutting Notice and Report is used to ensure that sound forestry is being practiced on tax law lands and to track harvested forest products. The landowner may not cut merchantable timber on managed forest/forest crop land with delinquent property taxes (acreage share or closed land payments).

Filing of Cutting Notice

Landowners who intend to cut merchantable timber on managed forest land must file a cutting notice with the Department for the proposed cutting at least **30 days** prior to harvesting timber (s. 77.86(1)(b), Wis. Stats.) on Form 2450-32 (current version of form available on line dnr.wi.gov, keyword: 2450-32). The 30 days is not a waiting period; the purpose is to provide the Tax Law Forestry Specialist time to evaluate the proposed harvest and make a determination on whether approval by the Tax Law Forestry Specialist is required. If approval is not required, cutting may commence following the filing of the Cutting Notice Form. However, it may be advantageous for the landowner and / or submitter to defer cutting until the DNR has confirmed that the form has been received and that DNR approval is not required. Note: this process is the same for FCL enrollments as well. The steps for completing, evaluating and reviewing cutting notices can be found in the subsequent sections, beginning with the section Cutting Notice Steps**.**

It is in the best interest of the landowner and the person submitting the Cutting Notice Form 2450-32 to submit a complete cutting notice. See the cutting notice Training videos for further instructions and examples at http://dnr.wi.gov, search keywords 'cutting notice training'.

For a cutting notice to be considered complete the following underlined items must be addressed:

- **Attach a map** with enough detail to identify cutting area and to illustrate information in the cutting notice narrative (a copy of the MFL plan map without additional information is insufficient).
- **Cutting prescription.** Provide a complete and concise description of the applied Silviculture, the stand number affected, acres treated, general management type (i.e. even aged, uneven age, conversion.), harvest method (i.e. selection, group selection, thinning), target residual condition (i.e. basal area, crown closure, gaps, seed trees per acre), tree retention and regeneration measures implemented, marking paint colors and representation, order of removal (if different from the standard order of removal as outlined in the Silviculture Handbook).
- **BMPs for Water Quality.** Address prescriptions to mitigate water quality concerns, including identifying wetlands, streams, rivers, lakes, ponds, springs, or other water quality issues, the BMP measures that will be implemented, the permits that are required and/or need to be obtained, the conditions suitable for harvest (i.e. dry, frozen, rutting guidelines, etc.). For more information, guidelines can be found in the Wisconsin DNR BMP for Water Quality Manual at http://dnr.wi.gov, search keywords 'forestry bmp'.
- **BMPs for Invasive Species.** Address prescriptions to mitigate invasive species, including plants, pests and pathogens. Include time of year restrictions (i.e. excluding oak wilt period, only during frozen ground to reduce root damage, etc.), forest health treatments (treat stumps within 24 hours of cutting to prevent annosum root rot, etc.), and describe the BMP measures that will be implemented. BMPs can be found at http://dnr.wi.gov, search keyword 'invasives' or by visiting the Wisconsin Council on Forestry at http://council.wisconsinforestry.org/invasives/ for more information on Wisconsin's Invasive Species Best Management Practices.
- **NHI Prescription.** Address any prescriptions to avoid impacts to rare species or any management considerations needed because of the likely presence of rare species and/or high-quality natural communities. A search of the Natural Heritage Inventory (NHI) Database is required, but there may be additional sources for this information. Obtain NHI information prior to establishing management practice. Requests for NHI information should be made in writing or e-mailed directly to the DNR Tax Law NHI Check inbox (DNRTaxLawNHICheck@wisconsin.gov) using directions found in Appendix 10. Document the date of the NHI search and verify any suitable habitat for species identified and describe the protection measures that will be taken to protect the species or community. See Appendix 10 for details on obtaining and sharing NHI data.

  Plants. State-listed plants are not legally protected on private lands during the course of forestry activities, but landowners are encouraged to voluntarily avoid destroying the plant or its habitat. Certification does not have any additional standards above required law except that landowners should consider protecting plants identified in the NHI search. However, plants on the federal endangered and threatened list are protected when federal funds are used (as they are on federal lands).

To consider protection of endangered, threatened or special concern plants landowners need to do the following:

a) **Conduct an NHI search.** The search will identify endangered, threatened and special concern animals and plants, as well as certain examples of communities on or near the project area. A CPW or (Cooperating Forester who has had the NHI training) can request that Tax Law Administration Specialists conduct the search for them. Alternatively, the landowner can request an ER Review (http://dnr.wi.gov/topic/ErReview/).

b) **Determine if there is suitable habitat.** Cooperating Foresters (with assistance from the department) should determine if suitable habitat exists for any of the NHI plants. On-the-ground searches of the property are not required to identify individual plants or groups of plants, but they can be helpful if the person surveying is qualified, and it is the right time of year for identification of the plant.

c) **Review the results with the landowner.** If suitable habitat exists, determine what if any avoidance measures are needed, as well as any voluntary management guidance. Landowners should be provided enough information on how to protect and/or manage for an NHI plant in order to make an informed decision, including the federal and state status.

d) **Document the landowner's decision in the cutting notice and the landowner's case file.** This documentation shows auditors and others that steps have been taken to meet certification standards. If a landowner decides not to protect the plant the document process ends.

e) **Implement any needed protection measures.** If the landowner decides to implement the needed protection/avoidance measures, include them in the cutting notice and report form, practice plan or other management prescription and document the recommendations in the landowner's case file.

Special Concern Animals. Special concern animals are not currently listed as endangered or threatened, so they are not protected by the state's endangered species laws. However, some special concern species are protected by other state and federal laws. For example, Bald Eagles are fully protected by federal law, even though they are not protected by the state's endangered species laws. The state status code indicates if a special concern species is protected by other laws:

- SP/P – fully protected
- SC/N – no laws regulating use, possession, or harvesting
- SC/H – take regulated by establishment of open/closed seasons
- SC/F – federally protected as endangered or threatened, but not so designated by DNR
- SC/M – fully protected by federal and state laws under the Migratory Bird Treaty Act

Even when not protected by any laws, special concern species are often at-risk of becoming endangered or threatened, and landowners are encouraged to protect these species whenever possible.

How to protect plants and animals. Landowners should work with their Tax Law Forestry Specialists and local DNR Specialists to determine what options are available to protect species to the extent possible. Most often, timber sales can occur with certain modifications, including:

- **Timing** of the activity when the endangered or threatened species is not present. This avoidance measure is often used for species that migrate such as certain rare birds. This option would allow all of the lands to be productive forest land, although some restriction may be present on entry of the land for management purposes.
- **Avoidance** of the endangered or threatened species' habitat year-round. Some rare species inhabit small habitat within a forest such as cliffs or seeps. Avoiding harvest in an entire stand is typically not necessary for species associated with forests in Wisconsin. Complete avoidance of the habitat would cause some of the lands to no longer be suitable as productive forest land.
- **Choice of equipment.** This option may allow for certain pieces of equipment to be used on a property that does not harm certain life cycles of an endangered or threatened species, including prescribed fire, chemical treatment, equipment with large floatation tires, etc.
- **Other techniques** as determined by DNR Specialists.

- **Archeological, Historical and Cultural Prescriptions.** Address any prescriptions to mitigate archeological, historical and cultural concerns. Obtain Archeological, Historical, and Cultural information prior to establishing the management practice. Requests for this information should be made in writing or e-mail directly to DNRTaxLawNHICheck@wisconsin.gov. Document the date of the Archeological, Historical, and Cultural resources search and describe the measures that will be taken to protect the site. See Appendix 11 for details on obtaining and sharing archeological, historical and cultural resource data.

- **Verification of Certification under MFL Group**. Review the list of MFL orders that are part of the MFL Certified Group to determine if land covered on the Cutting notice is or is not certified. Lists are provided on the DNR website (go to dnr.wi.gov, search keyword 'forest certification', click on 'MFL certification' and the list is available at the bottom of the page) and in WisFIRS.

- **Order Number and Legal Description.** The Order Number can be obtained from the MFL/FCL plan, Order of Designation, or from the local Tax Law Administration Specialist. Use a separate column for each description. The legal descriptions must be identical to the Master List.

- **Description Code.** The description code can be found in Appendix 1 of the Forest Tax Law Handbook.

- **Species Name and Product Code.** Use the drop-down box to identify the tree species and product to be harvested.

- **Volume.** Estimate the volume from the pre-harvest cruise of the stand to be harvested. Report log products in board feet (i.e. 3000), and cords in whole cords (i.e. 55). Posts, Poles, and Christmas trees shall be reported by the piece. Actual volume should be from post-harvest scale.

- **Signatures.** When submitting the Cutting notice, the landowner must sign the first page and submit to the local Tax Law Forestry Specialist responsible at least 30 days prior to cutting. When submitting the Cutting Report, the landowner must sign the second page and submit to the local Tax Law Forestry Specialist within 30 days of completion of the cutting. Consultants or other representatives signing Cutting notices or Reports for landowners must provide proof that they are authorized to act as the owner's agent. Proof of authorization can be as simple as a letter signed by the landowner stating that the named consultant or representative has the authority to sign Cutting notices and Reports on the landowner's behalf.

Unmarked Pine Thinning Policy

In the interest of efficiency and economy, the Forestry Operations Team has resolved that Tax Law Forestry Specialists should approve cutting notices for routine unmarked pine thinning when possible (FOT Minutes, December 20, 2005). Any denial of a proposed unmarked pine thinning must be based on a record of poor performance or unusual site specific silvicultural situations or complications.

Tax Law Forestry Specialists may inspect the proposed unmarked pine thinning according to workload criteria established by the Forestry Leadership and Forestry Operations Teams. All denials of an unmarked pine thinning should be communicated to the landowner in the same manner as other Cutting notice denials.

Landowners have the responsibility to administer all unmarked pine thinning, similar to administration of other timber sales. A landowner or designated agent may conduct an on-site meeting with the timber sale contractor prior to initiating the harvesting operation and, if possible, include the Tax Law Forestry Specialist.

Cutting Notice Steps

(Note: the steps are the same whether the land is in MFL or FCL)

Step	Who	Action
1.	Forester/Logger/Landowner	Request NHI and archaeological/historical/cultural data from TLS and assess the harvesting site for BMP needs for water quality and invasive species.
2.	Tax Law Administration Specialists	Provide NHI and archaeological/historical/cultural initial review results (i.e.: "hits"/no "hits") within 5 working days. Eligible individuals can be provided NHI data. If there are "hits" to address, additional time may be needed to determine appropriate avoidance measures. Tax Law Forestry Specialists can assist with prescriptions as described earlier in Chapter 20.
3.	Forester/Logger/Landowner	Establish timber sale.
4.	Forester/Logger/Landowner	Fill out cutting notice. Providing complete and thorough information may help ensure the proposed cutting is required under the terms of an approved management plan and may expedite approval (if required).
5.	Landowner	Sign cutting notice (page 1). Check the appropriate box to indicate whether requesting DNR review and approval. Note: DNR review and approval may or may not include a field review. If a consultant or other representative is signing the cutting notice on the landowner's behalf, please review the information about signatures on the previous page.
6.	Forester/Logger/Landowner	Submit the cutting notice to the Tax Law Forestry Specialist at least 30 days prior to harvesting timber.
7.	Tax Law Forestry Specialist	Date stamp cutting notice received. Determine whether or not the cutting notice requires department approval (see Determining Whether the Cutting Notice Required Department Approval section below).
8.	Tax Law Forestry Specialist	Follow steps in the sections below for cutting notices that either do or do not require DNR approval.

Determining Whether the Cutting Notice Requires Department Approval

The Department must approve all cutting notices submitted prior to cutting, unless the cutting notice is submitted by a person whose name appears on the Cutting Notice Registration List, the proposed cutting is required under the terms of an approved management plan, and the landowner has not requested Department approval. To determine whether the cutting notice requires department approval, all cutting notices shall be evaluated by addressing the following questions.

Initial cutting notice evaluation:

1. Is the person who submitted the cutting notice on the Cutting Notice Registration List?
   If you answer yes to this question, proceed to question #2.
   If you answer no to this question, the cutting notice requires DNR review and approval.

2. Did the landowner request DNR review and approval?
   If you answer yes to this question, the cutting notice requires DNR review and approval.
   If you answer no to this question, proceed to question #3.

3. Is the proposed cutting required under the terms of an approved management plan?*
   If you answer yes to this question, the cutting notice **does not** require DNR approval.
   If you answer no to this question, the cutting notice requires DNR approval.

**If you are unsure if the proposed cutting is required under the terms of the management plan, contact the landowner and / or submitter immediately to resolve any issues with the cutting notice so that the cutting can commence, or continue if cutting has already commenced, as soon as possible. If the Tax Law Forestry Specialist and landowner mutually agree that the proposed cutting is sound forestry, even if it is not exactly what was prescribed, the proposed cutting can be considered required under the terms of the approved management plan (77.82(3)(f) Wis. Stats.).If mutual agreement cannot be achieved, the cutting notice is subject to DNR approval.*

Cutting Notices that do not Require DNR Approval

If cutting notice DOES NOT REQUIRE DNR APPROVAL the Tax Law Forestry Specialist or reviewer shall do the following:

1. Having determined the cutting notice was submitted by a person whose name appears on the Cutting Notice Registration List and the proposed cutting is required under the terms the approved management plan, the Tax Law Forestry Specialist does not need to approve the cutting notice, and does not need to sign page 1 of the cutting notice.

2. Input cutting notice information into WisFIRS Private Lands.

3. If clarification is needed, the Tax Law Forestry Specialist may attempt to obtain additional information in order to clarify the proposed cutting prescription, BMP's for water quality, NHI, and/or Archeological, Historical, and Cultural resource prescriptions **if warranted**. The Tax Law Forestry Specialist **may not** complete the cutting notice. **Use the most efficient method to obtain and communicate clarifying information.**

   a. Contact the landowner and / or submitter to clarify and resolve the issue(s). Ideally a phone call to the landowner and landowner's agent is a good starting place.
   b. Conduct a field review if additional clarification is deemed necessary pursuant to the criteria identified in the **Criteria For Which No Field Review Is Needed** section below.
   c. Once information or clarification is obtained, document it in the file. If additional information is not obtained, document the request for information in the file.
   d. Follow-up with the landowner and / or submitter and other involved parties to ensure they are aware of any pertinent information. A version of this follow-up should be in writing and should explain recommended prescriptions for mitigating concerns that arose in the evaluation of the cutting notice. This written follow-up should be sent to the landowner and / or submitter and should be attached to the cutting notice form.

4. If the NHI prescription is not addressed on the submitted cutting notice, the Tax Law Forestry Specialist should complete a NHI review using the NHI Portal (see Appendix 10 for instructions). If an Element Occurrence (EO or 'hit'), is found, the Tax Law Forestry Specialist should follow-up in writing with the landowner and submitter to

provide the information and any recommended mitigation measures. This letter should not contain detailed data on any rare, endangered or threatened resources. Note that this follow-up is intended to help the landowner comply with Wisconsin's Endangered Species Law (s.29.604, Wis. Stats.), but it does not imply further restrictions on the cutting notice. A copy of this written follow-up should be attached to the cutting notice form.

5. Return original notice to landowner and send a copy to the person who submitted the cutting notice, acknowledging that the cutting notice does not require DNR approval if it was submitted by a person whose name appears on the Cutting Notice Registration List and the proposed cutting is required under the terms the approved management plan (or management commitment for large account landowners).

6. Retain a copy of the cutting notice for the Tax Law Forestry Specialist's file.

7. Send reminder letters to landowners who have a cutting notice that is more than one year old to ensure harvest is still being implemented in a timely manner. Update cutting notice if necessary.

8. If a complaint is received from a landowner or 3rd party, inform supervisor. Complaint reviews should be expedited and conducted as soon as possible. If unsound forestry is discovered during a field review, follow the Steps to Successful Compliance and Enforcement from Chapter 60 of the Forest Tax Law Handbook.

Cutting Notices that Require DNR Approval
If the cutting notice **requires DNR approval** and is filled out or submitted by:

- **A private forester, logger, landowner or agent for the landowner:** the Tax Law Forestry Specialist may, while working in consultation with the landowner and submitter, complete all areas of the cutting notice as needed to develop an acceptable harvest proposal.
- **A Cooperating forester and the landowner requested DNR approval**: the Tax Law Forestry Specialist may only complete the NHI and the Archeological, Historical, and Cultural prescriptions.

For cutting notices that require DNR approval, the Tax Law Forestry Specialist may require post-sale treatment and regeneration practices consistent with the plan, or copies of contracts, consultant tally sheets, or scale sheets as conditions of approval. If the proposed cutting is not under the terms of an approved management plan, the Tax Law Forestry Specialist must assist (see below for definition of "assist") the owner in developing an acceptable proposal before approving the cutting notice (s. 77.86(1)(d), Wis. Stats.).

To approve a mandatory practice, the proposed harvest described in the cutting notice must be consistent with the management plan. In addition, the harvesting of mature timber and the thinning of plantations and natural stands for merchantable timber must be according to sound forestry practices (s. NR 46.18(2)(a) and (b), Wis. Admin. Code). Determination of sound forestry should be consistent with the Fundamental Principles of Sound Forestry section of this document and based on forest cover type guidelines found in the Silviculture Handbook and the other listed Department resources.

For regeneration harvests, the development and review of the cutting notice should be based on regeneration standards as described in the Silviculture Handbook for the particular cover type. For example, a minimum of 2,000 well-distributed seedlings/acre of paper birch is considered adequate to initiate the final harvest of a shelterwood. In even-aged management of a northern hardwood stand, 2,000 to 5,000 seedlings/acre is considered adequate to initiate an overstory removal. It is important to remember that the quantity of regeneration may need to be increased to accommodate operational harvest damage, depending on the species, timing of the harvest, equipment, and other factors.

Assist means providing silvicultural, ecological and cultural guidance to develop an acceptable proposal and complete the cutting notice. Assist also means Tax Law Forestry Specialists will provide NHI and the Archeological, Historical, and Cultural database search results to eligible individuals (at the time of this writing, eligible individuals include landowners, CPWs and trained Cooperating Foresters; all other requests should be referred to the Natural Heritage Conservation Program) and/or assist with the development of mitigation prescriptions for the protection of identified resources. Note: the definition of assist is applicable to cutting notices which require DNR review and approval; however, the Tax Law Forestry Specialist may provide assistance with mitigation prescriptions to anyone who submits a cutting notice prior to submittal for cutting notices that do not require DNR approval.

Delinquent taxes must be paid before the Tax Law Forestry Specialist may approve the Cutting notice.

If cutting notice DOES REQUIRE DNR APPROVAL, the Tax Law Forestry Specialist or reviewer shall do the following:

1. Take action to approve or return the cutting notice as soon as possible. Strive to get to an approvable notice within 30 days. Input cutting notice information into WisFIRS Private Lands.

2. Check the entire cutting notice and attached map for accuracy and completeness.

3. Determine if a field review is needed using the criteria listed in the **Criteria For Which No Field Review Is Needed** section below.

4. If the cutting notice and attached map are complete, accurate, and no field review is warranted, then approve the notice.

5. If the cutting notice is not complete or accurate or a field review is warranted the Tax Law Forestry Specialist should obtain additional information. **Use the most efficient method to obtain clarifying information and resolve the issue causing return**.
   a. Contact the person who submitted the notice to clarify and resolve the issue(s). Ideally a phone call to the landowner and landowner's agent is a good starting place.
   b. Conduct a field review if additional clarification is deemed necessary pursuant to the criteria protocol above.
   c. Once information or clarification is obtained then, if appropriate, approve the cutting notice.
   d. Document any additional conditions necessary to ensure the proposed cutting is required under the terms the approved management plan and is consistent with sound forestry. Follow-up with the landowner and other involved parties to ensure they are aware of these added conditions and information.

6. **Before initiating this step, the Tax Law Forestry Specialist must ensure their supervisor is aware and concurs with the need for full re-evaluation.** If the cutting notice cannot be approved, even after obtaining additional information which includes evaluating and suggesting other options, then formally notify the originator and landowner that a full re-evaluation of the proposed practice will be necessary in order to achieve an approvable cutting notice. Document all work in the landowner file and other designated method (e.g. WisFIRS).

7. Return original approved cutting notice to landowner and a copy to the person who submitted the cutting notice.

8. Retain a copy for the Tax Law Forestry Specialist's file.

9. Send reminder letters to landowners whose cutting notice is more than one year old to ensure harvest is still being implemented in a timely manner. Update cutting notice if necessary.

10. If a complaint is received from a landowner or 3rd party, inform supervisor. Complaint reviews should be expedited and conducted as soon as possible. If unsound forestry is discovered during a field review, follow the Steps to Successful Compliance and Enforcement from Chapter 60 of the Forest Tax Law Handbook

Criteria for Which No Field Review is Needed

The purpose of these criteria is to provide a relatively consistent method to determine when to spend time on field reviews with the goal of reducing the number of field reviews conducted. Staff, supervisors, and partners need to communicate often when questions arise. In general, a DNR reviewer should not field check cutting notices if all of the criteria below are met.**

No field review is needed if ALL of the criteria listed below are met:

- Mechanical thinning (e.g. row thinning/remove every 3rd row), simple clearcut, or simple coppice treatments.
- Silviculture complies with recommended silvicultural practices as described in the Silviculture Handbook
- For regeneration harvests: Reliable regeneration is expected within 3-5 years after cutting and adequate steps have been documented in the cutting notice to ensure full stocking of target regeneration (e.g. aspen simple coppice).
- Silvicultural prescription matches the MFL plan prescription.
- Timber sale map is consistent with the MFL stand(s) being treated.
- The cutting notice does not require DNR approval.
- Appropriate green tree retention addressed.

- No listings for elements or concerns with respect to NHI, Archaeological & Historical Sites or these items are adequately addressed on Cutting notice.
- No mitigation measures required for BMP's for water quality, soil protection, invasive plants, or forest health or these items are adequately addressed on Cutting notice.
- Not a salvage harvest.

***If all of the above criteria are met but the reviewer would like to conduct a field review anyway, the reviewer will discuss reasons for their choice and obtain supervisor approval before conducting the field review. Likewise, if the all criteria are not met, but the reviewer does not think a field review of the cutting notice is necessary, the reviewer must document the reason(s) for not completing a field review. Complete documentation of the decision should be maintained in the landowner file or other appropriate location.*

Cutting Notice Violations

If the Tax Law Forestry Specialists determines that cutting has begun and no cutting notice has been filed, follow through with procedures under Failure to File a Cutting Notice in Chapter 60.

If the Tax Law Forestry Specialist determines that active cutting is not following an approved cutting notice, follow through with procedures under Cutting in Violation of an Approved Cutting Notice in Chapter 60.

Time Limit to Commence Harvesting

All cutting specified in the cutting notice shall be commenced within one year after the date the proposed cutting is approved. The owner shall report to the department the date on which the cutting is commenced (s. 77.86(3), Wis. Stats.). These requirements of the MFL program are established to ensure that landowners are completing mandatory harvests in a timely manner.

Tax Law Forestry Specialists, Cooperating Foresters and Loggers should work with landowners to monitor harvest activities to ensure that harvesting is being completed within a reasonable time period. A "reasonable time" will be dependent on the Tax Law Forestry Specialist's judgment and knowledge regarding size of the sale, season of the year, local timber markets, etc.

If the cutting has not begun within 1 year of the approval of the cutting notice, the following actions should be taken:

- **Cutting has not begun, and will be completed within the 2nd year of a 2 year timber sale contract.** Tax Law Forestry Specialist should document actions to verify that cutting will be taking place and that amendments to the cutting notice are not needed. Tax Law Forestry Specialist should initial and date the existing cutting notice.

- **Cutting has not begun, and will not be completed within the next year.** The owner should file the cutting report showing zero volumes along with a brief explanation as to why the cutting did not occur. The Tax Law Forestry Specialist should begin any actions needed to help the landowner get back into compliance with the management plan. A new cutting notice will need to be filed at least 30 days prior to cutting timber. The Tax Law Forestry Specialist should evaluate the new cutting notice within 30 days.

- **Cutting has not begun and harvesting prescriptions need to be amended before cutting begins.** The owner should file the cutting report showing zero volumes along with a brief explanation as to why the cutting did not occur. The DNR Forest should begin any actions needed to help the landowner determine the proper management prescriptions. A new cutting notice will need to be filed at least 30 days prior to cutting timber. The Tax Law Forestry Specialist should evaluate the new cutting notice within 30 days.

Filing of Cutting Report

Within 30 days after cutting is complete, the owner shall file a Cutting Report with the DNR listing the species of wood, kind of product and the quantity of each species cut as shown by the scale or measurement made on the ground as cut, skidded, loaded or delivered, or by tree scale certified by a Cooperating Forester acceptable to the department if the wood is sold by tree measurement (s. 77.86(4), Wis. Stats.). If the Cutting Notice did not require DNR approval, the Cutting Report process is not impacted.

If cutting has started but not been completed within one year after the Cutting Notice is approved, a “partial” Cutting Report needs to be filed and the landowner(s) should check the Partial Report checkbox. If the remaining harvest to be completed is consistent with the originally submitted Cutting Notice, the Cutting Notice may be renewed in WisFIRS Private Lands; a new Cutting Notice does not have to be filed.

If the remaining harvest to be completed will be modified from the originally submitted Cutting Notice, the Cutting Report should be filed as the “final” Cutting Report so that the practice can be completed (the acres harvested should be indicated). The Tax Law Forestry Specialist will then create a new mandatory practice for the remaining land to be harvested and a new Cutting Notice must be filed.

The requirement to report harvested volumes within one year of Cutting Notice approval is required by statute for FCL lands (s. 77.06(4), Wis. Stats.). While there is not a specific similar statutory requirement to report harvested volumes within one year of the Cutting Notice approval for MFL lands, it is the policy to treat both programs consistently. Therefore a “partial” Cutting Report needs to be filed if cutting has been started but not completed within one year after the Cutting Notice is approved for both FCL and MFL lands.

The following information is required to be provided on the cutting report:

- Actual volumes cut by species, product, and description including fine woody material. Actual volumes can be found on the scale slips the landowner receives. In cases where the timber is sold by lump sum and no scale slips are received the estimated volume should be used as the actual volume.
- If no cutting was done, indicate "No Cut".
- Determine if sawbolt volume needs to be recorded as cords or logs based on diameter. Report volume using appropriate product codes.
- Landowner(s) signature(s).

FCL landowners must supply the information within 30 days of sale completion or within one year of receiving a DNR approved Cutting Notice, whichever comes first. If cutting isn't completed, the landowner must submit a new Cutting Notice for the areas not cut.

MFL landowners must supply the information within 30 days of sale completion. Landowners may supply the information one year after receiving a DNR approved Cutting Notice even if the sale is not complete. This would be a partial report. If the remaining harvest to be completed is consistent with the originally submitted Cutting Notice, the Cutting Notice may be renewed in WisFIRS Private Lands; a new Cutting Notice does not have to be filed.

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Steps to Approve a Cutting Report

1. Within 15 working days, verifies sale completion, adherence to cutting practices, and accuracy of reported volumes. Sale completion can be verified based on observation of how the cutting compares to the silvicultural prescription, the presence of cut products or equipment on the sale area, or other related factors. Only by establishing a completion date can the DNR demand filing a Cutting Report (MFL only). A site inspection or other activities may be necessary to establish the facts. Further contact with the landowner and a field visit may be necessary to complete this task.

   In reviewing the cutting report and evaluating harvest results, the success of the mandatory practice and continued compliance with the MFL Program requirements will be based on whether the harvesting of mature timber and the thinning of plantations and natural stands for merchantable timber occurred according to sound forestry practices (s. NR 46.18(2)(a) and (b), Wis. Admin. Code).

   Determination of sound forestry should be consistent with the Fundamental Principles of Sound Forestry section of this document and based on forest cover type guidelines found in the Silviculture Handbook and the other listed Department resources. For regeneration harvests, compliance with MFL Program requirements to follow sound forestry practices should be based on regeneration standards as described in the Silviculture Handbook for the particular cover type. It is important to note that it may be three to five years after the harvest before it can be determined if regeneration goals are achieved, depending on the particular cover type.

2. Includes the codes for species and product, which were cut, but not pre-printed on the report.

3. Works with the landowner to resolve problems (or see Chapter 60).

3. Sends approved report to TLS.

5. Updates recon to indicate completion of mandatory practices and schedules the next practice within the order period.

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Species Codes		Product Codes	
A	Aspen	10	Logs
AS	Ash (for use with 10 only)	18	Mixed Products-for use with PR, PW or S only (sold by the cord)
BA	Basswood	18T	Mixed Products-for use with PR, PW, or S only (sold by the ton)
BW	White birch	20	Cordwood
BY	Yellow birch (for use with 10 only)	20T	Cordwood (sold by the ton)
C	Cedar	23	Fuelwood-dead or cull material (sold by the cord)
CH	Cherry (for use with 10 only)	23T	Fuelwood-dead or cull material (sold by the ton)
E	Elm (for use with 10 only)	24T	Cordwood (> 4" dib) combined with Fine Woody Material (< 4" dib) (sold by the ton)
F	Balsam fir	26T	Fine Woody Material (< 4" dib) (sold by the ton)
FU	Fuelwood (for use with 23, 23T,	31	Posts 7-8 ft.
H	Hemlock	32	Poles 10-12 ft.
HI	Hickory (for use with 10 only)	33	Poles 14-16 ft.
MH	Sugar maple (for use with 10 only)	34	Poles 18-20 ft.
MO	Other maple (for use with 10 only)	35	Poles 21-30 ft.
MR	Red maple (for use with 10 only)	36	Poles 31-40 ft.
MX	Miscellaneous	37	Poles 41-50 ft.
OO	Other oak	38	Poles 51-60 ft.
OR	Red oak (for use with 10 only)	39	Poles 61-70 ft.
OW	White oak (for use with 10 only)	40	Unsheared Christmas trees
PJ	Jack pine	41	Sheared Christmas trees
PR	Red pine/Scotch pine		
PW	White pine		
S	Spruce		
T	Tamarack		
W	Walnut (for use with 10 only)		
XX	Posts, Poles, and Christmas Trees (for use with 32-41 only)		

Cutting Report Violations

If no Cutting Report is submitted by the landowner, follow through with the procedures under Failure to File a Cutting Report in Chapter 60.

If other cutting violations are found, please refer to the appropriate sections for guidance in Chapter 60.

NATURAL DISASTERS AND DAMANGE TO LANDS

There are two potential routes that are most likely to bring attention to a MFL forest parcel that no longer meets productivity requirements due to a natural disaster (defined as fire, ice, snow, wind, flooding, insects, drought or disease, per s. 77.81(4m), Wis. Stats.).

1. MFL landowners may notify the Tax Law Forestry Specialist that their lands have been damaged by a natural disaster.

2. A Tax Law Forestry Specialist or CPW determines in their work that a forest parcel may have gone below the 80% productivity requirement after a natural disaster.

Following one of these instances, the Tax Law Forestry Specialist will conduct a site visit to determine the following

- Does the land meet productivity requirements?
- If not, is it reasonably possible to restore the forest parcel to meet productivity requirements?

If the land is less than 80% productive for a reason not defined as a natural disaster, the landowner may not have to attempt restoration (See Withdrawals), however, restoration should be an option given to landowner if restoration is possible.

Restoration Plans

In instances where restoration is possible, the Tax Law Forestry Specialist should confirm if and how the productivity of the land could be restored and establish a time period that the landowner will have to restore the site's productivity. Generally, approximately 3 to 5 years will be allowed for restoration (bringing the entry/forest parcel back into eligibility); the exact length of time will be determined on a case by case basis.

The restoration plan should be monitored to ensure that it is followed. Restoration plans can be adapted as needed.

Proceeding to Withdrawal

(See section on Withdrawals for Productivity/Sustainability**)**

After determining a natural disaster occurred and either when restoration is not possible or restoration has failed, a landowner may need to withdraw some or all of their land due to eligibility requirements not being met.

Restoration not feasible

If restoration is not feasible, the Tax Law Forestry Specialist should begin to discuss withdrawal options with the landowner. The landowner **may** be eligible for a withdrawal due to productivity/sustainability issues without a withdrawal tax and fee.

Restoration failed

If the landowner attempts the restoration but the restoration fails to bring the forest parcel back up to 80% productivity, the landowner may be able to voluntarily withdraw the minimum number of acres that would bring the forest parcel back up to being at least 80% productive (under the productivity/ sustainability withdrawal) with no withdrawal tax and fee.

Restoration not attempted

If restoration is possible and reasonable but the landowner does not adequately attempt the restoration, the land may be withdrawn with a withdrawal tax and fee. This would be an involuntary withdrawal. See chapter 60: Enforcement for details on how to proceed with an involuntary withdrawal.

WITHDRAWALS

(ss. 77.88(1), (3), (3j), (3k), (3L) & (8), Wis. Stats., & s. NR 46.22, Wis. Adm. Code) (Form 2450-140 and instructions)

General Information

All, or parts of an entry, **within certain limitations**, may be withdrawn. A landowner must file a Declaration of Withdrawal (Form 2450-140 and instructions). A withdrawal tax and fee may be assessed (s. NR 46.22, Wis. Adm. Code). Declarations of withdrawal must be received by the department on or before December 1 to have the withdrawal order issued before December 15 and effective the following January 1.

One withdrawal form should be submitted per order number per withdrawal type.

Note: Updated MFL map(s) are required to be submitted by the Tax Law Forestry Specialist with the withdrawal form when withdrawing anything less than entire entry/order; the new MFL map will be recorded by the county.

Effective Date for Withdrawals

(s. 77.88(9)(d)1., Wis. Stats.)

Withdrawals orders issued before December 15 are effective on the January 1 following the date of the order. Withdrawal orders issued on or after December 15 are effective on the second January 1 after the date of the order. However, a landowner can begin with an activity that is inconsistent with the MFL or plan, except restrict public access on open lands, once the withdrawal order has been issued and the withdrawal tax has been paid, or the effective date of the order, whichever comes first.

Withdrawal Tax and Fee

(ss. 77.88(5), (5m), Wis. Stats.)

Upon voluntary withdrawal of land from the MFL program, a $300 withdrawal fee plus a withdrawal tax will be assessed to the current owner of record for the acres withdrawn, unless otherwise noted. The type of MFL order determines the way the withdrawal tax is calculated.

DNR staff is not to provide MFL or FCL withdrawal tax estimates to landowners, real estate agents, potential buyers, or members of the public. MFL withdrawal tax estimates are available through the Department of Revenue (DOR) (s. 77.88(5g), Wis. Stats.). The DOR Request for Estimate of Withdrawal Tax for Managed Forest Law (MFL) form can be found at http://www.revenue.wi.gov/forms/govtvc/pr-296f.pdf.

After the Order of Withdrawal is issued, the landowner may not retract the withdrawal and is liable for all withdrawal taxes and fees assessed.

The invoice for the withdrawal tax and the $300 withdrawal fee follows in approximately 6 - 12 weeks. Payment is due to the DNR by January 31 following the issuance of the order or by the date specified by TLS on the invoice.

If the withdrawal tax is delinquent, the DNR will certify to the tax district (municipality) the amount due. The amount will be added to the property tax bill as a special charge.

Withdrawal taxes are credited to the Conservation Fund and the DNR pays 100% of each withdrawal tax to the taxation district (municipality). The municipality pays 20% of the payment received to the county. The department retains the $300 withdrawal fee.

Large Properties
(s. 77.88(5)(af), Wis. Stats.)

Large properties are defined as one or more forest parcels of land enrolled in a tax law program that are under the same ownership and that are collectively greater than 1,000 acres.

For large property MFL orders, the withdrawal tax will be the **higher** of the two equations below.

- ((Total net property tax rate in the year prior to withdrawal order being issued) x (assessed value in the year prior to the withdrawal order being issued) x (number of years the land was designated MFL)) – (all acreage share tax payments made during the order period)
- (5% of the established stumpage value of merchantable timber present) – (any acreage share tax payments made during the order period)

Regular MFL Orders
(s. 77.88(5)(ae), Wis. Stats.)

Regular MFL orders refer to orders that are not considered a large property.

For regular MFL orders, the withdrawal tax is the **lower** of 1 or 2 below.

- (Total net property tax rate in the year prior to withdrawal order being issued) x (assessed value in the year prior to the withdrawal order being issued) x 10
- (Total net property tax rate in the year prior to withdrawal order being issued) x (assessed value in the year prior to the withdrawal order being issued) x (number of years the land was designated MFL)

Land Converted to MFL from FCL in the last 10 years – Large Properties
(s. 77.88(5)(am), Wis. Stats.)

For large properties (ownerships of MFL/FCL land that are collectively greater than 1,000 acres) converted from Forest Crop Law (FCL) to MFL that are being withdrawn within 10 years after the date in which it was converted, the withdrawal tax will be the **higher** of the following.

- ((Total net property tax rate in the year prior to withdrawal order being issued) x (assessed value in the year prior to the withdrawal order being issued) x (number of years the land was designated MFL)) – (all acreage share tax payments made during the order period)
- (5% of the established stumpage value of merchantable timber present) – (any acreage share tax payments made during the order period)
- The FCL withdrawal tax at the time of conversion to MFL (property taxes saved while under FCL plus 5% or 12% simple interest).This applies to FCL to MFL conversions only.

Land Converted to MFL from FCL in the last 10 years – Regular Properties
(s. 77.88(5)(am), Wis. Stats.)

For regular MFL properties converted from Forest Crop Law (FCL) to MFL that are being withdrawn within 10 years after the date in which it was converted, the withdrawal tax will be the **higher** of the following.

- (Total net property tax rate in the year prior to withdrawal order being issued) x (assessed value in the year prior to the withdrawal order being issued) x (number of years the land was designated MFL)
- The FCL withdrawal tax at the time of conversion to MFL (property taxes saved while under FCL plus 5% or 12% simple interest).This applies to FCL to MFL conversions only.

General Voluntary Withdrawals

(s. 77.88(3), Wis. Stats.)

An MFL withdrawal order may be issued any time of the year; however, the land may not be classified as general property until January 1 following the date of the order. The Declaration of Withdrawal – Managed Forest Law Form (Form 2450-140) must be received by the department by December 1 in order to be processed (order issued) by December 15 and effective the following January 1. An owner may file a Declaration of Withdrawal for:

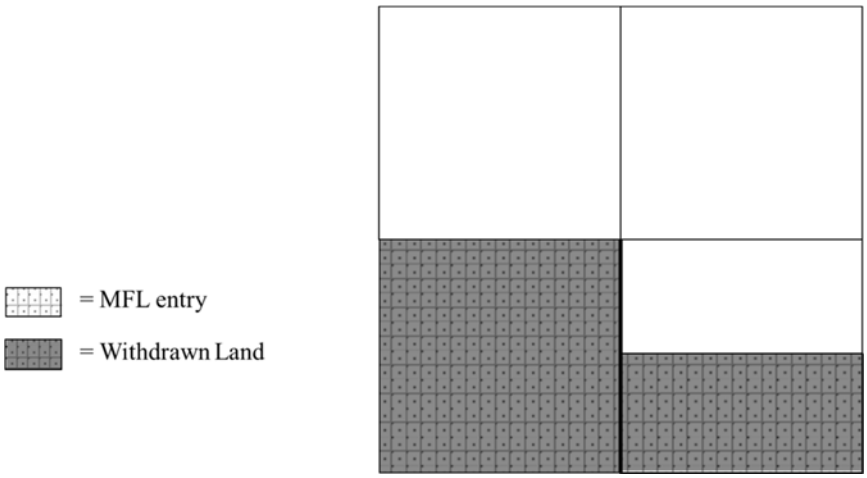
- An entire MFL entry.
- An entire forest parcel of managed forest land.
- All of an owner's managed forest land in a quarter-quarter section, government lot, or fractional lot, if any remaining land is eligible.

Department Procedure:

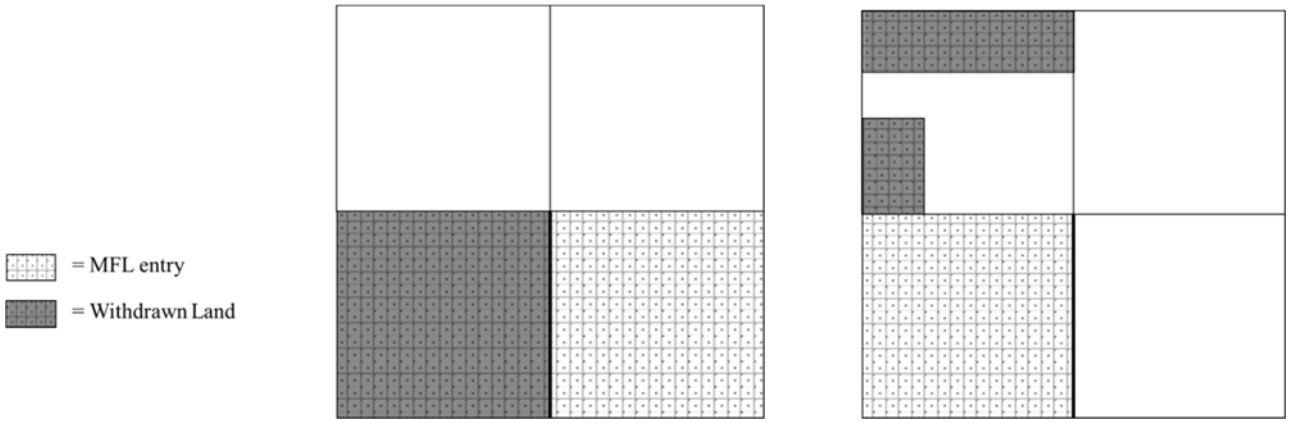
- Tax Law Forestry Specialist reviews remaining land, if any, for productivity, eligibility, etc., per s. 77.88(3)(b)2., Wis. Stats.
- Tax Law Forestry Specialist sends landowner signed, completed withdrawal form to the Tax Law Administration Specialist (until WisFIRS can be updated to accept withdrawal forms) and uploads updated map into WisFIRS, if needed (i.e. if it is not a withdrawal of an entire entry/order)
- Tax Law Administration Specialist processes withdrawal and assesses withdrawal tax & fee for withdrawn acres
- After withdrawal order is issued, the Tax Law Forestry Specialist updates WisFIRS if there is any remaining land

Examples

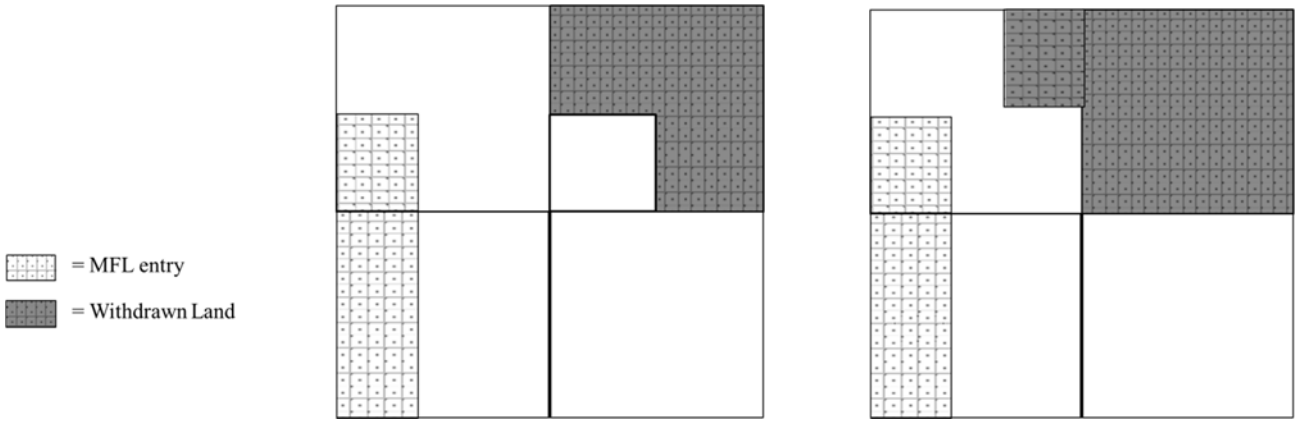
1. An entire MFL entry. 60 acres entered as MFL. The entire parcel (60 acres) may be withdrawn because it's an entire MFL entry.



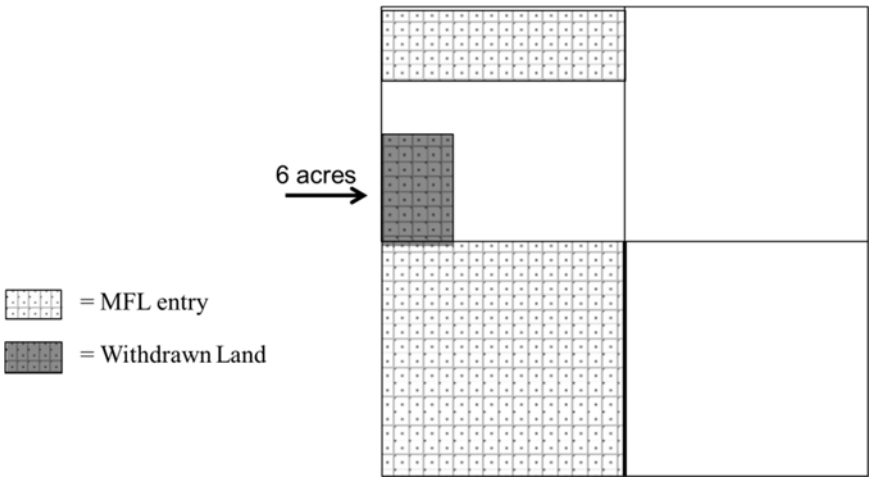
2. All the land in a legal description. Both entries below contain MFL land in multiple legal descriptions. In both entries, all the land in an entire legal description could be withdrawn (if the remaining land meets eligibility requirements). This would not affect the eligibility of the land in other legal descriptions unless it altered the productivity or acreage requirements of land in an adjoining parcel.



3. Entry 1 (left below) and Entry 2 (right below) both contain 2 parcel of MFL land. In both entries, either parcel may be withdrawn without affecting the eligibility of the other parcels.



4. **NOT ALLOWED,** land is not an entire MFL parcel or all the MFL in a legal description



Voluntary Withdrawal for Construction or Small Land Sales

(s. 77.88(3j), Wis. Stats.)

Landowners can withdraw one to five contiguous whole acres for the purpose of construction or small land sale (i.e. 1, 2, 3, 4, 5; **NOT** 1.5, 2.3, 6, etc. acres) if the remaining land is eligible. For land that contains an ineligible building or structure, this type of withdrawal may be used to rectify the situation.

When using this type of withdrawal landowners should check for any zoning ordinance(s) that may apply to the land that establishes a minimum acreage for ownership of land/small land sales or construction sites. It is the landowner's responsibility, not the Tax Law Forestry Specialist's responsibility, to make sure that local zoning ordinances are followed and that not less than the minimum acreage is withdrawn.

This withdrawal type can be used 1 time *per parcel* for a 25 year order or 2 times *per parcel* for a 50 year order *per ownership.*

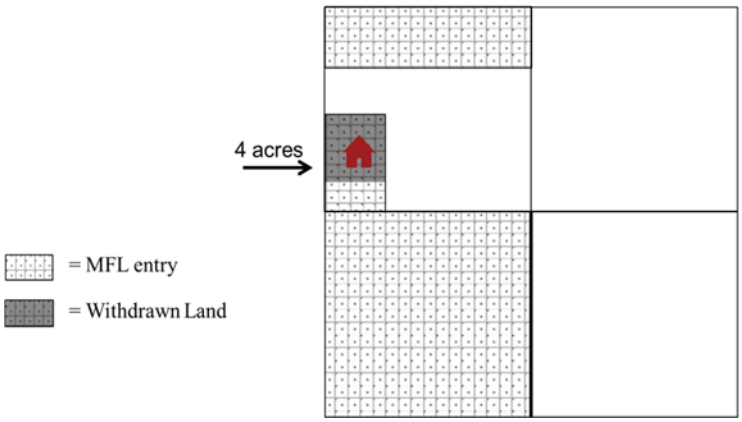
Department Procedure:

- Tax Law Forestry Specialist reviews remaining land, for productivity, eligibility, etc., per s. 77.88(3j)(a)4., Wis. Stats.
- Tax Law Forestry Specialist sends landowner signed, completed withdrawal form to the Tax Law Administration Specialist (until WisFIRS can be updated to accept withdrawal forms) and uploads updated map into WisFIRS, if needed (i.e. if it is not a withdrawal of an entire entry/order)
- Tax Law Administration Specialist processes withdrawal and assesses withdrawal tax & fee for withdrawn acres
- After withdrawal order is issued, the Tax Law Forestry Specialist updates stands in WisFIRS

Examples

1. **NOT ALLOWED,** withdrawal of 3.5 acres for the purpose of constructing a building.

2. **ALLOWED,** withdrawal of 4.0 acres for the purpose of constructing a building.



Voluntary Withdrawal for Productivity/Sustainability

(ss. 77.88(3k) & (3L), Wis. Stats.)

MFL landowner can file a request to voluntarily withdraw lands from their MFL entry if the MFL forest parcel has become:

- less than **80% productive**, or
- more than **20% unsuitable for producing** merchantable timber due to environmental, ecological, or economic factors.

*If the forest parcel has gone below productivity requirements due to a natural disaster, see Natural Disasters.

The Tax Law Forestry Specialist will evaluate the request to confirm that the forest parcel is either less than 80% productive or more than 20% unsuitable. If confirmed, the Tax Law Forestry Specialist will determine the **MINIMUM** number of **WHOLE ACRES** that would need to be withdrawn in order for the forest parcel to again meet the productivity requirements. No withdrawal tax or fee will be assessed for these types of voluntary withdrawals.

Department Procedure:

- Tax Law Forestry Specialist starts documentation and conducts site visit
- Tax Law Forestry Specialist, team leader and Tax Law Policy Specialist determines whether the landowner is eligible to withdraw their land under this provision

If determined that the landowner **is** eligible for withdrawal under this provision

- Tax Law Forestry Specialist determines **MINIMUM** number of **WHOLE ACRES** to withdraw (confirms with team leader) to bring entry/forest parcel back up to 80% productivity and verify remaining land is eligible per s. 77.82(1), Wis. Stats.
- Tax Law Forestry Specialist updates map
- Tax Law Forestry Specialist sends landowner signed, completed withdrawal form to the Tax Law Administration Specialist (until WisFIRS can be updated to accept withdrawal forms) and uploads updated map into WisFIRS
- Tax Law Administration Specialist processes withdrawal with no withdrawal tax & fee
- After withdrawal order issued, Tax Law Forestry Specialist updates stands in WisFIRS

If determined that the landowner **is not** eligible for withdrawal under this provision, Tax Law Forestry Specialist presents options to the landowner, like restoration (i.e. planting, natural regeneration, etc., if applicable) or voluntary withdrawal of an entire MFL entry, an entire forest parcel of MFL land, all of the MFL land in a quarter-quarter section, or all of the MFL land in a government/fractional lot or other voluntary withdrawal options, if appropriate (with a withdrawal tax and fee).

Some examples of items that may have caused the property to fall below the 80% productivity requirement due to natural disasters or other environmental, ecological, or economic factors are:

- Emerald ash borer (EAB)
- Deer browsing
- Hail
- Tornado
- Invasive plants

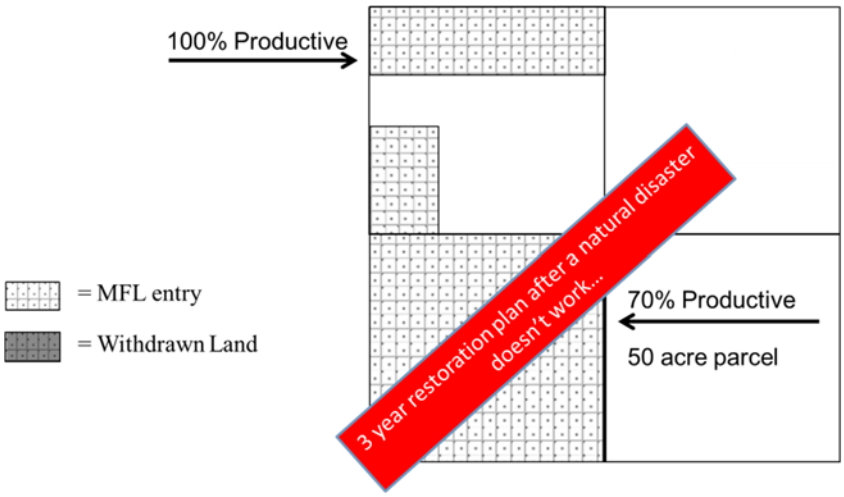
The landowner may need to demonstrate the attempt(s) made to address or correct the problem before a final determination will be made by the DNR. Reasonable attempts may include, but are not limited to the following:

- The use of deer damage tags and DMAP to decrease the deer herd.
- Seedling protection
- Tree planting
- Invasive species control

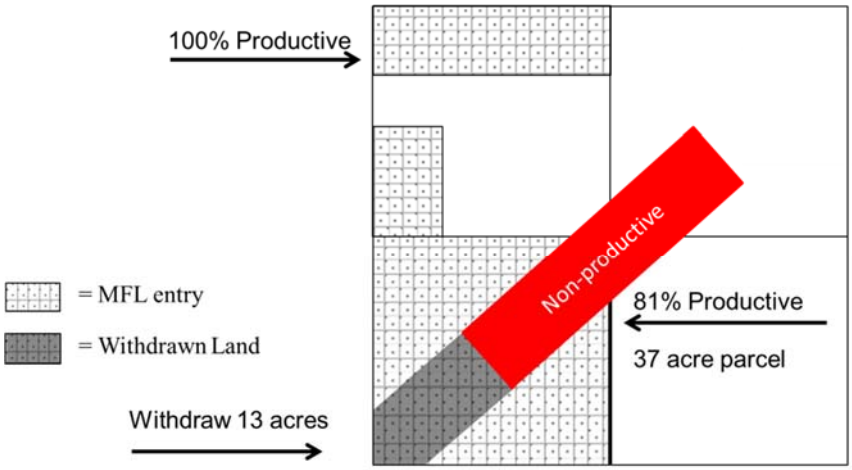
Examples of a situation that has caused a property to fall below productivity for reasons **not** due to environmental, ecological, or economic factors are actions like cutting contrary to the landowner's management plan or sound forestry or not being able to obtain access to complete a mandatory practice.

Example

A tornado makes 20 acres of a 50 acre forest parcel non-productive along the tornado path. The landowner works with the Tax Law Forestry Specialist to come up with a restoration plan. It is determined that the plan will take approximately 3 years (based on sound forestry). After 3 years, it is determined that the landowner reasonably attempted the restoration plan, but the restoration was not successful.



After determining that the restoration plan did not work, the Tax Law Forestry Specialist determines the minimum number of **WHOLE ACRES** that would need to be withdrawn to bring the forest parcel back up to the productivity requirement.



Involuntary Withdrawals

(s. 77.88(1), Wis. Stats.) (Refer to Chapter 60 on Enforcement)

The DNR may withdraw all or any part of an MFL order based on investigation substantiating:

1. Failure of the land to conform to an eligibility requirement under s. 77.82 (1), Wis. Stats.
2. The owner's failure to comply with subchapter VI of ch 77, Wis. Stats. or the management plan.
3. Cutting by the owner in violation of s. 77.86, Wis. Stats.
4. The owner's development or use of any part of the forest parcel for a purpose which is incompatible with the purposes specified in s. 77.80, Wis. Stats.
5. The owner's posting of signs or otherwise denying access to open managed forest land.
6. The county taking a tax deed on the property (s. 77.84(3), Wis. Stats.).

Involuntary Withdrawal – Delinquent Personal Property Tax

(s. 77.88(3m), Wis. Stats.)

Structures located on land designated as managed forest land are assessed/taxed as personal property. If the owner fails to pay the personal property tax when due, the land will be withdrawn from designation as managed forest land and assessed the withdrawal tax and fee.

It is the municipality's responsibility to certify to the Department that the personal property tax is delinquent. The certification will be sent to the Tax Law Administration Coordinator and will include the legal description, forest parcel identification number(s), certified survey map information (if applicable), landowner name, and MFL order number. Upon receipt of the certification, the department will issue an order withdrawing the land involved.

The Withdrawal Order will include all the managed forest land in the legal description where the personal property tax is delinquent, plus any of the remaining land that does not meet the eligibility requirements (less than 10 or 20 contiguous acres depending on entry year requirements, more than 20% non-productive, etc.).

Government Exempt Withdrawals

(s. 77.88(8), Wis. Stats.)

Land transferred to a governmental unit (federal, state, local) for uses listed below are exempt from withdrawal taxes and the withdrawal fee under ss. 77.88(8) and 77.885, Wis. Stats. Land transferred for any other use is subject to withdrawal tax and all rules regarding withdrawals. Uses exempt from withdrawal tax:

- park
- recreational trail
- wildlife habitat area
- fish habitat area
- public forest (including school forests and natural areas acquired by the state)
- public communications tower
- transfer of tribal land into trust status. A Memorandum of Understanding must be in effect to manage the land similar to MFL prior to an exempt withdrawal.
- public road
- railroad or utility right-of-way. Any lands transferred for use a public road or railroad or utility right-of-way must be withdrawn, but is exempt from withdrawal taxes, even if it is not purchased by a governmental unit.

Any land uses, such as increasing the size of a water treatment plant, building a town hall or developing an industrial park, do not meet the definition for an exempt withdrawal. Lands would need to be withdrawn with payment of a withdrawal tax and fee. Withdrawal taxes collected from these withdrawals are returned to the local municipality, who is required to share the withdrawal tax with the county on an 80-20 split.

The purchaser must complete the Declaration of Withdrawal Exempt (Form 2450-162) signifying that it will be used for an exempt use.

If exempt withdrawal is a partial withdrawal, the land remaining may continue under MFL designation unless the land fails to meet the eligibility requirements under s. 77.82(1). (77.88 (8), Wis. Stats.)

Non-profit organizations do not qualify for an exempt withdrawal since exempt withdrawals can only be issued if lands are sold for the purposes above. Even though a non-profit organization may be exempt from payment of property taxes, assessors may only authorize that exemption if the lands are on the regular ad valorem property tax rolls. Therefore, lands owned by a non-profit organization that are enrolled in the MFL or FCL programs will need to be withdrawn from the MFL or FCL programs prior to receiving this tax exempt status. Withdrawal taxes and fees would be assessed against the landowner.

Land Remaining After a Withdrawal

All land remaining after a withdrawal (voluntary or involuntary) must meet the following requirements (based on entry/order year – which is the last four digits of the MFL order number) in order to continue to be enrolled in the MFL program.

For pre-2017 MFL entries, each forest parcel of land remaining after a withdrawal will be considered eligible for continued MFL enrollment:

- if it is at least 10 acres
- even if it has an improvement, building or structure (as long as it is not a domicile, a building that does not have 5 or more of the 8 building characteristics, not a building/structure used for commercial recreation, industry, or any other use determined to be incompatible with the practice of forestry)
- if it is at least 80% productive*
- and it meets all of the other eligibility requirements in s. 77.82(1), Wis. Stats.

For 2017 and later MFL entries, each forest parcel of land remaining after a withdrawal will be considered eligible for continued MFL enrollment if:

- it is at least 20 acres**
- it has no buildings, structures or improvements (see "Buildings and Improvements" section)
- it is at least 80% productive*
- and it meets all of the other eligibility requirements in s. 77.82(1), Wis. Stats.

*If the land remaining after the withdrawal does not meet the productivity requirements (at least 80% productive; no more than 20% unsuitable), the landowner may be able to apply for the new voluntary withdrawal provision described in the Voluntary Withdrawals – Productivity & Sustainability section.

** If a landowner has renewed an MFL entry of less than 20 acres under the one time renewal provision in s. 77.82(1)(a)1., Wis. Stats., then the remaining land must be at least 10 acres in size for continued MFL enrollment.

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MFL ORDERS

The DNR has sole authority to issue Orders to describe adjustments to lands enrolled in the MFL program. These actions "order" a change relating to MFL lands and are sent to the landowner, Department of Revenue (DOR) and DOR Equalization Districts, municipal clerk, municipal assessor, the register of deeds and the forester, the local municipality. There are different types of orders categorized below.

Orders of Designation

Orders of Designation are used when new land is entered or renewed in the program. This document orders the land to be taxed at the MFL rate. For lands to be designated as MFL applications must be submitted by June 1st of the previous year. Orders of Designation become effective on January 1st. See MFL applications for more information.

Conversion and Designation Orders

Conversion and Designation Orders are a type of Designation order that results from the conversion of land from an existing FCL order to a new MFL entry. These orders convert the existing order from FCL to MFL designation. See FCL Conversions Applications for more information.

Amendment and Designation Orders

Amendment and Designation Orders are a type of Designation order that results from the addition of land to an existing MFL entry. These orders amend the existing order to add land, and designate the added land as Managed Forest land. See Applications for Additions.

Transfer Orders

Transfer Orders are used when land is transferred to new ownership. Transfers are submitted using MFL Ownership Change Request form (form 2450-159) following the Transfer Process. Transfers take effect once the order is processed.

Withdrawal Orders

Withdrawal Orders are used when land is removed from the program. This document orders the land to return to the normal tax roll and may order a withdrawal tax and fee. Withdrawal requests submitted on or before December 1st will result in Withdrawal Orders that take effect on the following January 1st Withdrawals must be submitted on one of the following forms:

- Declaration of Withdrawal – Managed forest Law (form 2450-140)
- Declaration of Withdrawal – Exempt (form 2450-162)

Correction Orders

Corrections to existing MFL Orders may be needed to correct a previously issued MFL Order (NR 46.15(5), Wis. Admin. Code). There are general Correction Orders and more specific Rescinding Correction Orders. Changes in policy may also result in a Correction Order (see Trust – Correction Orders for Lands Enrolled in 2008-2011).

General Correction Orders

General Correction Orders are made when an original order of designation contains factual errors. Correction Orders correct aspects of an MFL order to coincide with facts that are determined to be in place at the time the land was entered into MFL.

- **Acreage.** Acres were entered incorrectly.
- **Legal descriptions.** Errors in data entry may show that land locations were not identified correctly.
- **Name changes.** Landowner names are incorrectly identified in the database and/or on the original MFL Order of Designation.
- **Building location changes.** Buildings and structures that were in place at the time of enrollment and can be verified on air photos from the time of entry yet were not placed correctly onto MFL maps.
- **Errors upon entry of land.** This includes things like keying errors, wrong order period (25 or 50 years), errors in open or closed designation, or errors on a map.

Rescinding Orders

Rescinding Orders are used to cancel or adjust plans or other orders after the original order is issued.

- **Landowners choose not to enroll into MFL.** Landowners have until December 31 (date stamp) to submit a request to cancel their MFL application and enrollment. Correction Orders will be developed prior to the printing of the Master List placing the lands back on the regular property tax roll.
- **Landowners not eligible for enrollment.** One example is when landowners sell lands after the application deadline and before the MFL Order of Designation are printed are not eligible to continue with the enrollment of their lands. If a land transfer occurs in this time period, and the DNR learns of the land transfer after printing of the MFL Order of Designation and before printing the Master List, lands will be returned back to the regular property tax roll.
- **It is determined that another order should not have been issued.** The TLS may determine at times that a Withdrawal or Transfer Order was issued erroneously. These orders can be rescinded.

Amended Orders

Amended Orders result from new facts that change an existing entry. For Amendment Orders resulting from any action other than the modification of public access (designating land as "open-MFL" or "closed- MFL"), the process outlined for *Submitting Correction Orders* should be used.

- **Acreage.** New surveys including certified surveys, assessors' plats, county GIS or monument re-establishment projects may more clearly calculate acreage of lands.
- **Change in public access designation.** Changes in open/closed to public access designation must be submitted on the MFL Public Access Modification Request form (form 2450-193). If the form is filed before December 1st, the change will occur the following January 1st. See Designation of Land as Open or Closed to the Public
- **Adverse possession.** Additions or deletions of lands may occur due to landowners entering into litigation regarding adverse possession. Once a legal action is filed by a landowner, a court order will eventually be issued. Court orders may determine the land ownership, or may order the parties to buy, sell or trade lands to resolve the dispute. In all cases, a copy of the court order must accompany requests for corrections. Note: landowners swapping or exchanging land outside of an adverse possession situation described above would not be eligible for a correction.
- **Landowners request to make late changes to their MFL Order.** Landowners who request to make adjustments to their MFL Order after the orders are printed and before the end of the year would have Correction Orders issued prior to the printing of the Master List. Corrections can range from removing building sites or complete areas or stands, but would not include the addition of new lands. Adjustments to acreage may be made depending up specific situations, such as new information on acreage after review by the register of deeds or property lister.

Submitting Correction Order Requests

TLS staff and/or county officials must provide information to support the request for a correction, including the following:

- Request for master file change (Form 2450-156) signed by forester and supervisor describing the situation.
- Surveys, maps, etc. showing location and acreage of lands. Maps that show the MFL boundary and the survey or other boundaries on the same map are ideal.
- Tax statements and deeds showing locations of land ownership and names of owners.
- Name change documentation when a person changes their names (marriage or divorce).
- Court documents showing settlement of adverse possession claims, including the actual court decision or acceptance of settlement as a result of adverse possession. (The documents must identify that adverse possession had been claimed. A notation stating that the land transaction is a result of adverse possession is not enough to prove that adverse possession has occurred according to s. 893.25, Wis. Stats.)
- Air photos, maps and other documentation to support the relocation of a building, structure or MFL boundary.

Additional documentation may be requested for individual situations.

CHAPTER 21: MANAGED FOREST LAW CERTIFIED GROUP

BACKGROUND

The Wisconsin Managed Forest Law Certified Group is registered by third-party auditors and found to be in conformance with standards for well-managed forests established by the American Tree Farm System® (ATFS), a program of the American Forest Foundation, and the Forest Stewardship Council® (FSC) family forest program. This recognition allows MFL Certified Group members to claim that timber harvested from their land is produced from well-managed forests meeting ATFS® and FSC® standards. Participation in the MFL Certified Group is entirely voluntary for woodland owners in MFL and separate from statutory MFL regulations. This chapter outlines the procedures used to manage the entry and departure of group members, maintain records, pay fees, monitor performance of group members, conduct internal and external audits, and administer other activities relative to certification standards.

Authority and Purpose

The Department created the MFL Certified Group under authority in ss. 23.11, 28.01, 28.07 and 28.11, Wis. Stats. Specific to MFL, the purpose clause in s. 77.80, Wis. Stats., vests authority in the DNR "to encourage the management of private forest lands for the production of future forest crops for commercial use through sound forestry practices, recognizing the objectives of individual property owners, compatible recreational uses, watershed protection, development of wildlife habitat and accessibility of private property to the public for recreational purposes."

DNR is committed to conform to ATFS and FSC principles, criteria and performance measures in the administration of the Managed Forest Law. MFL participants who elect to enter the MFL Certified Group also agree to conform to ATFS and FSC standards.

The Managed Forest Law Certified Group may:

- Elevate private woodland owners' confidence in responsible forest management through third-party certification;
- Improve forestry practices on MFL lands through monitoring and continuous improvement;
- Recognize the sound forestry practiced by MFL participants by rewarding them with access to markets demanding certified raw materials;
- Retain our vital Wisconsin forest industries and the thousands of jobs they represent by building a credible supply of certified raw materials; and
- Improve the Department's organizational management and consistency.

MFL CERTIFICATION STANDARDS

ATFS

The American Tree Farm System (ATFS) was founded in 1941. It was envisioned as a method to educate and motivate private forest owners to sustainably manage their forests and to assure the United States Congress and public that the forests are being renewed and managed responsibly.

DNR, University of Wisconsin Extension, forestry industry and other partners including the Wisconsin Tree Farm Committee have cooperated to promote sustainable management of small private forest holdings since the early 1950's. Up to 2004, those efforts recognized about 3,600 traditional Tree Farms covering approximately one million acres. That number increased ten-fold with the creation of the MFL Certified Group in 2005. Tree Farm educational programs, including field tours, conferences, publications and the selection of an annual Outstanding Tree Farmer of the Year, will extend sustainable forestry outreach to this broad audience.

In 2000, the American Tree Farm System developed rigorous group certification standards in response to a growing global demand for certified forest products. An Independent Standards Review Panel representing a cross-section of forestry community leaders refined the Tree Farm Standards and Performance Measures. The review also considered whether the proposed modifications were adequate and appropriate for small-scale family forest owners and other qualified participants in the United States.

A full MFL review under the 2004-2008 AFF Standards for Sustainability was contracted from NSF-International Strategic Registrations, an independent audit firm and Tree Farm registrar. The field audit occurred in March 2005, resulting in a certificate awarded in June of that year. The initial five-year term expired in June of 2010, when a full recertification audit was conducted. Annual third-party audits are conducted to verify conformance to the current ATFS standards.

ATFS requires that an Independently Managed Group (IMG) categorize group members into one of three categories for the purposes of completing annual reports and calculating fees. Group members within the MFL Certified Group are declared to be in Category 1, which means that group members retain all decision making responsibility for land management practices.

FSC

An outgrowth of the 1992 Earth Summit in Rio de Janeiro, the Forest Stewardship Council was formed by a confederation of loggers, foresters, environmentalists, sociologists and others at the first FSC General Assembly in 1993. It was created to influence the practice of forestry worldwide through market demand. FSC sets forth principles, criteria, and indicators that span economic, social, and environmental concerns. The FSC family forest standard is designed specifically for small private forest owners and this FSC guidance for "Small and Low Intensity Managed Forests" applies to family woodlands like those in Wisconsin's MFL Certified Group.

A full FSC audit of the MFL Tree Farm Certified Group was conducted in March 2008. The original FSC registration was issued on December 4, 2008. Annual third-party audits are conducted to verify conformance of management to the current FSC standards.

Information about Certification Standards

The Department will develop appropriate informational materials to help prospective members understand the various policies, procedures and rules of the group. MFL Certified Group members will be informed of certification requirements on an on-going basis through individual mailings, newsletter articles, meetings, web alerts and other appropriate means. ATFS Standards of Sustainability and FSC standards for well-managed forests will be accessible to the group members through the Department website.

Interpretation of MFL and Certification Standards

The group administrators must interpret and appropriately apply certification standards in the context of the Managed Forest Law program and clearly explain the requirements to group members. These considerations are addressed through the Forest Tax Law Handbook (2450.5), the Private Forestry Handbook (2470.5), the Silviculture Handbook (2431.5), Wisconsin Forest Management Guidelines (Pub FR-226-2003) and certified Tree Farm inspector training.

ELIGIBILITY

Participation in the MFL Certified Group includes dual ATFS and FSC certification, not one or the other. The MFL Certified Group option is available on a voluntary basis to all MFL participants providing landowners:

- Own 10 to 2,470 acres (1,000 hectares) of MFL lands
- Have an MFL Forest Stewardship Plan for the land. "MFL large ownerships" as defined in chapter NR 46.18(4), Wis. Adm. Code are not eligible to join the MFL Certified Group. Such large ownerships (generally companies with their own professional or contracted forestry staff) should seek forest certification on their own and not through the MFL Program.
- Designate an entire MFL Order to be certified. Land enrolled under a single MFL order may be either in or out of the MFL Certified Group, but a single MFL order cannot have a portion which is certified and a portion which is not.

Prior to 2016, Wisconsin statutes allowed the continuation MFL designation for parcels of less than ten acres that remain after an authorized transfer (for more information see Chapter 20 page20-11) ; however such remainders of less than ten acres are not eligible to participate in the MFL Certified Group unless affiliated with contiguous certified parcels under the same ownership.

MFL Forest Stewardship Management Plan

Group members must have DNR-approved MFL Forest Stewardship Plan. MFL Forest Stewardship Plans summarize the mandatory and non-mandatory practices for the term of the MFL enrollment period (25 or 50 years). Group members may have additional practices and requirements to meet certification standards than standards of the MFL program. DNR has written documentation that is used to develop MFL Forest Stewardship Plans and to practice sound forestry. These documents are available to landowners and are considered to be an extension of the MFL Forest Stewardship Plan provided to landowners. Additional plan components include:

- DNR Silviculture Handbook
- Wisconsin Forest Management Guidelines
- Ecological Landscapes Handbook
- DNR Geographic Information System (GIS) software and geographic libraries
- WisFIRS (Wisconsin Forest Inventory and Reporting System)
- NHI and cultural and historic databases
- Forest health publications
- Best Management Practices for water quality, invasive species control or other focused issues
- Other relevant publications

While individual landowners in the group might not have occasion to study these related documents, professional resource managers providing assistance to group members are expected to consider the broader documentation when MFL Forest Stewardship Management Plans are written and implemented.

While MFL Forest Stewardship Management Plans are intended to address management issues that are needed during the entire term of the MFL order, the plans are also adaptive and subject to revision to reflect changing stand conditions, updated knowledge about what constitutes "sound forestry", or changing landowner goals and objectives. Triggers that could prompt plan updates include:

1. MFL transfers, if the landowners' objectives change.
2. A change in the current landowner's management objectives.
3. Catastrophic events such as fires, wind storms, hail damage, drought and flooding.
4. Unforeseen disturbances caused by introduced or invasive plants, animals or diseases that threaten forest regeneration, reduce stand stocking below acceptable levels, or otherwise adversely affect agreed upon stand objectives.
5. Changes in forest product markets. The development of a new timber market, such as the development of biomass fuels, may allow once non-commercial timber stand improvement practices to be sold as a commercial forest product.
6. New or recently discovered NHI or cultural/historic element occurrences, especially those protected by law.
7. Advances in silviculture or ecosystem management sciences.
8. Revised public policies as reflected in laws or administrative rules.
9. Older plans for MFL Certified Group members that contain practices not in conformance with forest certification standards (such as a prescription to use an FSC prohibited pesticide).
10. Forest reconnaissance after management has been implemented on the property, including follow-up practices to control soil erosion on logging roads.

The most common method to update an MFL plan will be through cutting notice specifications that are developed at the time mandatory practices come due. MFL plans can be modified with detailed practice plans that are written to guide the implementation of other management practices in addition to harvests. General revisions can also be accomplished as needed. All plan changes by whatever method should be kept in the group member's file maintained in the local forestry office, with appropriate changes made in WisFIRS.

THE GROUP ORGANIZATION – ROLES AND RESPONSIBILITIES

DNR oversees all aspects of maintaining group certification. The DNR administration of the program includes the Division of Forestry, the supervisory hierarchy, the DNR service foresters and technicians, and the cooperating foresters providing private landowner assistance. The Department determines eligibility and membership requirements of the group as outlined in this handbook.

Group Manager

The Division of Forestry will designate a Group Manager who administers the affairs of the MFL Certified Group. More broadly, the Group Manager may delegate authority to the DNR Forest Certification Coordinator, other bureau staff, district staff and cooperating foresters. The Group Manager (including delegated roles):

- Maintains the records of the group organization.
- Tracks participation in the MFL Certified Group with the MFL master database.
- Reviews applications for membership into the group organization.
- Conducts ongoing monitoring of conformance of group administration and members with the ATFS and FSC standards.
- Applies for certification on behalf of landowners in the MFL Certified Group and selects an accredited certification body to conduct the certification audit.
- Represents the group organization throughout the audit process.
- Maintains the ATFS and FSC group certificate on behalf of the group organization and controls the claims that the group organization can make.
- Is responsible for making sure that any public claims about the independent certification are accurate and truthful, and consistent with truth in advertising guidelines. (Use of applicable logos shall be in accordance with ATFS and FSC guidelines.)
- Is responsible for ensuring timely reporting and payment of fees to ATFS and FSC.

Tax Law Forestry Specialists

MFL Certified Group services offered by Tax Law Forestry Specialists may include but are not limited to:

- Offer private forestry assistance and cost sharing programs within the framework of state laws and regulations.
- Initial forest management guidance (a woodland walk-through, clarification of objectives, and sharing of program information and publications)
- MFL Stewardship Plans for initial MFL entry (statutory and administrative code requirements s. 77.82(3), Wis. Stats., and s. NR 46.18, Wis. Adm. Code)
- Review and approval of MFL Stewardship Plans prepared by Independent Certified Plan Writers
- MFL plan revisions and approvals of plan revisions
- Mandatory MFL plan implementation reminders and enforcement measures, when necessary
- Enforcement of public access open/closed provisions, and other program administration
- Natural Heritage Inventory, cultural and historic database checks
- Consultations with tribal representatives
- Timber harvest advice within the sideboards described in Chapter 30 of the Private Forestry Handbook (2470.5)
- MFL Cutting Notice and Report review, approval and associated plan updates
- Forest tax law program guidance
- Technical and administrative assistance for cost sharing programs
- Guidance on forest protection measures (fire, insects, invasive species and disease)
- Pesticide product prescriptions
- Tree and shrub planting plans and sources of materials
- Coordination of tree and shrub shipments from the state nursery and facilitation of county tree planting machine use
- Demonstrations to improve growth and value of immature forests
- Forestry education through conferences, school programs, public speaking and news releases
- Timber sale marking assistance within the sideboards of NR 1.212, Wis. Adm. Code
- Up to 24 hours (three working days) of service to a landowner per year
- Referrals to private cooperating foresters for more detailed services

Cooperating Foresters

MFL Certified Group services offered by Consulting and Industrial Foresters may include but are not limited to:

- MFL Stewardship Plans (if qualified as an Independent Certified Plan Writer – ICPW)
- MFL practice implementation services
- Appraisals of land, timber, damage, and trespass or theft
- Arboriculture
- Christmas tree management
- Cost Basis determination
- Forest inventory and cruising
- Litigation and expert testimony
- Logging engineering
- Log scaling and grading
- Pest control
- Prescribed burning
- Recreation planning and development
- Road location, design and construction
- Specialty product marketing
- Surveying (if licensed) and boundary establishment
- Thinning and pruning services
- Timber Tax counseling
- Timber sales: preparation & administration
- Timber sales: solicit bids & prepare contracts
- Timber stand improvement
- Tree planting and site preparation
- Wildlife management

Note that MFL Certified Group members are not required to hire Cooperating Foresters for any of these services other than an ICPW for plan preparation. Cooperators receive referrals from DNR under the program established in Ch. NR 1.213, Wis. Adm. Code.

Group Members

Group members are the qualified MFL participants (owners of 10 to 2,470 total acres – or 1,000 hectares - with MFL forest stewardship plans) that collectively make up the MFL Certified Group organization and meet the requirements of the ATFS and FSC standards. Group members that voluntarily choose to participate can include their lands in the group certificate and enjoy the benefits and privileges of being a certified group member. In addition to the property tax incentives and forestry planning assistance afforded by the MFL program, the primary group benefit includes the ability to market timber as ATFS and FSC certified under the group certificate.

Between 2005 and 2015 MFL participants were automatically included in the MFL Certified Group. MFL landowners had the opportunity to opt out of the certification program by submitting a MFL Certified Group Departure Request.

Since 2015, a landowner must voluntarily apply for membership in the certified group through the MFL application for entry process (Form 2450-194), during the MFL transfer process (Form 2450-159), or for existing MFL owners – through the Application for Certified Group Application/Departure Request (form 2450-192). These forms state that the landowner agrees to designation in the certified group, has a desire to manage the land consistent with ATFS and FSC standards, intends to comply with relevant laws, agrees to the group program dispute resolution process, and consents to allow access to the property for purposes of MFL and group member inspection. The forms provide the information that the landowner may market forest products as "certified" by participating in the MFL Certified Group. A landowner may depart from the certified group at any time without affecting his or her MFL eligibility by signing the Managed Forest Law Certified Group Application/Departure Request.

Group members are encouraged to be actively involved in the Wisconsin Tree Farm Committee to promote sustainable forestry. They can assist the State Tree Farm Committee by providing training to other landowners, hosting tours on their property, contributing to newsletters and publications, and being involved in the ATFS and FSC group certification field

audits. A major advantage of group certification is the positive peer influence of other dedicated Tree Farmers and the sharing of practical forestry experiences and knowledge. Group members receive all of the same rights and benefits as individual Tree Farmers certified through the State Tree Farm Committee.

Specific group member duties include:

1. Applying for MFL designation
2. Agreeing to follow a DNR-approved MFL Stewardship Plan. The costs of implementing the forest management activities prescribed in forestry plans, potentially including obtaining services from private consultants, is the responsibility of the group member.
3. Conforming to MFL statutes and regulations
4. Conforming to ATFS and FSC certification standards, including any measures that might go beyond those stipulated in MFL statutes or administrative rules or other state, federal or local laws. Some features that are emphasized in the ATFS or FSC standards include:
    a. Allowing access for MFL Certified Group forest certification field audits.
    b. Using pesticides (when needed) that are not prohibited by FSC (Note: Wildlife food plots have been excised from the MFL Group Certificate).
    c. Not planting Genetically Modified Organisms (GMO)[1] in the forest (Note: Wildlife food plots have been excised from the MFL Group Certificate).
    d. Keeping forest products harvested from MFL Certified Group land separate from products harvested from non-MFL Certified Group land during commercial harvest operations.
    e. Endeavoring to adhere to Wisconsin Forestry Best Management Practices.
    f. Considering appropriate liability insurance and safety requirements in timber sales and other contracts.
    g. Using the ATFS and FSC logos in conformance with their respective trademark policies.
    h. Keeping records of non-timber harvested from the property, including berries, ferns, evergreen boughs, cones, nuts, seeds, maple sap, twigs, moss, edible and/or medicinal plants.
    i. Following tree retention guidelines within clear-cuts and other even aged timber harvests.

GROUP ADMINISTRATION

Group Membership Fees

There are no certification fees assessed to MFL Certified Group members. Participation in the MFL Certified Group is free for qualified MFL landowners.

The DNR will pay all mandatory fees related to participation in the Tree Farm and FSC certification programs. Mandatory fees include:

- The cost of the third-party certification audits, including 5-year full reviews and annual surveillance audits
- Annual ATFS Group Administrative Fee
- FSC Annual Administrative Fee
- FSC pesticide derogation fees if applicable and other miscellaneous expenses related to maintaining the certificates

The Department does not provide the official American Tree Farm sign to MFL Certified Group members. The Department may, however, develop an approved MFL Certified Group sign in cooperation with the Wisconsin Tree Farm Committee that could be optionally ordered through independent vendors at the expense of group members. Use of the Tree Farm or FSC logo and the American Tree Farm System sign shall be consistent with ATFS and FSC guidelines. Subscription to the American Tree Farm Magazine and attendance at Tree Farm training conferences or meetings are also optional activities at the expense of individual group members.

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1 **Genetically modified organisms:** Biological organisms that have had their genetic material artificially altered in a way that does not occur naturally by mating or natural recombination or both. Examples of techniques covered by this definition include recombinant DNA techniques using viral or bacterial vectors, the direct introduction of DNA into an organism, e.g. by microinjection, and cell fusion or hybridization. Clones, hybrids formed by natural pollination processes, or the products of tree selection, grafting, vegetative propagation or tissue culture are not GMOs, unless produced by GMO techniques. *FSC-US Forest Management Standard (v1.0 complete with family forest indicators, July 8, 2010).*

Group Membership for New MFL Orders and Transferred Lands

New MFL applicants and owners acquiring MFL land through transfers can apply for group membership through the application for entry or MFL transfer forms. Information explaining the MFL program and certified group program will be provided to new applicants and transferees so they can make informed decisions.

Large-ownership industrial MFL tracts transferred to small-ownership landowners must have an MFL Forest Stewardship Management Plan prepared by a Certified Plan Writer (CPW) within one year of the date of the transfer unless services from a CPW are not available. Transferees may use the group certificate numbers only after the Department approves a MFL Forest Stewardship Management Plan for the tract. The Tax Law Section (TLS) will control use of MFL Certified Group certificate numbers through MFL Cutting Notice review and approval prior to timber harvests, thus preventing wood entering the chain of custody process without an approved plan.

Forest Crop Law (FCL) enrolled lands are not included in the MFL Certified Group.

Voluntary Departure from Group Membership

MFL landowners may elect to depart from the MFL Certified Group at any time without prejudice and continue their MFL eligibility by submitting a MFL Certified Group Application/Departure Request (Form 2450-192). In addition, anyone voluntarily withdrawing from MFL shall be from the certified ATFS/FSC certified group.

Reactivating Group Membership

MFL landowners who had previously departed from the MFL Certified Group may reactivate membership in the group by signing a Managed Forest Law Certified Group Application/Departure Request (Form 2450-192), except as noted below:

- Membership can only be reactivated one time. ATFS and FSC certification requires that landowners demonstrate a commitment to abide by the certification standards, and so a second group departure will be taken as evidence of the absence of commitment. An application for group membership after two departures will be automatically denied.
- If a landowner has a Department approved forest management plan with an outstanding major corrective action requests. A corrective action request (DNR's Notice of Investigation, as described in Chapter 60) would identify specific non-conformances with ATFS or FSC standards, the causes of the non-conformances, remedial practices and completion dates.
- If a landowner voluntarily departed from the MFL Certified Group to conduct an activity not allowed under the ATFS or FSC Certification Programs. This shows a lack of commitment to the certification standards.

MFL Certified Group Roster

The Department will maintain records regarding group members in the MFL master file database. The Group Manager will ensure that any new group members are added to membership and mailing lists, receive appropriate information from the American Tree Farm System, and take care of any other administrative details.

The Group Manager will make ATFS and FSC certificate information available to MFL Certified Group members via the Internet. A database of MFL Certified Group order numbers (plus the county, municipality, township, range, section, legal description and certification date for each order) will be posted on the DNR website so that any timber purchaser can verify harvests claiming use of the group certificate numbers. The online MFL Certified Group roster shall be updated once a year by the end of February. Mailing lists including landowner names and complete addresses should not be distributed for purposes that are not directly related to MFL and MFL Certified Group administration or landowner education. (Although individual MFL owner names and addresses are public records, DNR is not obligated to create lists that might be abused for unwanted solicitations.)

The Department will provide certifying bodies with an annual group roster database by the end of February, including MFL Certified Group members added and deleted during the preceding year. Certifying bodies, Cooperating Foresters or other partners that require more frequent group member updates or real-time data will be given online access to the WisFIRS database at the time of the applicable release of WisFIRS becomes available. Until then, the Department will provide certifying bodies with group roster updates on demand as needed.

Training and Education

The Group Manager (through team, area and district forestry supervisors) and group monitoring will evaluate training needs of the group organization and individual group members to ensure sufficient knowledge to implement and achieve the ATFS and FSC standards. That should include periodic assessment of the need for technical forestry training, including implementation of BMPs, silvicultural techniques appropriate to the area, relevant laws and regulations, tribal relationships, cultural and historic site preservation, identification of critical species and habitats, invasive species control, fish and wildlife management, etc.

The Department will work with the Wisconsin Tree Farm Committee, the Sustainable Forest Initiative State Implementation Committee, University Extension and other partners to conduct training regarding the ATFS and FSC standards, the group certification process, the audit process and possible audit findings, the corrective action process and other professional and landowner education.

Maintaining Group Records

All management guidance correspondence, enforcement documentation and related forms shall be retained by local TLS Staff in the group member's file.

The Group Manager is responsible for maintaining all group organization records and documents. The MFL Certified Group records include the following:

- Background information on the group organization
- A list of group members and their applications for membership
- Group organization monitoring reports
- Copies of audit findings and reports
- Group organization corrective action requests
- Other relevant documents and records
- Application and Departure notifications from group members

The Group Manager will receive the final ATFS and FSC audit reports from the certification body and communicate the findings to the group organization and group members. If a certification audit results in a corrective action request, the Group Manager must coordinate with the group organization or individual group members to develop corrective action plans and work to ensure timely implementation.

The Group Manager is responsible for maintaining current and accurate records from the audit process. Some of the records that should be kept include:

- A list of group members that were part of the certification audit
- The total number of acres included within the scope of the audit
- A copy of the final report and any CARs issued by the certification body
- Copies of group organization Corrective Action Plans that are implemented to close out the CARs
- Evidence of monitoring the corrective action to ensure the same problem does not recur
- Notifications from group members of their departure from the group organization

CERTIFIED GROUP ENFORCEMENT

Deactivation from the MFL Certified Group

MFL Certified Group membership for an MFL Order may be deactivated under any of the following circumstances following appropriate procedures as outlined in Chapter 60 on Enforcement:

1. Voluntary withdrawal from MFL
2. Involuntary MFL withdrawal
3. MFL order expiration
4. Use of an FSC prohibited pesticide except on a food plot that has been excised from the MFL group certificate.
5. Planting FSC-prohibited Genetically Modified Organisms (GMOs) in a forest except on a food plot that has been excised from the MFL group certificate.
6. Mixing forest products harvested from non-MFL Certified Group land with MFL Certified Group wood to falsely claim the non-MFL products under the MFL Chain of Custody certification
7. Willful or blatant violations of Wisconsin Forestry Best Management Practices
8. Refusal to allow forest certification auditors or DNR staff onto the property for the purpose of conformance reviews
9. Deliberate or repeated violations of federal, state or local laws and regulations applicable to forest management
10. Inappropriate use of certification logos or trademarks
11. Deliberate or manifest nonconformance with other forest certification indicators

Enforcement and Dispute Resolution Process

All MFL enforcement issues shall be handled with procedures detailed in Chapter 60. The Department's enforcement procedures will serve as the MFL Certified Group Correction Action Request Form and Corrective Action Plan.

The steps listed in Chapter 60 assure that the landowner is apprised of the MFL regulation or certification standard, core performance measure and indicator of concern, and given an opportunity to respond or correct the problem within a reasonable time period. Inspecting foresters should strive to resolve any disputes in a respectful and professional manner. Should resolution of a certification-specific issue with a group member prove elusive, the inspecting forester shall refer the matter through channels to the Group Manager. Team, area or district forestry supervisors shall help resolve issues before referring a complaint to the Group Manager. The process shall include documentation of the facts and certification standard or performance measures involved.

Should the district forester be unable to bring closure to a certification-specific issue, the Group Manager will make a determination on deactivation of MFL Certified Group membership for an MFL Order based on the facts of the case. For an appeal of the Group Manager's decision, the landowner must notify the DNR Public and Private Forestry Section Chief within 30 days of the letter of de-certification. Upon notification of appeal, the Public and Private Forestry Section Chief shall convene a Dispute Resolution Committee. The committee will be composed of three members, including another group member or forester agreed to by the landowner, a non-DNR member of the Wisconsin Tree Farm Committee and a qualified Tree Farm inspector chosen by the Department (excluding the forester who brought the complaint). The Dispute Resolution Committee will advise the Public and Private Forestry Section Chief, whose decision shall be final. All non-departmental costs associated with the dispute resolution committee shall be borne by the group member making the appeal.

As an alternative to Department ordered deactivation of MFL Certified Group membership, foresters may ask a group member to voluntarily depart from the MFL Certified Group. Department staff and group members should work in a positive and collaborative manner to address any findings of non-conformance and to correct any problems. The formal deactivation process should be used only as a last resort.

MONITORING GROUP MEMBERS

General

Department foresters shall verify group members' conformance with the ATFS and FSC standards as part of inspections related to scheduled mandatory MFL forest stewardship practices. Foresters shall keep contact records — Management Recommendations Record (Form 2470-021) and on the Private Land Accomplishment Quarterly Reporting System — for their visits to group member lands. If inconsistencies with MFL or certification standards are found, the foresters shall pursue MFL enforcement procedures as outlined in Chapter 60 or initiate corrective action requests as explained in this chapter.

Team, area or district supervisors and the field forester completing inspections of group member lands must have current ATFS Tree Farm inspector credentials.

The Department will use WisFIRS notification letters, guidance letters, cost-sharing practice plans, cutting notice approval forms and related correspondence to document the monitoring process and to report appropriate findings to the individual group members. When non-conformance is identified during monitoring, the inspecting forester shall follow the procedures in Chapters 20 and 60 of the Forest Tax Law Handbook or other relevant directives and work with the group members to achieve compliance or take appropriate enforcement action. The Department forester must approve the corrective actions proposed for any non-conformance with MFL or certification standards. Implementation shall be monitored. MFL mandatory practice and corrective action guidance shall be tracked in a digital database (WisFIRS) and reported in the quarterly reporting system. Notice of Investigation copies will be sent to the Group Manager.

Pesticide Use Monitoring

Pesticide prescriptions provided to MFL Certified Group members shall conform to the "FSC Pesticides Policy: Guidance on Implementation - FSC-GUI-30-001 Version 2-0 EN", revised May 6, 2012 or newer. A list of FSC "highly hazardous", prohibited chemicals (some of which may be otherwise legal for use in Wisconsin) shall be made available on the DNR Internet.

As a general rule, Tax Law Forestry Specialists should strive to offer alternatives to chemical pesticides and minimize pesticide use whenever practical. Practice plans may prescribe[2] appropriate pesticides and/or non-chemical alternatives. Landowners should be directed to product labels or other published pesticide use instructions, or encouraged to hire a commercial pesticide applicator[3]. Summary information regarding the acreage prescribed for treatment and the products recommended shall be included in the DNR Private Forestry Quarterly Reporting System.

In the event that a Tax Law Forestry Specialist becomes aware of the use of a prohibited FSC chemical (provided that a FSC-approved derogation allowing an exception is not on record), the landowner should be notified according to the procedures in Chapter 60 that they are out of conformance. Depending upon the degree of non-conformance, the forester can issue a Notice of Investigation and direct the landowner to stop using the prohibited product or request the Group Manager to deactivate the MFL order from the certified group.

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[2] A prescription could include a product name and other information consistent with the product label.

[3] A 2006 Wisconsin Department of Agriculture Trade and Consumer Protection (DATCP) decision found that DNR Service Foresters who make pesticide prescriptions but who do not oversee pesticide applications or apply restricted use pesticides themselves are not required to have a Commercial Pesticide Applicator Certificate. See the DATCP web site for more information.

Timber Harvest Monitoring

Tax Law Forestry Specialists shall follow the private land timber sale instructions in Chapter 20 of this handbook and in Chapter 30 of the Private Forestry Handbook (2470.5).

To verify that private timber sales conform to MFL sound forestry[4] and forest certification standards, Tax Law Forestry Specialists are encouraged to consider the following:

1. Schedule visits to high-risk sites (see below) for field checks when sales are active. Lower-risk sites can be reviewed after the Cutting Report (Form 2450-032) is filed.
2. The goals and objectives of the harvest are consistent with the MFL plan and approved Cutting Notice.
3. Boundaries of the harvest area are clearly marked.
4. The layout of skid trails and landings is reasonable.
5. Soil disturbance is not excessive.
6. Archeological or cultural resources are protected.
7. Forest health considerations are adequately addressed.
8. Precautions to control or prevent the spread of invasive species appear adequate.
9. Rare, threatened, endangered or special concern species are protected, including NHI element occurrences listed or observed on-site since the MFL plan was initially approved.
10. Reasonable safety precautions are followed.[5]
11. Significant conflicts with recreation or hunting activities on the tract are avoided.
12. Measures necessary to protect or promote natural regeneration are adequate.
13. Unique natural areas, High Conservation Values, and Forests of Recognized Importance (FORI) are protected.
14. Water Quality Best Management Practices are followed.
15. Wildlife management goals described in the management plan are addressed.
16. Stand-level retention of snags or other residual trees is adequate.
17. Woody biomass retention on the ground is sufficient.

If any problems are observed, the Tax Law Forestry Specialist should report them to the landowner or the landowner's agent, not the logger. The landowner is responsible for taking any necessary action.

Tax Law Forestry Specialists may ask landowners or their agents about private timber sale contract terms to verify MFL sound forestry compliance, but Tax Law Forestry Specialists do not administer private contracts. The Department does not generally require or keep copies of private timber sale contracts since Department files do not protect confidential information that might be contained in the contracts.

Some examples of "high risk" timber harvest sites include:

1. No professional Cooperating Forester oversight or not sold to a Master Logger
2. Fragile soils, easily compacted or eroded
3. Forest resources susceptible to damage
4. Water quality and watershed at risk
5. Seasonal access or waterway crossed
6. Harvest operation in RMZ or adjacent
7. Archeological or cultural resources present
8. Potential forest health issues
9. Invasive species present and mitigation planned
10. Rare, threatened, endangered or special concern species present

[4] See NR 46.02(17) and NR 1.25, Wisconsin Administrative Code for the definition of sound forestry and commonly accepted forest management practices.

[5] Wisconsin statutes do not authorize Tax Law Forestry Specialists to enforce or administer specific Occupational Safety & Health Administration (OSHA) regulations on private lands. DNR Service Foresters may, however, offer general safety information or observations about safety concerns.

Regeneration Monitoring

Survival of afforestation projects and regeneration of harvested sites is paramount for sustainable forestry. Survival sampling methods for artificially-regenerated stands are described in Chapter 21-22 of the Silviculture Handbook (2431.5). Landowners, Cooperating Foresters, or Tax Law Forestry Specialists are encouraged to conduct survival checks four to five months after planting and again three years after planting to ensure planting and seeding success (see Silviculture Handbook 2431.5, page 22-24).

Most stands are naturally-regenerated. Occasionally regeneration on these sites is in doubt, requiring follow-up by the forester. If adequate natural regeneration is not established by the end of the fourth growing season, an alternative regeneration method should be implemented (HB 2431.5, page 21-21). Regeneration success on these stands should be documented using the Management Recommendations Record (Form 2470-021). In addition, completed treatments should be entered into the Wisconsin Forest Inventory and Reporting System (WisFIRS) for that stand.

WisFIRS provides an easy, consistent approach to regeneration monitoring for afforestation, artificial regeneration or natural regeneration projects. The WisFIRS methods are described in section 135-10 of the Public Forest Lands Handbook (2460.5). The same techniques can be applied to tracking regeneration on MFL land.

GROUP CHAIN OF CUSTODY

FSC and ATFS certification provide an opportunity to differentiate responsibly harvested wood in the marketplace. Certification allows access to markets that prefer or require certified wood. Ultimately, when finished goods are produced from raw materials that originate from certified forests, certification systems allow the use of on-product logos.

FSC has a specific on-product logo but ATFS does not. Instead, wood from ATFS certified land may carry on-product logos from the Sustainable Forestry Initiative® (SFI) or the Program for the Endorsement of Forest Certification (PEFC), which have mutual recognition agreements with the ATFS. It is also common for business-to-business sales to demand wood sourced from certified lands without ever using an on-product claim.

Chain-of-Custody (CoC) assessments and documentation allow the tracking of a product through every step from the forest to finished goods. DNR is the custodian of the ATFS and FSC CoC registration numbers, which MFL Certified Group members can use to initiate CoC for stumpage (standing timber) or timber cut for products listed in s. NR 46.30, Wis. Adm. Code.

To initiate the FSC chain of custody, MFL Group members must include the certification code and claim, SCS-FM/COC-004622 FSC 100%, on sale documents (e.g. timber sale contracts, invoices, haul tickets or scale tickets) related to the sale of their certified timber.

MFL Group members may include the ATFS certification number, NSF-ATF-1Y942, on sale documents for wood claimed as SFI® certified by the receiving mill. The Sustainable Forestry Initiative recognizes ATFS certification in their chain of custody system.

MFL Certified Group CoC applies *only* to stumpage and others. NR 46.30, Wis. Adm. Code products, and the MFL chain ends either at the stump, log landing or roadside. MFL chain-of-custody certification does not apply to non-timber forest products (such as maple syrup, bark, herbs, etc.) or any value-added products that might be sold by individual group members[6] unless they secure their own chain of custody certifications. Loggers, paper mills, sawmills and other businesses that intend to market MFL Certified Group wood as certified must obtain their own FSC, SFI or PEFC CoC certification or operate under an SFI approved procurement audit system.

[6] Non-timber forest products and value-added products sold by group members are excluded from MFL CoC because DNR has no method to track sales or volumes of those commodities.

Chain of Custody Control System

1. Wisconsin DNR is the custodian of the following MFL Group certificate numbers and claims:

   - ATFS Certificate Number **NSF-ATF-1Y942** (Certifying Body: NSF-International Strategic Registrations)
   - FSC Certificate Number **SCS-FM/COC-004622 and claim FSC 100%** (Certifying Body: SCS Global Services).

   Wisconsin DNR does not provide group members with sub-certificate numbers other than their MFL Order numbers.

2. MFL Group certificate numbers shall be included on all timber sale prospectuses, contracts, shipping documents and invoices, with a statement certifying that wood sold under the FSC certificate are FSC 100% if the landowner or purchaser intends to market harvested products as certified.

3. Only MFL Certified Group members are eligible to use the ATFS and FSC certificate numbers for sales of stumpage. MFL participants who have submitted a Group Departure Form, MFL Orders without a parcel-specific MFL stewardship management plan, MFL Orders with less than ten acres or landowners with more than 2,470 acres of Managed Forest Law land may not use DNR's ATFS or FSC certificate numbers.

4. Only forest products that are reported on the MFL Cutting Notice (Form 2450-032) can be marketed under the DNR certification numbers. MFL Certified Group members must clearly separate non-MFL stumpage or cut products from wood that is advertised or sold as MFL Group certified.

5. DNR shall verify on the Cutting Notice if the land is included in the MFL Certified Group. The landowner or the landowner's agent shall provide a copy of the DNR approved cutting notice to the purchaser of the stumpage or cut products (in the event the landowner sells cut products directly to primary or secondary producers). Timber producers buying stumpage shall be provided the entire cutting notice, including any harvest specifications and maps. Buyers of cut products may be given just the page of the cutting notice displaying the CoC certificate number if the buyer wishes to establish a documentation chain. The Cutting Notice shall specify that MFL Certified Group CoC ends at the stump, landing or roadside.

6. DNR will provide information about MFL Certified Group order numbers (plus the county, municipality, township, range, section, legal description and certification date for each order) on the DNR Internet site so that timber purchasers can verify harvests claiming use of the group certificate numbers. DNR can also provide MFL Certified Group member data in digital format for CoC companies to use in their internal CoC control systems.

7. Certified Group members shall mark timber sale prospectuses, contracts and invoices with the MFL ATFS and FSC certification numbers and claim if the buyer intends to continue the CoC.

8. MFL Certified Group members may not use the FSC or ATFS logos on any non-timber forest products or value-added products unless they obtain separate, independent CoC certification for those ventures.

9. Promotional or educational information about Managed Forest Law land may use the ATFS and FSC logos or logos authorized by certifying bodies (such as SCS Global Services) only if such use is consistent with guidelines published by the owners of the logos. Any use of FSC or SCS Global Services certification trademarks and public information related to certification claims shall be submitted through the Forest Tax Law Group Manager to SCS Global Services for review and approval.

10. DNR shall provide ATFS or FSC certifying bodies with certified product sales summaries as needed. MFL certified harvest documentation files including Cutting Notices and Reports and other correspondence shall be maintained in local DNR forestry offices. Individual landowners shall maintain their own sales record and contract details sufficient to comply with State and Federal tax requirements.

11. MFL Certified Group members shall make their land available to the Department for MFL performance and compliance inspections as required by law. Landowners are welcome and encouraged to speak to DNR staff and certification auditors if their parcels are chosen for site visits, but landowners are not required to share any personal or confidential information that is not required under MFL statutes or administrative rules.

12. DNR will provide reports of MFL Certified Group harvest volumes as needed from the central office Cutting Report and yield tax collection system.

PROGRAM REVIEW

Annual Reporting

The American Tree Farm System, the Forest Stewardship Council and the contracted third-party auditing group (i.e. SCS Global Services or NSF-ISR) requires group organizations to annually update certain information regarding the group organization including number of landowners and acreage in the program, new entries and departures from the membership, and other information.

The Group Manager will submit the annual reports to the American Tree Farm System and the contracted third-party auditing group (i.e. SCS Global Services or NSF-ISR) by the designated date, and maintain copies of past annual reports on file.

DNR Annual Reports and Internal Reviews

In addition to annual reporting information required by ATFS and FSC, the Group Manager should prepare annual reports covering other aspects of the MFL program needed to evaluate overall program performance, consistency and management efficiency. Such reports could include, among other measures, total enrollment, applications for entry, withdrawals, transfers, harvest numbers and volumes, yield tax receipts, scheduled mandatory practices, recon updates for completed practices, corrective action requests and a summary of enforcement cases.

On a rotating basis, the Tax Law Section will conduct an annual internal audit among the DNR districts. Central office staff and a regional representative will visit a selection of field stations to discuss MFL and MFL Certified Group administration. Topics will include ATFS and FSC-specific requirements, administrative consistency, record keeping, stewardship planning, timber sale monitoring, working relationships with landowners and cooperating foresters, cooperation with other agencies, field visits and other activities. Items that require policy decisions will be sent to the Forestry Leadership Team or Field Operations Team.

Recurring Certification Audits

Both ATFS and FSC require full certification audits on a five-year cycle, as well as annual surveillance audits to maintain certification.

ATFS and FSC Standards

ATFS and FSC develop hierarchies of principles, criteria, performance measures and indicators that auditors reference in reviews. These standards are available at:

- ATFS - https://www.treefarmsystem.org/
- FSC - https://us.fsc.org/

ATFS and FSC also have group certification and chain of custody program requirements, available on their Internet sites. ATFS and FSC reviews will apply the applicable standards that are in effect at the time of the audits.

Logo or Trademark Use

Landowners in the MFL Certified Group are eligible to use the FSC logo and/or trademark on products that they market or on brochures, advertising, websites, etc. TLS staff should refer questions about logo or trademark use to the DNR Forest Certification Coordinator. In general, these are the steps to get approval to use the FSC logo or trademark.

1. The DNR Forest Certification Coordinator will obtain the logo or trademark from the FSC label generator site and provide it to the landowner.
2. The landowner must create a mock-up of the specific use of the logo or trademark.
3. The DNR Forest Certification Coordinator will submit the mock-up to the certifying body for approval.
4. Upon approval the Forest Certification Coordinator will notify the landowner of the approval and add the approved use to the MFL Certified Documentation.

FREQUENTLY ASKED QUESTIONS

What is forest certification?

Forest certification is an independent verification that woodland management conforms to standards for sustainability and best practices. In the context of forest certification, sustainability includes the ecological, economic, and social components of forests and surrounding communities.

How does joining the MFL certified group help me (the landowner)?

- Gives **assurance** that your woodland meets national and international standards for well-managed forests. Independent reviews of on-the-ground practices help you consider and practice the best possible management to help conserve woods and wildlife.
- Gives you the ability to sell timber in a **certified marketplace**. More and more wood-using industries are buying certified wood as proof to consumers that they are sourcing materials responsibly.
- You become a member of The American Tree Farm System® (ATFS), a program of the American Forest Foundation, your woodland is certified to the ATFS standards, and you are **eligible to display the Tree Farm sign**, see www.treefarmsystem.org.
- Your woodland is certified to the Forest Stewardship Council® (FSC) **international standards** for well managed forests and certified products chain of custody see www.us.fsc.org.

What are my responsibilities as a certified group member?

- Follow MFL program requirements.
- Understand and consider special certification requirements such as avoiding the use of genetically modified organisms (GMO), avoiding the use of highly hazardous pesticides, and giving special consideration to protecting threatened and endangered species. ***Note:*** *Roundup Ready® or other GMO seeds are allowed on wildlife food plots. Food plots have been removed from the certificate because of this issue.*
- If randomly chosen, agree to an independent review of conformance to certification standards. Commonly known as a certification audit, an assessment of conformance means comparing practices on the ground with certification standards.

Is membership voluntary?

Yes, certified group membership is voluntary. Just check the box on your MFL application or on your MFL change of ownership form.

Does membership cost me (the landowner) anything?

No. Group members do not have any extra costs for being in the MFL certified group. Audit costs and fees are paid by the DNR Division of Forestry.

Can I (the landowner) leave the MFL certified group?

Yes, members can leave the certified group at no cost and it does not affect their status as a MFL owner. The number of times that a MFL owner can join, leave and re-join is subject to limitations.

For more information visit www.dnr.wi.gov and search forest certification.

CHAPTER 22: CERTIFIED PLAN WRITER

BACKGROUND AND PURPOSE

The Certified Plan Writer (CPW) program was created in response to modifications made to the Managed Forest Law (Subch. VI, Ch 77, Wis. Stats.) in 2003 Wisconsin Act 228. The changes included the requirement…

> *A proposed management plan shall cover the entire acreage of each parcel subject to the application and* ***shall be prepared by an independent certified plan writer*** *or by the department if par. (am) applies. (s. 77.82(3)(ag), Wis. Stats.)*
>
> *If the department determines that an applicant is not able to have a proposed management plan prepared by a certified independent plan writer, the department shall prepare the plan. The department shall promulgate rules establishing the criteria that shall be met in order to determine that an applicant is unable to prepare such a plan. (s. 77.82(3)(am), Wis. Stats.)*

The legislature, through the Act, directed the department to promulgate rules regarding the qualifications needed to become a CPW (s. 77.82(3)(g), Wis. Stats.). To become an CPW, an individual must meet the following criteria, established in s. NR 46.165, Wis. Adm. Code:

- *Apply and submit information required consistent with application deadlines specified by the department on forms prepared and provided by the department for certification to prepare applications under the managed forest land program.*
- *Be a cooperating forester as defined in s. NR1.21(2)(b) and participates and complies with the "cooperating forester program" as provided in s. NR 1.213.*
- *Complete the basic training session sponsored by the department.*
- *Submit within 120 days of attending the basic training session under par. (c) any required training materials which must be reviewed and approved by the department.*

This change, along with other changes, was recommended in the Governor's Council on Forestry Special Committee Report – Review of Wisconsin's Managed Forest Law (MFL), approved December 5, 2002. This special committee, which included a variety of interested partners, was assigned the task of reviewing the MFL program and developing recommendations to improve the program and its efficiency.

It was recognized that the Department foresters were spending a large percentage of their time reviewing plans prepared by others (cooperating foresters and landowners). The review process would require less time if the quality of the plans prepared improved.

The intent of this direction is to assure that all plans meet a minimum standard. This will reduce the amount of time needed to review these plans and make future administration easier. The process will also create greater consistency in plans across the state and between Department and non-department plan preparers.

WHO IS CERTIFIED

The certification process is intended only for non-department foresters who prepare MFL plans. Department staff will not be certified, but will be expected to attend update training sessions to ensure that all plan writers receive the same information.

Certification will be granted to an individual, not the company or organization he works for.

A list of Certified Plan Writers will be maintained on the DNR web site and the certification will be noted in *the Directory of Foresters* printed annually. To obtain the Directory on the DNR website, visit www.dnr.gov, search Keywords: "CPW or "Coop Forester".

The Department will determine who is certified based on the eligibility criteria.

ELIGIBILITY

To be certified (certification requirements as detailed in s. NR 46.165(3), Wis. Adm. Code) as a plan writer, the forester must complete the following:

1. Submit an application to be a CPW.

   This is accomplished by submitting the registration form for the basic CPW training. Also, as a pre-requisite for the basic CPW training, the applicant must complete the pre-study test. Pre-study material and the pre-study test are available from the Forestry Training office and will be sent to foresters registered for the CPW training course.

2. Be a cooperating forester (CF) in the Department's cooperating forester program and comply with all the CF program requirements. Foresters must attain CF status before certification will be granted.

3. Successfully complete the basic CPW training session. This is a three-day session covering the CPW program and MFL plans.

4. Within 120 calendar days of completing the basic CPW training, a CPW candidate must submit one additional MFL plan (one is to be completed during the training), as assigned by the Department for review. The plans must include all required documentation, including a copy of the application and all attachments, and must be approved by the Department.

5. If both plans are approved, meeting the Department guidelines for a sound management plan, CPW **certification will be granted**.

6. If either or both of the plans are not approved, the individual will be given opportunity to correct the errors or omissions the Department identified in the review. Plans with identified errors or omissions should be corrected and returned within 45 days of notification. Plans which are not returned, with acceptable corrections, will not be approved and **certification will be denied**.

7. If the errors or omissions are corrected in a manner acceptable to the Department, **certification will be granted**.

8. If the errors or omissions are not corrected or new errors are created in the revised plan(s), **certification will be denied.** The individual must begin the certification process again at step one.

CERTIFICATION MAINTENANCE

(as detailed in s. NR 46.165(4), Wis. Adm. Code)

The CPW must meet the following conditions to maintain certification:

1. Comply with all guidelines, manuals and directives provided by the department at the time of application and during training. (s. NR 46.165(4)(a), Wis. Adm. Code)

2. Prepare at least one MFL plan every two years that has been approved by the Department. (s. NR 46.165(4)(b), Wis. Adm. Code)

3. Attend the annual MFL update training presented by the Department (s. NR 46.165(4)(c), Wis. Adm. Code).

   This training will present changes and new information on the MFL. Location and timing of update sessions will be publicized on the DNR web site and mailed to the current list of CPWs.

4. Prepare MFL management plans consistent with department guidelines, manuals and directives. (s. NR 46.165(4)(d), Wis. Adm. Code)

Compliance monitoring for this requirement will be accomplished through the plan review process. The MFL Management Plan Review Checklist will be utilized when reviewing all plans prepared by a CPW. Copies of the checklist should be maintained by the field staff or regional reviewer as documentation of past practice and compliance.

5. Maintain CF status and comply with all requirements of the CF program (s. NR 46.165(4)(e), Wis. Adm. Code).
6. Submit management plan packet preparation costs charged as an independent certified plan writer for each plan submitted in WisFIRS annually on or before May 1st. The data is used to calculate the DNR plan preparation fee (s. NR 46.18(8)(b), Wis. Adm. Code).

CERTIFICATION REVOCATION

(s. NR 46.165(5), Wis. Admin. Code)

Certification may be revoked if the individual fails to meet any of the certification maintenance requirements. Revocation is divided into two basic types based on the reasons and consequences of the revocation.

1. Revocation for *lapse* in biannual plan writing, annual training, or CF status requirements. Requirements 2, 3 and 5 are listed under Certification Maintenance, page 22-2.

   This will be referred to as revocation resulting from a *lapse* in certification maintenance**.**

   Process for a *lapse*:

   - These three requirements for all CPWs are monitored in WisFIRS.
   - If an individual does not complete at least one plan every 2 years that has been approved by the Department, fails to attend the annual training, or discontinues or fails to renew his CF status, the TLS will revoke the certification.

2. Revocation for *failure* to prepare MFL plans consistent with department guidelines or failure to comply with all guidelines, manuals and directives provided by the department at the time of application or training. Requirements 1 and 4 are listed under Certification Maintenance, page 22-2.

   This will be referred to as revocation from a *failure to comply* with certification.

   Process for *failure to comply*: Revocation under this scenario will be initiated by the Tax Law Team Leader. The program goal is to settle disputes and improve performance at the area level prior to making a recommendation for certification revocation.

   - The Tax Law Team Leader will submit a recommendation for certification revocation to the Chief State Forester. The submittal will include all pertinent documentation, including copies of the MFL Plan Review Checklists.
   - The Chief State Forester will appoint a CPW Review Board consisting of 1) a disinterested CPW, 2) a Tax Law Team Leader and 3) another representative from the TLS.
   - The CPW Review Board will review the recommendation for certification revocation and make a recommendation on the revocation to the Chief State Forester.
   - The Chief State Forester will issue the final decision.

   The MFL Management Plan Review Checklist is used as part of the review process for every CPW plan. A copy of the checklist follows the field packet through the review process. Copies of the checklist should be maintained by the Tax Law Forestry Specialist or other reviewer and submitted to the Tax Law Team Leader when there is a recurring problem. The Tax Law Team Leader may also identify problems.

Length of Revocation and Re-certification
(ss. NR 46.165(6) & (5)(b), Wis. Adm. Code)

Revocation for *lapse*:

There is no minimum revocation period. The individual must complete **all** the eligibility requirements (numbers 1-8, page 22-2) again but can do so at any time.

Revocation for *failure to comply*:

Revocation may not exceed two years. The period of revocation shall be determined by the Chief State Forester. The individual may not apply for certification until the revocation period has expired. All eligibility requirements as listed under Eligibility, page 22-2, must be completed. The 2 plans submitted under #4 under Eligibility must have been prepared after the certification was revoked.

Notification of Revocation

The TLS will notify the CPW of certification revocation whether it is for *lapse* or *failure to comply*. Notification will include the reason for revocation, length of revocation, steps to be certified again and the process for contesting the decision.

Contesting Revocation

An individual, whose certification has been revoked, for *lapse* or *failure to comply*, can contest the revocation. The request for review of the decision must be submitted to the Chief State Forester. The request must be in writing, include all supporting documentation and be submitted within 30 days of the notification of revocation. The Chief State Forester makes the final determination.

The decision of the department may be subject to review under ch. 227, Wis. Stats. A contested case hearing may be available under s. 227.42, Wis. Stats. Both processes require that the petition or request for review or contested case hearing be served and filed in a manner and within the time limits required by statute and Wis. Adm. Code.

Effect of Revocation on Contracting

If the certification of a CPW who is under contract to prepare MFL plans for the Department is revoked during the contract period, the individual may continue performance under the contract if another CPW agrees to sponsor (review and sign the plan package) the revoked individual for the remainder of that year's contract. Certification must be restored before any future contract would be awarded to that individual. The prospectus and contract issued by the Department will include this requirement.

DELEGATED SIGNING AUTHORITY

Section NR 46.165, Wis. Adm. Code, establishes the program that the Department uses to certify cooperating foresters to prepare plans for the MFL. The Tax Law Section Chief will provide general administration of the CPW program for the Division of Forestry. The Tax Law Section Chief is delegated the authority to sign on behalf of the Department all correspondence for acceptance or denial in to the program. This position will also sign on behalf of the Department all CPW maintenance correspondence.

CHAPTER 30: FOREST CROP LAW

GENERAL INFORMATION

(ch. 77, Wis. Stats., and ch. NR 46, Wis. Adm. Code)

The Forest Crop Law (FCL) program was available from 1928 through 1986. There were no 1972 entries. The last contracts expire December 31, 2035. FCL orders are tracked in WisFIRS. FCL order numbers (2 digit county code, 3 digit sequence number, 4 digit entry year) were assigned when a new database was created in 1999. The order number for an existing entry is found on the Master File printout and in WisFIRS.

FCL is a contract between the State of Wisconsin and a landowner as established by statute, therefore when changes to the FCL law occurred DNR maintained the individual FCL provisions through the Forest Tax Law Handbook. It is important for Tax Law Section (TLS) staff to understand when FCL lands were enrolled and the provisions that existed at the time of enrollment when advising landowners of future land management decisions.

	Entries prior to 1972 (There were no 1972 entries)	**Entries after 1972**
ACRES ELIGIBLE	40 or more contiguous acres	Only entire quarter-quarter sections, government lots, or fractional lots (excluding public roads and railroad right-of-ways [ROW])
ANNUAL TAX	$0.10/acre/year $0.20/acre/year for special class (Note: All special class FCLs have expired)	$2.52/acre/year (effective through 2017)
CONTRACT PERIOD	50 years only	25 or 50 years (landowner's choice)
PRODUCTIVITY		No more than 20% non-productive (Note: This provision became effective on February 1, 1980, affecting FCL Orders issued after that date s. NR46.07 (1)(c) Wis. Adm. Code.)
TRANSFER ACREAGE	Must transfer the entire FCL entry or 40 or more contiguous acres. If remaining lands are less than 40 contiguous acres, they must be withdrawn.	Entire entries, quarter-quarter sections, government lots or fractional lots only
BUILDINGS	Buildings or structures used as a domicile are not allowed. Buildings with no landscaping or those utilizing fire prone property management techniques are permitted. Any building allowed is taxed as personal property.	

CONVERSION TO MFL	Owners of FCL land may apply to convert their FCL land to a new Managed Forest Law (MFL) order prior to the end (expiration) of the FCL contract. This should not be confused with a FCL contract that is expiring and being entered under MFL at the end of the FCL contract to continue without lapse in a tax law program. More information follows in this chapter.
CUTTING NOTICE	Must be filed at least 30 days prior to the beginning of cutting (Form 2450-32). No merchantable wood may be cut if FCL taxes are delinquent (see Chapter 20, Cutting Notice and Report).
CUTTING REPORT	Must be filed within 30 days after cutting is completed or within one year of submitting the cutting notice (see Chapter 20, Cutting Notice and Report).
HARVEST TAX	Beginning in April 2016, the DNR no longer has authority to collect the 10% severance tax for merchantable wood harvested. No invoices for severance tax have been sent or assessed since April 16th 2016. For FCL lands with outstanding severance tax due, the invoice was voided and any payments received from those invoices on or after April 16th, 2016 were refunded.
MANAGEMENT SCHEDULE	The FCL program did not originally require a management plan. In the 1990s DNR developed management schedules to help landowners manage their woodlands. Schedules were written for 25 years using Form 2450-121, or substitute Form 2450-132 with landowner objective and signature options. 50 year contracts were to have a new schedule developed during the 25th year for the last half of the contract. New management plans should be updated when practices are re-scheduled using the WisFIRS Private Lands database.
MANDATORY PRACTICES	Include harvest of mature timber, commercial thinning of plantations or natural stands, release of conifers from competing vegetation, reforestation of land to meet minimum density requirements, and post-harvest treatment to ensure adequate regeneration.
MAP	Includes timber types, buildings, fences, roads, railroads, lakes, streams, buildings, adjacent ownership, and any other pertinent information. Updated maps should be sent to landowners after a harvest, planting or when the land has been transferred to a new landowner (Form 2450-133).
OTHER REQUIREMENTS	• Located outside the incorporated limits of a city or registered plat. • Held permanently for growing timber under sound forestry practices. • Capable of producing merchantable wood products within 100 years of entry. • A minimum level of tree stocking must be present at time of entry. • No mining or landfill operations present (exploration operations not adversely affecting the forest resource are allowed). • No unpaid taxes at entry.

PUBLIC ACCESS

Open for public hunting (not trapping or scouting) and fishing only. Signs against such activities are not allowed. Landowner may not restrict the number of persons engaging in hunting and/or fishing.

Access must be provided across contiguous non-FCL lands under the same ownership contiguous to FCL designated lands; refusal may lead to an involuntary withdrawal (Attorney General's opinion dated September 9, 1982).

Anyone seeking access to FCL land across adjoining lands not owned by the FCL owner should secure the adjoining landowner's express permission, unless the adjoining landowner has granted an easement that clearly allows public access to the FCL parcel. Access may also be gained through other lands open to public recreation, including other FCL, MFL-Open and public lands.

RENEWALS

None, after January 1, 1987. Expiring FCL contracts were not renewed due to repeal of the law. Expiring FCL lands may, however, be eligible for the MFL if the land meets the minimum eligibility requirements.

SIGNS

Posting against uses such as snowmobiling, vehicular traffic, berry picking, etc. is allowed. Signs which state prohibited uses also must indicate allowed uses in equal sized lettering (e.g. These forest crop lands are open to public hunting and fishing, but closed to vehicular traffic). See Chapter 20 for examples of wording.

SPECIAL CLASSIFICATION

This provision, in effect from 1950 - 1963, applied only to lands of 40 acres or more lying outside an intensive forest protection district in the year of entry (s. 77.15, Wis. Stats., repealed in 1964). Special Classification" designations continued until 2013 (the last special class FCL expired December 31, 2012) and had the following modifications:

- acreage share payments are $0.20/acre/year for the contract period,
- no state contribution is paid nor severance tax levied,
- a cutting notice must be filed with the DNR; however, a cutting report is not required (note: after reviewing the cutting notice, the original should be returned to the landowner keeping a copy for their files for follow up contacts to ensure harvests were conducted as approved),
- use of lands for grazing or any other purpose except forestry is cause for withdrawal.
- no termination tax for land designated FCL special class

TERMINATION TAX

Termination taxes were assessed against a landowner if their land expired from FCL and was not immediately enrolled into the Managed Forest Law. DNR authority to assess, collect and distribute FCL termination taxes was removed in 2016 with Act 358. This removal of authority does not impact termination taxing authority for those FCL lands that expired on 12/31/2015 or earlier. However, for lands that expire after Act 358 took effect (i.e. lands that expire on 12/31/2016 or later) the DNR will no longer be requiring the payment of termination taxes.

Termination taxes were calculated as 10% tax on the value of the standing merchantable timber. The merchantable volume estimates calculated by the

department could be determined using forest cover type maps or aerial photo interpretation (s. NR 46.08(5), Wis. Adm. Code). Merchantable volume estimates calculated by all others must meet standards established in s. NR 46.08(6), Wis. Adm. Code (accuracy level of ±15% to ±20% at 2 standard deviations).

The value of the merchantable volume is established using the current stumpage rates in s. NR 46.30, Wis. Adm. Code. Current rates are those in effect at the time the FCL contract expires. See appendix 4 for an appraisal example.

TRANSFERS	Must be reported within 10 days of the transfer of the deed. A transfer order is not issued for survivors of joint ownership.
WITHDRAWAL (Voluntary)	All or part of an order may be withdrawn provided the remaining lands meet the requirements in effect for the specific year of entry (Form 2450-008). Withdrawals are effective the January 1 following the date of the withdrawal order. Land sold to a governmental unit must be withdrawn. Some of these withdrawals may be exempt from withdrawal taxes. Lands sold for utility corridors are withdrawn; utility easements, however, are allowed (s. 77.10(2)(c), Wis. Stats.).
WITHDRAWAL PENALTY	Calculated as the difference between the ad valorem tax and the FCL tax paid. Simple interest is applied at 5% (years prior to 1978) or at 12% (1978 and later). Credit is given for annual acreage share payments made to the local town and for severance tax paid including interest.

EXPIRING CONTRACTS

(s. 77.03, Wis. Stats., and s. NR 46.08, Wis. Adm. Code)

In June of each year, TLS mails a notice of FCL expiration to affected landowners via certified mail of FCL orders expiring December 31 of the following year (2nd December 31 following the date of the notification). An option to apply for MFL designation is included; lands must meet the minimum MFL requirements to be eligible. A listing of expiring contracts and a copy of the letter sent to the landowner is posted in WisFIRS for Tax Law Forestry Specialists at the same time.
After January 1, 1987, expiring FCL contracts were not renewed due to repeal of the FCL. Existing FCL contracts remain in effect until their contract period ends. The last FCL contracts expire on December 31, 2035.

MANAGEMENT SCHEDULE

A management schedule, written for all entries except industrial owners, is developed for a 25 year period and includes all mandatory and recommended practices to be completed during the contract period. The management schedule does not require landowner signature and is considered a minimum plan for implementing sound forestry during the contract period (s. 77.03, Wis. Stats.). An FCL management plan is available through WisFIRS Private Lands.

Mandatory practices for forest crop lands include only:

- harvest of mature timber,
- commercial thinning of plantations or natural stands,
- release of conifers from competing vegetation,
- reforestation of land to meet minimum density requirements,
- post-harvest treatment to ensure adequate regeneration.

Management of older forests is not allowed under the FCL program. Reserved, managed old growth and extended rotation management regimes significantly limit the production of recurring timber crops, and thus would not be permissible objectives. Extended rotations may produce future crops through sound forestry. However, extending rotations to a point just short of the average life expectancy of the species that make up the various timber types would hamper the tax revenues that the towns would receive if these lands were managed based on more traditional rotation lengths that seek to maximize the mean annual increment of the stand. Therefore, even extended rotations would not be a permissible management alternative on land enrolled under FCL.

Landowners are not allowed to increase the size of non-forested openings, create wildlife food plots or conduct practices that are not in accordance with the purposes of the FCL program (s. 77.01, Wis. Stats.). The purposes of the FCL program include:

- Protect from destructive or premature cutting the forest growth in the state
- Reproduce and grow future forest crops through sound forestry practices on lands that are not more useful for other purposes
- Provide public hunting and fishing as extra public benefits
- Conduct such practices in a manner that does not hamper the towns from receiving their just tax revenue from FCL lands

Landowners with Mandatory Practices to Complete

By February two (2) years prior to the year the practice is due, the TLS will mail landowners a reminder to complete scheduled mandatory practices. The letters will be generated through the WisFIRS Private Lands database. Landowners will be requested to contact their Tax Law Forestry Specialist if they have questions. The forester's address and phone number will be provided to the landowner.

The management schedule may be revised if there is a basis in sound forest management.

The steps for successful enforcement should be followed as outlined in Chapter 60 if by the January 1 following date the practice is due the landowner is not in compliance with completing the management practice.

Updating Plans

Management schedules must be updated when:

- mandatory practices have been re-scheduled,
- land is transferred to a new landowner,
- for the subsequent 25-year period for 50-year contracts, a mandatory practice has been completed and another mandatory practice, which was not included in the initial plan, is scheduled (e.g. additional thinnings).

TRANSFER
(s. 77.10(1)(b), Wis. Stats.; Form 2450-035)

Entries Prior to 1972	Must transfer the entire FCL entry or 40 or more contiguous acres. If remaining lands are less than 40 contiguous acres, they must be withdrawn.
Entries After 1972	Must transfer the entire FCL entry or a complete quarter-quarter sections, government lots, or fractional lots.

Distribution of non-productive land has no effect on the eligibility of transferred or remaining land except that lands must meet the eligibility criteria established under the FCL law, including productivity requirements.

Procedures

Landowner:	Within 10 days of a deed transfer, submits a Transfer of Ownership (Form 2450-035) to the Tax Law Forestry Specialist. The signature(s) of the current owner(s) and a copy of the signed and notarized deed are required. There is no transfer fee collected by the DNR, but the landowner will be billed by the Register of Deeds for the recording fee when the transfer order is recorded. If the purchaser refuses to sign the transfer of ownership, withdrawal procedures will commence without a hearing and with associated penalties assessed.
Tax Law Forestry Specialist:	Reviews the form for completeness and legality of FCL transfer (see transfer checklist below). If all is correct and complete, signs and dates the form, then enters the transfer in the WisFIRS transfer tracking system. If information is missing or there are problems with the transfer, contacts the landowner for follow-up.
Tax Law Forestry Specialist:	Issues a transfer order. Sends original to be recorded at the Register of Deeds. Sends a copy of the order to the new landowners, Tax Law Forestry Specialist, municipality clerk and assessor, and Department of Revenue.
Tax Law Forestry Specialist:	Sends new landowner a management plan, map, and information on FCL. Updates recon and uploads new map in WisFirs Private Lands and the Open Private Forest Lands Website

A transfer order is not issued for survivors of joint ownership (joint tenants or survivorship marital property). These are handled as a "name change" in WisFIRS Private Lands with notification and documentation sent to TLS.

Transfer Checklist

Entire Transfer:

- Copy of deed, land contract, document transferring title enclosed and complete.
  - Note that all deeds, from the owner shown on the current master list to the new owner, must be included to verify ownership history and changes in legal interest.
- Copy of tax bills or other documents showing county parcel identification numbers enclosed.
  - All owners have signed, including life estate holders (unless an official document ,e.g. Power of Attorney, provides otherwise). See signing authority as identified in Chapter 20.
  - Encumbrance holder question has been answered and all encumbrance or deed restriction holders have signed (if applicable).
- Sign and date the transfer at the bottom of the transfer form.

Partial Transfer:

- All of the items under "entire transfer" completed.
- Pre-1972 entries
  - The land being transferred is 40 or more contiguous acres
  - The land retained is 40 or more contiguous acres
- Post-1972 entry
  - The land being transferred is an entire legal description(s).
  - The land being retained is one or more entire legal description(s).

Land Contracts

Lands can be sold and transferred by land contract as long as the transfer criteria are met. Vendees (buyers) of the land contract have ownership in the land and therefore must transfer lands to their names. Vendors (sellers) of the land contract have an interest in the land similar to that of a mortgage holder or bank. Landowners who buy land by land contract and have their transfer forms received by the Tax Law Forestry Specialist on or after May 15, 2009 must meet the transfer requirements.

Lands that were transferred by land contract in which their transfer form was received by the Tax Law Forestry Specialist on May 14, 2009 or earlier were allowed to partition their lands in a way not allowed under the law. It had been assumed that land contracts did not cause a partition of the land until the land contract was completed because the deed was still held by the old landowner (vendor of the land contract). Lands that have been partitioned by land contract in a way not allowed under the law will become splits once the land contract is satisfied or if there are multiple transfer of land, and one or more of the transferred areas is by deed . In these situations all of the land partitioned must be withdrawn.

Easements

When an easement is given, the title to the land does not change, and therefore a transfer is not required. Whether or not the land can continue under FCL after an easement is given will depend on what use the easement allows. If it can be proven that the land is no longer being held for the purpose of producing forest products, the DNR may request a hearing to have the land withdrawn.

The most common easement is for purposes of ingress (entrance) and egress (exit) given to the grantee and heirs and assignees. These types of easements generally do not cause a withdrawal because they do not alter the purpose for holding the land. Sometimes the grantor retains an easement when the land is sold to access neighboring land.

An easement given for a cell tower or airstrip would be reason to request a hearing for withdrawal of part or all of the FCL land.

Land Transferred to a Governmental Unit
(see Withdrawals also; Form 2450-162, Declaration of Withdrawal Exempt)

Land conveyed to a governmental unit (federal, state, local) must be withdrawn from FCL designation. Some of these withdrawals may be exempt from withdrawal taxes. See "Exempt Withdrawals" in the withdrawal section of this chapter.

Transfer Types – When a Transfer Form is Required

See information in Chapter 20.

WITHDRAWALS

Withdrawal Voluntary

(s. 77.10, Wis. Stats.; Form 2450-008)

An owner may file a request to withdraw all or part of the FCL entry. Lands remaining after the withdrawal must meet the minimum size requirements in effect at the time of entry to continue under the law.

- Pre 1972 entries: 40 contiguous acres.
- Post 1972 entries: entire legal description.

Withdrawal Order

A landowner remains liable to comply with the provisions of the law until the withdrawal order is issued. The land will be taxed as general property beginning January 1 following the date of the withdrawal order.

Withdrawal Tax

The FCL withdrawal tax is calculated by the Department of Revenue and equals the back taxes with simple interest (5% for entries prior to 1978 or 12% for entries 1978 and later), less a credit for severance taxes and acreage share payments. This calculation may take up to three months to complete. Withdrawal of an entry renewed after expiration of the initial 50 year contract incurs a penalty beginning with the first year of the renewal.

The withdrawal tax for FCL lands converted to MFL during the first 10 years, will be the higher of either the MFL withdrawal tax or what the FCL withdrawal tax would have been at the time the MFL Order of Designation was issued.

Failure to pay the withdrawal penalty results in cancellation of the request and continuation under the FCL law.

Lands being withdrawn due to transfer to a governmental unit for the purposes in s. 77.10(2), Wis. Stats., are exempt from withdrawal tax and fee (Form 2450-159).

Procedures

Landowner:	Initiates the process by filing a Declaration of Withdrawal (Form 2450-008) with the DNR. A worksheet, available from TLS, can assist the landowner in estimating the withdrawal cost.
Tax Law Forestry Specialist:	Sends a copy of the withdrawal request to the tax law forestry specialist for informational purposes. Requests the Department of Revenue to provide the gross withdrawal tax. Upon receipt, calculates the interest and credits to determine the net withdrawal penalty, then bills landowner.
Landowner:	Within 60 days remits payment to the DNR.
Tax Law Forestry Specialist:	Prepares the Order of Withdrawal upon receipt of payment from the landowner. Within 20 days, remits withdrawal payment to the local town after retaining previously paid state aid payments and interest.
Tax Law Forestry Specialist:	Updates recon after receipt of the Order of Withdrawal via WisFIRS Private Lands.

Involuntary Withdrawal
(Refer to Chapter 60 - Enforcement)

Involuntary withdrawals may be initiated for the following reasons:

- the land is used for purposes other than forestry,
- sound forestry is not being practiced (e.g. destructive cutting),
- lands no longer meet entry requirements,
- the county takes tax deed for delinquent taxes,
- within 10 days of the deed transfer, the new landowner declines to certify an intention to continue the practice of forestry,
- posting violations.

Withdrawal taxes for involuntary withdrawals are the same as withdrawal taxes for voluntary withdrawals discussed above except that a hearing is required before the lands can be withdrawn and the landowner pays the withdrawal tax after the FCL Order of Withdrawal is issued. (Note: In voluntary withdrawals landowners pay the withdrawal tax prior to the DNR issuing the FCL Order of Withdrawal.)

Exempt Withdrawals
(s. 77.10(2)(c), Wis. Stats.)

Land conveyed to a governmental unit (federal, state, local) for uses listed below are exempt from the withdrawal tax and fee. Land transferred for any other use to a governmental unit is subject to withdrawal tax and all rules regarding withdrawals.

Uses exempt from withdrawal tax:

- park
- recreational trail
- wildlife habitat area
- fish habitat area
- public forest (including natural areas acquired by the state)
- railroads
- utility right-of-ways
- public roads

The purchaser must complete a Declaration of Withdrawal Exempt (Form 2450-162) signifying that it will be used for an exempt use.

Chapter 77, Wis Stats., does not directly address the land remaining after an exempt FCL withdrawal; however, it has been the policy of the DNR to allow land remaining after an "exempt withdrawal" to continue under FCL designation even if it is less than 40 contiguous acres (pre 1972 entries) or less than a full legal description (post 1972 entries).

Annexed Land

Existing Forest Crop Law entries which are annexed to a village continue under the law until expiration.

Forest Crop Law entries that are annexed to a city or registered plat are no longer eligible to continue as FCL lands (s. NR 46.07(1)(a), Wis. Adm. Code). FCL lands that are annexed into a city are eligible for conversion from FCL to MFL if all eligibility criteria are met.

CONVERSION TO MFL

(s. 77.82, Wis. Stats., First Conversion in 1993 WI Act 131, effective March 19, 1994; Second Conversion in 2001 Wis. Act 109, effective July 30, 2002; Form 2450-129)

Conversion to MFL is when the FCL contract is converted to a new MFL order effective prior to the expiration of the FCL contract. There is no early withdrawal penalty assessed to these FCLs during the process. This process should not be confused with FCL contracts that are expiring and the land is being entered into MFL effective immediately after the FCL contract expires (i.e. the FCL contract expires December 31, 2003 and the MFL contract is effective January 1, 2004).

1993 Wisconsin Act 131 created the first opportunity to convert FCL to MFL. Applications to convert were accepted from September 1, 1994 to January 1, 1998.

2001 Wisconsin Act 109 created the second and continuing opportunity to convert. Act 109 did not limit the opportunity to a specific span of time but created a permanent opportunity.

FCL Landowner Options

1. Convert from FCL to MFL before the FCL contract expires (i.e. the MFL order would take effect before the FCL contract is completed). Landowners must convert **all of their lands in a municipality** or municipalities for which the petition is submitted regardless of entry year. No FCL withdrawal penalty is assessed for ending the FCL contract early.

2. Enter the land under MFL effective immediately after FCL expires. This requires that an MFL application be filed by the appropriate deadline.

3. Remain under FCL until the contract expires and do not renew/enter MFL.

4. Withdraw from FCL before contract expiration. An early withdrawal penalty will be assessed according to Chapter 77, Wis. Stats.

General Information

- Application can be submitted at any time. The conversion petition was made a part of the MFL Petition for Designation/Conversion (Form 2450-129).

- MFL application fees, processes and deadlines detailed in Chapter 20 apply.

- All or Nothing
  - Landowners must convert **all** FCL land under the same ownership in a municipality or municipalities for which the petition is submitted regardless of entry year.
  - **All** FCL land within a municipality must meet the MFL eligibility requirements. If any of it fails to meet the minimum requirements, then none of the FCL lands within the municipality may be converted.

- The withdrawal tax for converted FCL lands, during the first 10 years, will be the higher of either the MFL withdrawal tax or what the FCL withdrawal tax would have been at the time of MFL designation.

- A FCL conversion to MFL will have a sequence number in the 200, 300 or 400 series (e.g. 27-205-1996).

- A Conversion and Designation Order must be issued by November 20 to be effective the following January 1.

- FCL recon data will be updated by the Tax Law Forestry Specialist via WisFIRS.

- Only land being converted from FCL may be included on the Conversion and Designation Order. This is to clearly identify lands that are converted. Lands may be added in years following the conversion. (i.e. lands converted in 2005, can have additions beginning in 2006).

CHAPTER 31: TAX LAW DISPUTE RESOLUTION PROCESS

The tax law dispute resolution process (DRP) is a voluntary process which has been designed as a stepped process that facilitates win – win solutions as frequently and as quickly as possible.

SCOPE OF THE PROCESS:

For land enrolled in the Managed Forest Law (MFL) or Forest Crop Law (FCL), the DRP has been designed to determine if proposed or completed practices adhere to the principles of sound forestry as outlined in WDNR Handbooks and directives and are consistent with the landowner objectives as stated in the management plan. Examples of situations where disputes may occur include but are not limited to; order of removal, residual basal area, residual size distribution, productivity requirements, oak wilt restrictions, adequacy of regeneration present or regeneration techniques integrated into the practice, how BMP guidelines are applied, and/or restrictions on the type of equipment used. The DRP can be initiated by any involved party disagreeing with a decision made to approve/reject one of the following:

1. MFL management plan
2. MFL management plan amendment
3. Cutting notice
4. After receiving a complaint (i.e. from landowner, consultant, logger, member of the public, neighbor, etc.) the DNR forester evaluates and determines sound forestry consistent was not implemented within MFL/FCL guidelines, the management plan and landowner's objectives.
5. When DNR Forester identifies concerns with how cutting notice was implemented when signing the cutting report or visiting the site to update the forestry inventory.

Approval of the final cutting report by a DNR forester does not preclude any further actions outside of the dispute resolution process by the Department if new substantial information comes to light after the fact.

DRP and completed timber sales: If there is a question as to whether or not a completed timber sale followed sound forestry practices within MFL/FCL guidelines, the management plan and landowner's objectives, it should proceed directly to the second level of the DRP (a panel of forestry experts).

DRP panel recommendations: In all cases the recommendations or determination of the panel of experts is provided to the State Forester for his review and final decision.

This DRP is **not** designed to be used in the following instances:

1. On state, county and federal lands or private lands that are not in MFL or FCL.
2. Issues related, but not limited to: MFL eligibility (except for productive requirements), business practices of cooperators, and/or timber theft.
3. After the forestry inventory has been updated by the DNR forester following a timber sale.
4. By parties who are not involved in the writing of a management plan or its implementation (e.g. a third-party who was not hired by the landowner but is concerned that sound forestry is not being practiced).
5. If the landowner of the involved property does not agree to participate in the process. The landowner then has the following options which are outside the DRP:
    a. Accept the Department's decision and make needed changes (or direct their contractor) to the management plan, plan amendment or cutting notice as determined by DNR to ensure sound forestry is being planned/implemented within MFL/FCL guidelines, the management plan and landowner's objectives..
    b. For an active timber sale that is operating under a pre-approved cutting notice - if the landowner allows the timber sale to be completed without modifications requested by the department, then the landowner assumes the risk that at a later date the property may be withdrawn from the program for failure to implement sound forestry practices.
    c. Request a contested case hearing under ch 227.42, Wis. Stats. and meet the conditions required for a hearing to be granted, or seek other legal or equitable relief as they or their attorneys believe is legally available.

RESPONSIBILITIES:

DRP Administrator: A third-party contractor that assumes oversight of the DRP.

Responsibilities include;

1. Act solely as the administrator of the DRP. It is not the responsibility of the DRP Administrator to attempt to get the parties to come to resolution or act in other mediation type activities within the DRP.
2. Administer the list of Forestry Mediators including soliciting applicants, determining if qualification standards are met by applicants, facilitating selection of qualified applicants by the Chair and Vice Chair of the Council of Forestry and the State Forester, determining which counties Mediators are willing to work in, developing summaries that detail Mediators' and Experts' qualifications and experience, and ensuring all materials are up-to-date.
    a. Obtain background releases from applicants and work with the DNR's Private Lands Forestry Law Enforcement Specialist to conduct necessary checks for violations of Chapter 26, Wis. Stats. or any county or local ordinances directly addressing forestry practices.
3. Facilitate selection of the Mediator and panel of Experts by the parties involved in the dispute per the DRP procedure.
4. Ensure that required reports and associated materials are provided by the Mediator and Expert Panel.
5. Distribute submitted materials to Mediator, Expert Panel and involved parties (sharing of fact finding materials).
6. Distribute copies of Mediator's and Expert Panel's reports and associated materials to involved parties.
7. Ensure that all parties adhere to the DRP timelines.
8. Ensure that the landowner is notified that a DRP involving their property has been initiated and that the landowner agrees to involved.
9. By February 1st of each year provide a report on the use of the DRP to the Council on Forestry. The report will include; the number of disputes, analysis of types of disputes, who was involved including statistics on number initiated and by whom (cooperator, logger, landowner), number approved and not approved to enter process, number ending with step one (working with Mediators) and duration of process, number going to step two (Expert Panel) and duration of process and recommendations of the Expert Panel, feedback received from participants and any other pertinent information.
10. Ensure that in February of even numbered years the DRP is analyzed for process improvements and lessons learned and provide recommendations to address unforeseen complications in its administration.

Involved Parties: DNR Foresters, Landowners, Consulting Foresters, Cooperating Foresters, and Loggers

1. Approach the DRP process in good faith with a willingness to resolve the issues.
2. Agree to all the procedural terms of this process and understand that failure to do so may result in termination of the DRP. If termination of the process occurs, it cannot be used again for the same or substantially related dispute.
    a. Cooperating Foresters understand that the Expert Panel may determine that the DNR should assess whether or not they were adhering to their Cooperating Forester agreement. The Department may use the information, recommendations and determinations resulting from the DRP in the assessment in lieu of or addition to the Cooperating Forester Resolution Process in the Private Forestry Handbook.
3. Be prepared to respectfully discuss the issues and to work toward a resolution of the dispute. It is the goal that the negotiating parties themselves arrive at a win-win resolution.
4. Answer any questions, provide any requested materials, and comply with any instructions provided by the Mediator or Expert Panel.
5. Be available in person and provide access to the site.
6. Not cross-examine or inappropriately question the other party.
7. Be allowed to provide such evidence to, and as directed by, the Forestry Mediator or Expert Panel as they believe relevant to support their position.

Forestry Mediators (Mediator): (See qualifications in Appendix 13 A)

The role of the forestry Mediator is to provide neutral third party expertise in contested forestry matters as specified as part of the DRP. This means he/she will;

1. Be impartial and fair to all parties involved. Leave any affiliation "at the door".
2. Facilitate discussions and communications between the parties. The goal is to help the parties reach an equitable settlement of their differences.
3. Probe issues and confirm understandings to ensure that the participants and the Mediator have a full understanding of the issue.

4. If needed, may conduct joint sessions with the parties as well as individually to gain balanced insight into the issues of both parties.
5. Adhere to the DRP and associated guidelines and timelines. The parties are in charge of the outcome.
6. Aid in the discussions by asking questions to gain an understanding of the issues, helping the parties understand the other person's point of view, discussing weaknesses in the arguments of the parties, and making suggestions to solve the conflict. The Mediator, however, will not make the decisions.
7. Ensure that the discussion regarding sound forestry practices is based upon the silvicultural guidelines in DNR handbooks and directives under which the MFL and FCL programs operate and are consistent with the management plan and the landowner's objectives.
8. Provide necessary documentation as outlined in this guidance.

Experts: (See qualifications in Appendix 13 B)

1. Be impartial and fair to all parties involved. Leave any affiliation "at the door".
2. Ensure that recommended solution(s) or, in the case of completed timber sales, that the determination of whether sound forestry was practiced is based upon the silvicultural guidelines in DNR handbooks and directives under which the MFL and FCL programs operate and consistent with the management plan and the landowner's objectives.
3. In the cases involving cooperating foresters determine if the actions of the cooperating forester were pronounced enough to warrant recommending that the Department further assess whether or not they were adhering to their Cooperating Forester agreement.
4. Probe issues and confirm understandings to ensure the Expert Panel has a full understanding of the issue.
5. Ensure that the dispute resolution process adheres to the timelines outlined in this guidance.
6. Provide necessary documentation as outlined in this guidance.

DISPUTE RESOLUTION PROCESS STEPS FOR MANAGEMENT PLANS, MANAGEMENT AMENDMENTS, CUTTING NOTICES, AND ACTIVE TIMBER SALES:

The following process is to be followed for disputes involving management plans, management amendments, cutting notices and active timber sales. In these situations the question to be addressed is, "What compromises can be identified so that both parties can agree that sound forestry is taking place within the MFL/FCL guidelines and consistent with the management plan and the landowner's objectives?

I. Initiation of Process:

A. The initial request for a Forestry DRP is made to the DRP Administrator. The DRP Administrator has 3 days[1], if practicable, (inclusive of the day of contact if that day is a work day) to:

1. In consultation with the DNR Private Lands Forestry Mediator, decide if issue is within the scope of this process.

a) Information to be submitted by initiator of DRP:

(1) Parties involved

(a) Documentation showing the landowner, if not the initiator, agrees to allow access to property for the dispute resolution process.
(b) Property identifier/landowner/legal description/order#/stand#
(c) Problem from initiator's perspective
(d) Who else is involved, if anybody, and to what extent
(e) Extenuating circumstances, if any

2. The DRP Administrator utilizes a randomized list to determine three Mediators that are willing, available and do not have conflict of interest or a potential perception of conflict of interest with either involved party.

3. Work with involved parties to select the Mediator.

a) DRP Administrator will provide the parties with a list of three Mediators and a summary of their qualifications and experience. If they choose to do so, each party has 24 hours, if practicable, to strike one of the Mediators. If at the end of the striking process more than one Mediator remains then the DRP Administrator will select the Mediator.

(1) The Mediators will be notified by the DRP Administrator that they were not selected.

Or

b) The two parties can mutually agree to a Mediator from the list.

(1) The parties must immediately notify the DRP Administrator that they are utilizing this method for choosing the Mediator.

(2) Within 1 day, the parties must provide the names of 3 Mediators to which they mutually agree to the DRP Administrator.

(3) Within 2 days, the DRP will work through the list of 3 Mediators provided by the parties until one indicates he/she is willing, available and does not have conflict of interest or a potential perception of conflict of interest with either involved party.

[1] Days = work days, Monday – Friday, not including state holidays. Wisconsin State Holidays: New Year's Day *(January 1),* Martin Luther King Jr.'s Birthday *(Third Monday in January),* Memorial Day *(Last Monday in May),* Independence Day *(July 4),* Labor Day *(First Monday in September),* Thanksgiving Day *(Fourth Thursday in November),* Christmas Eve Day *(December 24),* Christmas Day *(December 25),* New Year's Eve Day *(December 31).*

II. Resolution with help of Forestry Mediator - LEVEL 1:

A. As soon as possible, within a 10 day maximum, after being notified of being assigned the case, the Mediator will:
   1. Contact involved parties and gather needed information.
   2. Arrange and facilitate meeting(s) (in person or tele conference) to discuss issue(s) and associated alternatives/compromises.
   3. Visit site if Mediator deems it is necessary for reaching agreement.
   4. The Mediator or the Parties can ask to involve forestry experts (e.g. Silviculturist), if agreeable to both parties.

B. If agreement is reached, the Mediator will:
   1. Immediately, notify the DRP Administrator of agreement and verbally summarize how it was achieved (i.e. what actions the parties agreed to).

      a) The DRP Administrator will notify the landowner of the agreement and solicit feedback from the involved parties in regards to:

         (1) Fairness and timeliness of the process
         (2) Performance of the Mediator
         (3) Suggestions on how the process could be improved
         (4) If they would use the process again or recommend it and if not, why
         (5) Any other information deemed valuable by the Administrator, Council on Forestry or DNR

   2. Within 2 days, if practicable, the Mediator will:

      a) Provide to the DRP Administrator a written report (electronic or hard copy) summarizing the disagreement, how it was resolved and all materials provided by the involved parties.

   3. The DRP Administrator will send the entire package to the DNR Private Lands Forestry Mediator for inclusion in a case study library. Versions of the case study that have the identifying information redacted will be made publically available. A copy of the report will be provided to the involved parties including the landowner.

III. Solution Identified by Forestry Expert Panel - LEVEL 2 (If the dispute was not resolved with help of Forestry Mediator)

A. Within 1 day, if practicable, of the Mediator knowing that resolution is not possible, he/she will notify the DRP Administrator that the disagreement will be advancing to the process's second step; a DRP Forestry Expert Panel (Panel).

   1. Within 2 days, if practicable, (simultaneous with B – determining pool of experts) after notification, the Mediator will develop a summary of the issue, solutions offered/discussed that, in the opinion of the Mediator, met the criteria for sound forestry under MFL and FCL and which are consistent with the management plan and the landowner's objectives, as well as any evidence provided by the parties.

B. The DRP Administrator has 3 days, if practicable, from notification from the Mediator to determine pool of available experts for the Panel.

   1. For each dispute, the DRP Administrator randomizes the list of experts and works through the list contacting individuals until the Administrator has 5 that are available, willing and without a conflict of interest or a potential perception of conflict of interest.

C. The DRP Administrator will then work with involved parties to select the three experts.

   1. DRP Administrator will provide the parties with the list of five experts. If they choose to do so, each party has 2 days to strike one of the experts. If at the end of the striking process, more than three experts remain then the DRP Administrator will randomly select the three experts.

      a) The experts will be notified by the DRP Administrator that they were not selected.

D. Immediately, if practicable, after the Panel membership is agreed to by the parties, the DRP Administrator will provide the Panel with the Mediator's written summary of the issue and any evidence provided by the parties.

E. As soon as possible, within a 15 day maximum, after receipt of the Mediator's summary of the issue and any evidence provided by the parties the Panel will:

1. Conduct a site visit, if necessary. The parties (or their representative) should be invited to the site visit, but their attendance is not mandatory.

    a) Once a site visit is requested by the Panel, the DRP Administrator will make the necessary arrangements (i.e. determining available date and time) for site visit.

2. No fewer than five days prior to the site visit, a Panel member can request the DRP Administrator provide additional material(s). Any resulting materials will be provided by the DRP Administrator to all Panel members.

    a) If at the site visit additional materials are identified as being needed, parties must provide them to DRP Administrator within three days, if practicable, after the site visit.

3. The Panel will review all of relevant evidence collected during the Forestry DRP process, meet (in person or via conference call) to discuss and vote on the solution to recommend to the State Forester and if involved, whether the actions of the cooperating forester were pronounced enough to warrant recommending that the Department further assess whether or not they were adhering to their Cooperating Forester agreement.

4. The Panel will provide the majority recommendation in writing, supported by any relevant evidence, to the DRP Administrator.

    a) Included with the recommendation will be an explanation of the minority opinion, if one exists.

5. The DRP Administrator will promptly send the recommendation along with any supporting materials to the State Forester with copies to the parties including the landowner.

6. If the State Forester seeks additional clarification on the Panel's recommendation, the State Forester may convene the Panel. This should occur within 5 days, if practicable, of receipt of Panel's recommendation.

IV. <u>State Forester Decision:</u>

A. The State Forester will render a written decision as soon as practicable after receipt of the Panel's recommendation, which would include a description of the applicable appeal rights.

B. The State Forester will send the written decision to the involved DNR staff and the DRP Administrator. The DRP Administrator will disseminate the decision to the other involved parties, including the landowner.

    1. The DRP Administrator will package the Panel recommendation with all other relevant materials (i.e. Mediator report) and send to the DNR Private Lands Forestry Mediator for inclusion in a case study library. Versions of the case study that have the identifying information redacted will be made publically available.

    2. The Department will review the findings and take the appropriate action with respect to Department staff. Recommendations for further evaluation of a Cooperating Forester's adherence to the Cooperating Forester Agreement will be forwarded to the DNR Private Lands Forestry Mediator for further action as deemed appropriate by State Forester.

C. The DRP Administrator will promptly solicit feedback from the involved parties in regards to:

    1. Fairness and timeliness of the process
    2. Performance of the Mediator
    3. Suggestions on how the process could be improved
    4. If they would use the process again or recommend it and if not, why
    5. Any other information deemed valuable by the Administrator, Council on Forestry or DNR.

DISPUTE RESOLUTION PROCESS STEPS FOR COMPLETED TIMBER SALES:

In these situations the ability to compromise is no longer present, therefore the question being asked is, "Did sound forestry practices take place within the MFL/FCL guidelines, the management plan and landowner's objectives?"

I. Initiation of Process:

A. The initial request for a Forestry DRP is made to the DRP Administrator. The DRP Administrator has 5 days (inclusive of the day of contact if that day is a work day) to:

1. In consultation with the DNR Private Lands Forestry Mediator, decide if issue is within the scope of this process.

a) Information to be submitted by initiator of DRP:

(1) Parties involved
(a) Documentation showing the landowner, if not initiator, agrees to allow that a dispute resolution process.
(2) Property identifier/landowner/legal description/order#/stand#
(3) Problem from initiator's perspective
(4) Who else is involved if anybody and to what extent
(5) Extenuating circumstances, if any

2. Notify the landowner.

II. Determination by Forestry Expert Panel whether or not sound forestry practices were followed within the MFL/FCL guidelines, the management plan and landowner's objectives.

A. Once it has been decided that the dispute is appropriate and ripe for this process, the DRP Administrator has 5 days, if practicable, determine pool of available candidates for the Panel.

1. For each dispute, the DRP Administrator randomizes the list of experts and through the list contacting individuals until the Administrator has 5 that are available, willing and without a conflict of interest or a potential perception of conflict of interest.

2. The DRP Administrator will then work with involved parties to select the three experts.

a) DRP Administrator will provide the parties with the list of five experts. If they choose to do so, each party has 2 days to strike one of the experts. If at the end of the striking process, more than three experts remain then the DRP Administrator will randomly select the three experts.

(1) The experts will be notified by the DRP Administrator that they were not selected.

B. Within 5 days after the Panel membership is agreed to by the parties, the DRP Administrator will provide the Panel with the materials provided by the initiator.

C. The Panel will conduct a site visit, within 15 days of receipt of the materials. The parties (or their representative) should be invited to the site visit, but their attendance is not mandatory.

1. The DRP Administrator will make the necessary arrangements (i.e. determining available date and time) for site visit.

D. No fewer than 5 days prior to the site visit, a Panel member can request the DRP Administrator provide additional material(s) deemed needed by the expert. Any resulting materials will be provided by the DRP Administrator to all Panel members.

1. If at the site visit additional materials are identified as being needed, parties must provide them to DRP Administrator within 5 days after the site visit.

E. The Panel will review all of relevant evidence collected during the DRP process, meet (person or conference call) to discuss and vote on whether or not sound forestry was practiced within the MFL/FCL guidelines, the management plan and landowner's objectives and if involved, the actions of the cooperating forester were egregious enough to warrant recommending that the Department further assess whether or not they were adhering to their Cooperating Forester agreement.

F. Within 10 days of the site visit, whenever practicable, the Panel will provide the majority determination in writing, supported by any relevant evidence to the DRP Administrator. Included with the determination will be an explanation of the minority determination, if one exists.

G. The DRP Administrator will promptly send the determination and any supporting materials to the State Forester with copies to the parties including the landowner.

H. If the State Forester seeks additional clarification on the Panel's determination, the State Forester may convene the Panel, but this should occur within 15 days, if practicable, of receipt of Panel's recommendation.

III. State Forester Decision:

A. The State Forester will render a written decision within 15 days, if practicable, of receipt of the Panel's determination, which would include a description of the applicable appeal rights.

B. The State Forester will send the written decision to the involved DNR staff and the DRP Administrator. The DRP will disseminate decision to the other involved parties, including the landowner.

1. The DNR Private Lands Forestry Mediator will copy the materials for inclusion in a case study library. Versions of the case study that have the identifying information redacted will be made publically available.

2. The Department will review the findings and take the appropriate action with respect to Department staff. Recommendations for further evaluation of a Cooperating Forester's adherence to the Cooperating Forester Agreement will be forwarded to the DNR Private Lands Forestry Mediator for further action as deemed appropriate by State Forester

C. The DRP Administrator will promptly solicit feedback from the involved parties in regards to:

1. Fairness and timeliness of the process
2. Performance of the Mediator
3. Suggestions on how the process could be improved
4. If they would use the process again or recommend it and if not, why
5. Any other information deemed valuable by the Administrator, Council on Forestry or DNR.

CHAPTER 40: WOODLAND TAX LAW

The Woodland Tax Law program was available from 1954 to 1986. The last contracts expired December 31, 2000.

This section should be kept as a **reference**.

GENERAL INFORMATION

(s. 77.16 Wis. Stats., and ch. NR 46, subchapter 2, Wis. Adm. Code)

The Woodland Tax Law program was available from 1954 to 1986. The last contracts expire December 31, 2000.

ANNUAL TAX	$1.67/acre/year through 2000
BUILDINGS	Improvements with assessed values are not allowed.
CONTRACT PERIOD	10 years for entries between 1954 - 1976 15 years for entries between 1977 - 1986
CUTTING NOTICE/REPORT	None, but cutting must conform to the management plan.
DECLASSIFICATION	All or part of an entry may be withdrawn (refer to following examples for details). A penalty is assessed, billed through landowner's next tax bill and payable to local town.
EXPIRING CONTRACTS	By September of the year prior to the contract expiration, the Forest Tax Section notifies effected landowners indicating an option for petitioning for Managed Forest Law designation. Forest Tax Section notifies the forester and appropriate local officials of expired contracts and deletes recon data. No termination order is issued
HARVEST TAX	None
MANAGEMENT PLAN	Landowners are required to sign an approved management plan which details the mandatory and recommended practices to complete during the contract period. Mandatory practices include only the following: • harvest of mature timber, • thinning of plantations and natural stands for merchantable products according to sound forestry practices, • release of pine from competing vegetation, reforestation of open or understocked areas.
OTHER REQUIREMENTS	Ten (10) or more contiguous acres excluding entire quarter-quarter sections, factional lots or government lots. The non-productive portion is limited to 20% of the contiguous area. Minimum stocking requirements must have been met at the time of entry. Proof of ownership.

	Must sign and follow an approved management plan which includes mandatory practices limited to the harvesting of mature timber, thinning plantations or natural stands, pine release and post harvest treatments.
	Must be outside recorded plats, incorporated villages or city limits at the time of entry.
	Suitable for growing timber and other forest products, including Christmas trees, and are not more useful for other purposes such as residential, commercial, industrial or recreational areas.
	Grazing, burning, or surface mining (gravel, oil, gas) are not permitted.
PUBLIC ACCESS	Not required.
RENEWAL	None, but lands may be designated as Managed Forest Lands if they meet the minimum eligibility requirements.
STATE CONTRIBUTION	None
TERMINATION TAX	None
TRANSFER	All or part of an entry may be transferred within the definition of partition.
WITHDRAWAL TAX	One percent of the average full value per acre of the productive forest land in the year before declassification in the county where the land is located for each acre for each year the land was under the provisions of the law. Payable with the next property tax bill.

MANAGEMENT PLAN

(s. 77.16, Wis. Stats.; Form 2450-31)

The management plan, signed by the landowner(s), includes all mandatory and recommended practices to be completed during the contract period. Owner-agent prepared plans must be approved by a Department forester.

Mandatory practices for Woodland Tax Law lands include only:

- harvest of mature timber
- thinning of plantations and natural stands for merchantable products
- release of pine from competing vegetation
- reforestation of open or understocked areas

Landowners with mandatory practices to complete

In February foresters will receive a list of mandatory practices to be completed within the next two years. Individual landowner letters which identify the mandatory practices by stand are available upon request from the Bureau of Forestry's data coordinator.

By March 31 of the year the practice is due foresters should contact landowners having mandatory practices to discuss the landowner's intentions and need for compliance by December 31 of that year. The forester's address and phone number should be provided to the landowner.

The forester may re-schedule the mandatory practice if there is a basis in sound forest management.

If by October 31 there is no positive response from the landowner toward completion of the mandatory practice, the forester should pursue enforcement actions which may lead to an involuntary declassification.

Updating plans

Amendments should be based on current silvicultural standards using enforceable language.

Management plans must be updated when:

- mandatory practices have been rescheduled
- the landowner gives consent
- if the land is transferred and the new owner requests a revised plan and the forester agrees to the changes
- a mandatory practice has been completed and another mandatory practice which was not included in the initial plan is scheduled (i.e. additional thinnings)

TRANSFER

(Form 2450-158)

Woodland Tax Law contracts are conveyed with the land to the new owner. While there is no statutory requirement for filing a transfer form, a WTL Notice of Transfer form is available from the Department. Landowners are encouraged to use it. The Department also learns of transfers through assessors, real estate agents, foresters and others.

Partial transfer

Parts of a contract may be transferred under certain conditions (see examples which follow).

Procedure

New Landowner	Notifies the Department by letter or with the Notice of Transfer Form. The land description, order number and former landowner's name should be included.
Forest Tax	Provides the new landowner an informational packet regarding the Woodland Tax law along with an acknowledgement letter. Updates the master file.
Forester	Provides the new landowner with a copy of the management plan and map. A new plan may be prepared if the landowner requests one and the forester agrees. Updates the recon.

Land Contracts

Partitioning of lands involving a land contract must be evaluated closely. Land contracts do not cause a partition of the land until the land contract is completed. The Department will transfer the tax law contract for the land to the new landowner (vendee of the land contract), but the deed is still held by the old landowner (vendor of the land contract).

In cases where a partition occurs due to multiple transfers of land and one or more of the transferred areas is by deed, then all of the land partitioned must be withdrawn.

WITHDRAWAL (DECLASSIFICATION), VOLUNTARY

(s. 77.16(7), Wis. Stats.; Form 2450-116)

An owner may withdraw land from a WTL contract any time prior to expiration with payment of a declassification penalty provided the conveyance does not result in a "partition".

Conveyance of lands resulting in a partition of the lands under a Woodland Tax Law contract shall be cause for declassification (s. 77.16(7), Wis. Stats.). Since the definition of partition influences whether or not part of a contract can be withdrawn, the Department's legal counsel has provided an interpretation.

Existing tax law entries which are annexed to a municipality continue under the law until expiration. Lands being withdrawn due to transfer to a governmental unit for the purposes in s. 77.10(2)(c), Wis. Stats., are exempt from withdrawal tax (Form 2450-159).

Partition Interpretations

- Conveyance of an entire parcel of land (contiguous land) identified in a WTL order is not considered a partition and in itself does not require declassification of other eligible contiguous parcels in the order.
- If separate WTL applications were submitted by a landowner but the Department combined them into a single WTL order, then the lands may be divided along the same lines as indicated on the application without declassification.
- Conveyance of part of contiguous land identified in a WTL order and submitted on a single application continues to be considered a partition and will require declassification of the contiguous land only.
- Land contracts which divide forest tax lands are not considered partitions until the land contact is satisfied. The forester should advise the landowner(s) of this interpretation if the situation is known.

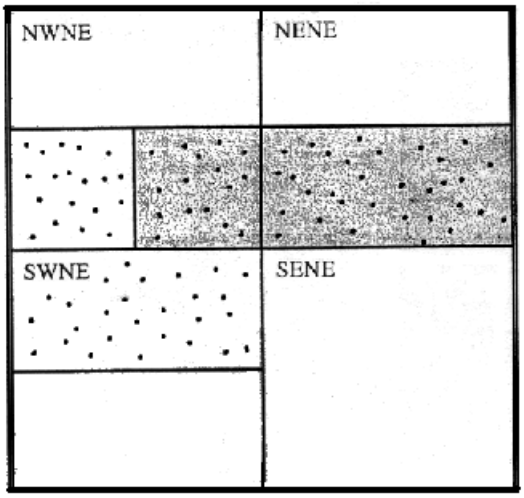
Procedures

Landowner	Submits a Declaration of Withdrawal form to the Department, including the name and address of any new landowner.
Forest Tax	Using the current average F-1 land values provided by the Department of Revenue, calculates the withdrawal tax then issues a Withdrawal Order to the landowner detailing how the withdrawal tax is prorated between various holders. Updates Master File.
Forester	Updates recon upon receipt of Withdrawal Order.
Landowner	Pays withdrawal tax to town treasurer with the following year's property tax bill.

1. <u>Conveyance Results in a Partition</u>
   Requires declassification of the entire WTL Order (60 acres)

   - = WTL land

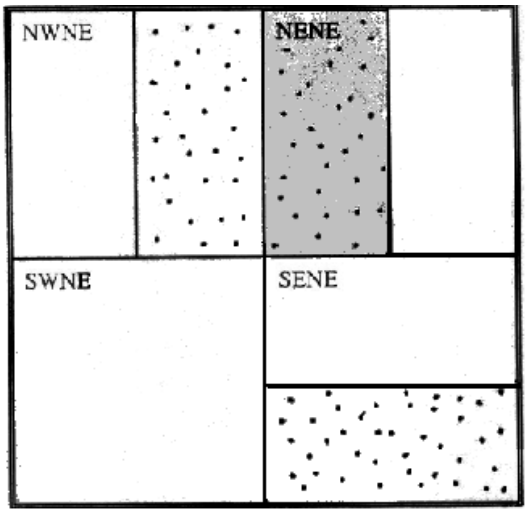
   Shaded = transferred land



2. <u>Conveyance Results in a Partition</u>
   Requires declassification of partitioned contiguous land only (40 acres). The remaining south 20 acres may continue under the law because it is a separate parcel.

   - = WTL land

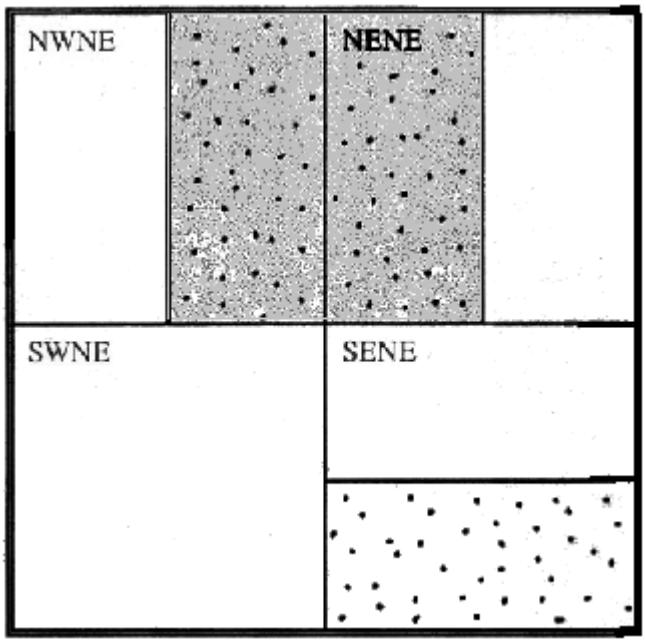
   Shaded = Transferred land



3. Conveyance Results in **no** Partition
   All lands may remain under the law, or either entire parcel may be voluntarily declassified.

   - = WTL land

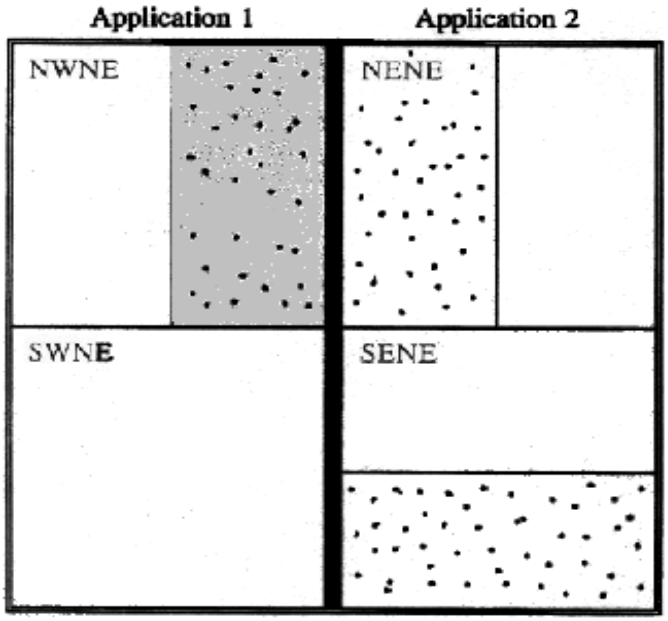
   Shaded = Transferred land



4. Conveyance Results in **no** Partition
   Two or more applications arbitrarily combined by the Department under one entry. All lands may remain under the law. Any entire parcel in either application may be voluntarily declassified or transferred.

   - = WTL land

   Shaded = Transferred land



CHAPTER 60: ENFORCEMENT

The Department's enforcement philosophy is to gain voluntary compliance with the law. The goal is sound, sustainable resource management. This chapter is a guide for enforcement of the MFL and FCL programs, and the American Tree Farm System® (ATFS®) and Forest Stewardship Council® (FSC®) group certifications. **All enforcement actions and follow-up documentation that are sent to the Compliance Specialist should have the team leader included (or cc'd).**

STEPS TO SUCCESSFUL COMPLIANCE AND ENFORCEMENT

The goal for tax law enforcement is to gain compliance before having to withdraw a landowner. The stepped enforcement process, known as the Steps to Successful Compliance and Enforcement, allows the Tax Law Section (TLS) to use all tools available to gain compliance before having to withdraw a landowner including up to three written notices, noncompliance assessments, and/or citations. These tools may work to gain compliance and can be much lower than the cost of withdrawal taxes.

Documentation is critical to any successful enforcement action. Use the Management Recommendations Record or other methods described in the Office Records protocols in the Private Forestry Handbook. Be sure to document phone calls, emails, meetings, etc. so that you have evidence as to how/when the landowner was contacted. This creates a timeline of events that will be helpful when developing a case for withdrawal or, if needed, for a contested case hearing.

The Steps to Successful Compliance and Enforcement should also be used when handling violations of the American Tree Farm System ® (ATFS ®) and/or the Forest Stewardship Council ® (FSC ®) Certification Standards. Specific guidance related to ATFS/FSC violations is noted within each step. Refer to the Certified Group Enforcement section of Chapter 21 for more information about the reasons for which a landowner could be deactivated from the MFL Certified Group. There may be times when a landowner is in violation of an ATFS or FSC standard but it would not cause a withdrawal from MFL. If the violation is related only to the ATFS/FSC standards, a Notice of Investigation (NOI) should not be sent. For example:

- Incorrect application of a pesticide. This would be a violation of ATFS Standards related to compliance with laws and regulations and the safe use of pesticides.

- Use of a FSC prohibited pesticide. The standard prohibits use of pesticides that are persistent, toxic or whose derivatives remain biologically active and accumulate in the food chain beyond their intended use; as well as any pesticides banned by international agreement. A list of prohibited pesticides can be found on the DNR internet and intranet.

- MFL Group certified stumpage or cut products were not separated from non-MFL products. This would be a violation of the relevant FSC indicators and MFL Group chain of custody (CoC) control system presented in Chapter 21. The FSC standard states that the manager needs to be able to trace each forest product from its origin and the CoC system requires that non-MFL stumpage or cut products must be clearly separated from MFL Group certified products. Only forest products reported on the MFL Cutting Notice (Form 2450-032) can be marketed under the DNR certification numbers.

Note that any violation of the MFL that would result in withdrawal from MFL would automatically result in decertification of those lands co-enrolled in the ATFS/FSC Certified Group.

All of the following steps may not be needed in order to achieve success. A situation could be resolved at the end of any step. The extent of the use of the steps depends upon the tax law experience of the individual landowner(s) involved in the case. For example you may need to go through every step for a landowner that has never been contacted about a violation before, but, for an owner that has been contacted and informed about a violation in the past, you may start with step 3 or step 4. When in doubt, use all steps or contact your supervisor or the Tax Law Compliance Specialist to discuss.

Step 1	Tax Law Forestry Specialist determines/verifies a violation/potential violation has occurred
Step 2	Tax Law Forestry Specialist 1st contact with landowner regarding violation
Step 3	Tax Law Forestry Specialist 2nd contact with landowner regarding violation

Step 4	Tax Law Forestry Specialist sends Notice of Investigation
Step 5	Tax Law Forestry Specialist sends recommendation for citation or withdrawal to the Tax Law Compliance Specialist
Step 6	Tax Law Compliance Specialist reviews withdrawal or citation recommendation
Step 7	Tax Law Compliance Specialist decision and next steps

Step 1. **Determine that a violation or potential violation has occurred (one or more)**
Tax Law Forestry Specialist has determined that a violation or violations have occurred or that there is a potential violation. Statute, administrative code, handbook, and/or ATFS/FSC Standards should be referenced to confirm the specific violation.

Remember: Enforcement actions may be affected by the year in which the land was enrolled, or whether the land is enrolled in MFL or FCL.

Step 2. **1st contact with landowner informing landowner of violation**
As soon as the Tax Law Forestry Specialist has gathered the relevant information to confirm that a violation or potential violation has occurred, the Tax Law Forestry Specialist contacts the landowner to inform them of the violation. This can be written, via phone or in person. If phone or in person, the contact should be followed with written correspondence regarding the contact and the violation. See section immediately following on Written Enforcement Correspondence for more information on written correspondence requirements and recommendations. Keep in mind that at this point the landowner may not be aware that they have violated the law, so the tone of your correspondence should reflect that – you are informing them of the violation at this step, not reprimanding the landowner for not having corrected a violation they may not be aware of.

Be sure to verify the current ownership and address with the county property listing office if not done previously. In contacting the landowner in this step, a deadline to correct the violation should be given.

For MFL Certified Group violations: Document the mailing of the letter in the file including the date and time of delivery to the U.S. Post Office and the location of that office.

TIP! Before face to face meetings about violations, check "probation and parole records" and the list of "records and warrants" available through your nearest credentialed DNR employee.

Step 3. **2nd contact with landowner regarding violation**
Once the deadline given in the second step (1st contact) has passed, if the Tax Law Forestry Specialist has not received a response to the first letter, or a response was received, but the violation has not been corrected, a 2nd enforcement letter should be sent to the landowner. The Tax Law Forestry Specialist should consider following the correspondence with a phone call or face-to-face meeting to explain the information in the letter verbally. In contacting the landowner in this step, a deadline to correct the violation should be given.

For MFL Certified Group violations: Document the mailing of the letter in the file including the date and time of delivery to the U.S. Post Office and the location of that office.

Step 4. **Notice of Investigation**
Once the deadline in the third step (2nd contact) has passed, if the Tax Law Forestry Specialist has not received a response to the second letter, or a response was received, but the violation has not been corrected, a Notice of Investigation (NOI) should be sent to the landowner. The Tax Law Forestry Specialist should consider following the NOI with a phone call or face-to-face meeting to explain the information in the NOI verbally.

Sec. 77.88(1)(a), Wis. Stats., requires that the Department use a Notice of Investigation for Managed Forest Law investigations. It reads, in part, "… The department shall notify the owner of the land and the mayor of the city, the chairman of the town, or the president of the village in which the land is located of the investigation." It is Division of Forestry policy to apply the NOI to both MFL and FCL even though it is only written in the Managed Forest Law portion of Chapter 77.

For MFL Certified Group violations: A NOI should not be sent if the violation is related only to the Managed Forest Law Certified Group (ATFS/FSC Standards). A NOI should only be sent if the consequence for not correcting the violation would result in the issuance of a citation or withdrawal from the MFL or FCL program.

For violations related only to the Certified Group, the Tax Law Forestry Specialist should work with the Certified Group Manager to develop a letter to send to the landowner.
When a NOI is sent, the following people should be copied (cc):

- Landowner's agent if applicable
- First-line supervisor
- Tax Law Compliance Specialist
- Town Chairman, Village President, or City Mayor where the property is located (s. 77.88(1)(a), Wis. Stats.)
- Municipal Clerk, only if certifying for the $250 noncompliance assessment*

*Important and more detailed information about the noncompliance assessment is provided later in Chapter 60 in the section titled "Noncompliance Assessment for Failure to Implement a Mandatory Practice". Be sure to refer to this additional information.

There are examples of NOIs in Appendix 7.

Remember! If compliance is gained through the Steps to Successful Compliance and Enforcement, notify the Tax Law Compliance Specialist so that the resolution can be documented.

Step 5. Withdrawal or Citation Recommendation

Once the deadline in the NOI has passed, if the Tax Law Forestry Specialist has not received a response to the NOI, or a response was received, but the violation has not been corrected, a recommendation for either a citation to be issued or for the lands to be withdrawn from the MFL/FCL program should be made to the Tax Law Compliance Specialist.

Before sending the withdrawal or citation recommendation to the Tax Law Compliance Specialist, the recommendation should be reviewed with the first-line supervisor.

If the recommendation is to withdraw, the Forest Tax Law Enforcement Case cover sheet, along with supporting documentation, should accompany every withdrawal recommendation and should be signed by both the Tax Law Forestry Specialist and the first-line supervisor. Note: the link for the Forest Tax Law Enforcement Case cover sheet above can only be accessed by DNR employees on the DNR intranet. If you do not have access to this and would like to view it, please contact the Tax Law Compliance Specialist.

The Forest Tax Law Enforcement Case cover sheet requests the following information to be provided with every withdrawal recommendation:

- Name and current address(es) of landowner(s) involved
- MFL or FCL order number(s)
- Whether landowner is member of the MFL Certified Group
- Description of violation(s)
- Chronological summary of events (an Investigative Report [Form 4100-161] and/or Case Activity Report [Form 4100-160] are recommended but not required). See Appendices 8 and 9 for samples.
- All pertinent letters sent to landowner(s), including NOI
- Copy of original Order of Designation
- Copy of management plan (or pertinent pages, including both original and new versions as needed)
- Copy of original entry map, marked-up map(s) describing the issue, and most up-to-date map
- Copies of other Orders such as transfers, corrections, amendments, withdrawals, etc.
- Copy of transfer/withdrawal applications/forms signed by landowner(s)
- Copy of pertinent deed(s)
- Copy of pertinent tax bill(s)
- Other supporting information/documents (investigation write-up, old and/or new recon data, land exams, photos, cutting notices/reports, witness statements, etc.)

For MFL Certified Group violations: A recommendation for deactivation from the MFL Certified Group should be made to the MFL Certified Group Manager.

Step 6. Review of Withdrawal or Citation Recommendation

The Tax Law Compliance Specialist will respond within 7 to 10 working days regarding receipt of the withdrawal or citation recommendation. The Tax Law Compliance Specialist will review the recommendation to determine if withdrawal or citation is the appropriate course of action.

For MFL Certified Group violations: The MFL Certified Group Manager will respond within 7 to 10 working days regarding receipt of the recommendation for deactivation from the MFL Certified Group. The MFL Certified Group Manager will review the recommendation to determine if the landowner will be removed from the MFL Certified Group.

Step 7. Decision and Next Steps

The Tax Law Compliance Specialist, in consultation with other Tax Law, Bureau of Forest Operations, and/or Bureau of Legal Services staff as needed, determines if withdrawal or citation is the appropriate course of action.

If citation is the correct course of action, a credentialed officer will issue the citation.

If withdrawal is the correct course of action:

For MFL, the Tax Law Compliance Specialist (TL) will issue the withdrawal order OR

For FCL, the Tax Law Compliance Specialist (TL) will begin the Contested Case Hearing process.

Once a withdrawal order is issued for either MFL or FCL by the Tax Law Compliance Specialist, copies are sent to the Tax Law Forestry Specialist, landowner, register of deeds (who records the order), municipal clerk (who makes note of the information), assessor (who adjusts the tax roll for the year the withdrawal is effective), Department of Revenue (DOR) - district supervisor of assessment, and DOR – Madison.

The Tax Law Administration Specialist sends a request to Department of Revenue to calculate the withdrawal tax and a request to the Tax Law Forestry Specialist to calculate the 5% stumpage value, if applicable.

Once the information from DOR and the Tax Law Forestry Specialist are returned to Madison, the Tax Law Administration Specialist applies the acreage share tax credits to the withdrawal tax if applicable, prepares the invoice for the withdrawal tax and fee, and sends the invoice to the landowner.

If the withdrawal is a partial withdrawal, once the withdrawal is effective, (January 1st), the Tax Law Forestry Specialist adjusts stand acreages and other recon information within WisFIRS Private Lands.

If withdrawal or citation are determined not to be the appropriate course of action, the Tax Law Compliance Specialist will provide the appropriate next steps to the Tax Law Forestry Specialist involved and their first-line supervisor.

For MFL Certified Group violations: The MFL Certified Group Manager, in consultation with the Certification Coordinator, other Tax Law, Bureau of Forest Operations, and or Bureau of Legal Services staff as needed, determines if the landowner will be removed from the MFL Certified Group. The MFL Certified Group Manager will issue a letter to the landowner indicating that they have been deactivated from the MFL Certified Group, the reasons for deactivation, and advises the landowner of the appeal procedures. The MFL Certified Group Manager should notify the Tax Law Forestry Specialist so that the Tax Law Forestry Specialist can remove the landowner from the Certified Group.

WRITTEN ENFORCEMENT CORRESPONDENCE

Written enforcement correspondence is critical to tax law enforcement. However, do not forget the value of face-to-face interaction. It can be difficult to explain the statutory requirements of the program, forestry concepts, rules, etc. in written format. Tax Law Forestry Specialists should always consider asking the landowner to meet with them whether in the office or on site or to talk on the phone to explain the situation in addition to their written correspondence. Tax Law Forestry Specialists can ask a credentialed officer to attend if necessary. When a Tax Law Forestry Specialist has the ability to explain

the severity of withdrawal and the risks of not complying, it can help the landowner to understand what is at stake. It is important that all phone calls and face-to-face meetings are documented in the landowner file for enforcement purposes.

Consider including the following information in enforcement correspondence. Any questions regarding what to include or not include should be referred to the first-line supervisor or the Tax Law Compliance Specialist.

- Order number(s)
- Legal description(s) of involved parcel
- Description of the MFL/FCL violation(s) and applicable statutory/administrative code references and/or ATFS/FSC* certification non-conformances when applicable.
    - Include the specific statutory/administrative code references if sending NOI
    - A full copy of the statue/code upon request may be provided
- Action required to correct the violation(s)
    - Be sure to offer any/all options to correct the violation. If proper options are not offered, the Tax Law Forestry Specialist may have to repeat some enforcement steps over again.
    - Tax Law Forestry Specialist should contact their immediate supervisor for instruction if they are unsure of what steps the landowner should take to comply with statutes and/or ATFS/FSC* standards.
    - Voluntary withdrawal can be offered as an option to correct a violation, where appropriate. However, it is essential that it is made clear that that by using these withdrawal types the land will go back on the regular tax roll and a withdrawal tax and fee may be assessed.
        - a withdrawal for construction or small land sale, s. 77.88(3j), Wis. Stats., may be used to rectify the inclusion of an illegal building on MFL
        - a withdrawal for productivity/sustainability, ss. 77.88(3k) and (3L), Wis. Stats., may be used to rectify lands that do not meet the productivity requirements
- Deadline for correcting violation(s)
    - Reasonable timelines for correcting violations are described within the sections for specific violations described in this chapter.
    - Length of negotiations is up to the Tax Law Forestry Specialist and their supervisor.
    - Provide a realistic amount of time for the landowner to comply but do not drag things out.
    - 10-14 days may be a reasonable amount of time to allow for some actions to take place (e.g. file a transfer) or for a response from the landowner.
    - 1-3 months may be reasonable for correcting a split in ownership, but the Tax Law Forestry Specialist should consider requiring the landowner to contact the tax law forestry specialist regarding the violation within 10-14 days.
    - Completing mandatory practices depends on sale specifics, season, etc.
    - Tree planting is season dependent.
- Consequence for not correcting violation(s), which may include:
    - $250 non-compliance assessment for failure to complete a mandatory practice (more information about the noncompliance assessment is provided later in this chapter in the section titled "Noncompliance Assessment for Failure to Implement a Mandatory Practice". Be sure to refer to this additional information.)
    - Citation (see Citations or Seizures)
    - Withdrawal

Correspondence should always be sent to the landowner, but the landowner's agent/logger/consultant forester/etc. should be copied (cc) on the letter when appropriate. Certified mail may also be used (but is not required) to document the mailing and may document the receipt, if a return receipt is requested and signed for by the landowner. Forestry Specialists should work with the Compliance Specialist to determine when certified mail should be used.

*For group certification issues, include a copy of the ATFS/FSC standards, and document the mailing of the letter in the file including the date and time of delivery to the U.S. Post Office and the location of that office. Refer to Chapter 21 of the Forest Tax Law Handbook for more information about Forest Certification.

Be clear on what the issue/violation is and what the expectation is from the landowner. Try to answer the following questions in the first paragraph of the letter:

- What is this about? (e.g. lands in the MFL program are out of compliance)
- What's in it for me? (e.g. you may face withdrawal from the MFL program)
- What do you want from me? (e.g. file the transfer form)

Provide more detail later in the letter to elaborate as needed. If a detailed chronology of events is desired, consider placing that as an enclosure rather than within the body of the letter so as not to confuse/overwhelm the landowner.
Focus on the resource needs and not just the program requirements. For example, explain to the landowner why it is important that they harvest so that their forest stays healthy, etc. rather than simply saying that they are required to harvest timber because the program and their management plan requires them to do so.
Tax Law Forestry Specialists should try to put themselves in the landowner's shoes when writing the letter. It does not hurt to have someone else, even a non-forester, to review the letter before it is sent it to help understand if the letter is too complex or too harsh. Try to close the letter in a friendly manner by stating that the Tax Law Forestry Specialist is there to help and would be happy to talk with the landowner further.

Try to avoid forestry terms that the landowner may not understand. Most landowners do not know terms such as single tree selection, basal area, stand, etc.

Although it can be difficult because the letters are dealing with enforcement situations, Tax Law Forestry Specialists should try to be conscientious of the tone of letters. Landowners may be in an enforcement situation, but Tax Law Forestry Specialist's role is to assist the landowner with coming into compliance. Try to be firm yet courteous.

CITATIONS OR SEIZURES

In some specific cases a citation can be used and/or wood products may be seized. Credentialed forestry staff or DNR Wardens should be contacted if seizure or citation actions are being considered. Non-credentialed staff should contact credentialed staff for assistance. Keep in mind that non-credentialed foresters have the authority to seize timber on tax law lands, but they do not have such authority on private non-tax law lands. When products are seized the Department is responsible for the security of those products.

Credentialed forestry staff or DNR Wardens should issue the citation. Tax Law Forestry Specialists should assist in the issuance of the citation and provide the credentialed officer the elements of the violation. The citation should list the dollar amount in the DNR bond book using the current figures in the DNR Bond Schedule. Citations may be issued by mail pursuant to s. 23.62(2), Wis. Stats.

It is advisable for the officer to meet with the District Attorney when possible to discuss the forest tax laws that the DNR enforces with which the District Attorney may not be familiar; especially if there is concern that the citation may be contested. A short conversation with the District Attorney may make the difference between the case being prosecuted and the case being dismissed.

Chapter 77, Wis. Stats. provides citation authority for the following tax law violations. In these situations, enforcement letters should reference citation as a consequence for failure to correct the violation. More detail about the following citations is found within the sections describing specific tax law violations later in this chapter.

Violation	MFL/FCL	Citation/Forfeiture	Statutory Reference
Failure to file cutting notice	MFL only	Not more than $1,000	s.77.86(5)(a), Wis. Stats.
Failure to file cutting report	MFL and FCL	Not more than $1,000	s.77.86(5)(a), Wis. Stats. (MFL) s.77.09(1), Wis. Stats. (FCL)
Filing false cutting report	MFL and FCL	Not more than $1,000	s.77.86(5)(a), Wis. Stats. (MFL) s.77.09(1), Wis. Stats. (FCL)
Harvesting contrary to management plan, approved cutting notice, and/or inconsistent with sound forestry	MFL and FCL	20% of value of merchantable timber cut contrary to management plan	s.77.86(5)(b), Wis. Stats. (MFL) s. 77.06(1)(c), Wis. Stats. (FCL)
Posting violations	MFL only	Not more than $500	s. 77.83(4), Wis. Stats.
Not allowing public access to open land	MFL only	Not more than $500	s. 77.83(4), Wis. Stats.

INVOLUNTARY WITHDRAWAL
(MFL – s. 77.88, Wis. Stats.; FCL – s. 77.10, Wis. Stats.)

For MFL, statute provides that the Department may, at the request of the governing body of any municipality in which any managed forest land is located, or at its own discretion, investigate to determine whether the designation as managed forest land should be withdrawn.

For FCL, statute provides that the Department of Natural Resources shall on the application of the Department of Revenue or the owner of any forest croplands or the town board of the town in which said lands lie and may on its own motion at any time cause an investigation to be made and hearing to be had as to whether any forest croplands shall continue to be enrolled.

While this may not be a complete list, investigations for involuntary withdrawals may be initiated for (for more information on these topic areas, see relevant sections in Chapter 20, 30 and 60):

Violation	Legal Reference(s)	Citation Authority?	Non-Compliance Assessment?
MANAGED FOREST LAW			
Eligibility Requirements			
Pre-2017 entries or one time renewal (see Renewal): lands are not 10 acres 2017 and later entries: lands are not 20 acres.	s. 77.82(1)(a)1., Wis. Stats. s. NR 46.15(25), Wis. Adm. Code	No	No
Lands are not 80% productive because they are not capable of growing 20 cubic feet of merchantable timber per acre per year.	s. 77.82(1)(a)2., Wis. Stats. s. NR 46.15(2), Wis. Adm. Code		
Lands are not 80% productive because more than 20% of the acreage is not stocked with trees.	s. 77.82(1)(a)2., Wis. Stats. s. NR 46.15(22), Wis. Adm. Code		
Lands are more than 20% unsuitable to produce timber products.	s. 77.82(1)(b)1., Wis. Stats.		
Lands are developed for commercial recreation.	s. 77.82(1)(b)2., Wis. Stats. s. NR 46.15(8), Wis. Adm. Code		
Lands are developed for industry.	s. 77.82(1)(b)2., Wis. Stats. s. NR 46.15(10), Wis. Adm. Code		
Lands are developed for a use incompatible with the practice of forestry.	s. 77.82(1)(b)2., Wis. Stats. s. NR 46.15(11), Wis. Adm. Code		
Lands lie within a subdivision plat for human residence.	s. 77.82(1)(b)2., Wis. Stats. s. NR 46.15(18), Wis. Adm. Code		
2017 and later entries: Lands where a building or an improvement associated with a building is located.	s. 77.82(1)(b)3., Wis. Stats. s. 77.82(1)(bp), Wis. Stats.		
Pre-2017 entries: Lands are developed as a human residence as evidenced by having a building with living space that contains 5 or more building characteristics. And/or lands have a building that is used as a domicile.	s. 77.82(1)(b)3., Wis. Stats. (?) s. NR 46.15(9), Wis. Adm. Code s. NR 46.15(12), Wis. Adm. Code s. NR 46.15(24), Wis. Adm. Code		
Lands surrounding buildings are landscaped, improved or have ornamental plantings or other alterations of vegetation.	s. 77.82(1)(b)3., Wis. Stats. s. 77.82(1)(bp)1.b., Wis. Stats. s. NR 46.17(3), Wis. Adm. Code		
Closed Acreage Limitation			
The number of acres in lands closed to public recreation exceeds 320 acres.	s. 77.83(1)(am), Wis. Stats.	No	No

Violation	Legal Reference(s)	Citation Authority?	Non-Compliance Assessment?
MANAGED FOREST LAW			
Public Access			
Failure to provide public access to lands enrolled as MFL-Open. (see Access)	s. 77.83(2)(a), Wis. Stats. s. NR 46.20(1), Wis. Adm. Code	Yes	No
Failure to provide public access to lands enrolled as MFL-Open by crossing contiguous lands that are not entered as managed forest land, contiguous managed forest land that is designated closed, or an access by easement or otherwise that provides the owner access.	s. 77.83(2)(a), Wis. Stats. s. NR 46.20(2), Wis. Adm. Code	Yes	
Posting of signs or otherwise denying access to open managed forest land.	s. 77.88(1)(b)5., Wis. Stats. s. NR 46.21, Wis. Adm. Code	Yes	
Grazing			
Failure to prevent grazing by domesticated animals.	s. 77.875, Wis. Stats. s. NR 46.15(16), Wis. Adm. Code	No	No
Forestry Practices			
Cutting on lands in which acreage share taxes are delinquent.	s. 77.86(1), Wis. Stats.	No	No
Failure to comply with the management plan.	s. 77.88(1)(b)2., Wis. Stats.	Yes	Yes
Failure to practice sound forestry.	s. 77.88(1)(b)2., Wis. Stats. s. NR 46.15(29), Wis. Adm. Code	Yes	No
Cutting in violation of an approved cutting notice, the management plan, or sound forestry.	s. 77.88(1)(b)3, Wis. Stats.	Yes	No
Transfer of Land			
Failure of transferred land to meet eligibility requirements.	s. 77.88(2)(am), Wis. Stats. s. NR 46.23(2), Wis. Adm. Code	No	No
Land remaining after a transfer fails to meet the eligibility requirements.	s. 77.88(2)(c), Wis. Stats.		
Failure to develop a management plan within one year of purchasing lands from a large landowner or losing large account status.	s. 77.82(3)(ag), Wis. Stats. s. NR 46.23(2m), Wis. Adm. Code s. NR 46.18(4)(b), Wis. Adm. Code		
Failure to file a transfer form within 30 days of obtaining ownership of MFL lands.	s. 77.88(2)(ac), Wis. Stats.		
Payment of Taxes			
County has taken a tax deed for delinquent taxes.	s. 77.84(3), Wis. Stats.	No	No
Failure to pay personal property taxes for buildings on MFL lands.	s. 77.88(3m), Wis. Stats.		

Violation	Legal Reference(s)	Citation Authority?	Non-Compliance Assessment?
FOREST CROP LAW			
Eligibility Requirements			
Pre 1972 – Lands are not 40 acres.	s. 77.02, Wis. Stats.	No	No
Post 1972 – Lands are not an entire quarter-quarter section, fractional lot or government lot.	s. 77.02, Wis. Stats.		
Land is used for purposes other than forestry.	s. 77.02, Wis. Stats.		
Post 1980 – Lands are not 80% productive.	s. 77.02, Wis. Stats. s. NR 46.07(1)(c), Wis. Adm. Code		
Lands are within a registered plat.	s. NR 46.07(1)(a), Wis. Adm. Code		
Lands which contain a domicile.	s. NR 46.07(1)(b), Wis. Adm. Code		
Lands upon which surface disturbance in the form of mining or landfill operations is present.	s. NR 46.07(1)(d), Wis. Adm. Code		
Lands are landscaped, improved or have ornamental plantings or other alterations of vegetation.	s. NR 46.07(1)(e), Wis. Adm. Code		
Public Access			
Failure to provide public access.	s. 77.01, Wis. Stats. s. 77.03, Wis. Stats.	No	No
Posting of signs or otherwise denying access to FCL land.	s. 77.01, Wis. Stats. s. 77.03, Wis. Stats.		
Forestry Practices			
Cutting on lands in which acreage share taxes are delinquent.	s. 77.06(1), Wis. Stats.	No	No
Failure to file a cutting notice at least 30 days before harvesting.	s. 77.06(1), Wis. Stats.	No	
Harvesting in excess of amount prescribed on cutting notice.	s. 77.06(1)(c), Wis. Stats.	Yes	
Transfer of Land			
Pre 1972 – Failure to transfer at least 40 acres of FCL land or failure of remaining land to be at least 40 acres.	s. 77.02, Wis. Stats. s. 77.10(1), Wis. Stats.	No	No
Post 1972 – Failure to transfer an entire quarter-quarter section, fractional lot, or government lot or failure of remaining land to be an entire quarter-quarter section, fractional lot, or government lot,	s. 77.02, Wis. Stats. s. 77.10(1), Wis. Stats.		
Failure to file a transfer form within 10 days of obtaining ownership of FCL lands.	s. 77.10(1)(b), Wis. Stats.		
Payment of Taxes			
County has taken a tax deed for delinquent taxes.	s. 77.04(2), Wis. Stats.	No	No

IMPLEMENTATION OF MANDATORY PRACTICES

The management plan identifies important program requirements and management practices prescribed for MFL properties. A mandatory practice must be completed or initiated (Services Accepted, Cutting Notice Active, etc.) by **December 31st** of the scheduled year or the landowner is considered in violation of the management plan. Landowners are required to follow their management plans according to sound forestry practices. In January or February almost two full years prior to the completion date, the TLS notifies landowners of their mandatory practices and provides information on how to complete that practice. Landowners are directed to contact their local Tax Law Forestry Specialist for more information. A second letter is sent in January or February in the year the practice is due. If a landowner has a practice due in their first year of enrollment, they will receive a unique letter in January or February in the year the practice is due (which is the January or February after their order began). These mandatory practice letters are generated by WisFIRS Private Lands and sent in an automated fashion from Central Office. Tax Law Forestry Specialists should continually update the status of mandatory practices in WisFIRS Private Lands so that landowners who have either accepted services to start their mandatory practices or who have an approved cutting notice are not included in the mailing of mandatory practice letters. DNR and Cooperating Foresters will receive a list from TLS of landowners and practices that was generated through WisFIRS Private Lands on an annual basis (aka the Mandatory Practice List).

Tax Law Forestry Specialists may host workshops or provide other information to ensure that landowners are confident in the steps needed to implement their management practices. Tax Law Forestry Specialists should record the contacts in the landowner file and/or in the DNR Notes section for a practice in WisFIRS Private Lands as proof of services rendered. Cooperating Foresters, loggers and other resource professionals should be invited to workshops or other meetings as needed to ensure that landowners understand the full array of resources available to them in completing their management practices.

For information on reviewing and approving Cutting Notices, refer to the Cutting Notice and Report section of Chapter 20.

The management practice becomes past due the year in which the landowner is out of compliance.

For a practice due December 31, YEAR B:

IN COMPLIANCE		OUT OF COMPLIANCE
YEAR A	**YEAR B**	**January 1, YEAR C**
1st Notification to Landowners of Mandatory Practice sent in January/February YEAR A Practice will show up on Mandatory Practice List If practice has a "services accepted" status or cutting notice active status, no notification to landowner and practice will not show up on Mandatory Practice list. Practice Due December 31, YEAR B	2nd Notification to Landowners of Mandatory Practice sent in January/February YEAR B Practice will show up on Mandatory Practice List If practice has a "services accepted" status or cutting notice active status, no notification to landowner and practice will not show up on Mandatory Practice list. Practice Due December 31, YEAR B	DNR determines status of practice and initiates the Steps to Successful Compliance and Enforcement.

Once a practice is out of compliance, Tax Law Forestry Specialists should begin the Steps to Successful Compliance and Enforcement after verifying that a mandatory practice has not been initiated (Services Accepted, Cutting Notice Active, etc.) by December 31st of the year due.

- **If Cooperating Forester services <u>are</u> available and/or landowner has chosen not to implement the mandatory practice,** begin Step 2 of the Steps to Successful Compliance and Enforcement by providing guidance and reasonable deadlines for landowners to complete their mandatory practice. Enforcement letter and NOI templates for mandatory practice violations are available in Appendix 7.
  For MFL, failure to complete or initiate (Services Accepted, Cutting Notice Active etc.) a mandatory practice is considered a landowner's failure to follow the MFL management plan and a violation of s. 77.88(1)(b)2, Wis. Stats.) and is cause for withdrawal.

For FCL, failure to complete or initiate (setup, sold, in progress, etc.) a mandatory practice is considered a landowner's failure to practice sound forestry and a violation of s. 77.10(1)(a), Wis. Stats. and is cause for withdrawal.

- **If markets for the timber are non-existent,** the mandatory practice in WisFIRS Private Lands should be marked with a reschedule reason of "Unmarketable*". Tax Law Forestry Specialists should continue to monitor market availability in order to assist landowners with the completion of mandatory practices. Landowners should be made aware that the "unmarketable" practice status does not relieve them of their obligation to complete their mandatory practice when markets do become available. Postponing mandatory practices in the hopes of getting better timber prices is not allowed.

- **If silvicultural conditions and science will not allow for successful regeneration of a timber type,** the mandatory practice in WisFIRS Private Lands should be marked with a reschedule reason of "Updated Recon*", "Insect/Disease/Invasive Issues*", "Regeneration Issues*", or "Stand Not Ready for Harvest*". Tax Law Forestry Specialists should continue to monitor the mandatory practice in order to assist landowners with the completion of mandatory practices. Again, landowners should be made aware that when a practice is given one of the statuses described above, it does not relieve them of their obligation to complete their mandatory practice when stands can be successfully regenerated.

  *Additional reschedule reasons that may be used when appropriate in WisFIRS Private Lands are "Correspond w/Nearby Practices", "Landowner Reasons", "Weather Conditions", and "Other". Keep in mind that rescheduling a practice requires a new scheduled year (due date); therefore, the practice will not show up on the mandatory practice list again until the appropriate timeframe based on the new due date.

NONCOMPLIANCE ASSESSMENT FOR FAILURE TO IMPLEMENT A MANDATORY PRACTICE

(MFL - s. 77.876, Wis. Stats.)

When an MFL landowner has not followed through with completing a required mandatory practice, the DNR has the authority to certify to the local municipality the landowner's failure to complete the practice. The certification to the municipality occurs when the Tax Law Forestry Specialist issues the NOI to the landowner for failure to complete a mandatory practice. Refer to Appendix 7 for suggested wording for the NOI. The Tax Law Forestry Specialist must copy (aka "cc") the municipal contact on the NOI in order to properly certify the municipality. The first line supervisor should approve the assessment of the noncompliance assessment(s) and review the NOI before delivery to the landowner and government officials. Additionally, Tax Law Forestry Specialists should consult with their supervisor and the Tax Law Compliance Specialist to determine whether one or more noncompliance assessments ($250) should be certified to the municipality.

Some municipalities are not aware of their authority to bill and collect the noncompliance assessments. Tax Law Forestry Specialists are encouraged to reach out to the municipality to explain the statutory authority as a means to get cooperation with the noncompliance assessment. The noncompliance assessment is an enforcement tool for DNR to encourage the landowner to get their mandatory practice completed or face withdrawal.

The municipality shall then bill and collect from the landowner a $250 assessment per noncompliance. The landowner is required to pay the assessment by the last day of the month following the date the assessment is mailed. The payment is shared between the municipality (80%) and the county (20%).

For any assessment paid later than the due date, the municipality shall collect interest at the rate of 12% per year. The landowner becomes personally liable for any unpaid noncompliance assessments which become a lien against the merchantable timber cut.

If a noncompliance assessment is not paid on or before the August 31st following the payment due date, the municipality shall certify to the taxation district clerk the description of the land and the amount due for the assessment and interest. The taxation district clerk shall enter the delinquent amount on the property tax roll as a special charge.

FAILURE TO FILE A CUTTING NOTICE
(MFL - s. 77.86(1)(b), Wis. Stats & s. 77.86(5)(a), Wis. Stats.)

This section discusses the enforcement process for when a cutting notice has not been filed. These situations may or may not involve unsound forestry (i.e. sound forestry may occur without the filing of a cutting notice). If the situation does involve unsound forestry, use the information below along with the information in the section titled "Harvesting Violations" for more information.

Cutting Notices are required to be filed by both MFL and FCL landowners.

MFL: A cutting notice must be filed by the owner at least 30 days before the cutting is to take place according to s. 77.86(1)(b), Wis. Stats. Section 77.86(5)(a), Wis. Stats., provides up to a $1,000 forfeiture for failing to file a cutting notice.

FCL: A Cutting Notice must be filed by the owner at least 30 days before the cutting is to take place according to s. 77.06(1)(a), Wis. Stats. There is no citation authority for FCL lands for failure to file a Cutting Notice.

When it is determined that a Cutting Notice has not been filed on a proposed or active cutting operation, Tax Law Forestry Specialists should start the Steps to Successful Compliance and Enforcement and consider the following:

- **Assess the situation.**
  Evaluate whether cutting has been started, how long cutting has been going on, how much volume has been cut, whether the proposed or actual cutting is or can be modified to achieve acceptable silviculture, owner willingness to cooperate and any other pertinent factors.

- **Determine if a County Cutting Notice has been filed.**
  The county may be contacted to determine if a notice of intent to cut under s. 26.03(1m), Wis. Stats., has been properly filed with the county clerk. Failure to file such notice may justify prosecution. The action may be initiated by a conservation citation. Under such an action, together with the authority in s. 23.79, Wis. Stats., the judge may order a person to take various actions (such as filing a Cutting Notice and Report under s. 77.06 (FCL) or s.77.86 (MFL), Wis. Stats.) or refrain from certain conduct (such as continuing to cut).

- **Determine if cut products should be seized.**
  With the cooperation of a credentialed Department employee, Tax Law Forestry Specialists may seize cut products on the sale area (s. 26.06(1), Wis. Stats.) thereby stopping further removal. Cutting without having filed a notice of intent to harvest on tax law lands (i.e. the MFL/FCL Cutting Notice) and/or a county cutting notice is considered unlawful cutting, making seizure of cut products appropriate. Keep in mind that non-credentialed foresters have the authority to seize timber on tax law lands, but they do not have such authority on non-tax law lands. This applies to both MFL and FCL. **The local district attorney should be contacted prior to seizure.** The Department is responsible for the security of all seized items.

  Release of seized products and resumption of cutting on the sale area should not be allowed until the owner has complied with the law or until release is authorized by the court.

- **Require the landowner to file a Cutting Notice.**
  Inform the owner of the Cutting Notice requirement under s. 77.86, Wis. Stats., and county requirements for a notice of intent to cut under s. 26.03, Wis. Stats. and require that the owner must file a Cutting Notice **within 10 days**. This contact should be in writing and serves as Step 2 in the Steps to Successful Compliance and Enforcement. Harvesting cannot continue until the Cutting Notice is filed and approved if required. Continue the Steps to Successful Compliance and Enforcement as needed.

  In situations where the harvest is totally completed, the filing of a Cutting Notice may not be required. This should be assessed on a case-by-case basis. Tax Law Forestry Specialists should indicate in WisFIRS Private Lands that harvesting occurred without the filing of a Cutting Notice (practice status of "Cutting Notice Never Filed").

- **Determine if a citation should be issued.**
  For MFL, landowners who fail to file a Cutting Notice may forfeit up to $1,000 (maximum). For FCL, there is no citation for failure to file a Cutting Notice, but under s. 26.06, Wis. Stats., the wood products cut unlawfully can be seized and held until the owner complies with the law. The county notice of intent to cut, s. 26.03, Wis. Stats., applies to any lands (even non-tax law) and carries a lower forfeiture.

  Credentialed law enforcement personnel can issue citations for failure to file the MFL Cutting Notice and the county cutting notice, s. 26.03, Wis. Stats.

  Elements of the Offense
  For successful prosecution the violation must have the following elements:
  - The person according to s.77.86(1)(b), Wis. Stats. is the owner of the MFL lands.
  - Cutting notice not filed.
  - Harvest of merchantable timber occurred.
  - Timber harvested was not for use as fuel in the owner's dwelling.

  If a citation will be issued for the Cutting Notice or the county notice of intent to cut, use an NOI to inform the landowner(s) that a citation(s) will be issued.

  It is advisable for the officer to meet with the District Attorney when possible to discuss the forest tax laws that the DNR enforces which the District Attorney may not be familiar with, especially if there is concern that the citation may be contested. A short conversation with the District Attorney may make the difference between the case being prosecuted and the case being dismissed.

- **Determine if a withdrawal should be recommended.**
  The Department may initiate involuntary withdrawal for failure to file a cutting notice; however, a withdrawal may not be pursued if a citation has been issued.

Remember, if the failure to file a cutting notice situation does involve unsound forestry, refer to the information in the section below titled "Harvesting Violations" for more information.

HARVESTING VIOLATIONS

(MFL - s. 77.86(1)(c), Wis. Stats & s. 77.86(5)(b), Wis. Stats.; FCL – s. 77.06(1)(c)., Wis. Stats.)

If concerns are identified after review of the cutting report and mandatory practice, follow-up management actions may be necessary. As with any enforcement situation, when pursuing initial actions in stepped enforcement, a suite of options should be provided to allow the landowner to determine the preferred course to remedy the situation. Examples of actions to get lands back into compliance with eligibility requirements include planting, herbivory protection, site preparation for natural regeneration, and release of conifers and hardwoods from competing vegetation.

Compliance will be based on whether the harvesting of mature timber and the thinning of plantations and natural stands for merchantable timber were completed according to sound forestry practices (s. NR 46.18(2)(a) and (b), Wis. Admin. Code). "Sound forestry" can encompass many practices designed to attain reasonable and justifiable landowner management objectives. Determination of sound forestry should be consistent with the Fundamental Principles of Sound Forestry section in Chapter 20 and based on forest cover type guidelines found in the DNR Silviculture Handbook and the other listed Department guidance.

"Sound forestry practices" for the purposes of the MFL is defined under s. NR 46.15(29), Wis. Adm. Code.

"Sound forestry" for purposes of the FCL is defined under s. NR 46.02(17), Wis. Adm. Code.

Depending on the nature of the harvesting violation and implementation of compliance measures, the landowner can be issued a citation, withdrawn from the MFL/FCL program with the assessment of a withdrawal tax (and withdrawal fee if MFL), or both.

The Tax Law Forestry Specialist should indicate on the Cutting Notice and in the landowner file and/or in WisFIRS Private Lands (using DNR Notes) that the harvest was done in a manner that is not considered sound forestry, noting which

descriptions will require a citation or withdrawal, and, if the harvest occurred without a Cutting Notice, note what the prescription for cutting would have been.

A Cutting Report is required to be filed for all harvesting, even in instances of harvesting violations.

Citation Options for Harvesting Violations

For MFL, s. 77.86(5)(b), Wis. Stats. states that an owner who cuts merchantable timber in violation of s.77.86 Wis. Stats. is subject to a forfeiture equal to 20% of the current value of the merchantable timber cut, based on the stumpage value established under s. 77.91(1), Wis. Stats. This 20% is based on trees harvested in violation of the program, not on the entire harvest if a portion of the harvest can be considered in line with the program.

Elements of the Offense

For successful prosecution the violation must have the following elements:

- The person according to s.77.86(5)(b), Wis. Stats. is the owner of the MFL lands.
- Harvest of merchantable timber occurred.
- Harvesting was not according to management plan, sound forestry practices, or contrary to an approved cutting notice.

For FCL, s. 77.06(1)(c), Wis. Stats. states that an owner who harvests in violation of s. 77.06, Wis. Stats. is subject to a forfeiture equal to 20% of the current value of the merchantable timber cut, or withdrawal (s. 77.10(1), Wis. Stats.). This 20% is based on trees harvested in violation of the program, not on the entire harvest if a portion of the harvest can be considered in line with the program.

For both MFL and FCL citations, Tax Law Forestry Specialist may contact the Tax Law Compliance Specialist to determine the bond amount.

It is advisable for the person issuing the citation to meet with the District Attorney when possible to discuss the forest tax laws that the DNR enforces which the District Attorney may not be familiar with, especially if there is concern that the citation may be contested. A short conversation with the District Attorney may make the difference between the case being prosecuted and the case being dismissed.

Withdrawal Options for Harvesting Violations

A MFL or FCL landowner may also be subject to withdrawal for harvesting violations. Often times, the issuance of a citation, along with other actions such as stopping the harvest, requiring remediation, updating the landowner's management plan with new mandatory practices (e.g. planting if needed), ensuring a Cutting Report is filed, etc. are considered strong and sufficient enforcement actions. Be sure that a strong case for withdrawal due to the landowner's failure to practice sound forestry can be established. Remember that involuntary withdrawal from FCL requires a Contested Case Hearing to occur prior to withdrawal.

For MFL, according to s. 77.88(1)(b), Wis. Stats., withdrawal may be based on the landowner's failure to comply with their management plan or the landowner's failure to comply with s.77.86, Wis. Stats., which describes the requirement to file a cutting notice and that the cutting notice must be consistent with the landowner's management plan and sound forestry. These instances of noncompliance are generally referred to as:

- Harvesting without filing a Cutting Notice (see section titled "Failure to File a Cutting Notice");
- Harvesting in a manner which does not comply with the landowner's management plan;
- Harvesting in a manner which does not comply with sound forestry; and/or
- Harvesting in a manner which does not comply with an approved cutting notice

For MFL, if unsound forestry practices have occurred resulting in understocked stands, a withdrawal may occur for a landowner's failure to meet the minimum medium densities found in the table in s. NR 46.18(2)(d), Wis. Adm. Code (failure to follow the landowner's management plan).

If withdrawal will be pursued for either MFL or FCL, the recommendation for withdrawal should be sent to the Tax Law Forestry Specialist using the Forest Tax Law Enforcement Case Cover Sheet, complete with documentation sufficient for use at a hearing. Note: the link for the Forest Tax Law Enforcement Case cover sheet above can only be accessed by DNR employees on the DNR intranet. If you do not have access to this and would like to view it, please contact your Tax Law Forestry Specialist. Supervisory review of recommendations for withdrawal may include field inspection of the land in question. The legal descriptions and acreage subject to the withdrawal recommendation should be determined:

- For MFL, withdrawals due to a failure to practice sound forestry must comprise the entire MFL entry, an entire MFL parcel, or all of the MFL land within a quarter-quarter section, government lot, or fractional lot.
- For FCL post-1972 contracts, withdrawals due to a failure to practice sound forestry must be for one or more entire legal descriptions.
- For FCL pre-1972 contracts, withdrawals due to a failure to practice sound forestry can be for less than an entire legal description where forty or more contiguous acres would remain under the law if there is justification for that option.)

FAILURE TO FILE A CUTTING REPORT

(MFL - s. 77.86(4), Wis. Stats & s. 77.86(5)(a), Wis. Stats.; FCL – ss. 77.09(1) & 77.06(4), Wis. Stats.)

Cutting reports are required to be filed by both MFL and FCL landowners. Forfeitures for failure to file a cutting report are shown below:

MFL: A cutting report must be filed within 30 days of completion of cutting according to s. 77.86(4), Wis. Stats. Section 77.86(5)(a), Wis. Stats., provides up to a $1,000 forfeiture for failing to file a cutting report and/or for filing a false Cutting Report.

FCL: A Cutting Report must be filed by the owner within 30 days of completion of cutting but not more than one year after filing the Cutting Notice according to s. 77.06(4), Wis. Stats. . Section 77.09(1), Wis. Stats., provides for up to a $1,000 forfeiture for failure to file a cutting report and/or intentionally filing a false cutting report.

Issuance of citations described above can be initiated only after the Department has determined that the cutting has been "completed" and the 30 day period has expired (or one calendar year has passed from the filing date of the FCL cutting notice). The determination as to whether cutting has been completed based on an inspection of the sale area and consideration and documentation can be made on factors such as:

- Absence of cut products on the site.
- Absence of logging equipment or evidence of current logging activity on the site.
- Absence of standing merchantable timber as per the approved Cutting Notice.
- Presence of cut stumps and length of time since cutting (which can often be determined by the age of aspen sprouts or other tree and shrub regeneration).

If cutting has been determined to be completed, Tax Law Forestry Specialists should contact landowners to get a cutting report and follow the Steps to Successful Compliance and Enforcement, including:

1. Tax Law Forestry Specialists determines that a cutting report has not been filed within 30 days after the cutting is completed (or one calendar year has passed from the filing date of the FCL cutting notice).

2. Once the Tax Law Forestry Specialist determines that it has been 30 days since the cutting was completed (or one calendar year has passed from the filing date of the FCL cutting notice) and no Cutting Report has been received, the Tax Law Forestry Specialist should issue a letter to landowner informing the landowner of the requirement to file a cutting report and requiring the cutting report to be filed within 30 days. 30 days is considered to be a reasonable timeline for compliance since the MFL statute establishes a 30 day period in which landowners are required to submit a cutting report after completion of a timber sale; however, the Tax Law Forestry Specialist has the discretion to determine a shorter or longer time period for compliance (than 30 days) based on the specifics of the case.

3. If the deadline in the 1st letter has passed and the cutting report has not been received, the Tax Law Forestry Specialist should issue a second letter to the landowner informing the landowner of requirement to file a cutting report and requesting the cutting report to be filed within 30 days. The Tax Law Forestry Specialist has the

discretion to determine a shorter or longer time period for compliance (than 30 days) based on the specifics of the case.

4. If the landowner has not submitted the Cutting Report after two letters, the Tax Law Forestry Specialist should issue an NOI requiring the landowner submit the Cutting Report within 30 days. The Tax Law Forestry Specialist has the discretion to determine a shorter or longer time period for compliance (than 30 days) based on the specifics of the case. Remember that different messages should be included in the NOI based on whether the landowner is enrolled in MFL or FCL.

   For MFL NOIs, the landowner should be informed that they are subject to a forfeiture of up to $1,000 for failure to file a cutting report according to s. 77.86(5), Wis. Stats. and that if the landowner fails to file a cutting report, the Tax Law Forestry Specialist will determine the volume of the merchantable timber cut. The NOI should not request that a voluntary withdrawal be filed nor should it state that involuntary withdrawal of the lands would occur if the landowner fails to file the cutting report.

   For FCL NOIs, the landowner should be informed that they are subject to a forfeiture of up to $1,000 for failure to file a cutting report according to s. 77.09(1), Wis. Stats.

5. If the conditions in the NOI are not completed in accordance with s. 77.86(4), Wis. Stats. (MFL) or s. 77.06(4), Wis. Stats. (FCL), a citation must be issued to the landowner for failure to file a cutting report.

   For MFL, the landowner must be issued the citation and the Tax Law Forestry Specialist must determine the volume of the merchantable timber cut so that a cutting report can be filed by the DNR.

   Citations may be issued by mail pursuant to s. 23.62(2), Wis. Stats. Credentialed forestry staff or DNR Wardens, should issue the citation. Tax Law Forestry Specialists should assist in the issuance of the citation and provide the credentialed officer the elements of the violation. The citation should list the dollar amount in the DNR bond book using the current figures in the DNR Bond Schedule.

   Elements of the Offense
   For successful prosecution the violation must have the following elements:
   - The person according to s. 77.86(4), Wis. Stats. (MFL) or s. 77.06(4), Wis. Stats. (FCL). is the owner of the MFL/FCL lands.
   - Cutting has been complete for over 30 days (or one calendar year has passed from the filing date of the FCL cutting notice)
   - A cutting report was not filed.

   It is advisable for the officer to meet with the District Attorney when possible to discuss the forest tax laws that the DNR enforces which the District Attorney may not be familiar with, especially if there is concern that the citation may be contested. A short conversation with the District Attorney may make the difference between the case being prosecuted and the case being dismissed.

6. If lands are enrolled in the MFL program and the landowner fails to file a cutting report, the Tax Law Forestry Specialist should determine the volume of species harvested after citations have been issued. The Tax Law Forestry Specialist should fill in the harvested volumes on the cutting report, and attach all copies of reminder letters and NOIs. For signatures on the cutting report, the Tax Law Forestry Specialist should write in the space for the landowner signature the words “Unable to obtain landowner signature”, and sign their name (the tax law specialist filling out the cutting report) in the space for the DNR Forester signature. This documentation should then be submitted to the Tax Law Forestry Specialist. In situations where a landowner signature is not obtained (either because they have failed to file the cutting report or they refuse to sign the cutting report), the Tax Law Forestry Specialist cannot sign the cutting report for a landowner because DNR is not allowed to act as an agent for any landowner.

   Once a landowner has been issued a citation under s.77.86(5), Wis. Stats. and DNR determined the cut volume under s.77.87(1), Wis. Stats., it is no longer necessary to request the landowner to file a cutting report. The landowner has missed their opportunity to voluntarily file a cutting report and has been issued a citation for this missed opportunity. The cutting report that DNR filed serves the purpose of determining if the harvest was completed correctly and if the volumes harvested were accurate.

In situations where the DNR determined the cut volume, a citation must be issued to the landowner. If a cutting report is submitted to the Tax Law Forestry Specialist without documentation showing that the steps above have been followed, the materials will be returned with a request that a citation be issued.

If, upon review of the Cutting Report, the Tax Law Forestry Specialist determines that the landowner cut more than what was indicated on the cutting notice or in the management plan, the Tax Law Forestry Specialist should follow the Steps to Successful Compliance and Enforcement and refer to the sections titled "Harvesting Violations" for more information on how to handle these types of violations.

According to s. 77.86(5)(a), Wis. Stats., a citation can also be issued to an owner who files a false cutting report. The citation should be based on the investigation which would have determined whether there was a motive for providing false information, if the volume differences were egregious and not reasonable, or if there was no factual basis to the volumes provided.

Elements of the Offense

For successful prosecution the violation must have the following elements:

- The person according to s.77.86(4), Wis. Stats. and s. 77.06(4), Wis. Stats. is the owner.
- Cutting is complete.
- A cutting report with falsified information is submitted.

FAILURE TO FILE A TRANSFER FORM

(MFL - s. 77.88(2)(ac), Wis. Stats.; FCL - s. 77.10(1)(b), Wis. Stats.)

MFL: According to s. 77.88(2)(ac), Wis. Stats., within 30 days after a transfer of ownership, the new landowner must file a Managed Forest Law Ownership Change Request (Form 2450-159). This certifies to the Department the new landowner's intent to comply with the existing management plan for the land and with any amendments agreed to by the Department and the new landowner.

FCL: According to s. 77.10(1)(b), Wis. Stats, within 10 days of the date of the deed the new owner must submit a Forest Crop Law Transfer of Ownership and Acceptance of Transfer (Form 2450-035) certifying that the grantee intends to continue the practice of forestry,

If it is discovered that a transfer form has not been filed, the Steps to Successful Compliance and Enforcement should be followed:

1. Verify that a transfer has not been filed by the new owner.

2. Inform the landowner in writing of the requirement to file a transfer and send the appropriate transfer form. Specify a date that the form and required attachments must be submitted. Usually 10-14 days is a reasonable amount of time for a transfer to be filed. Send a copy of the management plan so that the new owner can become familiar with the program requirements.

3. If the first letter is not acted upon, send a follow up letter to the landowner reminding them of their requirement to file a transfer and requesting that the transfer be filed in 10-14 days.

4. If the landowner still fails to comply send a NOI informing the landowner that if the transfer form is not filed that a recommendation to withdraw the lands will be sent forward to the Tax Law Forestry Specialist. The NOI should also make the landowner aware that if the land is withdrawn from MFL or FCL for failure to file the transfer the owner does not have the right to appeal for a contested case hearing.

5. If the landowner does not file the applicable transfer form by the date specified in the NOI, submit a Forest Tax Law Enforcement Case Cover Sheet with the appropriate supporting materials to the Tax Law Compliance Specialist to recommend withdrawal for failure to file a transfer. Note: the link for the Forest Tax Law Enforcement Case cover sheet above can only be accessed by DNR employees on the DNR intranet. If you do not have access to this and would like to view it, please contact the Tax Law Compliance Specialist.

In situations where a new landowner may have a mandatory practice to complete, but has not yet filed a transfer, Tax Law Forestry Specialists should not request the landowner to complete their mandatory practice until after the transfer is filed.

While working through the Steps to Successful Compliance and Enforcement above, Tax Law Forestry Specialists may want to notify the new landowner that they will be required to start working on the mandatory practice after the transfer is filed, but the practice should not be initiated until the transfer has been successfully filed.

LAND SALE/OWNERSHIP CHANGE VIOLATIONS
(MFL - s. 77.88(2), Wis. Stats.; FCL - ss. 77.02(1), & 77.10(1)(b), Wis. Stats.)

A land sale/ownership change violation occurs when a landowner sells/transfers a part of the tax law entry and it does not follow the rules established for a legal transfer under the law. The rules for transfers are discussed within Chapter 20 for MFL and Chapter 30 for FCL. Remember! There are different transfer rules for MFL versus FCL. To quickly summarize:

MFL: For 2017 and later orders, the lands sold/transferred and the lands remaining after a transfer must be 20 acres, 80% productive, and meet all other eligibility requirements.

For pre-2017 orders, the lands sold/transferred and the lands remaining after a transfer must be 10 acres, 80% productive, and meet all other eligibility requirements. Buildings on these orders must follow the building rules for the entry date (see chapter 20)

See additional important details for MFL land sales/ownership changes in Chapter 20.

FCL: For 1972 and later orders, the lands sold/transferred and the lands remaining after a transfer must be an entire quarter-quarter section, fractional lot, or government lot.

For pre-1972 orders, the lands sold/transferred and the lands remaining after a transfer must be 40 acres and meet all other eligibility requirements.

See additional important details for FCL land sales/ownership changes in Chapter 30.

If one of the following scenarios are discovered, the Steps to Successful Compliance and Enforcement which are detailed below should be followed. In certain situations, a voluntary withdrawal option may be given to landowners to rectify these violations.

MFL:

- For 2017 and later orders, lands are sold/transferred which are less than 20 acres.
- For 2017 and later orders, land remaining after a sale/transfer are less than 20 acres.
- For pre-2017 orders, lands are sold/transferred are less than 10 acres.
- For pre-2017 orders, lands remaining after a sale/transfer are less than 10 acres.

FCL:

- For 1972 and later orders, lands are sold/transferred which do not comprise an entire quarter-quarter section, fractional lot, or government lot.
- For 1972 and later orders, lands remaining after a sale/transfer do not comprise an entire quarter-quarter section, fractional lot, or government lot.
- For pre-1972 orders, lands are sold/transferred are less than 40 acres.
- For pre-1972 orders, lands remaining after a sale/transfer are less than 40 acres.

1. Verify that an illegal land sale/ownership change of MFL or FCL lands has occurred. If necessary, obtain documentation such as deeds from the Register of Deeds.

2. Inform the owner of the ineligible lands (could be the buyer or the seller) that the lands have been sold/transferred in a manner not allowed under the law and provide options for rectifying the violation. Specify a date that the landowner(s) must contact the Tax Law Forestry Specialist so that the options to rectify the situations can be discussed further. Usually 10-14 days is a reasonable amount of time for the landowner(s) to respond to the letter.

3. If a response is not received 10-14 days after the first letter is sent, send a follow up letter to the landowner(s) reminding them of the violation and requiring the landowner(s) to contact the Tax Law Forestry Specialist within 10-14 days.

4. If a response is not received 10-14 days after the second letter is sent, send a NOI informing the landowner that if the violation is not corrected, a recommendation to withdraw the lands will be sent forward to the Tax Law Forestry Specialist. Again require the landowner to contact the Tax Law Forestry Specialist within 10-14 days.
5. If a response is not received 10-14 days after the NOI is sent, submit a Forest Tax Law Enforcement Case Cover Sheet with the appropriate supporting materials to the Forest Tax Compliance Specialist to recommend withdrawal for an illegal land sale/ownership change of MFL/FCL lands. Note: the link for the Forest Tax Law Enforcement Case cover sheet above can only be accessed by DNR employees on the DNR intranet. If you do not have access to this and would like to view it, please contact Tax Law Compliance Specialist.

If at any point during the Steps to Successful Compliance and Enforcement, the landowners contact the Tax Law Forestry Specialist and indicate a desire to rectify the violation, the Tax Law Forestry Specialist should establish a new deadline for the violation to be corrected by. Typically one to three months is a reasonable timeline in which landowners would be able to execute a land sale and record deeds.

OPEN ACCESS AND POSTING VIOLATIONS

(MFL - ss. 77.83(2), (3) & (4), Wis. Stats.; FCL - s. 77.03, Wis. Stats.)

Be sure to review Chapter 20, "Signing – MFL and FCL", for an explanation on allowable signs and landowner requirements.

For any perceived access or posting violations, the Steps to Successful Compliance and Enforcement should be followed:

1. Determine if an access/posting violation is occurring. Documentation should include some or all of the following:
   - Pictures of the signs
   - Wording of the signs
   - Diagram of sign positions
   - Notes of complaints from the public (circumstances of ejection from the land, etc.)
   - Responses and actions of the owner when questioned about alleged access/posting violations

2. Tax Law Forestry Specialist contacts the landowner to inform them of the violation. This can be written, via phone or in person. If phone or in person, the contact should be followed with written correspondence regarding the contact and the violation. Document the contact, whether by phone, in person or by letter, in the landowner file. Either state that the landowner must immediately cease and desist from restricting public access or, for posting violations, specify a date by which the landowner must remove any illegal signs.

3. If the landowner does not comply, send a letter stating that the landowner must immediately cease and desist from restricting public access or, for posting violations, specify a date by which the landowner must remove any illegal signs.

4. If the landowner does not comply, send a NOI stating that the landowner must immediately cease and desist from restricting public access or, for posting violations, specify a date by which the landowner must remove any illegal signs.

5. Determine if and when a citation should be issued. A citation could be used as early as after the second step in the Steps to Successful Compliance and Enforcement described above or in any subsequent step. This is up to the Tax Law Forestry Specialist's discretion after consideration of the history with the landowner and consultation with the Tax Law Team Leader.

   MFL: A citation may be issued to an owner who:
   - Fails to permit public access to the land for the purposes of hunting, fishing, hiking, sight-seeing, and cross-country skiing (s. 77.83(2); s.77.83(4), Wis. Stats.)
   - Posts an open area improperly (s. 77.83(3); s. NR46.21, Wis. Adm. Code; s.77.83(4), Wis. Stats.)

   The forfeiture shall not exceed $500. Note that a judge may order a landowner to refrain from posting or prohibiting public use required under s. 77.83, Wis. Stats. (see s. 23.79(3), Wis. Stats.), but talk to the district attorney to determine the appropriate process to seek such a court order.

   It is advisable for the officer to meet with the District Attorney when possible to discuss the forest tax laws that the DNR enforces which the District Attorney may not be familiar with, especially if there is concern that

the citation may be contested. A short conversation with the District Attorney may make the difference between the case being prosecuted and the case being dismissed.

FCL: There are no provisions in the FCL statutes for citations for posting violations. The Steps to Successful Compliance and Enforcement are the only route to take. Advise the landowner that repeated violations may result in withdrawal from the program with a withdrawal tax. For FCL, a hearing must be held before a withdrawal from FCL can occur.

Document completely all actions, contacts, and correspondence to ensure the Department's ability to present a strong case in any subsequent legal action.

6. If the landowner does not come into compliance or continues to violate the open access or posting requirements, determine if a recommendation to withdraw the lands should be made.

Be aware of the modifications to the trespass law, s. 943.13, Wis. Stats. A trespass citation issued under this statute for entry onto open MFL or FCL land would be considered a violation of the MFL/FCL access requirements and may be cause for withdrawal.

EROSION VIOLATIONS

Landowners are required to protect watersheds (s. 77.80, Wis. Stats.) by implementing soil conservation practices to control soil erosion that may result from forestry practices (s. 77.82(3)(c)7, Wis. Stats.). Additionally, soil conservation and associated BMPs are considered essential to sound forestry practices and are required to be addressed in the management plan (s. NR46.15(29) Wis. Adm. Code and s. 77.83(3)(c)7. Wis. Stats.).

Site specific Best Management Practices (BMPs) for Water Quality are required when implementing management practices to prevent or minimize impacts to water quality and are recorded in the following documents:

- Cutting Notice and Report of Wood Products from Forest Crop and Managed Forest Lands (Form 2450-32)
- Practice Plans
- Management Plans

Most erosion and watershed protection violations will occur during or immediately after forest management activities. Withdrawal of lands may occur if erosion problems are not corrected (s. 77.88(1)(b), Wis. Stats.).

If a water quality violation is discovered, follow the Steps to Successful Compliance and Enforcement:

- **Evaluate the erosion or watershed protection problem.**
  Items to identify and evaluate include the following:
  - **Identify the problem, including natural resources impacted.** Erosion and watershed protection violations usually include the movement of soil and sediments from upland sites to streams, lakes, wetlands, etc.
  - **Determine the location of the problem.** A detailed map should be developed to clearly identify areas that need remediation. Include areas where the erosion problem originated, areas of special concern, and areas where immediate and longer term protection devices must be installed.
  - **Determine the severity of the problem.** Include information related to slope, volume and velocity of water drainage or runoff. Different remediation actions may be needed to rectify individual areas involved. Determine where immediate actions are needed to protect natural resources.
- **Meet with the landowner(s) as soon as possible.**
  Inform the landowner(s) of the violation and establish a time to meet on the property. It is recommended to involve the local water management specialist or other specialists as needed to discuss remediation. This is considered the 1st contact with the landowner regarding the violation.
- **Develop a remediation plan.**
  Determine the actions that are needed to protect natural resources. Other resources professionals could be consulted with in developing the remediation plan, including local Land and Water Conservation District staff, Natural

Resource Conservation Service (NRCS) staff, etc. In fact, financial assistance may be available to help landowners pay for necessary remediation. Share the remediation plan with the landowner in a written format. A remediation plan includes two types of remediation:

- **Immediate remediation actions.** These types of actions require immediate attention to protect natural resources. In the case of erosion, immediate actions may include the use of silt fences, straw bales, or other actions to immediately stop soil from entering a body of water or wetland. Immediate actions may need to be implemented within 24 hours.
- **Long Term Actions.** These types of actions prevent the erosion from occurring and may include the establishment of water bars, broad based dips, seeding of access roads, or any other measure or combination of measures to prevent soil from leaving the site. Timelines should be discussed with the landowner and contractors and work completed as soon as possible. At no time should timelines exceed one year.

- **Require landowner to file cutting report.**

- **Tax Law Forestry Specialist signs cutting report**.
  If the cutting was done correctly and the volumes are accurate, yet there is an erosion or watershed protection violation that needs correcting, the Tax Law Forestry Specialist should still sign the cutting report. Signing of the cutting report does not condone any violation that has occurred, but allows DNR to record the volumes harvested. Tax Law Forestry Specialists should write on the cutting report or attach additional documents to briefly describe the violation.

- **Monitor completion of the remediation plan.**
  Erosion and watershed protection violations are serious and require monitoring by Tax Law Forestry Specialists. If remediation deadlines are not met, Tax Law Forestry Specialists should send a Notice of Investigation to the landowner notifying the landowner that they may face withdrawal if the remediation is not completed in a timely fashion.

If specific violations of Chapter 30 Wis. Stats. related to navigable water laws occur, be sure to let the local water management specialist handle any enforcement action since Chapter 30 Wis. Stats. violations are outside of the authority of the Division of Forestry. MFL enforcement and Chapter 30 Wis. Stats. enforcement can run concurrently.

APPEALS

Any decision the Department makes may be reviewed under s. 227.42, Wis. Stats. (contested case hearings) or ss. 227.52 and 227.53, Wis. Stats. (judicial reviews), by anyone who has been adversely affected by the decision and who meets the other requirements provided in statute.

A contested case hearing is an administrative hearing in front of an administrative law judge and generally takes place in the county seat where the land is located. These are less formal hearings with relaxed rules of evidence, with the administrative law judge's decision generally becoming the department's decision. The purpose of a contested case hearing is to develop a formal record.

A judicial review generally occurs in the county circuit court where the petitioner resides. These are formal hearings that are restricted to a review of the record of the department's decision, which is either developed in a contested case hearing or based on the file record prior to the decision if there is no contested case hearing.

Chapter 77, Wis. Stats., specifies only three cases where the landowner does not have the right to a contested case hearing. The affected landowner may file a petition for review in the appropriate court under s. 227.53, Wis. Stats. (judicial review), but has no right to a contested case hearing under s. 227.42, Wis. Stats.:

1. When land remaining after a transfer is withdrawn because it does not meet the eligibility requirements, s. 77.88(2)(c), Wis. Stats.

2. Failure of transferee to file a MFL transfer form (Form 2450-159) within 30 days of land transfer, s. 77.88(2)(ac)(3), Wis. Stats., or failure to file a FCL transfer form (Form 2450-035) within 10 days of the date of the deed s. 77.10(1)(b),

Wis. Stats. in order to certify to the Department their intent to comply with the management plans. Land transfer or date of deed refers to when the document is executed (or signed).

3. When a withdrawal occurs for failure to pay personal property taxes on buildings located on MFL lands, s. 77.88(3m), Wis. Stats.

Appeal Process

Landowners who are adversely affected by a decision of the DNR (e.g. involuntary withdrawal) may request a contested case hearing, judicial review, or both **within 30 days of the decision**. For judicial review of a decision pursuant to sections 227.52 and 227.53, Wis. Stats., they have 30 days after the decision is mailed, or otherwise served by the Department, to file their petition with the appropriate circuit court and serve the petition on the Department. Such a petition for judicial review must name the Department of Natural Resources as the respondent.

Pursuant to section 77.90, Wis. Stats., a petitioner under section 77.82, Wis. Stats., or an owner of managed forest land who is adversely affected by a decision of the Department under Subch. VI, Ch. 77, Wis. Stats., other than as provided in sections 77.88(2)(ac)3., (2)(c), and (3m), Wis. Stats., may request a contested case hearing pursuant to section 227.42, Wis. Stats. They have 30 days after the decision is mailed, or otherwise served by the Department, to serve a petition for hearing on the Secretary of the Department of Natural Resources. A petition for hearing must be made in accordance with section NR 2.05(5), Wis. Adm. Code, and served on the Secretary in accordance with section NR 2.03, Wis. Adm. Code. The filing of a request for a contested case hearing does not extend the 30 day period for filing a petition for judicial review.

The Bureau of Legal Services will make a determination on whether or not to proceed with a hearing.

- If a hearing is scheduled, the Tax Law Forestry Specialist or other expert may be called upon to provide further information or to testify at the hearing.
- If a hearing is denied, the Bureau of Legal Services will send a letter to the petitioner stating the reason for the denial and provide the petitioner other courses of action, if available within 20 days (s. 227.42, Wis. Stats.).

The Tax Law Compliance Specialist, Tax Law Forestry Specialist, other DNR staff as needed, and the Bureau of Legal Services, will develop evidence and testimony and present evidence in support of the Department's case at any scheduled hearings.

In the case of decertification for non-conformances with ATFS or FSC standards that **would not result in withdrawal from MFL**, the landowner may appeal decertification in writing to the DNR Tax Law Section Chief within 30 days after service of the decision. Upon notification of appeal, the DNR Tax Law Section Chief will convene a dispute resolution committee. The committee will be composed of three members including another group member or forester agreed to by the landowner, a non-DNR member of the Wisconsin Tree Farm Committee and a qualified tree farm inspector chosen by the Department (excluding the forester who brought the complaint). All non-Departmental costs associated with establishing this committee will be borne by the group member who wishes to appeal the Department's decision to decertify. The Dispute Resolution Committee will review the facts of the case and advise the DNR Tax Law Section Chief, whose decision will be final.

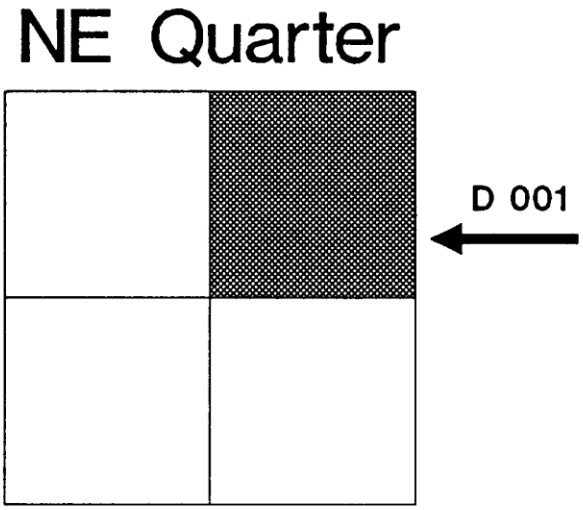
Forest Crop Law Hearings

A contested case hearing is required before any involuntary FCL withdrawal. The only exception is when a new owner fails to file a FCL transfer form, s. 77.10(1)(b), Wis. Stats.

APPENDIX 1: STANDARD DESCRIPTION CODES

ALL OF A STANDARD DESCRIPTION

Code	Description
D 001	NENE
D 002	NWNE
D 003	SWNE
D 004	SENE
D 005	NENW
D 006	NWNW
D 007	SWNW
D 008	SENW
D 009	NESW
D 010	NWSW
D 011	SWSW
D 012	SESW
D 013	NESE
D 014	NWSE
D 015	SWSE
D 016	SESE



PART OF A STANDARD DESCRIPTION

Code	Description
P 001	NENE, PT OF
P 002	NWNE, PT OF
P 003	SWNE, PT OF
P 004	SENE, PT OF
P 005	NENW, PT OF
P 006	NWNW, PT OF
P 007	SWNW, PT OF
P 008	SENW, PT OF
P 009	NESW, PT OF
P 010	NWSW, PT OF
P 011	SWSW, PT OF
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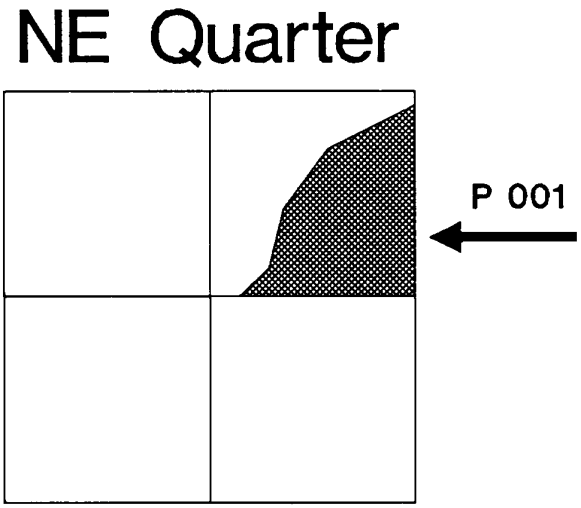
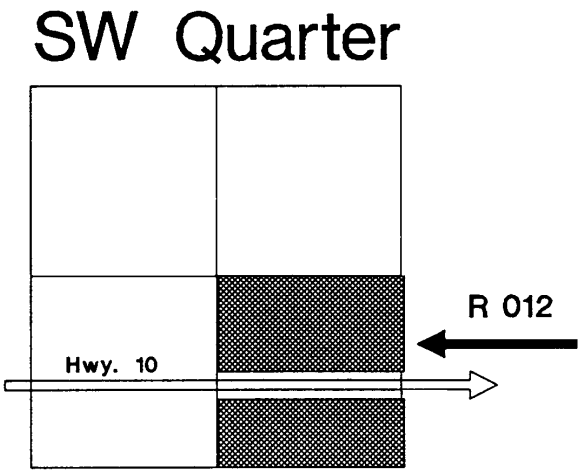
P 015	SWSE, PT OF
P 016	SESE, PT OF



ALL OF A STANDARD DESCRIPTION, EXCLUDING A ROW

Code	Description
R 001	NENE, EX ROW
R 002	NWNE, EX ROW
R 003	SWNE, EX ROW
R 004	SENE, EX ROW
R 005	NENW, EX ROW
R 006	NWNW, EX ROW
R 007	SWNW, EX ROW
R 008	SENW, EX ROW
R 009	NESW, EX ROW
R 010	NWSW, EX ROW
R 011	SWSW, EX ROW
R 012	SESW, EX ROW
R 013	NESE, EX ROW
R 014	NWSE, EX ROW
R 015	SWSE, EX ROW
R 016	SESE, EX ROW



ALL OF A FRACTIONAL DESCRIPTION

Code	Description
D 017	FR N1/2 NE1/4
D 018	FR E1/2 N1/2 NE1/4
D 019	FR W1/2 N1/2 NE1/4
D 020	FR E1/2 NE1/4
D 021	FR W1/2 NE1/4
D 022	FR S1/2 E1/2 NE1/4
D 023	FR S1/2 W1/2 NE1/4
D 024	FR N1/2 NW1/4
D 025	FR W1/2 NW1/4
D 026	FR E1/2 N1/2 NW1/4
D 027	FR W1/2 N1/2 NW1/4
D 028	FR N1/2 W1/2 NW1/4
D 029	FR S1/2 W1/2 NW1/4
D 030	FR E1/2 NW1/4
D 031	FR S1/2 E1/2 NW1/4
D 032	FR W1/2 SW1/4
D 033	FR N1/2 W1/2 SW1/4
D 034	FR S1/2 W1/2 SW1/4
D 035	FR E1/2 SW1/4
D 036	FR N1/2 E1/2 SW1/4
D 037	FR S1/2 E1/2 SW1/4
D 038	E1/2 FR SEC
D 039	E1/2 E1/2 FR SEC
D 040	W1/2 E1/2 FR SEC
D 041	W1/2 FR SEC
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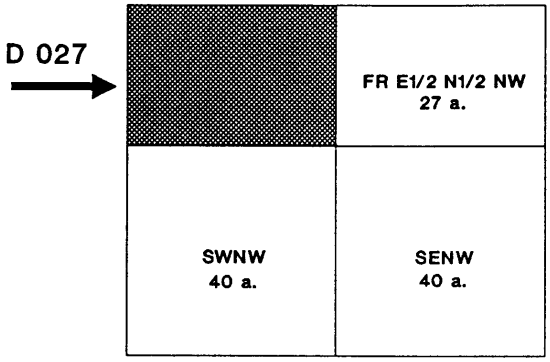
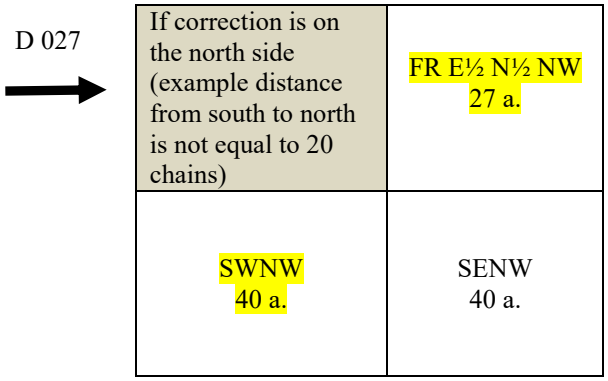
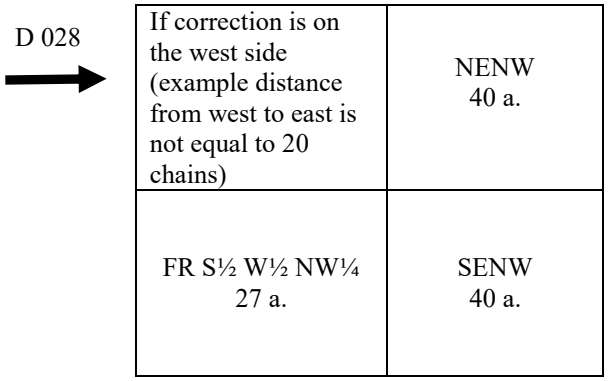
D 051	W1/2 S1/2 N1/2 FR SEC
D 052	N1/2 E1/2 W1/2 FR SEC
D 053	S1/2 E1/2 W1/2 FR SEC
D 054	FR S1/2 NW1/4
D 055	FR N1/2 SW1/4
D 056	FR S1/2 SW1/4
D 057	FR NE1/4
D 058	FR NW1/4
D 059	FR SW1/4
D 060	FR SE1/4

(Sec. 5) FR NW Quarter



(Sec. 6) FR NW Quarter





PART OF A FRACTIONAL DESCRIPTION

Code	Description
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P 018	FR E1/2 N1/2 NE1/4, PT OF
P 019	FR W1/2 N1/2 NE1/4, PT OF
P 020	FR E1/2 NE1/4, PT OF
P 021	FR W1/2 NE1/4, PT OF
P 022	FR S1/2 E1/2 NE1/4, PT OF
P 023	FR S1/2 W1/2 NE1/4, PT OF
P 024	FR N1/2 NW1/4, PT OF
P 025	FR W1/2 NW1/4, PT OF
P 026	FR E1/2 N1/2 NW1/4, PT OF
P 027	FR W1/2 N1/2 NW1/4, PT OF
P 028	FR N1/2 W1/2 NW1/4, PT OF
P 029	FR S1/2 W1/2 NW1/4, PT OF
P 030	FR E1/2 NW1/4, PT OF
P 031	FR S1/2 E1/2 NW1/4, PT OF
P 032	FR W1/2 SW1/4, PT OF
P 033	FR N1/2 W1/2 SW1/4, PT OF
P 034	FR S1/2 W1/2 SW1/4, PT OF
P 035	FR E1/2 SW1/4, PT OF
P 036	FR N1/2 E1/2 SW1/4, PT OF
P 037	FR S1/2 E1/2 SW1/4, PT OF
P 038	E1/2 FR SEC, PT OF
P 039	E1/2 E1/2 FR SEC, PT OF
P 040	W1/2 E1/2 FR SEC, PT OF
P 041	W1/2 FR SEC, PT OF
P 042	E1/2 W1/2 FR SEC, PT OF
P 043	W1/2 W1/2 FR SEC, PT OF
P 044	N1/2 FR SEC, PT OF
P 045	S1/2 FR SEC, PT OF
P 046	N1/2 N1/2 FR SEC, PT OF
P 047	S1/2 N1/2 FR SEC ,PT OF
P 048	N1/2 S1/2 FR SEC, PT OF
P 049	S1/2 S1/2 FR SEC, PT OF
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P 051	W1/2 S1/2 N1/2 FR SEC, PT OF
P 052	N1/2 E1/2 W1/2 FR SEC, PT OF
P 053	S1/2 E1/2 W1/2 FR SEC, PT OF
P 054	FR S1/2 NW1/4, PT OF
P 055	FR N1/2 SW1/4, PT OF
P 056	FR S1/2 SW1/4, PT OF
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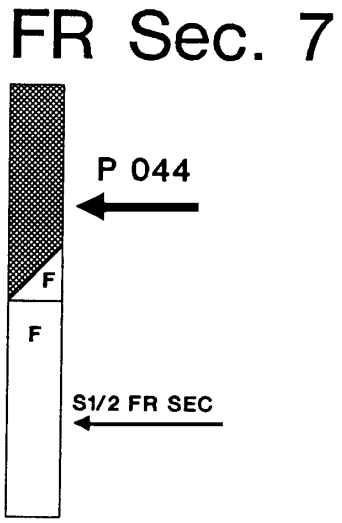
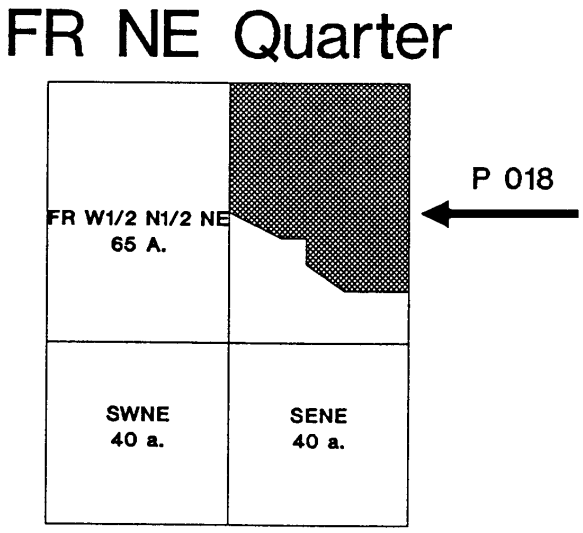
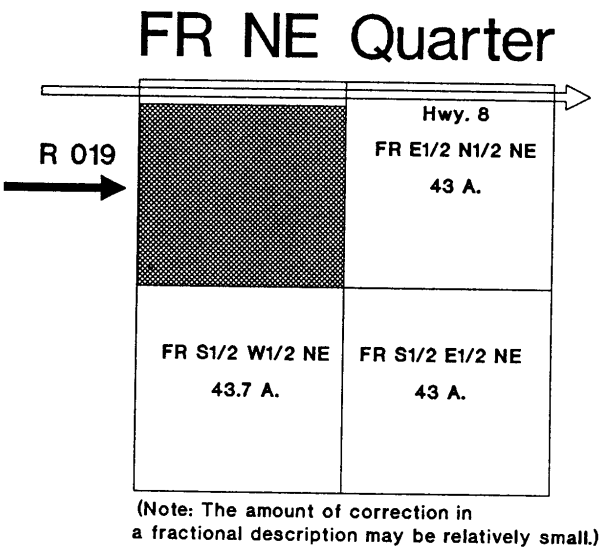




(Note: Fractional descriptions may be larger or smaller than standard descriptions.)

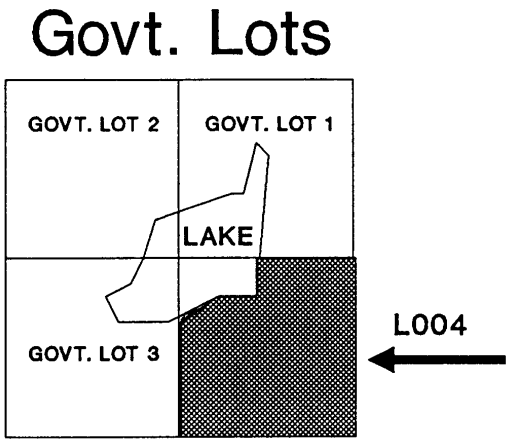
ALL OF A FRACTIONAL DESCRIPTION, EX ROW

Code	Description
R 017	FR N1/2 NE1/4, EX ROW
R 018	FR E1/2 N1/2 NE1/4, EX ROW
R 019	FR W1/2 N1/2 NE1/4, EX ROW
R 020	FR E1/2 NE1/4, EX ROW
R 021	FR W1/2 NE1/4, EX ROW
R 022	FR S1/2 E1/2 NE1/4, EX ROW
R 023	FR S1/2 W1/2 NE1/4, EX ROW
R 024	FR N1/2 NW1/4, EX ROW
R 025	FR W1/2 NW1/4, EX ROW
R 026	FR E1/2 N1/2 NW1/4, EX ROW
R 027	FR W1/2 N1/2 NW1/4, EX ROW
R 028	FR N1/2 W1/2 NW1/4, EX ROW
R 029	FR S1/2 W1/2 NW1/4, EX ROW
R 030	FR E1/2 NW1/4, EX ROW
R 031	FR S1/2 E1/2 NW1/4, EX ROW
R 032	FR W1/2 SW1/4, EX ROW
R 033	FR N1/2 W1/2 SW1/4, EX ROW
R 034	FR S1/2 W1/2 SW1/4, EX ROW
R 035	FR E1/2 SW1/4, EX ROW
R 036	FR N1/2 E1/2 SW1/4, EX ROW
R 037	FR S1/2 E1/2 SW1/4, EX ROW
R 038	E1/2 FR SEC, EX ROW
R 039	E1/2 E1/2 FR SEC, EX ROW
R 040	W1/2 E1/2 FR SEC, EX ROW
R 041	W1/2 FR SEC, EX ROW
R 042	E1/2 W1/2 FR SEC, EX ROW
R 043	W1/2 W1/2 FR SEC, EX ROW
R 044	N1/2 FR SEC, EX ROW
R 045	S1/2 FR SEC, EX ROW
R 046	N1/2 N1/2 FR SEC, EX ROW
R 047	S1/2 N1/2 FR SEC, EX ROW
R 048	N1/2 S1/2 FR SEC, EX ROW
R 049	S1/2 S1/2 FR SEC, EX ROW
R 050	E1/2 S1/2 N1/2 FR SEC, EX ROW
R 051	W1/2 S1/2 N1/2 FR SEC, EX ROW
R 052	N1/2 E1/2 W1/2 FR SEC, EX ROW
R 053	S1/2 E1/2 W1/2 FR SEC, EX ROW
R 054	FR S1/2 NW1/4, EX ROW
R 055	FR N1/2 SW1/4, EX ROW
R 056	FR S1/2 SW1/4, EX ROW
R 057	FR NE1/4, EX ROW
R 058	FR NW1/4, EX ROW
R 059	FR SW1/4, EX ROW
R 060	FR SE1/4, EX ROW



ALL OF A GOVERNMENT LOT

Code	Description
L001	LOT 001
L002	LOT 002
L003	LOT 003
.	.
.	.
.	.
.	.
L168	LOT 168
L169	LOT 169
L170	LOT 170



PART OF A GOVERNMENT LOT

Code	Description
PL001	LOT 001, PT OF
PL002	LOT 002, PT OF
PL003	LOT 003, PT OF
.	.
.	.
.	.
.	.
PL168	LOT 168, PT OF
PL169	LOT 169, PT OF
PL170	LOT 170, PT OF

ALL OF A GOVERNMENT LOT, EX ROW

Code	Description
RL001	LOT 001, EX ROW
RL002	LOT 002, EX ROW
RL003	LOT 003, EX ROW
.	.
.	.
.	.
.	.
RL168	LOT 168, EX ROW
RL169	LOT 169, EX ROW
RL170	LOT 170, EX ROW

OTHER DESCRIPTIONS

French survey areas may contain "claims", "farm lots", or other unusual descriptions.

If possible, use the code for a government lot. Otherwise, call the Forest Tax Program for a code suggestion.

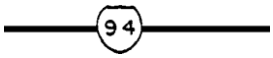
APPENDIX 2: STANDARD ABBREVIATIONS

AL	ALABAMA	ME	MAINE	OR	OREGON
AK	ALASKA	MD	MARYLAND	PA	PENNSYLVANIA
AZ	ARIZONA	MA	MASSACHUSETTS	RI	RHODE ISLAND
AR	ARKANSAS	MI	MICHIGAN	SC	SOUTH CAROLINA
CA	CALIFORNIA	MN	MINNESOTA	SD	SOUTH DAKOTA
CO	COLORADO	MS	MISSISSIPPI	TN	TENNESSEE
CT	CONNECTICUT	MO	MISSOURI	TX	TEXAS
DE	DELAWARE	MT	MONTANA	UT	UTAH
FL	FLORIDA	NE	NEBRASKA	VT	VERMONT
GA	GEORGIA	NV	NEVADA	VA	VIRGINIA
HI	HAWAII	NH	NEW HAMPSHIRE	WA	WASHINGTON
ID	IDAHO	NJ	NEW JERSEY	WV	WEST VIRGINIA
IL	ILLINOIS	NM	NEW MEXICO	WI	WISCONSIN
IN	INDIANA	NY	NEW YORK	WY	WYOMING
IA	IOWA	NC	NORTH CAROLINA	GU	GUAM
KS	KANSAS	ND	NORTH DAKOTA	VI	VIRGIN ISLAND
KY	KENTUCKY	OH	OHIO	DC	DIST OF COLUMBIA
LA	LOUISIANA	OK	OKLAHOMA	CN	CANADA

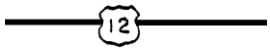
Agency	Agy	Directions	NSEW	P.O. Box	Box
Apartment	Apt	Drive	Dr	Parkway	Pky
Avenue	Ave	Estates	Est	Place	Pl
Boulevard	Blvd	Gardens	Gdns	Point	Pt
Broadway	Bdwy	Gen Delivery	Gen Del	Road	Rd
Building	Bldg	Ground	Grn	Route	Rt
Center	Ctr	Heights	Hts	Second St	2nd St
Circle	Cir	Highway	Hwy	Star Route	Star Rt
Clerks	Cl	In care of	%	Street	St
County Trk	Co Trk	Junction	Jct	Terrace	Terr
County	Co	Lake	Lk	Township	Twp
Court	Ct	Lane	La	Trail	Trl
Creek	Cr			Trailer Court	Trlr Ct
				Trailer Pk	Trlr Pk
				Treasurers	Tr
				Valley	Vly
				Village	Vil

APPENDIX 3: MAPPING SYMBOLS

Mapping symbols and definitions that will be standard in the mapping of all Forest Crop Law and Managed Forest Lands are shown below.

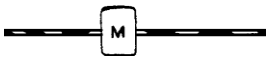


Interstate Highways



Federal Highways

State Highways



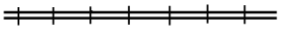
County Highways

Town Roads

Unimproved Roads

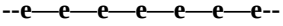
Trails

Single Track Railroads



Multiple Track Railroads

Abandoned Railroads



Powerlines

All fence lines

Rivers

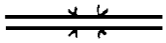
Creeks and Streams

Intermittent Streams

Ditch

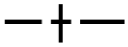
Dike

Dam

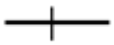


Bridges

Lake

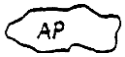


Definitely located section corner



Approximately located section corner

FOREST TYPE LINES:



Natural forest types

Plantations

DEFINITIONS OF TERMS AND SYMBOLS

FARM LAND - Farm land actively used for agriculture including pasture (excludes farm wood lots).

FOREST LAND - Land at least 10 percent stocked by forest trees, afforested lands, and land formerly forested but now less than 10 percent stocked. This land is capable of producing wood products and is not developed for other uses. The minimum area is one acre; minimum width strip is 120 feet.

COMMERCIAL FOREST LAND - Forest land which is capable of producing 20 cubic feet of merchantable timber per acre per year.

NONCOMMERCIAL FOREST LAND - Forest land which is not capable of producing 20 cubic feet of merchantable timber per acre per year.

- Ironwood Forests/Stands – Ironwood is a tree species (i.e. not a shrub), however it should generally be considered a non-productive cover type (use forest type code "MD" for Miscellaneous Deciduous) based on its known very slow growth rates relative to other Wisconsin tree species (Burns et al., 1990[1]) and its known limited height growth potential (i.e. considered a small, understory tree species). Landowners proposing to manage for ironwood must prove that the stand growth meets or exceeds 20 cubic feet of merchantable timber per acre per year.

TYPE CLASSIFICATION

COVER TYPE - A tract of forest land characterized by the predominance of one or more key species which make up 50 percent or more of the basal area of saw-timber and pole-timber stands, or of the number of trees in seedling and sapling stands. Forest land less than 10 percent stocked with commercial tree species is classified as upland brush, grass or lowland brush.

Forest Types	Symbol	Definition
Aspen	A	Aspen comprises 50% or more of the basal area in saw-timber and pole-timber stands, or 50% or more of the stems in sapling and seedling stands.
Bottomland hardwoods	BH	Any combination of silver maple, green ash, swamp white oak, American elm, river birch, and cottonwood comprises 50% or more of the basal area in saw-timber and pole-timber stands, or 50% or more of the stems in sapling and seedling stands. Hardwood dominated forests occurring on floodplains and some terraces.
White birch	BW	White Birch comprises 50% or more of the basal area in saw-timber and pole-timber stands, or 50% or more of the stems in sapling and seedling stands.
White cedar	C	White cedar comprises 50% or more of the basal area in saw-timber and pole-timber stands, or 50% or more of the stems in sapling and seedling stands. In mixed swamp conifer stands, white cedar is predominant.

[1] Burns, R.M., and B.H. Honkala, tech. cords. 1990. *Silvics of North America. 2. Hardwoods.* Agriculture Handbook 654. U.S. Department of Agriculture, Forest Service, Washington, DC. 877 p. Accessed at: http://na.fs.fed.us/spfo/pubs/silvics_manual/volume_2/carpinus/caroliniana.htm

Forest Types	Symbol	Definition
Central hardwoods	CH	Any combination of oaks, hickories, elms, black cherry, hackberry, red maple, white ash, green ash, basswood, and sugar maple, which does not satisfy the defining criteria for NH, MR, or O cover types. The CH type occurs only on uplands within and south of the Tension Zone (southern Wisconsin).
Balsam Fir	FB	Balsam fir comprises 50% or more of the basal area in saw-timber and pole-timber stands, or 50% or more of the stems in sapling and seedling stands. In mixed swamp conifer stands, balsam fir is predominant.
Hemlock	H	Hemlock comprises 50% or more of the basal area in saw-timber and pole-timber stands, or 50% or more of the stems in sapling and seedling stands.
Miscellaneous Conifers	MC	Conifer forests dominated by uncommon or exotic species: e.g. Eastern red cedar, Scotch pine, Norway spruce, European larch.
Miscellaneous Deciduous	MD	Hardwood forests dominated by uncommon or exotic species; e.g. box elder, honey locust, black locust, Norway maple, ironwood.
Red Maple	MR	Red Maple comprises 50% or more of the basal area in saw-timber and pole-timber stands, or 50% or more of the stems in sapling and seedling stands. If soil is poorly drained, then swamp hardwood.
Northern Hardwoods	NH	Any combination of sugar maple, beech, basswood, white ash, and yellow birch comprises 50% or more of the basal area in saw-timber and pole- timber stands, or 50% or more of the stems in sapling and seedling
Oak	O	Oak comprises 50% or more of the basal area in saw-timber and pole-timber stands, or 50% or more of the stems in saplings and seedling stands.
Scrub oak	OX	More than 50% of the basal area in saw-timber and pole-timber stands, or 50% or more of the stems in sapling and seedling stands is comprised of oak with site indices $\leq$50. Typical forest products include only fuelwood and fiber.
Red pine	PR	Red pine comprises 50% or more of the basal area in saw-timber and pole-timber stands, or 50% or more of the stems in sapling and seedling stands. In mixed pine stands, red pine is predominant.
White pine	PW	White pine comprises 50% or more of the basal area in saw-timber and pole-timber stands, or 50% or more of the stems in sapling and seedling stands. In mixed pine stands, white pine is predominant.
Jack pine	PJ	Jack pine comprises 50% or more of the basal area in saw-timber and pole-timber stands, or 50% or more of the stems in sapling and seedlings stands. In mixed pine standards, jack pine is predominant.
Black spruce	SB	Black spruce comprises 50% or more of the basal area in saw-timber and pole-timber stands, or 50% or more of the stems in sapling and seedling stands. In mixed swamp conifer stands, black spruce is predominant.
Swamp hardwoods	SH	Any combination of black ash, green ash, red maple, silver maple, swamp white oak, and American elm that comprises 50% or more of the basal area in saw-timber and pole-timber stands, or 50% or more of the stems in sapling and seedling stands. This type occurs on wetlands characterized by periodic inundation (fluctuating water table near or above the soil surface) and nearly permanent subsurface water flow.

Forest Types	Symbol	Definition
White spruce	SW	White spruce comprises 50% or more of the basal area in saw-timber and pole-timber stands, or 50% or more of the stems in sapling and seedling stands.
Tamarack	T	Tamarack comprises 50% or more of the basal area in saw-timber and pole-timber stands, or 50% or more of the stems in sapling and seedling stands. In mixed swamp conifer stands, tamarack is predominant.
Black walnut	W	Black walnut comprises 50% or more of the basal area in saw-timber and pole-timber stands, or 50% or more of the stems in sapling and seedling stands.

Non-Forest Types	Symbol	Definition
Upland brush	UB	Upland sites less than 10% stocked with tree species but having 50% or more of the area stocked with taller growing, persistent shrubs. Includes but is not limited to, shrubs such as hazel, gray dogwood, juneberry, sumac, ninebark, prickly ash, etc.
Grass	These symbols will be used for upland grasses, forbs, and ferns, including abandoned fields less than 10% stocked with tree species.	
Grass	GG	Ground cover predominately non-native grasses such as brome, quack, blue grass, timothy, etc.
Herbaceous vegetation	GH	Ground cover predominately herbaceous vegetation species such as bracken fern, sweet clover, giant ragweed, stinging nettle, upland aster, goldenrod, prairie dock, etc.
Prairie grass	GP	Ground cover predominantly native grasses such as big and little bluestem, Indian grass, etc.
Low growing shrubs	GLS	Ground cover predominately low growing woody plants such as blueberry, raspberry, etc.
Marsh	These symbols should be used for grass or high water table areas.	
Muskeg-bog	KB	Bog such as sphagnum moss, cotton grass, leatherleaf, cranberry, Labrador tea, etc.
Emergent vegetation	KEV	Coarse emergent marsh vegetation such as cattails, river bulrush, tall sedges, etc.
Lowland grass	KG	Ground cover consisting of more than 50% of true grasses such as canary grass, bluejoint, redtop, cordgrass, big bluestem, fire stemmed sedges, etc.
Lowland herbaceous vegetation	KH	Ground cover consisting of more than 50% of herbaceous vegetation, such as lowland asters, stinging nettle, wild sunflowers, etc.
Lowland brush	These symbols will be used for lowland brush on forest lands less than 10% stocked with tree species.	
Alder	LBA	More than 50% alder.
Bog birch	LBB	More than 50% bog birch.
Red dogwood	LBD	More than 50% dogwood, such as silky and red osier.
Willows	LBW	More than 50% shrub willow.
Water	L	Lakes, ponds and flowages in excess of 40 acres in area, or rivers in excess of 1/8 mile in width.

Non-Forest Types	Symbol	Definition
Minor - lake	LM	Water less than 40 acres in area, excluding rivers less than 1/8 mile in width.
Minor - stream	LMS	Streams less than 1/8 mile in width.
Rights-of-way	ROW	Improved roads, railroads or right-of-way for gas, power or telephone lines.
Rock outcrops/ Sand dunes	Z	Rock outcrops including rocky beaches more than 1 acre in extent. Sand dunes including sand beaches, more than 1 acre in extent.
Buildings or Improvements	Bld. Bldg. I	Buildings, cabins, secondary homes, or other improvements or improved areas.

These symbols are not a part of WisFIRS since the land are generally not allowed for entry under the MFL or FCL programs. These symbols should be used to identify adjacent lands of the landowner or adjacent landowners.

Other	O/	Used in conjunction with F, FG, W, Bld, Bldg, I or other mapping symbol to reflect adjacent lands owned by other owners.
Farmland	F	Land actively used for agriculture but excluding farm woodlots.
Heavily grazed	FG FP	Grazed pastures with fences. Use only as a secondary type symbol. Will most often be used in conjunction with GG, KG, and poorly stocked forest types.
Woods	W	Forested lands and woodlots that are not enrolled in the MFL or FCL programs.
Buildings or Improvements	Bld. Bldg. I	Buildings, cabins, secondary homes, or other improvements or improved areas.
Grass	G	Upland grasses, forbs, and ferns, including abandoned fields less than 10% stocked with tree species. May use more detailed symbols if desired.
Marsh	K	Grass or high water table areas. May use more detailed symbols if desired.

FOREST STAND SIZE CLASSIFICATION

SIZE CLASSES - The predominant stand of each classified type is designated according to the following size class chart: (The division between pole-timber and small saw-timber is 9 inches for softwoods and 11 inches for hardwoods.)

Symbol	Class	DBH
0 - 5	Seedling and sapling	0 - 5″
5 - 9 or 5 - 11	Pole-timber	5 - 9″ or 5 - 11″
9 - 15 or 11 - 15	Small saw-timber	9 - 15″ or 11 - 15″
15+	Large saw-timber	15″+

SAW-TIMBER STANDS - Stands of saw-timber trees having a minimum net basal area of 10 sq. ft./acre. Saw-timber trees are 9.0 inches d.b.h.[1] or larger for softwood species and of 11.0 inches d.b.h. and larger for hardwood species (including aspen).

LARGE SAW-TIMBER STANDS (15+") - Saw-timber stands having more than 50 percent of the basal area in saw timber trees 15.0 inches d.b.h. and larger.

SMALL SAW-TIMBER STANDS (Softwoods 9-15", Hardwoods 11-15") - Saw-timber stands having more than 50 percent of the basal area in saw-timber trees less than 15.0 inches d.b.h.

POLE-TIMBER STANDS (Softwoods 5-9", Hardwoods 5-11") - Stands failing to meet the saw-timber stand specifications, but with a basal area stocking of at least 10 sq. ft./acre in pole-timber and larger trees, at least 50% of which are in pole-timber trees. Pole-timber trees are merchantable trees of softwood species 5.0 - 8.9 inches d.b.h. or hardwood species (including aspen) 5.0 - 10.9 inches d.b.h.

SEEDLING AND SAPLING STANDS (0-5") - Forest stands not qualifying as either saw-timber or pole-timber stands but having a minimum of 200 seedlings or 100 saplings per acre. Seedling and sapling stands are further divided into stocking classes. Stands are considered satisfactorily stocked if 40 percent or more of the growing space is effectively utilized, and poorly stocked when less than 40 percent is utilized. Seedlings and saplings are trees less than 5.0 inches d.b.h. and capable of development into pole-timber trees. As the distinction between seedling and sapling sizes cannot always be distinguished on aerial photos, the two classes have often been combined to form the reproduction (restocking) class (0-5").

NONSTOCKED AREA - Forest land on which less than 10 percent of the growing space is effectively utilized by trees. It is typed as upland brush, grass, or lowland brush.

STOCKING CLASSES - Forest land stocking classification is based on basal area or number of trees as shown in the following table.

STAND SIZE AND DENSITY CLASSIFICATION

Size Class	Units Per Acre	Density Classes[3/]				
		1	2	3	4	5
Seedlings [1/] (0-0.9)" DBH	Trees	200 - 600	601 – 1,500 [2/]	1,501+ [2/]		
Saplings [1/] (1-4.9)" DBH	Trees	100 – 300	301 – 900	901+		
Pole-timber and Saw-timber (5+)" DBH	Basal area (sq. ft./acre)	10 - 30	31-70	71 - 110	111 - 150	150+

1/ Seedlings and saplings should be combined to a reproduction (restocking) class 0-5.
2/ Primarily for natural stands. With uniform spacing such as plantations approximately 600 trees per acre qualifies as good density of stocking.
3/ Minimum "medium" density stocking for tax law eligibility differs slightly and can be found in NR 46.02 (24m).

TYPE CLASSIFICATION

Each distinctive stand (cover type) will be assigned a cover type classification. Each forest stand will be given a type classification showing cover type, size class, and density. The primary cover type will be required in all cases. If a secondary and /or understory type are present they may also be recorded.

For mapping purposes, the primary type classification, including size and density for forest stands, shall always be shown. If a secondary and/or understory type is shown, the primary type will be placed first, followed by a slash and then the secondary and/or understory type(s) on the type maps for ready identification. For example: A 5-11^4/ NH 5-11^2/ PW 0-5^2.

The goal of stand typing is to best describe the condition of a stand and some subjectivity may be involved. When determining the primary cover type and size class, if it is unclear as to what type to assign to a stand (e.g. 50 ft^2 of aspen & 50 ft^2 of oak) the forester should make a determination based on what they think best represents the current and/or anticipated near term stand condition. The cover types as defined in this Appendix typically have a threshold of 50% stocking of a given species, or suite of species, and at times the forester will have to choose the best cover type without meeting these requirements.

Choose only one primary type, one secondary type and one understory type based on basal area (poles & saw timber) or stems / acre (seedlings & saplings). Always try to record a secondary and/or understory type because they provide insight into the species composition of the primary type, and the next successional stage most likely to occur. The secondary and/or understory type data is valuable when reviewing the data in the office. For example:

Primary Type A 5-11^4
Secondary Type NH 5-11^2
Understory Type PW 0-5^2

NOTE: Density is written in numeric characters.

In typing a stand using basal area, use the following procedure to determine the primary type.

1. Determine the cover type based on the highest distribution by basal area of all merchantable trees in a forest type. For seedling and sapling stands, determine the cover type based on the number of seedlings and saplings by forest type. In some cases no one timber type will reach 50% and you will have to choose the type that best represents the stand.

2. Determine the size class based upon the basal area size class distribution of all merchantable trees within the primary cover type determined above. For seedlings and saplings use 0-5.

3. Determine the density code based on the basal area of all merchantable trees in the primary product class (saw timber or pole timber). For saw timber, combine large and small saw timber. For seedlings and sapling stands use the number of trees in the stand.

Secondary and understory types should be identified when present. These cover types typically provide additional clarity as to the species mix and structure not present in a stand. Secondary types should be selected based on the size class or density of those trees not used in the primary type. The primary type density symbol reflects the total basal area of all species in that product class (poles or sawtimber). Use only the basal area of the secondary type to determine the density of the secondary type. For seedling/sapling stands it should reflect the total stems/acre in that size.

Example 1

Stand Basal Area	15 sq. ft. of large saw timber oak 15 sq. ft. of large saw timber northern hardwoods 45 sq. ft. of small saw timber northern hardwoods 25 sq. ft. of northern hardwood pole timber 10 sq. ft. of aspen pole timber 110 Total Basal Area	
Primary Cover Type:	NH	The primary cover type is northern hardwood because 85 sq. ft. of the 110 sq. ft. are northern hardwoods, for 77% of the total basal area. Because northern hardwood species make up more than 50% of the basal area, this stand is typed as NH. (15 sq. ft. of large NH saw timber + 45 sq. ft. of small NH saw timber + 25 sq. ft. of NH pole timber = 85 sq. ft. of NH.)
Size Class:	11-15	The size class is 11-15 because the majority of the northern hardwood basal area is in the small saw timber size class. (45 sq. ft. of the 85 sq. ft. is in the small saw timber category, which makes up 53% of the total basal area. Conversely, large NH saw timber makes up 18% of the basal area while NH pole timber makes up 29% of the basal area).
Density:	3	The density code is "3" because a total of 75 sq. ft. are in the saw timber product class. (15 sq. ft. of oak saw timber + 15 sq. ft. of northern hardwood large saw timber + 45 sq.ft. of northern hardwood small saw timber = 75 sq. ft. of total basal area.)
Determining Secondary Cover Type		Eliminate the 45 sq. ft. of small saw timber northern hardwoods from consideration in determining the secondary timber type. The secondary timber type will be determined from the following species, basal area and size class: 15 sq. ft. of large saw timber oak 15 sq. ft. of large saw timber northern hardwoods 25 sq. ft. of northern hardwood pole timber 10 sq. ft. of aspen pole timber 65 Remaining Basal Area
Secondary Cover Type:	NH	The secondary cover type is northern hardwood because 40 sq. ft. of the remaining 65 sq. ft. of basal area are in northern hardwoods. (15 sq. ft. of large saw timber northern hardwoods + 25 sq. ft. of northern hardwood pole timber = 40 sq. ft. of NH.)
Size Class	5-11	The size class is 5-11 because the majority of remaining northern hardwood basal area is pole timber size. (25 sq. ft. of the 40 sq. ft. of northern hardwoods are in the pole timber category making up a majority of the basal area.)
Density	1	The density code is "1" because a total of 25 sq. ft. of basal area are in the secondary type (NH) and size class (5-11).

The final cover type of this example is:

Primary Type: NH 11-15[3]

Secondary Type: NH 5-11[1]

Example 2

Stand Basal Area – All merchantable trees are pole timber size (5-11")

90 sq. ft. of aspen
15 sq. ft. of basswood
10 sq. ft. of hard maple
15 sq. ft. of red oak
10 sq. ft. of white ash
700 seedlings and saplings of white pine

Primary Cover Type:	A	The primary cover type is aspen because >50% of basal area in the stand is aspen. (90 out of 140 sq. ft. for 64% of the basal area).
Size Class:	5-11	The size class is 5-11 because all aspen are in the 5-11" size class.
Density:	4	The density code is "4" because a total of 140 sq. ft. are in the pole timber product class.
Determining Secondary Cover Type		Eliminate the 90 sq. ft. of aspen pole timber from consideration in determining the secondary timber type. The secondary timber type will be determined from the following species, basal area and size class: 90 sq. ft. of aspen (used in primary type) 15 sq. ft. of basswood 10 sq. ft. of hard maple 15 sq. ft. of red oak 10 sq. ft. of white ash 50 Remaining Basal Area, plus 700 seedlings and saplings of white pine
Secondary Cover Type:	NH	The secondary cover type is northern hardwood because 35 sq. ft. of the remaining 50 sq. ft. of basal area are in northern hardwoods (basswood, hard maple, white ash).
Size Class	5-11	The size class is 5-11 because all of the remaining northern hardwood species are in the 5-11" size class.
Density	2	The density code is "2" because a total of 35 sq. ft. are in secondary type (NH) and size class (5-11), being 15 sq. ft. of basswood + 10 sq. ft. of hard maple + 10 sq. ft. of white ash.
Understory Cover Type:	PW	The understory cover type is white pine because all 600 seedlings and saplings were determined to be white pine.
Size Class:	0-5	Seedlings and saplings are part of the 0-5" size class.
Density:	2	700 seedlings and saplings per acre are part of Density Code 2.

The final cover type of this example is:

Primary Type:	A 5-11^{4}
Secondary Type:	NH 5-11^{2}
Understory Type:	PW 0-5^{2}

Example 3: Recently Completed Regeneration Harvest with Tree Retention

Stand Basal Area 25 sq. ft. of large saw timber oak (tree retention)
And

600 oak seedlings per acre
100 mixed hardwood seedlings per acre
700 total seedlings per acre

REMEMBER: we no longer follow the 2 density rule.

Primary Cover Type:	O	The primary cover type is oak because >50% of the seedlings are oak.
Size Class:	0-5	The size class 0-5 because 100% of the oak basal area is in the large saw timber size class.
Density:	2	The density code is "2" because a total of 700 seedlings are in the seedling size class
Determining Secondary Cover Type		Eliminate the 700 seedlings per acre of seedlings from consideration in determining the secondary timber type. The secondary timber type will be determined from the following species, basal area and size class: 25 sq. ft. of large saw timber oak (tree retention)
Secondary Cover Type:	O	The secondary cover type is oak because the majority of the basal area considered is oak
Size Class	15+	The size class is 15+ because the majority of the BA is in the 15+ size class
Density	1	The density code is "1" because a total of 25 sq. ft. of basal are is in the secondary type (O) and size class (15+)

The final cover type of this example is:
Primary Type: O 0-5[2]
Secondary Type: O 15+[1]

TIMBER VOLUME

SAW-TIMBER VOLUME - Net volume of live merchantable saw-timber trees between the stump and a point in the top of the stem at which utilization is limited by large branches, forks, or other defects, or by a diameter inside bark of eight inches. This volume is expressed in terms of board feet by the Scribner log rule. Saw timber has the following minimum specifications (NR 46.02(22)(a), Wis. Admin. Code).

Position in tree	Butt or upper
Minimum diameter*, small end-Hardwoods	10.6
Minimum diameter*, small end-Conifers	9.6
Minimum length, without trim	8 (except walnut and cherry, which are 4)
Sweep allowance***	½ of diameter small end for each 8 length
Maximum scale deduction for unsound defects	50%
Clear cuttings free of knots or other defects	No requirements
Sound or unsound surface defect limitations	Diameter of knots, holes, rot, etc., may not exceed 1/3 diameter of log at point of occurrence.
Sound end defects	No requirements

*Diameter inside bark.
**The maximum trim allowance is 8". Cut products that exceed the 8 trim allowance will be classified as misbucked and will be scaled as saw logs at the next whole foot increment.
***Sweep is defined as the maximum departure distance of a line drawn between the ends of a log from the nearest surface of the log.

CORDWOOD VOLUME - Net volume of live merchantable pole-timber trees from stump to a minimum four-inch top of stem inside bark plus volume in the stem of live saw-timber trees between the merchantable saw-log top and the minimum diameter of four inches inside bark. This volume is expressed in unpeeled cords (4x4x8 feet). Each cord contains 128 cubic feet including wood, air and bark assuming careful piling. Forest products described as cords are further defined to include all cut products not meeting the minimum specifications for saw logs.

CULL TREES - Live trees of saw-timber and pole-timber size with 60 percent or more of their gross volume unusable due to defects or deformities.

APPENDIX 4: WITHDRAWAL/TERMINATION APPRAISAL EXAMPLE

Appraisals are required for determination of the MFL withdrawal tax for large properties (more than 1,000 acres enrolled), and for land converted from Forest Crop Law (FCL) to MFL that is being withdrawn within 10 years after the date in which it was converted. Tax Law Administration Specialists will notify Tax Law Forestry Specialists when an appraisal is required.

The following information is an example of the estimation of the volume and value of merchantable timber on a MFL property.

Species	Product	Estimated Volume	Tax Value/Unit*	Payment Due
Red Oak	Sawlogs	27,800 BF	$23.90/1000 BF	$ 664.42
Sugar Maple	Sawlogs	18,800 BF	$40.30/1000 BF	$ 757.64
Other Hardwood	Sawlogs	10,600 BF	$18.20/1000 BF	$ 192.92
Other Hardwood	Pulpwood	788 Cords	$ 2.80/cord	$ 2,206.40
TOTAL				$ 3,821.38

* Use rates in effect at the time of the withdrawal or expiration (s. NR 46.30, Wis. Adm. Code). The tax rates can be found on at http://dnr.wi.gov, search *Managed Forest Law*, under Forest tax laws, click on *Tax rates.*

Data for FCL and MFL withdrawal and enforcement taxes calculated by an estimator other than the Department must be at a sampling accuracy level of +/- 15% to +/- 20% at two standard deviations. (ss. NR 46.08(6) and NR 46.24(2), Wis. Adm. Code)

The sampling accuracy for appraisals completed by the Department do not have to meet the above standards, however, the forester must be confident with the data and be prepared to present it in court.

An analysis such as this is needed for each stand in the area being withdrawn. Merchantable timber included in the appraisal should meet the following standards:

a. Of size, quality and species to meet commonly accepted industry standards for a specific timber project; and

b. A timber product which is or has been salable within the last calendar year preceding the date of the owner's Declaration of Withdrawal within the Department's Administrative Area identified under NR 46.24(4) in which the subject land is located; and

c. Located in terrain which can be commercially logged with equipment and logging methods commonly used by the timber producers operating within the Department's Administrative Area identified under NR 46.24(4) in which the subject land is located; and

d. In sufficient volume to attract a commercial buyer if it were to be offered for sale.

APPENDIX 5: PRODUCTIVITY TABLE

Growth in Cu. Ft./Acre Per Year

(Shading indicates site indexes yielding less than 20 cubic feet of annual growth.)

SITE INDEX	16-25	26-35	36-45	46-55	56-65	66-75	76-85	86-95	96+
CONIFERS									
Cedar, White	18	27	42	59	75	93	110	131	
Fir, Balsam	18	37	68	102	130	152	179	209	
Hemlock, Eastern	18	27	42	59	75	102	131	153	
Pine, Jack		18	27	42	59	75	93	110	131
Red	18	27	42	59	75	102	131	153	
White	18	27	42	68	102	131	153	179	209
Spruce, Black	18	30	40	68	93	110	130	152	
White and Norway	18	37	56	67	78	93	110	130	
Tamarack	18	18	27	42	59	75	93	110	
HARDWOODS									
Ash, Black, Green, White		18	18	25	51	75	98	124	
Aspen, Bigtooth and Quaking			18	37	59	75	93	110	
Balsam Poplar			18	37	59	75	93	110	
Basswood, American		18	18	37	68	93	110	130	
Beech, American		18	18	37	68	93	110	130	
Birch, Paper and River			18	27	42	59	75	93	
Cherry, Black		18	18	37	68	93	110	130	
Cottonwood, Eastern					66	134	196	266	330
Elm, American			18	25	51	75	98	124	
Maple, Red and Sugar		18	18	37	68	93	110	130	
Oak, Black		18	24	35	52	80	107	136	
N. Red	18	37	56	68	80	102	130	152	
White		18	18	25	53	78	105	133	

The above values were derived from data used by Region 9 Forest Service Handbook and North Central Forest Experiment Station.

Alternate method to calculate annual growth in cubic feet/acre/year:
Determine total tree volume by the cubic cruise system. Divide the total cubic foot volume per acre by the stand age to determine annual growth in cubic feet/acre/year.

APPENDIX 6: LIST OF TAX LAW FORMS

The most current version of each form must be used when using these forms. Current forms can be found on the internal forms catalog and on the external website at: http://dnr.wi.gov/topic/ForestLandowners/taxResources.html

Form Name	Which Law	Form Number	Where Found
Certified Group Application/Departure Request	MFL	2450-192	e-forms, public web site
Cutting Notice and Report of Wood Products	MFL, FCL	2450-032	e-forms, public web site
Declaration of Withdrawal	FCL	2450-008	e-forms, public web site
Declaration of Withdrawal	MFL	2450-140	e-forms, public web site
Declaration of Withdrawal Exempt	MFL, FCL	2450-162	e-forms, public web site
Land Exam and Practice Report	MFL, FCL	2450-128	Use WisFIRS for the most current version
FCL Management Schedule	FCL	2450-121	Use WisFIRS for the most current version
Management Plan Review Checklist	MFL		WisFIRS
Managed Forest Law Map	MFL, FCL	2450-133	e-forms, WisFIRS
Master File Change Request	MFL, FCL	2450-156	e-forms
MFL Ownership Change Request	MFL	2450-159	e-forms, public web site
MFL Application for Designation/Conversion	MFL	2450-129	Use WisFIRS for the most current version
Public Access Modification Request	MFL	2450-193	e-forms, public web site
Forest Tax Law Printout Order (price list)	MFL, FCL	2450-190	e-forms, public web site
FCL Transfer of Ownership and Acceptance of Transfer	FCL	2450-035	e-forms, public web site

APPENDIX 7: SAMPLE NOTICES OF INVESTIGATION

The following pages contain examples of Notice of Investigation letters. Foresters are encouraged but not required to use them. If the following letters are not used, be sure that all NOIs include the following information. Any questions regarding what to include or not include should be referred to the first-line supervisor or the Tax Law Compliance Specialist.

- Order number(s)
- Legal description(s) of involved parcel
- Description of the MFL/FCL violation(s) and applicable statutory/administrative code references and/or ATFS/FSC* certification non-conformances when applicable.
    - Include the specific statutory/administrative code references if sending NOI
    - Forester may offer to provide a full copy of the statue/code upon request
- Action required to correct the violation(s)
    - Be sure to offer any/all options to correct the violation. If proper options are not offered, the Tax Law Forestry Specialist may have to repeat some enforcement steps over again.
    - The Tax Law Forestry Specialist should contact their immediate supervisor for instruction if they are unsure of what steps the landowner should take to comply with statutes and/or ATFS/FSC* standards.
    - Voluntary withdrawal can be offered as an option to correct a violation, where appropriate. However, it is essential that it is made clear that that by using these withdrawal types the land will go back on the regular tax roll and a withdrawal tax and fee may be assessed.
        - a withdrawal for construction or small land sale, s. 77.88(3j), Wis. Stats., may be used to rectify the inclusion of an illegal building on MFL
        - a withdrawal for productivity/sustainability, ss. 77.88(3k) and (3L), Wis. Stats., may be used to rectify lands that do not meet the productivity requirements
- Deadline for correcting violation(s)
    - Reasonable timelines for correcting violations are described within the sections for specific violations described in Chapter 60.
    - Length of negotiations is up to the Tax Law Forestry Specialist and their supervisor.
    - Provide a realistic amount of time for the landowner to comply but do not drag things out.
    - 10-14 days may be a reasonable amount of time to allow for some actions to take place (e.g. file a transfer) or for a response from the landowner.
    - 1-3 months may be reasonable for correcting an ownership change/land sale violation, but the Tax Law Forestry Specialist should consider requiring the landowner to contact the Tax Law Forestry Specialist regarding the violation within 10-14 days.
    - Completing mandatory practices depends on sale specifics, season, etc.
    - Tree planting is season dependent.
- Consequence for not correcting violation(s), which may include:
    - $250 non-compliance assessment for failure to complete a mandatory practice (more information about the noncompliance assessment is provided later in Chapter 60 in the section titled "Noncompliance Assessment for Failure to Implement a Mandatory Practice". Be sure to refer to this additional information.)
    - Citation (see chapter 60)
    - Withdrawal

Correspondence should always be sent to the landowner, but the landowner's agent/logger/consultant forester/etc. should be copied (cc) on the letter as deemed appropriate. Certified mail may also be used (but is not required) to document the mailing and may document the receipt, if a return receipt is requested and signed for by the landowner.

More information can be found in the section titled "Written Enforcement Correspondence" in Chapter 60.

MANDATORY PRACTICE ENFORCEMENT

For Mandatory Practice enforcement only, three template letters are provided. This includes the first and second enforcement letters and the NOI which are available on the following pages.

These letters would be sent by the Tax Law Forestry Specialist when a landowner has not completed a mandatory practice. Please be aware that these are different letters than the mandatory practice reminder letters that are sent before the practice is due. These letters are the stepped enforcement process to use after the landowner has passed the December 31st deadline to complete a mandatory practice.

- For a practice due December 31, YEAR B, the landowner would receive reminder letters in YEAR A and YEAR B (sent by the Tax Law Section unless the landowner has "services accepted" or a submitted cutting notice).
- The landowner becomes out of compliance if the practice has not been completed (or in progress) once January 1, YEAR C has passed.
- After January 1, YEAR C, the first enforcement letter would be sent.
- If no contact or action received from the 1st enforcement letter, the 2nd enforcement letter would be sent.
- If no contact or action received from the 2nd enforcement letter, the NOI would be sent (with the NOI, the Tax Law Forestry Specialist is certifying to the municipality to charge the landowner the $250 non-compliance assessment). If the landowner receives both reminder letters, the two enforcement letters and the NOI, the landowner will receive a total of five letters.
- If no contact or action received from the NOI, the withdrawal process would begin.

Mandatory Practice enforcement letters make reference of the $250 Noncompliance assessment. See the section titled "Noncompliance Assessment for Failure to Implement a Mandatory Practice" in Chapter 60.

State of Wisconsin
DEPARTMENT OF NATURAL RESOURCES
Medford Ranger Station
660 Wheelock Street
Medford WI 54451

Scott Walker, Governor
Cathy Stepp, Secretary
Telephone 608-266-2621
Toll Free 1-888-936-7463
TTY Access via relay - 711

WISCONSIN
DEPT. OF NATURAL RESOURCES

Date

Name
Address Line 1
Address Line 2
City, WI 54321

Subject: Reminder of Requirement to Complete MFL Mandatory Harvest

Dear Name,

I am writing to check in on the status of your Managed Forest Law (MFL) mandatory harvest practice that was scheduled for completion by December 31, YEAR. Because this practice has not been completed, your property is currently out of compliance with the MFL program. Failure to complete this mandatory harvest practice could put your MFL status in jeopardy. I would like to work with you to avoid that situation. Please call me at (XXX) XXX-XXXX by Date [insert date approx. two weeks from when you send letter] so that we can discuss your harvest.

The mandatory harvest practice you are required to complete is called a single tree selection, and it is to occur on 10 acres of land you have enrolled under MFL Order No. 05-017-1994 in the Town of Holland (T21N R20E Section 25). This practice is described in your MFL management plan and is a requirement to achieve your management goals, will promote the health of your woodland, and will potentially allow you to earn income. I have enclosed a map that shows the area that is to be harvested. [last sentence optional]

Time is of the essence. Keeping you in compliance with the MFL program is my main goal. I hope to speak with you soon.

Sincerely,

Name
Tax Law Forestry Specialist
(XXX) XXX-XXXX
first.last@wisconsin.gov

Please see additional information for how to get started with your mandatory harvest practice on Page 2 of this letter

Enclosure

How do I get started with my mandatory practice?
The recommended options for how to get started with your mandatory practice(s) are listed below.

- **Contract with a Professional Forester.** Professional foresters may mark or designate trees for cutting, sell these trees to loggers on your behalf, and/or assist you with other non-timber harvest mandatory practices you may need to complete on your property. You can find a list of these foresters through your Tax Law Forestry Specialist or the online Forestry Assistance Locator. Go to dnr.wi.gov and search 'Forestry Assistance Locator'. Please note that not all professional foresters may be on this list.
- **Contract with a Professional Logger or Contract Crew.** Professional loggers are available to cut trees on your property, while contract crews are available to plant trees or release young trees from competition. Lists of professional loggers and contract crews are available from your Tax Law Forestry Specialist.

Is there any paper work that I will need to fill out before I cut trees on my property?
If your mandatory practice will include cutting trees, you are required to notify your Tax Law Forestry Specialist by submitting a Cutting Notice and Report Form. This form, and instructions for completing it, can be obtained from your Tax Law Forestry Specialist or by going to dnr.wi.gov, searching 'Managed forest law', and clicking on 'Harvesting'. You are also required to notify the county clerk prior to the cutting of any trees on your property.

State of Wisconsin
DEPARTMENT OF NATURAL RESOURCES
Medford Ranger Station
660 Wheelock Street
Medford WI 54451

Scott Walker, Governor
Cathy Stepp, Secretary
Telephone 608-266-2621
Toll Free 1-888-936-7463
TTY Access via relay - 711

WISCONSIN
DEPT. OF NATURAL RESOURCES

Date

Name
Address Line 1
Address Line 2
City, WI 54321

Subject: Reminder of Requirement to Complete MFL Mandatory Harvest

Dear Name,

I haven't heard from you after the letter I sent on DATE. I am writing again to check in on the status of your Managed Forest Law (MFL) mandatory harvest practice that was scheduled for completion by December 31, YEAR. Because this practice has not been completed, your property is currently in violation of the MFL program. Failure to complete this mandatory harvest practice could result in withdrawal of your lands from the MFL program along with the payment of a withdrawal tax and fee. I would like to work with you to avoid that situation. Please contact me by DATE [insert date approx. two weeks from when you send letter] to update me on your progress in completing this mandatory harvest practice.

Mandatory Harvest Practice
As a reminder, the mandatory harvest practice you are required to complete is called a single tree selection, and it is to occur on 10 acres of land you have enrolled under MFL Order No. 05-017-1994 in the Town of Holland (T21N R20E Section 25). This practice is described in your MFL management plan and is a requirement to achieve your management goals, will promote the health of your woodland, and will potentially allow you to earn income.

Correcting the Violation
Please let me know what progress you are making to complete this mandatory harvest practice. I would consider progress as you providing me with a signed timber sale contract, submitting the required MFL Cutting Notice, or by informing me that trees on your property have been "marked" for cutting.

Consequence of Not Correcting the Violation
Failure to contact me by DATE [same as above] will result in me certifying to the local municipality to issue you a $250 non-compliance assessment. Beyond that if you still do not complete the practice, you may face withdrawal from the MFL program which involves the payment of a significant withdrawal tax and fee.

Please act quickly to resolve this violation in order to continue receiving the benefits of the MFL program. Keeping you in compliance with the MFL program is my main goal. I hope to speak with you soon.

Sincerely,
Name
Tax Law Forestry Specialist
(XXX) XXX-XXXX
first.last@wisconsin.gov

State of Wisconsin
DEPARTMENT OF NATURAL RESOURCES
Medford Ranger Station
660 Wheelock Street
Medford WI 54451

Scott Walker, Governor
Cathy Stepp, Secretary
Telephone 608-266-2621
Toll Free 1-888-936-7463
TTY Access via relay - 711

WISCONSIN
DEPT. OF NATURAL RESOURCES

Date

Name
Address Line 1
Address Line 2
City, WI 54321

NOTICE OF INVESTIGATION

You are hereby notified that the Department of Natural Resources (DNR) has conducted an investigation and determined that a violation has occurred on lands you have enrolled in the Wisconsin Managed Forest Law (MFL). This notice also certifies the local municipality to issue you a non-compliance assessment of $250. You are required to correct the violation using the steps described further in this letter. Failure to correct the violation may result in these lands being withdrawn from the MFL program along with an assessment of a withdrawal tax and fee.

DESCRIPTION OF VIOLATION

Violation	**Failure to comply with the mandatory harvest as stated in the Managed Forest Law management plan, violation of s.77.88, Wis. Stats.**
Harvest Practice	Single Tree Selection of Northern and Central Hardwoods, 10 acres
County	Brown County
Municipality	Town of Holland
Legal Description	Township 21N Range 20E Section 25
MFL Order No.	05-017-1994

Your MFL management plan required a mandatory harvest practice to achieve your management goals and maintain a healthy forest and was scheduled to be completed by December 31, YEAR. You were sent two letters to complete your mandatory harvest prior to the December 31, YEAR deadline. After the deadline passed you were sent two additional letters. Since this practice has not been completed, your property is currently in violation of the MFL program.

METHOD TO CORRECT VIOLATION

Complete the mandatory harvest practice.

Contact me by DATE [insert date approx. two weeks from when you send NOI] to confirm your intent to complete the mandatory harvest practice. At that time, we can discuss the appropriate steps for completing the harvest.

CONSEQUENCE OF FAILURE TO CORRECT VIOLATION

Failure to complete your mandatory harvest practice may result in withdrawal from the MFL program and payment of a substantial withdrawal tax which could amount to thousands of dollars. In addition, there is a $300 withdrawal fee. If you are considering not following through with this harvest I strongly recommend that you submit a request

to the Department of Revenue for an estimate of what the withdrawal tax would be for your property before you finalize that decision (there is a fee to obtain this estimate). Go to dnr.wi.gov and search keywords 'managed forest law'. Click on 'withdrawal' for more information, including the form to use to request a withdrawal tax estimate from the Department of Revenue.

Please act quickly to resolve this violation in order to continue receiving the benefits of the MFL program. Keeping you in compliance with the MFL program is my main goal. I hope to speak with you soon.

Sincerely,

Name
Tax Law Forestry Specialist
(XXX) XXX-XXXX
first.last@wisconsin.gov

cc: Name, DNR Tax Law Team Leader – Location [insert your first line supervisor]
Name, DNR Tax Law Compliance Specialist – Madison
Town chair

PRODUCTIVITY VIOLATIONS

New NOIs, updated from Act 358, coming soon.

FAILURE TO FILE A TRANSFER

The following NOI would be sent after a landowner has failed to respond to previous enforcement letters requiring that a Managed Forest Law Ownership Change form be filed after an ownership change/land sale.

State of Wisconsin
DEPARTMENT OF NATURAL RESOURCES
404 North Lake Avenue
Crandon WI 54520

Scott Walker, Governor
Cathy Stepp, Secretary
John Gozdzialski, Regional Director
Telephone 715-478-3717
TTY Access via relay - 711

Date

Name
Address Line 1
Address Line 2
City, WI 54321

NOTICE OF INVESTIGATION

You are hereby notified that the Department of Natural Resources (DNR) has conducted an investigation and determined that a violation has occurred on lands you now own which are enrolled in the Wisconsin Managed Forest Law (MFL). You are required to correct the violation using the steps described further in this letter. Failure to correct the violation may result in these lands being withdrawn from the MFL program along with an assessment of a withdrawal tax and fee.

DESCRIPTION OF VIOLATION

Violation	**Failure to certify to the Department an intent to comply with the existing management plan for Order No. XX-XXX-XXXX by submitting a Managed Forest Law Ownership Change (form 2450-159) within 30 days of acquiring ownership, which is a violation of Wisconsin Statute s.77.88(2)(ac).**
County	Forest County
Municipality	Town of Hiles
Legal Description	Township 37N Range 12E Section 24 NENW and SENW
MFL Order No.	21-008-1998

The property you acquired from [insert previous owner] in [Month YEAR] was enrolled in Managed Forest Law (MFL) on January 1, YEAR with an order length of 25 years.

Reminders were sent to you about submitting your Managed Forest Law Ownership Change form on the following dates:

1) April 10, 2013 – First reminder letter
2) April 23, 2013 – Second reminder letter
3) May 1, 2013 – Third reminder during phone conversation; you requested additional time to obtain a lender signature for a mortgage lien and we set a deadline of May 10, 2013 for you to file completed transfer.

To date, your Ownership Change Request form still has not been received.

METHOD TO CORRECT VIOLATION

Return the completed Managed Forest Law Ownership Change (form 2450-159) and attachments to my office by [INSERT DATE TWO WEEKS FROM DATE OF LETTER].

CONSEQUENCE OF FAILURE TO CORRECT VIOLATION

Failure to submit the required Managed Forest Law Ownership Change form may result in withdrawal from the MFL program and payment of a substantial withdrawal tax which could amount to thousands of dollars. In addition, there is a $300 withdrawal fee. If you are considering not submitting the form, I strongly recommend that you submit a request to the Department of Revenue for an estimate of what the withdrawal tax would be for your property before you finalize that decision (there is a fee to obtain this estimate). Go to dnr.wi.gov and search keywords 'managed forest law'. Click on 'withdrawal' for more information, including the form to use to request a withdrawal tax estimate from the Department of Revenue.

You should also be aware that failure to file the Managed Forest Law Ownership Change form can lead to withdrawal without a hearing.

Please act quickly to resolve this violation in order to receive the benefits of the MFL program. Keeping you in compliance with the MFL program is my main goal. If you have any questions, or need more information concerning the filing of the Managed Forest Law Ownership Change form, please contact me and I would be happy to talk with you. I can be reached at (XXX) XXX-XXXX or first.last@wisconsin.gov. I hope to speak with you soon.

Sincerely,

Name
Tax Law Forestry Specialist

cc: Name, DNR Tax Law Team Leader – Location [insert your first line supervisor]
Name, DNR Tax Law Compliance Specialist – Madison
Town chair

APPENDIX 8: EXAMPLES OF INVESTIGATIVE REPORT AND CASE ACTIVITY REPORT

INVESTIGATIVE REPORT
Form 4100-161 8-97

State of Wisconsin
Department of Natural Resources
Law Enforcement

Case Number	
93-PND-1	
Date	
8-10-93	

Title of Case	
EMMERSON AND ISABEL BEHRENS	
Character of Case	Report Made By
FOREST CROP LAW VIOLATION, SS. 77.03, 77.08	JOHN E. LUBBERS
Case Status	Investigative Period
REFERRED FOR WITHDRAWAL HEARING	2-12-69 TO 3-5-93

Synopsis[1]

This investigation was predicated by observations of Department of Natural Resources Forestry personnel of Forest Crop Law violations and by receipt of numerous complaints from the public of denied access to forest crop land for the purpose of hunting.

On 2-11-69, after finding "No Trespassing" signs on Behrens' forest crop land, Forester Gottwald visited Behrens, explained the Forsst Crop Law regulations and requested the signs be taken down. On 2-18-69 Gottwald saw that the signs were removed. On 11-19-79 Area Forester Cook contacted Behrens and informed him of provisions of the Forest Crop Law. After examining Behrens' forest crop land, Forester Hubbard on 11-16-84 sent a letter to Behrens scheduling his red pine plantation for a thinning in 1989 and explaining the need to file a notice of intent to cut before harvest and tiling a cutting report after harvest.

On 10-17-85 Area Forester Cook sent a letter to Behrens explaining the FCL provisions that allow public access for hunting and fishing on Behrens' FCL land. Isabel Behrens called Area Forester Cook on 10-21-85 to explain that they limit the number of hunters on their FCL at any given time. On 9-26-89 John Terrell filed a complaint against Behrens stating Behrens didn't file a notice of intent to cut prior to harvesting red pine from his FCL land and Behrens refused Terrell permission to hunt on the FCL land.

Responding to Terrell's complaint Forester/Ranger Wendler on 9-27-89 took a cutting notice to Behrens for signing. Isabel Behrens signed it. Also on 9-

[1] *This document was produced as a result of an official Law Enforcement investigation. Contents, in whole or part, are privileged by s. 905.09, Wis. Stats., and may not be used without express permission of the Wisconsin Warden service or appropriate prosecutor*

27-89 Wendler discovered a "No Trespassing" sign facing Schwalla Rd. on Behrens' FCL property. Wendler informed Isabel Behrens about allowing access to FCL land and her son (FNU) Behrens asked Wendler to remove the sign. Emmerson Behrens called Forester/Ranger Wendler at home on 9-28-89 and told him the sign was not on FCL property. Later that day Wendler measured the location of the sign and determined it was on FCL land.

On 11-27-89 Forester/Ranger Wendler called Dave Semrow about a complaint Semrow filed with the Marinette DNR office of being denied access to hunt on Behrens' FCL land. Area Forestry Supervisor Folgert took a signed statement from Todd Schmadl on 8-25-90 stating he was confronted by Behrens after hunting on Behrens' FCL land and that Behrens then called Schmadl's boss, getting him into trouble at work. Also that day, Forestry Supervisor Folgert took a signed statement from Tom Marking detailing the same incident with Behrens and Schmadl. Forester/Ranger Wendler received a memo from Forestry Supervisor Folgert on 9-6-90 listing steps to take to handle the Behrens' complaints. On 9- 7-90 Schmadl called Forester/Ranger Wendler asking if he needed permission to hunt on Behrens' FCL property and was told he did not. Jeff Lewis called Forester/Ranger Wendler on 10- 5-90 and said he was denied access to bow hunt on Behrens' FCL land and that after grouse hunting on the FCL land he found a note on his vehicle from Behrens' stating he was on private land.

Forester/Ranger Wendler called Paul Pingrey, Supervisor of the Forest Tax Unit on 10-16-90 explaining Behrens' cutting report is overdue since 9-27-90. Also on this day, Behrens called Forester/Ranger Wendler at home about giving permission to hunters to use Behrens' land. On 10-22-90 Forester/Ranger Wendler contacted Marinette County District Attorney Miron who told Wendler to cite Behrens if a cutting report isn't submitted by Behrens' within 7 days of Wendler's request for it. On 10-23-90 Forester/Ranger Wendler mailed a Notice of Withdrawal Investigation to Behrens using certified mail. Forestry Supervisor Folgert received the signed domestic Return Receipt on 10-25-90 from the Notice of Withdrawal Investigation mailed to Behrens indicating delivery on 10-24-90. On 10-25-90 Behrens called Forestry supervisor Folgert to discuss the Notice of Withdrawal Investigation and Folgert explained how Behrens can comply with it. An unsigned cutting report from Behrens was received by the Madison DNR office on 10-29-90. on 11-5-90 Forester/Ranger Wendler called Janet Calkins of the DNR Forest Tax Unit asking if Behrens filed a cutting report. Calkins couldn't find a cutting report but found a cutting notice from 1989. Forester/Ranger Wendler issued Behrens a citation for failure to file a cutting report on 11-6-90.

On 11-12-90 Behrens cutting report was delivered to the Pound Ranger Station from the Wausaukee Ranger Station. Schmadl submitted another signed statement on 1 - 2-90 detailing Behrens calling him at work after hunting on Behrens' FCL property and telling Schmadl to stay off the land. Schmadl called

Forester/Ranger Wendler that same evening complaining Behrens is harassing him and asked who could take action to stop the harassment. Schmadl was referred to Marinette County Sheriff Dept. and on 11-14-90 filed a complaint against Behrens harassing him. On 11-15-90 an unsigned copy of the cutting report was received by Paul Pingrey of the Forest Tax Unit from Behrens. Forester/Ranger Wendler dismissed the citation he wrote Behrens for failure to file a cutting report on 11-15-90. The signed cutting report was received at Pound Ranger Station on 11-20-90 from Behrens.

Also on 11-20-90 District Forestry Supervisor Lanquist wrote a letter to Behrens reminding him that provisions of the FCL were discussed with him at a meeting in Green Bay on 11-9-90.

On 11-21-90 Forester Mertz wrote a memo to Forester/Ranger Wendler explaining the delays in routing Behrens' cutting report. On 12-31-90 Behrens wrote a letter to the DNR explaining his response to the Notice of Withdrawal Investigation of 10-19-90. Behrens filed a cutting notice for the remaining pine thinning of his FCL land that was received at the Pound Ranger Station on 1-2-91. On 3-4-91 Forester/Ranger Wendler talked with Ken Hujanen of the Forest Tax Unit about Forester Mertz taking Wendler's place on future forestry work on Behrens' property.

On 12-4-92 Wayne and Kathy Kamka provided a signed statement to Area Forestry Staff Specialist Lubbers detailing an incident of being denied access to deer hunt on Behrens' FCL land. Forestry Staff Specialist Lubbers inspected Behrens' FCL land on 3-5-93 and determined the remaining pine plantation had not been thinned following the cutting notice filed by Behrens in 12/90. A cutting report was never received from Behrens within the specified time period.

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INVESTIGATIVE REPORT
Form 4100-161 1-89

State of Wisconsin
Department of Natural Resources
Law Enforcement

Case Number	Case Title
93-PND-1	EMMERSON AND ISABEL BEHRENS

Activity	Date of Activity
TRESPASSING SIGNS FOUND	FEBRUARY 12, 1969

Narrative

On February 11, 1969 Forester Paul J. Gottwald found "No Trespassing" signs facing Schwalla Road on Emmerson Behrens Forest Crop Law land. Gottwald visited Behrens and his wife Isabel on February 12, 1969 to explain the Forest Crop Law and requested the signs be taken down. Gottwald explained he would check in 2 weeks to see if the signs were removed.

Warden Report	Date of Report
JOHN LUBBERS	APRIL 1, 1993

1

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CASE ACTIVITY REPORT
Form 4100-160 1-89

State of Wisconsin
Department of Natural Resources
Law Enforcement

Case Number	Case Title
93-PND-1	EMMERSON AND ISABEL BEHRENS
Activity	**Date of Activity**
NOTICE OF WITHDRAWAL INVESTIGATION MAILED	October 23, 1990

Narrative

On October 23, 1990 Forester/Ranger John G. Wendler mailed a Notice of Withdrawal Investigation to Emmerson and Isabel Behrens using certified mail service. Wendler did this according to instructions in the Department of Natural Resources Forest Tax Law Handbook.

In the notice Wendler states the reasons for the investigation. These are:

1. Behrens has established a history of excluding people from hunting on his Forest Crop Law lands.

2. Behrens illegally established a gravel pit or quarry on part of his Forest Crop Law lands.

3. Behrens has not submitted a cutting report required after harvesting forest products from his Forest Crop Law lands.

4. Behrens has failed to practice sound forestry on part of his Forest Crop Law land.

Wendler further explained that Behrens has three options; voluntarily withdrawing his property from the Forest Crop Law, correcting the four violations, or doing nothing.

Behrens can correct the violations by: immediately allowing anyone and any number of people to hunt his Forest Crop Law land, abandoning the gravel quarry and replanting trees on the site by June 15, 1991, submitting a cutting report within 7 days of receipt of this notice and finishing the thinning of the pine plantation by June 15, 1991.

If Behrens chooses to do nothing a withdrawal hearing date will be set and a hearing examiner will decide whether or not the Forest Crop Law land should be withdrawn.

Warden Report	Date of Report
JOHN LUBBERS	APRIL 1, 1993

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CASE ACTIVITY REPORT
Form 4100-161 1-89

State of Wisconsin
Department of Natural Resources
Law Enforcement

Case Number	Case Title
93-PDN-1	EMMERSON AND ISABEL BEHRENS
Activity	**Date of Activity**
DOMESTIC RETURN RECEIPT RECEIVED	October 25, 1990

Narrative

On October 25, 1990, Marinette Area Forestry Supervisor Mike Folgert received in the mail the Domestic Return Receipt from the Notice of Withdrawal Investigation mailed to Emmerson and Isabel Behrens.

The receipt was signed by Isabel Behrens in box 5 with a delivery date in box 7 of 10-24-90.

Warden Report	Date of Report
JOHN LUBBERS	APRIL 1, 1993

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APPENDIX 9: SAMPLE OF SUMMARY OF EVENTS/CORRESPONDENCES

Correspondence with Ben Fries

Number	Date	Description
1	11/10/94	Letter from Witmer to Fries with new MFL plan.
2	11/18/94	Letter from Craig Smith, Biewer on recommendations.
3	11/30/94	Initial letter from me to Fries offering to assist in developing an acceptable management plan.
4	12/23/94	Letter from to Fries following phone call, sending Twigs info, etc.
5	12/29/95	Letter and management plan proposal from Fries.
6	1/11/95	My management plan compromise proposal.
7	1/12/95	Letter from Fries to Addis asking for help.
8	1/27/95	Letter from Urso to Fries in response to above.
9	2/24/95	Letters from Fries to Peter Munoz, Governor, selected legislators, Pepe Indalecio.
10	3/3/95	Notice of Investigation from me.
11	3/17/95	Letter from George Meyer to NRB.
12	3/22/95	Letter from Fries to me stating he was bringing dispute to higher levels.
13	4/19/95	Memo to FTU requesting Fries be withdrawn.
14	4/25/95	Letter to Fries from Governor.
15	5/4/95	Fries letter to me relaying responses from legislators and making another plea for his case.
16	5/10/95	Letter from Hujanen to Fries stating withdrawal order would be issued.
17	5/18/95	Letter from Fries stating all future correspondence will be with Ken Hujanen.
18	5/17/95	Letter from Fries to George Meyer.
19	5/17/95	Letter from Fries to Hujanen.
20	5/23/95	Letter from Hujanen to Fries.
21	6/15/95	Letter from Robert Selk (Asst. Attorney General) to Fries.
22	6/22/95	Letter from Fries to Selk.
23	6/29/95	Letter to Fries from Dosch (Asst. Attorney General)
24	9/8/95	Letter from Christenson to Judge and Fries on hearing procedure.
25	9/28/95	Fries response to Christenson.
26	1/24/96	Letter to Judge from Fries about department improprieties with copies of letters from Einspahr, Onernick, and Craig Smith.
27	1/31/96	Memo from Hujanen.
28	2/20/96	Letter from Fries to Judge Boldt requesting hearing on cutting notice rejection.
29	3/15/96	Letter from Christenson to Judge on above.
30	3/20/96	Letter from Judge stating Fries accepts Christenson proposal.
31	6/15/96	My response to Fries last management proposal.
32	6/7/96	Fries Exhibit 10 – Condition and loss of white pine stand P4.
33	6/14/96	Fries Exhibit 11 – Einspahr rejection.

APPENDIX 10: OBTAINING AND SHARING NHI DATA

Screening for potential impacts to rare species is required for projects that are funded, conducted, or approved by the department (s. 29.604, Wis. Stats., and Manual Code 1753.1). The Natural Heritage Conservation Program has approved the following process for providing Certified Plan Writers (CPWs) and qualified Cooperating Foresters (CFs) access to Natural Heritage Inventory (NHI) data. The steps are different based on whether the data are being used to develop an MFL plan, prepare a timber sale cutting notice, or prepare a grant under the Wisconsin Forest Landowner Grant Program (WFLGP) and whether the requestor is a Cooperating Forester (CF) or not. Forestry Division staff should contact the Bureau of Natural Heritage Conservation (NHC) for all other requests.

DATA CONFIDENTIALITY AND DISTRIBUTION

Natural Heritage Inventory (NHI) data are considered sensitive, so they are protected by law and are not subject to open records requests. It has been the department's experience that publicly distributing the specific locations of endangered resources (rare plants, animals, and high-quality examples of natural communities and other features) can lead to their destruction. Further, the NHI data require interpretation and can be easily misinterpreted. Although NHI data are available to department staff through the NHI Portal, any distribution of data outside of the department is the responsibility of NHC.

The NHI data reports provided to CPWs and CFs ***should not be distributed to others***, the landowner being the *only* exception. Landowners may receive copies of the reports since they do not indicate which Element Occurrences (EOs) might be from other nearby landholdings. The landowner should be made aware that the data are for the property / project area and the surrounding area.

DATA USE REQUIREMENTS

All CPWs and CFs who have had the NHI Training are under obligation to protect the NHI data according to the same standards followed by DNR staff. Also, department employees that use NHI data are expected to attend NHI training at least once every five years to continue to receive access. It is important for department foresters to understand that each time they approve a timber sale they are making a legal determination regarding whether *take* will or will not be avoided for any species that may be present, and only Wisconsin DNR staff have this authority. Although CPWs are not required to take NHI Training at the time of this writing, it is strongly encouraged and will likely be a requirement in the future.

IMPORTANT ISSUES REGARDING NHI DATA

Rather than being viewed as an authoritative source about everything present on a property, the NHI data help to determine what may occur on-site based on the best available information. Whenever other sources are available, those should be used along with the NHI Portal data. The NHI Portal provides terrestrial and wetland species within a 1-mile buffer and aquatic species within a 2-mile buffer of the project area. NHI results in WisFIRS provide the same buffer as the NHI Portal, however the project area is generalized to the legal description. It is important to note that ***all of the EOs listed on the NHI Report should be treated the same*** for the purposes of developing an MFL plan, timber sale cutting notice or WFLGP grant, regardless of location or age of the record. The reason for this is covered in the NHI Training.

Each EO should be evaluated to determine whether habitat for it could exist in the project area. If potential habitat is thought to be present, harvest and other prescriptions should be modified as appropriate. The department Web site (*dnr.wi.gov* keyword "er") contains information on the habitat needs for many species, as well as management and avoidance strategies. Contact NHC's Forestry Liaison with questions dnr.wi.gov/topic/ERReview/contacts.html. Again, since only the department can determine if take is being avoided for a listed species, the Tax Law Section (TLS) has the responsibility to review the prescriptions and other information.

UNDERSTANDING THE NHI DATA REPORT

In addition to the name of the Element (including scientific name where appropriate), the report contains the following fields (see the Natural Heritage Working List for more detailed explanation for these fields, dnr.wi.gov keyword "nhi"):

- **State and Federal Status** (level of state and/or federal legal protection for the element),
- **State and Global Ranks** (indications of rarity that are used by NHI and are important for Forest Certification).
- **Last Observation** (date when the element was last observed. Elements should be treated the same, regardless of last observed date)
- **Group** (helps you determine the taxonomic group to which the species belongs)

SUPPORTING INFORMATION

Many aspects of the NHI data are important to understand to use it correctly and effectively; this is the reason NHI training is required by manual code for department staff. One difficulty with using NHI data is determining whether habitat is present for a species (or Element) on a site. If habitat does exist for any of the species, effective strategies are necessary to avoid take. In addition, depending on landowner objectives, there may be opportunities to voluntarily maintain or enhance habitat beyond avoiding take. The Natural Heritage Conservation (NHC) Program has resources on the Wisconsin DNR web site that are intended to be your first stop for finding this information. For many species, there are now comprehensive "species guidance documents" for your use. Go to the department Web site (**dnr.wi.gov**) and search keyword "**biodiversity**" to access these web pages. Contact NHC Forestry Liaison with questions dnr.wi.gov/topic/ERReview/contacts.html.

PROCEDURE

Writing an MFL Plan

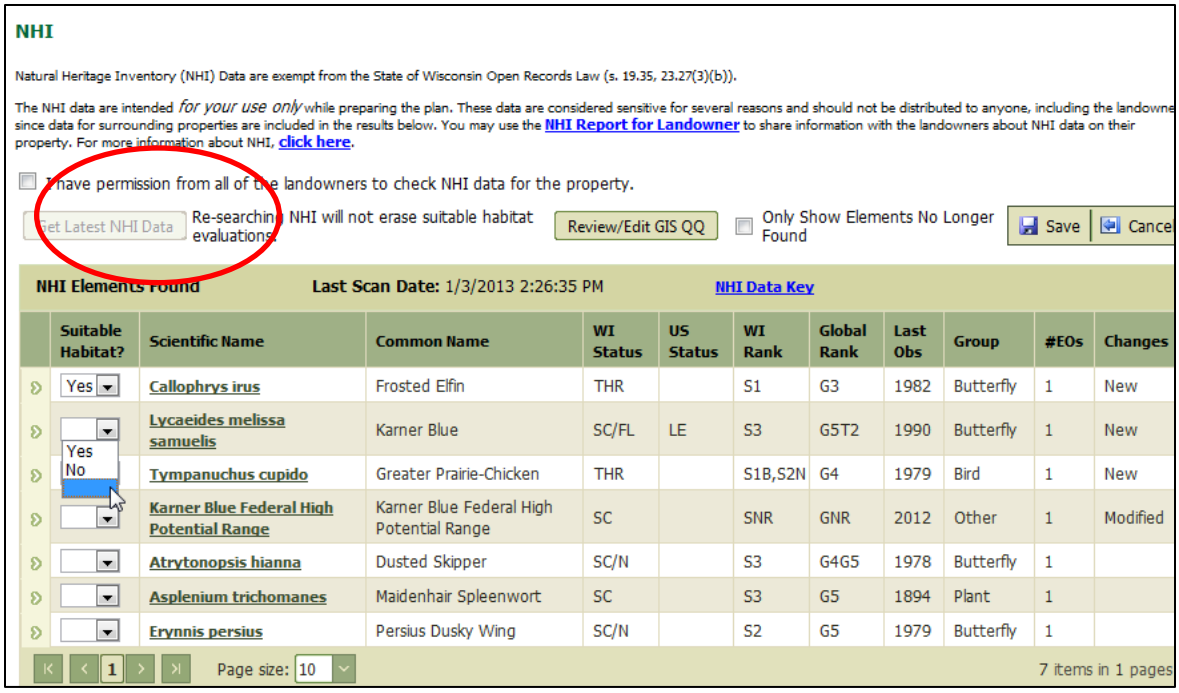
The NHI data for plan-writing are provided through the WisFIRS Private Lands application. A general description of the procedures is below; additional technical details are provided in the WisFIRS Private Lands training manual, which Tax Law Specialists and CPWs can obtain in WisFIRS.

Prior to plan development:

1. **CPWs** obtain permission from the landowner(s) to access the NHI data for the parcels included in the plan and gathers site information needed to develop the plan

From WisFIRS:

2. **CPWs** review the reminders about sharing of NHI data in WisFIRS and checks the box that indicates that landowner permission has been granted
3. **CPWs** click the "Get Latest NHI Data" button
4. **CPWs** review the list of EOs. Clicking on a species name will go directly to whatever guidance information is available for that species on the department Web site.
5. **CPWs** export a report and provide it to the landowners to let them know what is present on and around their property.
6. **CPWs** use the changes tab to see if any changes have occurred since the last time the plan was worked on, if applicable.
7. **CPWs** determine whether suitable habitat is likely to exist on the property for each EO. This information will be important for future users of the plan in developing management prescriptions.
8. **TLS** reviews the information along with the rest of the plan.



Suitable Habitat?	Scientific Name	Common Name	WI Status	US Status	WI Rank	Global Rank	Last Obs	Group	#EOs	Changes
Yes	Callophrys irus	Frosted Elfin	THR		S1	G3	1982	Butterfly	1	New
	Lycaeides melissa samuelis	Karner Blue	SC/FL	LE	S3	G5T2	1990	Butterfly	1	New
	Tympanuchus cupido	Greater Prairie-Chicken	THR		S1B,S2N	G4	1979	Bird	1	New
	Karner Blue Federal High Potential Range	Karner Blue Federal High Potential Range	SC		SNR	GNR	2012	Other	1	Modified
	Atrytonopsis hianna	Dusted Skipper	SC/N		S3	G4G5	1978	Butterfly	1	
	Asplenium trichomanes	Maidenhair Spleenwort	SC		S3	G5	1894	Plant	1	
	Erynnis persius	Persius Dusky Wing	SC/N		S2	G5	1979	Butterfly	1	

Preparing a Timber Sale Cutting Notice or WFLGP Grant

The Bureau of Natural Heritage Conservation (NHC) launched The Natural Heritage Inventory (NHI) Public Portal, an online tool for the public to use to determine if their project will affect endangered resources. For the purposes of forest management, the NHI Public Portal will allow individuals to conduct a preliminary assessment of a timber harvest. Searching the NHI Public Portal will produce a document called an Endangered Resource (ER) Preliminary Assessment.

A Certified Plan Writer (CPW), Cooperating Forester (CF), landowner, logger, or any other external partner must use the NHI Public Portal to conduct the preliminary assessment of a timber harvest on land enrolled in the Managed Forest Law (MFL) or Forest Crop Law (FCL) program. Please follow the Standard Operating Procedures (SOPs) below to incorporate the NHI review into a Cutting Notice or WFLGP Grant.

If possible, the NHI lookup should be done in the early planning stages, well before marking or developing a cutting notice or grant. Tax Law Administration Specialists must generate the detailed NHI data report for CPWs or CFs when needed for projects that the DNR reviews, funds or approves (see results 2 and 3 below, or when the NHI Public Portal cannot be used).

*Remember that any documents made available to the public should not include specific NHI data. Department staff with questions about the use of the NHI Public Portal should take NHI Training and/or watch the portal instructional video available online.

The NHI Public Portal can be used to determine the potential impacts a project may have on endangered resources, and will determine if a detailed NHI data report is required. To find the NHI Public Portal and instructions search: **dnr.wi.gov**, Keywords: *Public Portal*

The ER Preliminary Assessment from the NHI Public Portal will contain one of three potential results:

1) **No actions required/recommended -** No endangered resources have been recorded in this area.
2) **Further actions recommended -** Endangered resources are present, therefore request an Endangered Resources Review or contact local Tax Law Administration Specialist. If the ER Preliminary Assessment states that follow-up actions are recommended, one or more of the following situations apply:

- The species recorded are special concern.
- The records are from natural communities or other natural features.
- The species recorded are threatened or endangered plants, but are not protected due to the project occurring on private land or due to another type of exemption (i.e. agriculture, utility, etc.).

3) **Further actions are required to ensure compliance -** Endangered Resources are present and the species present are legally protected with Wisconsin's Endangered Species Law (s. 29.604 Wis. Stats.) and the Federal Endangered Species Act (16 USC ss. 1531-44); therefore request an Endangered Resources Review or contact local Tax Law Administration Specialist. If the ER Preliminary Assessment states that follow-up actions are required, one or more of the following situations apply:

- The species recorded are state or federal threatened or endangered animals.
- The project site overlaps the Karner Blue Butterfly High Potential Range.
- The project site overlaps the Rusty Patched Bumble Bee High Potential Zone.
- The species recorded are state threatened or endangered plants on public land.
- The species recorded are federal threatened or endangered plants on federal land or involve federal funds or a federal permit.

Standard Operating Procedure when a search of the Public Portal produces Result 1 — No actions required/recommended.

1. The Public Portal is searched for the area. The search produces a result of **no actions required/recommended**.
2. The results of the Public Portal search are used by the certified plan writer, cooperating forester, landowner, logger, etc. to fill out the "NHI Prescription" section of the "*Cutting Notice and Report of Wood Products from the Forest Crop and Managed Forest Lands"* form (Form 2450-032) prior to submitting the form to DNR for review and approval. To fill out this section when no actions are required/recommended provide the following information (filling out the specifics): "On (date), a search of the NHI public portal was conducted by (your name) and no element occurrences were identified by the portal search. Public Portal ID _____."
3. The Endangered Resources Preliminary Assessment is printed by the certified plan writer, cooperating forester, landowner, logger, etc. and attached to the "*Cutting Notice and Report of Wood Products from the Forest Crop and Managed Forest Lands"* form (Form 2450-032).
4. The Endangered Resources Preliminary Assessment will be retained by TLS for the respective MFL/FCL order.

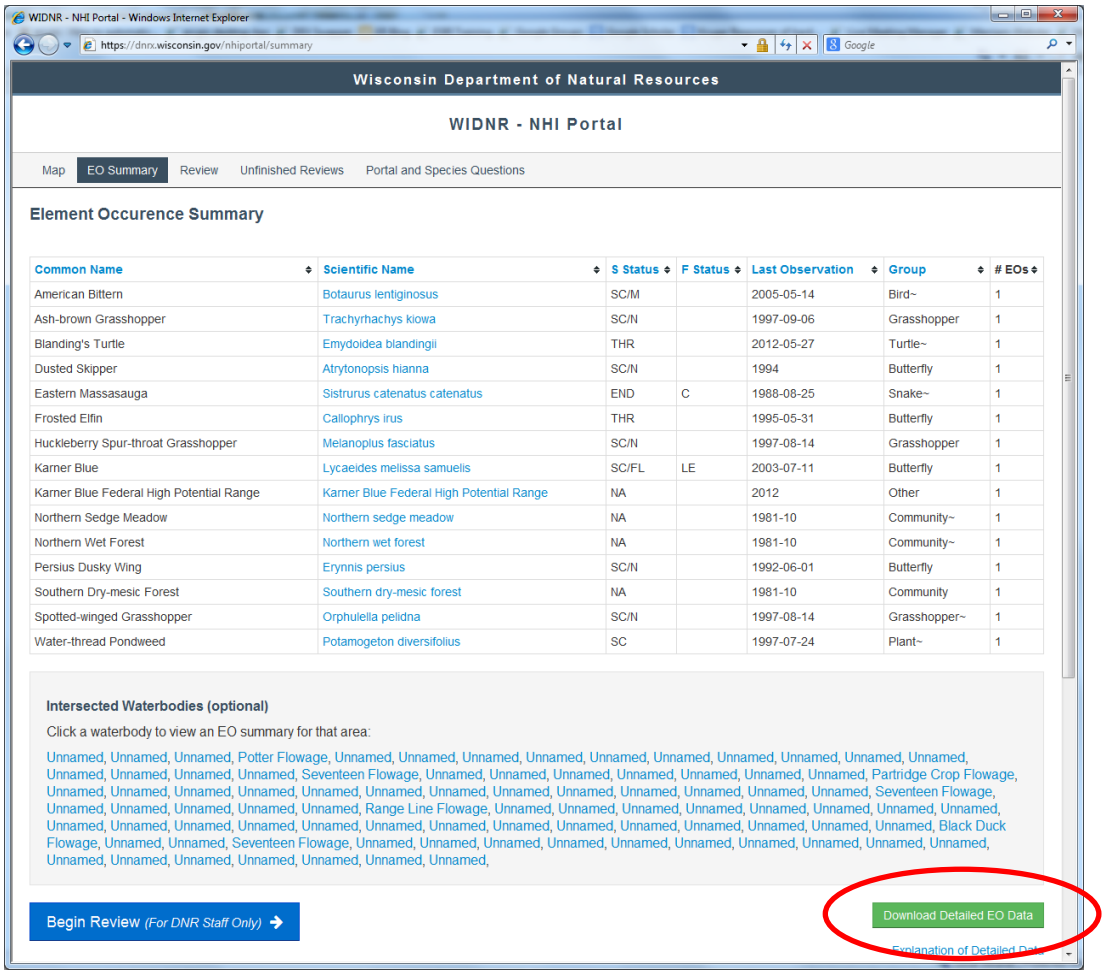
Standard Operating Procedure when a search of the Public Portal produces results 2 or 3—Further actions are recommended or required.

1. The Public Portal is searched for the area and the search produces a result of **further actions are recommended or further actions are required**.
2. Upon receiving one of these results, the requestor submits a request to local Tax Law Administration Specialist by email to DNRTaxLawNHIcheck@wisconsin.gov for a NHI data report. The request must include all the following information:
   - **Public Portal ID Number**;
   - the name of the landowner and a statement that they have permission from the landowner to make the request;
   - Tax law order number and legal description;
   - Requestor's contact information
   - State: "I am" or "I am not" a cooperating forester;

*Requestors may be referred to the standard data request procedure (see **dnr.wi.gov,** Keywords: *ER Review*) if workload becomes a limiting factor or for projects that the Department does not review, fund or approve.

3. **Tax Law Administration Specialist** enters the public portal ID from the ER Preliminary Assessment in the search box. **Tax Law Administration Specialist** chooses the standard buffer, and continues to the Element Occurrence Summary. Do not check the box referring to 900 feet of a wetland or waterbody.
4. **Tax Law Administration Specialist** downloads or copies the "Detailed EO Summary" report and provides the information to the Tax Law Forestry Specialist.
    a. **If the requestor is a CPW or CF,** the complete "Detailed EO Summary" will be shared. Language should be included for the CPW and CF to **review the data confidentiality and use requirement**. This can be done via email or hardcopy.
    b. **If the requestor is not a CF,** the generic species information will be provided and the requestor will be referred to the Tax Law Forestry specialist for questions on the Element Occurrences.
5. **Requestor** uses the information provided in step 4 to fill out the "NHI Prescription" section of the *Cutting Notice and Report of Wood Products from the Forest Crop and Managed Forest Lands"* form (Form 2450-032) prior to submitting the form to the DNR for review and approval.
6. **Requestor** destroys any copies of the detailed report and returns the cutting notice (Form 2450-032).
7. **Tax Law Forestry Specialist** retains a record of the lookup date and results with the cutting notice.

Please submit questions on requesting NHI data to DNRTaxLawNHIcheck@wisconsin.gov or your local Tax Law Administration Specialist.



Common Name	Scientific Name	S Status	F Status	Last Observation	Group	# EOs
American Bittern	Botaurus lentiginosus	SC/M		2005-05-14	Bird~	1
Ash-brown Grasshopper	Trachyrhachys kiowa	SC/N		1997-09-06	Grasshopper	1
Blanding's Turtle	Emydoidea blandingii	THR		2012-05-27	Turtle~	1
Dusted Skipper	Atrytonopsis hianna	SC/N		1994	Butterfly	1
Eastern Massasauga	Sistrurus catenatus catenatus	END	C	1988-08-25	Snake~	1
Frosted Elfin	Callophrys irus	THR		1995-05-31	Butterfly	1
Huckleberry Spur-throat Grasshopper	Melanoplus fasciatus	SC/N		1997-08-14	Grasshopper	1
Karner Blue	Lycaeides melissa samuelis	SC/FL	LE	2003-07-11	Butterfly	1
Karner Blue Federal High Potential Range	Karner Blue Federal High Potential Range	NA		2012	Other	1
Northern Sedge Meadow	Northern sedge meadow	NA		1981-10	Community~	1
Northern Wet Forest	Northern wet forest	NA		1981-10	Community~	1
Persius Dusky Wing	Erynnis persius	SC/N		1992-06-01	Butterfly	1
Southern Dry-mesic Forest	Southern dry-mesic forest	NA		1981-10	Community	1
Spotted-winged Grasshopper	Orphulella pelidna	SC/N		1997-08-14	Grasshopper~	1
Water-thread Pondweed	Potamogeton diversifolius	SC		1997-07-24	Plant~	1

APPENDIX 11: PROCEDURE AND INFORMATION FOR SHARING ARCHAEOLOGICAL AND HISTORICAL RESOURCES WITH CERTIFIED PLAN WRITERS AND COOPERATING FORESTERS

LEGAL REQUIREMENTS

Section 44.40, Wis. Stats, requires each state agency to develop an historic preservation program with the Wisconsin Historical Society (WHS). The Department of Natural Resources did this through a Memorandum Agreement. Manual Code 1810.1 provides the procedures to implement the agreement with the WHS. In addition, the Department must comply with federal historic preservation laws in order to receive federal funds. The manual code also provides procedures to comply with federal laws.

Application of Wis. Stats. to Private Lands

Section 44.40(1m), Wis. Stats. gives authority for the historical society and a state agency notified under s. 44.39(2) (including the Department of Natural Resources) to jointly *"identify actions of the state agency that may cause or permit an adverse effect on historic property including, but not limited to, any state agency action that involves the exercise of state agency authority in the issuance of a permit, license, authorization, variance or exception or in any grant of financial assistance and any state agency action related to property owned by the state agency or related to its long-range planning and facilities development."*

NOTE: through its permitting authorities or in the event of DNR-administered grants, DNR may require private parties on private lands to undertake measures to mitigate adverse impacts to cultural resources occurring within the project's area of potential effect. While MFL is a voluntary program, participants are expected to comply with the above in order to enroll in the program.

That being said, management and protection of archaeological and historical sites have been required under the MFL program since 1992 after the Division of Forestry became a part of the United States Department of Agriculture Forest Service Forest Stewardship Program (FSP). Landowners enrolled in the MFL program follow similar guidelines as public properties to screen their properties for archaeological and historical sites, and to protect those sites from destruction.

Lands that are certified under the MFL Certified Group must also comply with protection of archaeological and historical resources to remain part of the American Tree Farm System® (ATFS®) and Forest Stewardship Council® (FSC®) certification requirements. Landowners who are not associated with the MFL Certified Group must still protect archaeological and historical sites, however, because MFL is a part of the USDA Forest Service FSP program.

All burial sites are protected from disturbance, regardless of whether they are located on public (excluding federal or tribal[1]) or private lands (ch. 157, Wis. Stats.).

> Section 157.70(2r), Wis. Stats. requires that "[e]xcept as provided under subs. (4) and (5) and ss. 157.111 and 157.112, no person may intentionally cause or permit the disturbance of a burial site or catalogued land contiguous to a catalogued burial site. This subsection does not prohibit normal agricultural or silvicultural practices which do not disturb the human remains in a burial site or the surface characteristics of a burial site."

Section 157.70(2r), Wis. Stats. was written to recognize that normal agricultural or silvicultural practices are allowed to occur as long as the burial site or the surface characteristics of the burial site are not disturbed; therefore, timber harvesting or any other management practice on MFL or FCL lands may occur as long as conditions that are placed on the lands to protect these sites are followed. The DNR Archeologist does not issue individual approvals for management on lands. Tax Law Forestry Specialists, Cooperating Foresters, loggers and landowners must determine if they are protecting the site adequately following the guidance provided by the DNR Archeologist to meet the conditions of s. 157.70(2r), Wis. Stats. If during the course of implementing a practice a burial site is disturbed, the activity must cease immediately, and Wisconsin Historical Society (WHS) must be contacted immediately.

Certain qualifying historic properties and catalogued cemeteries may be eligible for tax incentives or property tax reduction. Contact the WHS directly for more information on these opportunities.

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[1] Federal legislation protecting burial sites applies to burial sites occurring on federal and tribal lands.

MAINTENANCE OF ARCHEOLOGICAL AND HISTORICAL INVENTORY

The WHS maintains the inventory of *recorded* archaeological and historical resources. Through cooperation with the Division of Historic Preservation and WHS, a generalized location of archaeological and historical sites has been provided to the DNR and is available on the DNR Intranet at http://intranet.dnr.state.wi.us/int/land/facilities/facilities/arch.html. The generalized maps identify the legal description(s) (i.e. quarter-quarter section) in which an archaeological or historical site is located, regardless of the original size, shape or acreage of the actual site.

Only *recorded* historic properties are included in the archaeological and historical database. The state has not been systematically surveyed for historic structures or archaeological sites, so many historic properties have yet to be inventoried. State law protects all burial sites regardless of age, but for other historic properties, it only takes into account those that are "known" (in the database).

Procedure to obtain archaeological and cultural resources information:

1. Certified Plan Writers (CPWs) and Cooperating Foresters request information from the Tax Law Section (TLS) staff for the legal descriptions involved in the management plan, timber sale or forestry project. *Note: Archaeological and historical resources are not available in WisFIRS, similar to the NHI database. CPWs and Cooperating Foresters must request information from the Tax Law Administration Specialist by emailing DNRTaxLawNHICheck@wisconsin.gov, to develop MFL management plans and establish timber sales or other forestry practices.*

2. DNR reviews the county archaeological and historical site map to see if the MFL land has a recorded site. The maps show the general locations of archaeological sites (purple shaded areas) and historic structures (red hatched areas) recorded by the Wisconsin Historical Society. The resolution of the maps is at a 40-acre description (i.e. quarter-quarter section). http://intranet.dnr.state.wi.us/int/land/facilities/facilities/arch.html. Maps may not be duplicated or given to anyone else.

3. If there is a site indicated in the MFL or project area, Tax Law Administration Specialists will request specific information about the site from the DNR Archaeologist. Include the following information in your request:

   - State that you are requesting information for an MFL application, a cutting notice or other forestry project.
   - Full legal description and acres (TRS and legal description for project).
   - USGS topo map of the project area with parcel footprint clearly delineated thereon.

4. The DNR archaeologist reviews the request and reports to the Tax Law Administration Specialist the type of resource identified in the WHS database, if present. If the site is a burial site or includes a burial component, Tax Law Administration Specialist will be so advised, since the requirements are more stringent for burial sites than for non-burial (archaeological sites) and historic structures.

5. Tax Law Administration Specialist will report back to the CPW, Cooperating Forester, logger and/or landowner with the results of the archaeological and historical search, including the type of resources found (buildings, burial sites, etc.), information learned regarding protection and/or management of the site and location of the site. *Note: The DNR archeologist provides guidance for meeting WHS protection criteria. Adjustments to the protection criteria can be made if there is no disturbance to human remains in a burial site or if changes to the surface characteristics of a burial site will occur; however, if recommendations for protection cannot be met or the landowner wishes to disturb any protected site, they must work directly with WHS to obtain the required permission. The location of the resources is expected to be shared with others in an effort to protect the site. If the site cannot be located, the site cannot be protected.*

Recording Archaeological and Historical Information in WisFIRS

WisFIRS requires CPWs to list any resource(s) found during the archaeological and historical search in the appropriate data fields. Types of resources that will be reported to TLS by the DNR Archaeologist will include only the following generalized types of resources: **"Burial site"; "Archeological site"; "Historical Structure".** The DNR Archaeologist will provide the TLS with copy of a WHS-created USGS topographic map identifying archaeological and/or historic site locations with related unique site or structure numbers.

Identifying Exact Resource Locations

Since the archaeological and historical database identifies resources to the legal description (quarter-quarter section), landowners, CPWs, Cooperating Foresters and TLS staff may need to more narrowly identify the location of these resources to determine stand boundaries, percentage of lands unsuitable to grow timber products, and determine management options. This may be especially true if the site is a burial or archaeological site. It is thought that for historical structures a person may reasonably identify these resources to obtain an exact land location.

The DNR archaeologist does not conduct site searches on private lands; however an individual landowner could get more specific descriptive/locational information for historic properties occurring on their own property in a couple of ways. Information learned from this more detailed search may help to narrow the location of archaeological and historical resources on private lands:

- Request information directly from the State Archaeologist (WHS).

  State Archaeologist
  Historic Preservation – Public History, Room 307
  816 State St.
  Madison, WI 53706-1482
  Voice Mail 608-264-6496
  Fax 608-264-6504

- Visit the WHS in Madison and view the archaeological and historical database on the public-access database system. Landowners should contact the State Archaeologist (WHS) to establish a date and time to view the database.

- Contract with a cultural resource management (CRM) firm to do additional research. Companies to hire can be found at http://www.wisconsinhistory.org/pdfs/hp/HPR-arch-consultants.pdf.

Management of Archaeological and Historical Resources

Burial sites are protected by law, meaning that there can be no disturbance of the site "within at least 5 feet[2] from any part of the burial site including beds of lakes, streams, and rivers surrounding the burial site necessary to ensure its protection." (HS 2.02(13), Wis. Adm. Code) and as mapped by WHS according to HS 2.03, Wis. Adm. Code.

The ability to complete management practices on private lands depends on the reason why the work is being conducted. Private lands in which work will be done for wildlife habitat management or any other project except for silvicultural work that does not disturb the soil, surveys and evaluations, if required, will be done by an outside archeological consultant. A list of consultants is available from the Wisconsin Historical Society at http://www.wisconsinhistory.org/archaeology/preserve/pdf/arch_consultants.pdf. Wildlife habitat management and other work projects may include:

- Surveys and evaluations as needed for creating new wetland/run-off ponds or enhancing wetlands through scrapes or dikes.
- Surveys and evaluations as not needed for wetland restoration through ditch plugs or breaking drainage tile, prairie or savanna restoration.

Forestry activities that may require surveys and evaluations if burial sites are near the proposed work project include:

- Creating new logging roads.
- Excavating new gravel pits for improving infrastructure on MFL lands.
- Other activities that may disturb the soil.

Refer also to DNR's *BURIALS, EARTHWORKS, AND MOUNDS PRESERVATION POLICY & PLAN* (http://intranet.dnr.state.wi.us/int/land/div/policies.htm)

[2] Although the state statute references a 5 foot buffer, WHS stipulates a 15 foot buffer.

BURIAL SITES

Entry into MFL

Lands with burial sites are allowed to be enrolled into MFL. Historical sites are at least 50 years old and may be recorded with the Wisconsin State Historical Society. Burial sites do not need to be recorded with the Burial Site Preservation Board, however. Any burial site(s) found on MFL property need to be documented in WisFIRS regardless of their listing in the archaeological or historical database. Rules regarding timber typing, productivity and unsuitability apply.

Active burial sites, including burial of cremains, are not allowed under the MFL program. Active burial sites can be identified by the following characteristics:

- Landowners are mowing and/or landscaping the site, including regular mowing, planting ornamental trees, shrubs and flowers, placement of statutes, flags, flower pots, and other ornaments.
- Human remains are buried on the site.

Burial sites with a mausoleum, tomb, Columbarium wall, crypt, ossuary, or other similar structure are not allowed under MFL for the following reasons:

- The land contains buildings that are not used for working or recreating on the property.
- The lands on which the structures lie are not dedicated to producing timber products or associated natural resource values.

Placement of cremains on the property is allowed if cremains are not buried, but spread on the property. Spreading of cremains does not qualify as a burial site according to state law. Landowners could dedicate areas of lands in which cremains are spread as unsuitable for timber production. Rules regarding timber typing, productivity and unsuitability apply.

Cemeteries are not allowed under MFL since the land use is not dedicated to producing timber products or other natural resource values.

Types of Burial Sites

Burials site are identified as uncatalogued or catalogued burial sites. Information about the specific burial site can be obtained from the State Archeologist at 608-264-6496 or from the Wisconsin Historical Society Burial Program (WHS) at 800-342-7834.

- **Uncatalogued burial sites** are typically poorly documented and/or poorly located sites, or have not yet been listed in Wisconsin's Burial Sites Catalog. Many of these burial sites indicate an entire legal description(s).

- **Catalogued burial sites** have specific locations that generally (but not always) can be found on the ground and are listed in the Wisconsin Burial Sites Catalog.

Guidance to Harvest Timber with a Burial Site

Landowners and Foresters should follow the steps on obtaining archeological and cultural resources information as listed earlier in this chapter. The DNR archeologist will provide information about the site and provide recommendations for mitigation. Mitigation measures generally include the following. If the following steps are taken, silvicultural practices should not disturb the human remains in the burial site or the surface characteristics of a burial site. If human remains are disturbed, management activities shall cease immediately and the WHS contacted.

Management options around catalogued burial sites will likely include:

- Harvesting of trees only on well frozen ground, ideally with snow cover, to minimize soil disturbance.
- Removal of dead or diseased trees to ground surface only.
- No stump removal should be done since stump removal will disturb the soil.
- Removal of deadfall, brush, and small trees (≈10 inch diameter or less) occurring on or within 5 feet of the perimeter of defined non-mound burial sites or mound bases. Removal of trees within 15 feet of the perimeter is generally desirable to prevent wind throw and other damage, and to encourage growth of ground cover that helps prevent erosion of the burial site.

- Trees must not be dropped or dragged across the burial site.
- Machinery must not be driven, parked or stored over the burial site.
- Logs or other materials must not be stored on burial sites.
- Chemical treatment of invasive and/or woody vegetation is allowed on burial sites.
- Periodic mowing of burial sites may be done to inhibit woody plant succession.
- Equipment used on or around burials sites may be limited to low pressure tire vehicles.
- No road cuts are allowed in the burial site areas.

Please discuss specific projects with the DNR archaeologist to understand the best options to work in and around burial sites if avoidance of the site or working on well frozen ground is not possible.

Adjustments to Standard Burial Site Mitigation Recommendations

TLS staff should work with the DNR archeologist to discuss specific situations. Once adjustments to the burial site mitigation recommendations are approved by the DNR archeologist, TLS may share this information with the landowner and/or the landowner's Consulting Forester or Logger. If the proposed adjustments to the burial site mitigation recommendations are denied, the landowner may seek permission from the WHS to disturb an uncatalogued or catalogued burial site.

Disturbing an Uncatalogued Site

Landowners can request to disturb an uncatalogued site by filling out and mailing a Request to Disturb a Burial Site form to Wisconsin Historical Society (WHS). Landowners should allow 30 days for the request to be approved. This form is attached to the end of this appendix or can be found at http://www.wisconsinhistory.org/pdfs/hp/HPR-Request-To-Disturb-Burial-Site.pdf. Supporting documents should include:

- A cover letter that describes the project, including the type of equipment that will be used , the plans on removing stumps and developing roads, and the size of the harvested area.
- Maps that show the property, the logging area and the area that is identified in burial site area.
- All other documentation as found on the Request to Disturb a Burial Site form

The Wisconsin Historical Society will review the application and follow up with the landowner in one of two ways:

- Ask for more information. If Wisconsin Historical Society is satisfied that the logging operation the landowner intends to conduct will not disturb the site, the landowner may receive permission to conduct the harvest.

- Require that an archeologist visit the property to identify any existing burial site(s). A visit by an archeologist may identify the burial site for cataloging (meaning that the exact location is known). Once the site is catalogued more details can be provided about management of the catalogued site, however the rest of the landowner's property would be cleared for harvesting. Landowners are responsible to hire the archeologist.

Disturbing a Catalogued Site

There should be few situations in which a catalogued burial site should be disturbed when harvesting timber or conducting any land management for forestry purposes, however *the steps to get approval are essentially the same as for an uncatalogued site*. As directed by WHS, landowners will be required to notify appropriate members of the Registry of Interested Persons to initiate a 30 day public comment period. After the public comment period is over, the Wisconsin Historical Society will consider the public comments before making a decision to approve or deny the request. The approval process to disturb a catalogued site will take between 60 to 90 days.

APPENDIX 12: SAMPLE LETTER TO NOTIFY NEW LANDOWNER OF MFL REQUIREMENTS

The Private Lands Specialist Team (PLMT) has recommended that the Tax Law Section (TLS) notify landowners of MFL requirements and acknowledge the processing of their transfer requests. This allows TLS staff to establish a working relationship with new landowners and to offer their services in answering questions and helping the new landowner meet his/her management goals. This sample letter can be used to develop a letter for mailing to new landowners.

State of Wisconsin
DEPARTMENT OF NATURAL RESOURCES
101 S. Webster Street
Box 7921
Madison WI 53707-7921

Scott Walker, Governor
Cathy Stepp, Secretary
Telephone 608-266-2621
Toll Free 1-888-936-7463
TTY Access via relay - 711

WISCONSIN
DEPT. OF NATURAL RESOURCES

January 6, 2006

Dear:

Enclosed is a copy of the Managed Forest Law (MFL) management plan and map for the property you recently acquired. The management plan was developed based on sound forest stewardship management practices and the previous landowner's objectives for the property.

The plan contains mandatory forest management requirements as well as recommended management practices. The mandatory requirements need to take place as scheduled to remain in compliance with the MFL program. Non-mandatory practices are optional but are encouraged to promote sustainable forestry and/or meet stand objectives.

Modification or update of the plan may be approved by the DNR based on new objectives. Plan alterations are subject to guidelines of the MFL program.

I've enclosed some general information about the MFL program as background information. If you have any questions or would like to discuss the management plan, please contact me at [INSERT CONTACT INFORMATION].

Sincerely,

"TLS Staff Title"

Enclosures

- MFL Program Summary

dnr.wi.gov
wisconsin.gov

Naturally WISCONSIN

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APPENDIX 13A: FORESTRY MEDIATOR QUALIFICATIONS

Forestry Mediators are to facilitate discussions and communications between the parties in order to help the parties reach an equitable settlement of their differences. If the parties cannot settle their differences, then the Mediator must capture the solutions discussed. Mediators must ensure that the discussion, possible solutions and resulting settlement regarding sound forestry practices is based upon the silvicultural guidelines in DNR handbooks, directives under which the MFL and FCL programs operate, and are consistent with the management plan and landowners objectives.

In January of each year, the DRP administrator will solicit for applicants and confirm that applicants have the minimum experience necessary. The Administrator will facilitate selection of Mediators by the Chair and Vice Chair of the Council of Forestry and the State Forester. This effort should result in a list that contains qualified and respected Mediators who have a variety of expertise. The list should contain an adequate number to provide a minimum pool of three Mediators for each county.

Minimum Standard:

a. Has a minimum of 7 years professional forestry work and has an applied working knowledge of the Wisconsin Forest Tax Law Programs and application of the guidelines within the Division of Forestry's Silviculture Handbook.

b. Three references from individuals who can attest to the applicant's track record of professional forestry work experience involving Wisconsin's forest tax law programs and application of the guidelines with in the Division of Forestry's Silviculture Handbook and/or successfully resolving disputes, either within forestry, natural resources, or other areas of dispute resolution.

c. Has not been convicted in past 10 years of violations of Chapter 26, Wis. Stats. or any county or local ordinances directly addressing forestry practices.

Additional Qualifications which may be considered:

1. Has numerous clients whose property is enrolled in MFL or FCL
2. Has established or administered numerous MFL/FCL timber sales
3. Has written or approved numerous MFL management plans
4. Has established or administered timber sales on State or County Forests
5. Has training or experience in dispute resolution/mediation
6. Has worked with a diversity of clients: landowners, loggers, mills, consultants and DNR foresters
7. Is a member of a professional forestry organization (SAF, GLTPA, WCF, WWOA or ACF)
8. Has held a leadership position within a professional forestry organization (SAF, GLTPA, WCF, WWOA or ACF)
9. Is a SAF Certified Forester
10. Is a Cooperating Forester in good standing
11. Is a Certified Plan Writer in good standing
12. Is a USDA Forest Service Certified Silviculturist
13. Is an auditor for a certification system (SFI®, FSC® or ATF®)

APPENDIX 13B: QUALIFICATIONS FOR FORESTRY EXPERTS

Forestry Experts are responsible for determining what changes, if any, must take place in order for sound forestry to be practiced or in the case of a completed timber sales to determine if sound forestry was practiced. These determinations must be based upon the silvicultural guidelines in DNR handbooks, directives under which the MFL and FCL programs operate the management plan and the landowner's objectives. Determinations must explain in silvicultural terms why or why not sound forestry is (was) being practiced.

In January of each year, the DRP Administrator will create a list of experts by soliciting a minimum of 3 and a maximum of 6 nominations from each of the following organizations: *DNR, WWOA, WCF, GLTPA, and SAF*. Other professional forestry organizations (e.g. Wisconsin Paper Council, Lake State Lumber Association, and Association of Consulting Foresters) may also nominate up to 6 individuals. The organizations must ensure that the nominated people have the qualifications identified for Experts. This effort should result in a list that contains qualified and respected Experts who have a variety of expertise and provides an adequate number to provide a minimum pool of five Experts in each of the four Districts of the Division of Forestry.

(a) Individuals can be on the Mediator list and the Expert Panel list, but an individual cannot serve as both a Mediator and an Expert on the same dispute.

(b) Organizations may nominate the same individual.

(c) Selection of an Expert to be included in the pool of Experts shall be unanimous.

(d) A pool of five candidates cannot contain more than one current DNR employee.

Minimum standard:

a. Bachelor's or higher degree in forestry from a school with a curriculum accredited by the Society of American Foresters or a substantially equivalent degree[1] or an associate's degree in forestry from a school with a curriculum accredited by the Society of American Foresters.

AND

b. Has a minimum of 10 years professional forestry work and has a working knowledge of the Wisconsin Forest Tax Law Programs and application of the guidelines within the Division of Forestry's Silviculture Handbook.

AND

c. Has not been convicted in past 10 years of violations of Chapter 26, Wis. Stats. or any county or local ordinances directly addressing forestry practices.

Additional Qualifications which may be considered:

1. Has numerous clients whose property is enrolled in MFL or FCL
2. Has established or administer numerous MFL/FCL timber sales
3. Has written or approved numerous MFL management plans
4. Has established or administered timber sales on State or County Forests
5. Has training or experience in dispute resolution/mediation
6. Has worked with a diversity of clients: landowners, loggers, mills, consultants and DNR foresters
7. Is a member of an organization focused on individuals involved in forestry. (SAF, GLTPA, WCF, WWOA and ACF)
8. Has held a leadership position within an organization focused on individuals involved in forestry (SAF, GLTPA, WCF, WWOA or ACF)
9. Is a SAF certified Forester.
10. Is a Cooperating Forester in good standing
11. Is a Certified Plan Writer in good standing
12. Is a USDA Forest Service Certified Silviculturist
13. Is an auditor for a certification system (SFI®, FSC® or ATFS®)

[1] A substantially equivalent degree as determined by the chief state forester and including a minimum of eleven courses across four broad areas of study. The list of these courses can be found in the educational requirements of the Cooperating Forester Program. http://dnr.wi.gov/topic/ForestManagement/coopTraining.html#eligibility

APPENDIX 13C: TIMING OF DISPUTE RESOLUTION PROCESS

DRP for Management Plans, Management Amendments, Cutting Notices and Active Timber Sales:

Step	Step Length* (Days)	Process Total (Days)
Decision re: scope/ripeness	2	2
Section and Work of Mediator	12	14
Notification of Continuation to Panel	1	15
Determine Pool of Experts	2	17
Selection of Experts	2	19
Work of Panel	15	34
Convening of Panel by State Forester, if needed	5	39
Total	39	**39**
Decision by State Forester	ASAP	

*The step length is the maximum time allowed, if practicable. Steps may be completed in a shorter time period.

Process for Completed Timber Sales:

Step	Step Length (Days)	Process Total (Days)
Decision re: scope/ripeness	5	5
Determine Pool of Experts	5	10
Selection of Experts	2	12
Work of Panel	15	27
Provide materials to Panel	5	32
Conduct site visit	15	47
Make determination	10	57
Convening of the Panel by State Forester, if needed	15	72
Total	72	**72**
Decision by State Forester	ASAP	

APPENDIX 14: CHANGING MANAGEMENT PRESCRIPTIONS ON EXISTING PLANS

BACKGROUND

The MFL program requires landowners to practice sound forestry according to their management plan. The management plan is developed at the time of application and reflects current stand conditions, landowner goals, generally accepted practices (current science) and MFL program requirements.

Sound forestry is defined in NR 46.15(29), Wis. Admin. Code as:

> (29) "Sound forestry practices" means timber cutting, transporting and forest cultural methods recommended or approved by the department for the **effective propagation and improvement of the various timber types common to Wisconsin.** "Sound forestry practices" also may include, where consistent with landowner objectives and approved by the department, the management of forest resources other than trees including wildlife habitat, watersheds, aesthetics and endangered and threatened plant and animal species. **(emphasis added)**

Determination of sound forestry should be consistent with the Fundamental Principles of Sound Forestry section in chapter 20.

Management plans may be amended if both the landowner and Tax Law Forestry Specialist mutually agree to the changes (s. 77.82(3)(f), Wis. Stats.). However, if a management plan does not include sound forestry practices at the time of harvest those harvests can be denied by the Tax Law Forestry Specialist pursuant to s 77.86(1)(c) and s. 77.86(1)(d), Wis. Stats. and NR 46.18(2)(a) and NR 46.18(2)(b), Wis. Admin. Code.

Additionally, management plans may need adjustment in order for the landowner to practice sound forestry. If changing stand conditions no longer reflect the management prescriptions written in the management plan, Tax Law Forestry Specialists should inform those landowners of the changes necessary to bring those management plans into compliance with the practice of sound forestry.

TYPE OF CHANGING STAND CONDITIONS

Changes to stand conditions may occur for many reasons, including, but not limited to, the items in the following list. If any of these changes occur, management plans may need adjustment.

- 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.
- Intentional conversion –purposeful artificial conversion of species type/mix/density and/or change of silviculture strategy.
- 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.
- Others – as determined on a case-by-case basis.

WORKING THROUGH MANAGEMENT PLAN CHANGES

Tax Law Forestry Specialists are expected to be proactive in contacting landowners regarding a change to management plans, including meeting with landowners on site and obtaining mutual agreement to the change(s). Management plan changes that are a result of unique, site-specific stand condition changes can be addressed with individual landowner(s), such as natural successional trends and fire, while broader changes may require discussions with DNR Forest Health Specialists, Silviculturists and others. Examples of broad changes to stand conditions may include insects, diseases and weather. Changing water tables may be included in either category.

Tax Law Forestry Specialists are required to ensure that landowner goals, current GAPs (generally accepted practices), and program requirements are always met for landowners enrolled in the MFL programs. Some guiding principles to remember when working through changes to management plans include:

- **Lands that do not meet eligibility criteria are not allowed to remain in the MFL program.** The MFL program has strict eligibility criteria that cannot be amended, except through legislative actions. Tax Law Forestry Specialists should work with landowners to get lands back into a productive state through planting, site prep for natural regeneration, release of conifers and hardwoods and/or other management practices before recommending that lands should be withdrawn from the MFL program.

- **Lands can be moved into the 20% unsuitable category.** Landowners have the ability to designate up to 20% of their lands as unsuitable for timber production, including lands that are non-productive. This option is available for landowners who have not met the 20% maximum. Landowners who have met the 20% maximum and have designated productive forest land as unsuitable may place those productive lands back into the 80% productive forest category so that other lands can be included in the 20% category.

- **Landowners may want to salvage timber if it is determined that the stands are high risk for dying or damage, or are unable to meet MFL eligibility requirements.** Since 80% of MFL entries must be capable of and/or producing timber products, landowners do not have the option to allow passive management if by allowing passive management more than 20% of the acreage is unsuitable for producing timber products. Landowner may amend their management plans; however, MFL program requirements must be met. In some situations, MFL landowners may need to conduct management practices that were not previously outlined in the management plan and/or the MFL program. In these situations, a landowner may be obligated to mutually agree to changes in their management plan.

- **Reasonable time should be given for lands to get back into compliance with MFL program requirements.** Tax Law Forestry Specialists should work with landowners to develop a timeframe for getting lands back into compliance with program requirements, including stocking requirements. New management plans should reflect new management practices in WisFIRS Private Lands.

- **Specific management guidance should be followed in addition to timber type management guidance.** Many changes to timber stand conditions are a result of insects and diseases, which have specific management guidance for mitigation and prevention. Tax Law Forestry Specialists should use this guidance in conjunction with management guidance for timber types (i.e. DNR Silviculture Handbook or other research).

- **Use DNR and other specialists in developing mitigation plans.** Many changes to current stand conditions are a result of events that are not in the control of MFL landowners. Understanding the reason for the changing stand condition(s) may require an evaluation by specialists. Tax Law Forestry Specialists are expected to involve specialists to help them understand the changes and impacts to the future stand conditions.

FREQUENTLY ASKED QUESTIONS

Question: Can Tax Law Forestry Specialists contact landowners and suggest a change to their management plans if it appears that insects or diseases may cause a high loss of trees and timber value?

> **Answer:** Yes, Tax Law Forestry Specialists are expected to be proactive in helping landowners sustainably manage their woodlands. Contacting landowners prior to the leading front of an insect or disease problem shows that DNR is helping landowners actively manage their woodlands.

Question: Can timber stands be harvested below the B-Line to salvage trees that would likely die either before or after a leading front of an insect or disease problem moves through an area?

> **Answer:** Yes, timber can be harvested below the B-Line if the trees are at high-risk for dying due to insect or disease. Tax Law Forestry Specialists should work with their Forest Health Specialist and Silviculturist to understand the impact insect and disease problems will cause to the forest and establish a remediation plan. The cutting strategies should be documented in the cutting notice and report form with the reason for cutting below the B-Line clearly documented. If landowners are not enrolled in the forest tax law program, documentation should be in the landowner's file.

Please keep in mind that landowners are expected to follow generally accepted practices (GAPs) when managing timber, so harvesting below the B-Line during an intermediate thinning is not authorized except in cases where insect or disease problems have proven to kill all trees, such as with the emerald ash borer (EAB) and beech bark disease. The presence of any insect or disease, including defoliators such as gypsy moth or forest tent caterpillar, or fungal diseases, such as white pine blister rust, are not reason enough to harvest below the B-Line unless other site or stand conditions warrant otherwise. Specific management guidance for these types of insect and disease problems is available and should be consulted when developing a mitigation plan in order to provide landowners with the best available management information.

Question: How far in front of the leading edge of an insect or disease problem should Tax Law Forestry Specialists contact landowners about changing their management plans?

Answer: Tax Law Forestry Specialists should work with their Forest Health Specialist to confirm the presence of an insect or disease problem and to confirm the rate of spread. Landowners should be contacted if the rate of spread will affect their lands prior to the next scheduled harvest date for timber types/species that are affected by the insect or disease problem. For more information visit www.dnr.wi.gov and search Keywords "Forest Health".

Question: What other options are available to mitigate insect and disease problems?

Answer: Depending upon the exact insect or disease problem, options to change management plans may include:

- Delaying a harvest until trees that are stressed from defoliation or drought recover and attain good health and growth.
- Determining whether the tree(s) most susceptible to the insect or disease should be considered a crop tree or high-risk tree when determining the order of removal.
- Determining whether conversion from one timber type to another is warranted.
- Others as agreed upon by the Tax Law Forestry Specialist, Forest Health Specialist and landowner.

Question: What resources are available for identifying, controlling and preventing the spread of invasive plants in forests?

Answer: Tax Law Forestry Specialists should work with their Forest Health Specialist to confirm the presence of an invasive plant and to confirm the rate of spread. Landowners should be contacted if the rate of spread will affect their lands prior to the next scheduled harvest date for timber types/species that are affected. by the insect or disease problem. For more information visit www.dnr.wi.gov and search Keywords "Invasive Plants".

Question: What is a reasonable timeframe to plant trees after a fire if trees are not expected to seed in naturally?

Answer: Generally, trees should be planted as soon as possible, taking into account any time frame needed for insects, such as *Pales* weevils, to complete their life cycles and for completing site preparation, if needed. Forest Health Specialists should be consulted to determine any time delays due to insect or disease concerns. Monitoring of planting success should be done, with additional planting, site preparation and/or release completed until a fully stocked stand has been attained. Generally, trees are expected to be established within 3 years (Private Forestry Handbook) or 5 years (American Tree Farm System certification standard).

Question: Is it okay to delay implementation of a mandatory practice for landowners who do not have any forest health issues but are within an area where large catastrophic wind events have occurred so that salvage operations elsewhere can be completed?

Answer: Yes, Tax Law Forestry Specialists may delay mandatory practices for landowners not affected by a catastrophic event so that loggers can concentrate on salvaging timber for those landowners who have been affected by the event. Documentation should be placed in the landowner's file so that enforcement actions are not taken against the landowner if their mandatory practice(s) are not completed by the due date.

Question: If a landowner does not agree to change their management plan ahead of the leading front of an insect or disease problem, can DNR force them to change their management plan?

Answer: No, state statute requires that landowners and DNR mutually agree to the changes. Tax Law Forestry Specialists should make every effort to gain mutual agreement to the changes, but if the landowner does not agree, the Tax Law Forestry Specialist should document the discussion in the landowner's file and monitor the spread of the insect or disease problem. After the leading edge of the insect or disease problem goes through, Tax Law Forestry Specialist should work with the landowner to change their management plan and conduct salvage operations, since the stand conditions would likely no longer reflect what is written in the management plan.