State of Wisconsin
Department of Natural Resources

# Forest Tax Law
# Handbook
# 2450.5

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This Handbook is designed to digest the law relating to the forest tax program as well as provide guidance. 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 Forest Tax Program or the Bureau of Legal Services.

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.)

The primary tool for landowners to practice sound forestry is through the management plan. However, management plans are not "contracts". Management plans are adaptive and must be amended as landowner goals, stand conditions, current science, and program requirements change.

Other documents beside 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, etc. Most of these documents can be found on the DNR website at: http://dnr.wi.gov/forestry/.

# CHAPTER 10

# OVERVIEW

## PROCESSING SCHEDULE (All Laws)

| | | |
|---|---|---|
| January 1 | | New Managed Forest Law (MFL) orders begin.<br>MFL open/close amended orders become effective.<br>Withdrawals become effective (all laws). |
| January | FTP | Notifies landowners regarding completion of mandatory practices for the next year and the reminder letter if DNR Foresters do not know a landowner's efforts to complete the mandatory practice. DNR Foresters will need to update WisFIRS (Wisconsin Forest Inventory and Reporting System) so FTP has a list of landowners for mailing reminder letters. |
| February | FTP | Mandatory practices list (all laws) 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 | FTP | 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 | FTP | 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 | FTP | 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. |
| | FTP | 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 FTP. |
| | FTP | Contacts forester for those delinquent. |
| | Forester | Lets landowner know of pending denial if delinquent taxes are not paid. |
| | District | Approval in WisFIRS of all MFL applications by DNR Forester 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 FTP to be processed and effective the following January 1. |
| | FTP | Resource Aid Payment made to counties s. 23.09(18), Wis. Stats. |
| October 15 | Landowner | Verifies payment of delinquent taxes for MFL application. |

| | | |
|---|---|---|
| November 1 | FTP | New severance and yield tax rates become effective. |
| By November 20 | FTP | 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 FTP to be processed and effective the following January 1. |
| December 14 | FTP | 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 | FTP | Follow up contact with landowners who have not initiated mandatory practices. DNR Foresters 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 be withdrawn for current year. Request must be postmarked by December 31. |
| | Landowner | Commence or complete mandatory practices scheduled in the plan. |
| Monthly | FTP | 100% of MFL yield and withdrawal taxes paid to local municipality or annually by June 30.<br><br>Balance of FCL severance, termination, and withdrawal taxes paid to local municipalities. |

| **Must be sent through supervisory channels** | **May be sent directly to FTP** |
|---|---|
| • Enforcement cases<br>• Involuntary withdrawals | • Voluntary withdrawals (except if part of an enforcement case)<br>• Transfers<br>• Master file corrections<br>• Name changes |

Distribution of Revenues from the Forest Tax Law Programs

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

**Table 10-1. MFL Revenue Distribution**

| | Who Pays? | % To Municipality | % To County | % To DNR Conservation Fund |
|---|---|---|---|---|
| Acreage Fee<br>($.67/acre 1987-2004)<br>($1.67/acre 2005 and later)<br>ss. 77.84(2)(a), (am), (c), (cm) and 77.89(2), Wis. Stats. | Landowner | 80% | 20% | 0% |
| Closed Acreage Fee<br>($0.90/acre 1987-2004)<br>($6.67/acre 2005 and later)<br>ss. 77.84(2)(b), (bm), (c), (cm), and 77.89(3), Wis. Stats. | Landowner | 0% | 0% | 100% |
| Yield Tax<br>(5% Stumpage)<br>ss. 77.87(1) and 77.89(1) and (2), Wis. Stats. | Landowner | 80% | 20% | 0% |
| Withdrawal Tax<br>ss. 77.89(1) and (2) and 77.88(5), Wis. Stats. | Landowner | 80% | 20% | 0% |
| Aid Payment<br>($.20/acre)<br>ss. 77.85 and 77.89(2), Wis. Stats. | DNR | 80% | 20% | 0% |
| Resource Aid Payment<br>(only to counties with 40,000 or more MFL and FCL acres)<br>s. 23.09(18), Wis. Stats. | DNR | 0% | 100% | 0% |

**Table 10-2. FCL Revenue Distribution**

| | Who Pays? | % To Municipality | % To County | % To DNR Conservation Fund |
|---|---|---|---|---|
| Acreage Fee ($.10, $.20 or $1.66/acre) ss. 77.04(2) and (3), Wis. Stats. | Landowner | 80% | 20% | 0% |
| Severance Tax and Termination Tax (10% Stumpage) ss. 77.04(3), 77.06(5), and 77.07(3), Wis. Stats. | Landowner | 80%* | 20%* | *Before disbursing any revenue, the state first recovers aid payments that have been made under s. 77.05, Wis. Stats. |
| Withdrawal Tax ss. 77.10(2) and 77.04(3), Wis. Stats. | Landowner | 80%** | 20%** | **Same as above. |
| Aid Payment ($.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% |

**Table 10-3. WTL Revenue Distribution** (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).<br>All FCL contracts are 50 years in length, and both private individuals and county governments are eligible to participate.<br>Annual FCL acreage share payment is set at $0.10/acre.<br>Interest rate used in the FCL withdrawal tax formula is set at 5%.<br>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.<br>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.<br>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.<br>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.<br>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.<br>FCL acreage share payment is raised to $ 0.20/acre with a 10-year interval formula adjustment.<br>One year moratorium is declared for FCL entries (no 1972 entries).<br>FCL eligibility criteria is revised to allow entry or withdrawal of only entire descriptions.<br>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.<br>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:<br>The WTL contract length is changed to 15 years.<br>Presence of assessed improvements is prohibited on woodland tax lands.<br>Signed management plans (including mandatory practices) are required for the first time as a condition for entry.<br>WTL acreage share payment is raised to $ 0.40/acre with a 10-year interval formula adjustment.<br>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.

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 (town/village).
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 raised to $0.83, WTL 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 FTS. 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 can not 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 raised to $1.66, MFL acreage share tax raised to $0.83 and MFL closed fee 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.)

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.
- 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.)

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.

**Table 10-4. Tax Law Comparison**

| **Forest Crop Law**<br>(Enacted 1927 - Repealed 1985) | **Woodland Tax Law**<br>(Enacted 1954 – Repealed 1985)<br>Last WTL expired 12/31/2000 | **Managed Forest Law**<br>(Enacted 1985) |
|---|---|---|
| Tax Rate:<br>$0.10/acre/year for entries prior to 1972.<br>$2.52/acre/year for entries after 1972.<br>All special class entries have expired.<br>Rates will be re-adjusted in 2022 and every 10th year thereafter for lands enrolled after 1972. | $1.67/acre/year. | **Years 2013 – 2017**:<br>$1.87/acre/year on closed lands (1987-2004 entries); $0.79/acre/year on open lands (1987-2004 entries).<br>$10.68/acre/year/on closed lands (2005 and later entries);<br>$2.14/acre/year on open lands (2005 and later entries).<br>**Rates will be adjusted in 2017 (applied in 2018) and every 5th year thereafter.** |
| Public Access:<br>Open to hunting and fishing only (not trapping or use of vehicles). | Not required. | Open lands must permit hunting, fishing, sightseeing, hiking, and cross-country skiing (does not include trapping or use of vehicles). Up to 160 acres may be closed to public access per civil township by the landowner, of which only 80 acres or two legal descriptions can in MFL entries from 1987 through 2004. |
| Enrollment Period:<br>25 or 50 years | 15 years | 25 or 50 years |
| Timber Harvest Tax:<br>10% severance tax based on rates in effect. None on Special Class. | None | 5% yield tax based on rates in effect. 2005 and later MFL entries are exempt from yield tax during the first 5 years of entry with the following exceptions: FCL conversions, FCL renewals into MFL, MFL renewals and MFL withdrawal and re-designations. |

| **Forest Crop Law**<br>(Enacted 1927 - Repealed 1985) | **Woodland Tax Law**<br>(Enacted 1954 – Repealed 1985)<br>Last WTL expired 12/31/2000 | **Managed Forest Law**<br>(Enacted 1985) |
|---|---|---|
| DNR Cutting Notices*:<br>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. | No DNR cutting notice required, but harvests must conform to the management plan. | 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 to Towns:<br>$0.20/acre/year | None | $0.20/acre/year |
| Minimum Acreage:<br>Full quarter-quarter section, fractional or governmental lot (no more than 20% of area may be non-forested). | 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). | Minimum 10 contiguous acres (at least 80% of area must be capable of producing 20 cu. ft. of merchantable timber per year). |
| Withdrawal Tax:<br>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. | 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. | Regular property taxes in the year prior to withdrawal multiplied by the number of years under the law or 5% severance tax on standing timber (whichever is higher), less acreage share payments, and yield tax payments. Or FCL withdrawal tax at time of conversion. Plus a $300 withdrawal fee. |
| Termination of Contract or Order<br>Non-renewal results in a 10% severance tax assessment on the merchantable standing timber. | No penalty for non-renewal. | No penalty for non-renewal. |
| Management Requirements:<br>Use sound forestry practices. | Follow signed management plan. | 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. |

| **Forest Crop Law**<br>(Enacted 1927 - Repealed 1985) | **Woodland Tax Law**<br>(Enacted 1954 – Repealed 1985)<br>Last WTL expired 12/31/2000 | **Managed Forest Law**<br>(Enacted 1985) |
|---|---|---|
| Transfers of Ownership:<br>Notify DNR within 10 days of the conveyance on an official transfer form.* | Transfer required within 30 days of the conveyance. | 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:<br>The last FCL contracts expire December 31, 2035. | The last WTL contracts expired December 31, 2000. | New designations are now only MFL entries, enrolled for 25 or 50 year order periods. |
| Building Restrictions:<br>Non-commercial buildings, hunting cabins, and seasonal cabins are allowed (but taxed as personal property). No permanent residences are allowed. | No improvements whatsoever are allowed. | 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. Landowners pay an acreage share tax in place of their ad valorem property tax and a yield tax when trees are harvested. Landowners who close their lands to public recreation (access) also pay an additional closed acreage fee.

Together with landowner objectives, 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.

## WisFIRS

Wisconsin Forest Inventory and Reporting System (WisFIRS) is an on-line 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 DNR Foresters and Certified Plan Writers (CPWs), including data for:

- New MFL entry.
- Renewal of MFL lands.
- Additions to existing MFL entry.
- 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.

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. Landowners are submitting an MFL application, including the actual MFL application and supporting documents. 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 DNR Forester for review. Paper copies of the documents and recon data can be printed for filing in the landowner's file.

## WAMS ACCESS

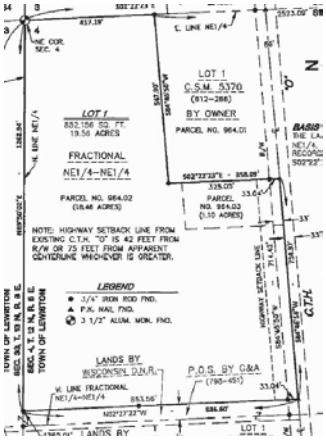
CPWs and Cooperating Foresters will be required to obtain a Wisconsin Web Access Management System (WAMS) user identification name and pass code before obtaining access to WisFIRS. WAMS is a system that is used across various state agencies to provide web-based services to the public. Examples in which WAMS IDs are required include the DNR Natural Heritage Inventory Portal, Department of Revenue, etc. CPWs and Cooperating Foresters will be provided instructions on obtaining a WAMS ID once accepted into the CPW and Cooperating Forester Programs.

## ACREAGE

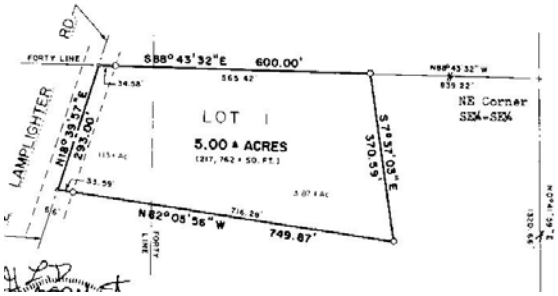
The minimum MFL application must be 10 acres and meet all eligibility criteria in s. 77.82(1), Wis. Stats. There is no maximum acreage. Application acreage must be consistent with tax record acreage. Landowners may not enter more than what the tax records show they own.

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 can be found in the section on buildings.

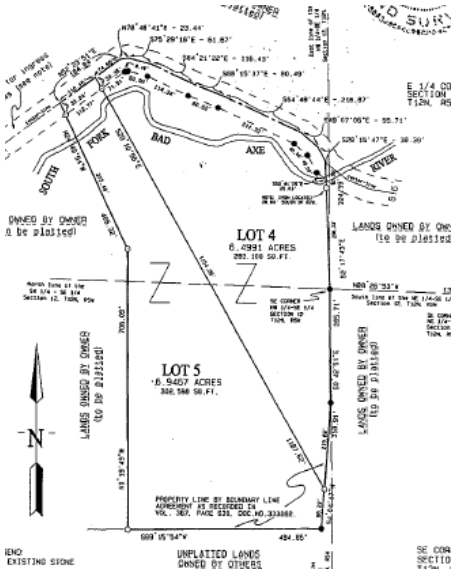
- **There is a certified survey showing the exact acreage of the land being entered.** An example may be that a landowner had purchased all of the land in Lot 1, CSM Vol. 38, page 58 and wishes to enroll the entire acreage. The CSM showed that the land contains 19.56 acres. All of the lands can be enrolled into MFL since the CSM and tax statement shows that the acreage owned by the landowner is 19.56 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 leave 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 CSM 2, pg. 243 and wishes to enroll all lands into MFL. Lots 4 and 5 are located in both the NWSE and the SWSE and together total 13.4458 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, since each lot will have separate tax statements and parcel identification numbers (PINs). Foresters will need to determine the acreage of each lot within the legal description for recording into WisFIRS. The acreage determinations should be made in conjunction with the taxing authorities (assessor, property lister, etc.).

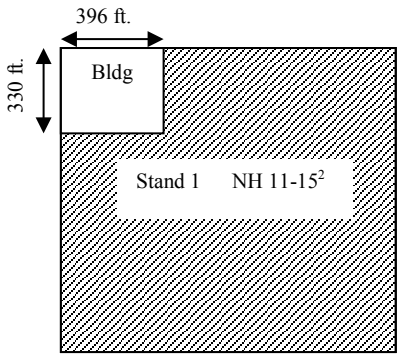



The Forester determines in conjunction with the local taxing authority that the lands contain the following acreages:

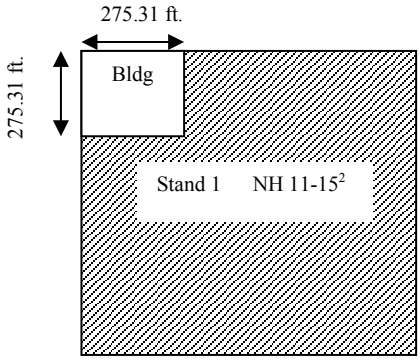
NWSE – 5.392 acres
Lot 4 = 4.707 acres
Lot 5 = 0.685 acres

SWSE - 8.054 acres
Lot 4 = 1.792 acres
Lot 5 = 6.262 acres

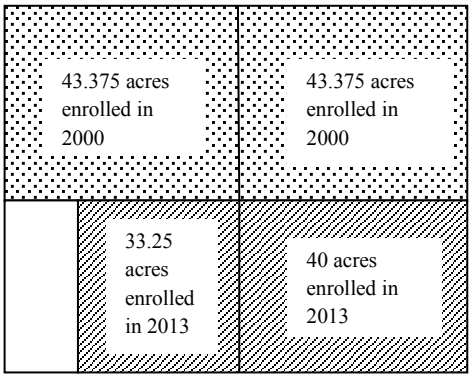
- **The excluded area is a whole acreage and the dimensions for the excluded area are shown on the MFL map.** An example may be that a landowner desires to enroll as much land as possible into the MFL program and is currently living on the property. The legal description is determined to be 39.75 acres according to the county re-mapping project and 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 acreage is included on the map (e.g. 330' x 396' for a 3.0 acre area). The lands 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 county re-mapping project and 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 includes the remaining fractional acreage with the excluded area. The excluded acreage is included on the map (e.g. 275.31' x 275.31' for a 1.75 acre area). The lands 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 160 acre limit.** An example may be that a landowner has enrolled two fractional descriptions of land into MFL in 2000 for a total of 86.75 acres. In 2013, 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 73.25 acres (160 -86.75 = 73.25).




**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 DNR Foresters 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, the Forest Tax Program (FTP) will correct the acreage accordingly. This may require adjustments to the amount of closed acreage (80/160 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), 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.

## ORDER PERIOD

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

## ORDER NUMBER

**MFL** order numbers (2 digit county code, 3 digit sequence number, 4 digit entry year) are assigned through the WisFIRS program. The order number for an existing entry is located on the Master File printout. The order number assigned after a partial transfer is located on the Transfer Order.

**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.

**ANNUAL TAX**

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. Managed Forest Law (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.

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), Wis. Stats. The next tax rate adjustment will be in 2018.

| MFL tax rates (per acre) for land entered before 2005 (1987 – 2004) | |
|---|---|
| Open land (acreage share tax) | $0.79 |
| Closed land (acreage share tax plus $1.08 closed acreage fee): | $1.87 |

| MFL tax rates (per acre) for land entered after 2004 (2005 and later) | |
|---|---|
| Open land (acreage share tax*) | $2.14 |
| Closed land (acreage share tax plus $8.54 closed acreage fee**): | $10.68 |

* Acreage share tax = 5% of average statewide tax on productive forest land
** Closed acreage fee = 20% of average statewide tax on productive forest land

## YIELD TAX

A yield tax is assessed against any timber harvested during the term of the MFL program to reimburse local municipalities and counties for property taxes that were deferred while trees were growing. Firewood used for a landowner's dwelling is exempt from yield tax throughout the order period.

MFL entries beginning in 2005 and thereafter are exempt from the yield tax the first 5 years of the order period. A Cutting Notice and Report (Form 2450-032) must still be filed. The following 4 types of orders are not eligible for this yield tax exemption:

1) MFL renewals, including additional lands that are added to the MFL renewal.
2) FCL conversions
3) FCL renewals (expiring and entering MFL)
4) MFL withdrawal and re-designation

The yield tax rates are posted on the DNR public web site.

## PUBLIC ACCESS

The landowner may designate portions of the entry as open or closed to public access for hunting, fishing, hiking, sightseeing, and cross-country skiing. Open and closed areas may be adjusted **twice** during the order period. These areas may also be adjusted as a result of transfers or withdrawals. Adjustments made during a transfer or as the result of a withdrawal do not count toward the two times. Changes in the open/closed acreage designation are done by an amended order. Requests for changes must be received by FTP by December 1 so that FTP can issue an order by December 15. Orders issued before December 15 take effect the following January 1.

## APPLICATION DEADLINE

Applications are due to the local DNR forester for review on or before June 1. All applications must be entered in WisFIRS by 11:59 PM on June 1 and the application fee received within the next 14 days. 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 DNR Forester for review on or before July 1 or later for good cause to be considered for designation effective the following January 1. DNR Foresters should contact the Forest Tax Program (FTP) staff before approving or accepting MFL applications for July 1.

## QUALIFIED FORESTERS REQUIRED TO DEVELOP MFL APPLICATIONS

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) DNR Foresters.

## 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 is found on the DNR public web site.

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 in the Forest Tax Law Handbook for complete details.

## DNR FORESTER PLAN WRITER

DNR Foresters 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.
- Landowners must have had received no request for services by January 1 in the year the application is due.
- DNR Area Forestry Leaders have verified with all CPWs in the county that services are not available.

If the department agrees to prepare the plan, a nonrefundable management plan fee will be billed to the landowners. The management plan fee will be recalculated for each entry year, based on the comparable commercial market rate that is charged for preparation of MFL applications by CPWs.

## APPLICATIONS BY MUNICIPALITY

Lands within incorporated cities, towns and villages are **eligible** for entry, (ss. 77.82(1)(a)1. and 77.81(4), Wis. Stats.). There can be one application per owner per municipality per year. 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 entry in one year (s. NR 46.16(5), Wis. Adm. Code) in the same municipality. If multiple applications are submitted, they will 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.

Only lands identified on the application can be considered for entry. Adjusting the acreage to more accurately reflect what the landowner applied for entry is allowed, but it may not include new legal descriptions.

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).

## RECORDED SUBDIVISION PLATS

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 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.

## 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.

## APPLICATION FEE

A non-refundable application fee of $30.00 is required for each county indicated on the application. The application fee must be received within 14 days of application submittal and sent to the local DNR Forester with a payment remittance form. The remittance form is used to properly deposit the application fee into the bank account used to pay recording fees.

## DEFINITION OF FOREST PARCEL

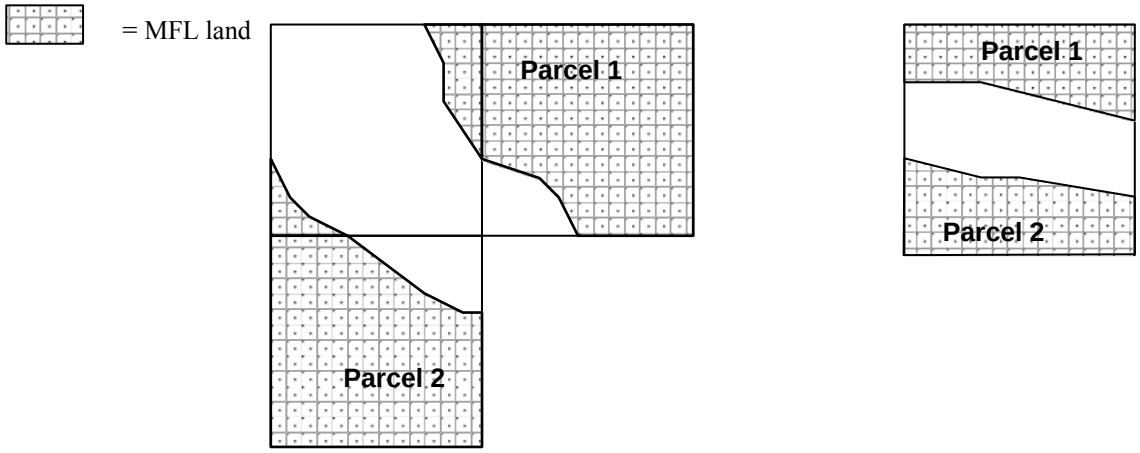
Each forest parcel must be a minimum of 10 contiguous acres. For the purpose of determining eligibility of land as MFL a forest parcel is defined in NR 46.15(25), Wis. Admin. Code as the acreage of contiguous land described in the application which is under the same ownership. An application may include more than one parcel (s. NR 46.15(25), Wis. Adm. Code). Lands joining at one point are considered contiguous. 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.). An entry may have more than one parcel and must have:

- At least 80% of each 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., and s. NR 46.17, Wis. Adm. Code).
- At least 80% of each 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 parcel can be unsuitable to produce timber products, including non-productive lands.
- 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 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.

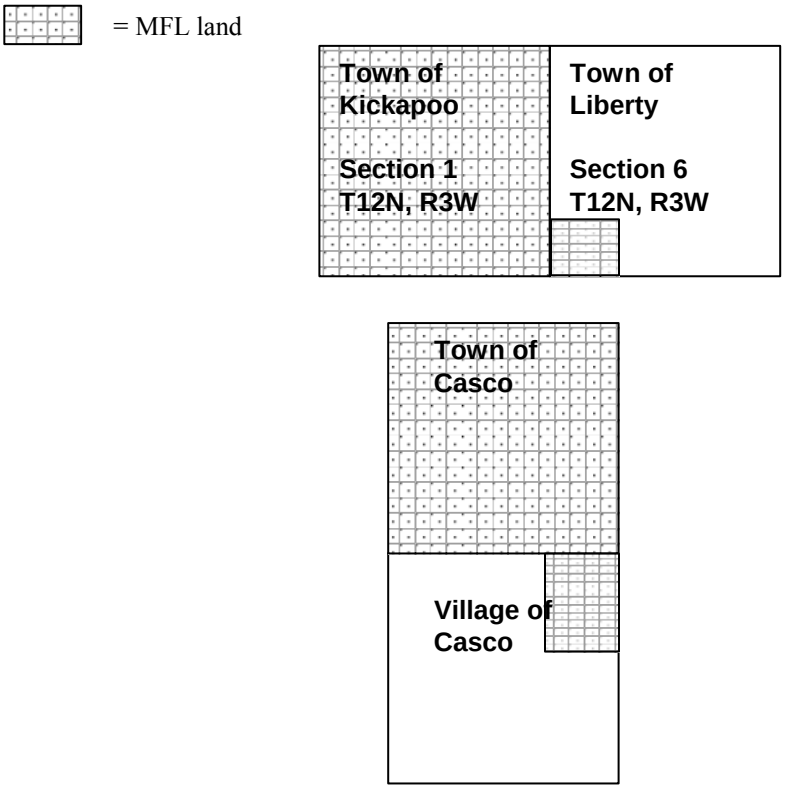
NOTE: Forest parcels are defined in administrative code and are not the same things as a tax parcel.

**FOREST PARCEL EXAMPLES**

1. Both examples below have two parcels for purposes of entry. Each parcel must meet the eligibility requirements (10 acres or more, 80% productive, no more than 20% unsuitable, etc).



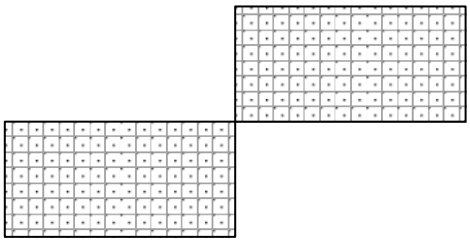

2. For purposes of entry, this is considered one parcel when one of the descriptions would not qualify on its own. Contiguous land under the same ownership is considered one parcel, regardless of municipality or county lines.

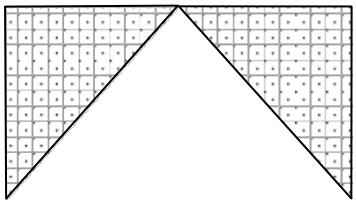


3. For purposes of entry, these are considered one parcel.

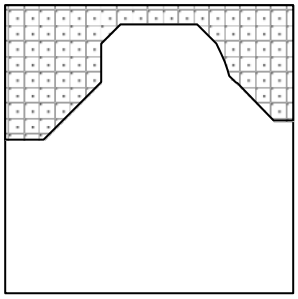
= MFL land

- Joined at a single point is considered contiguous.

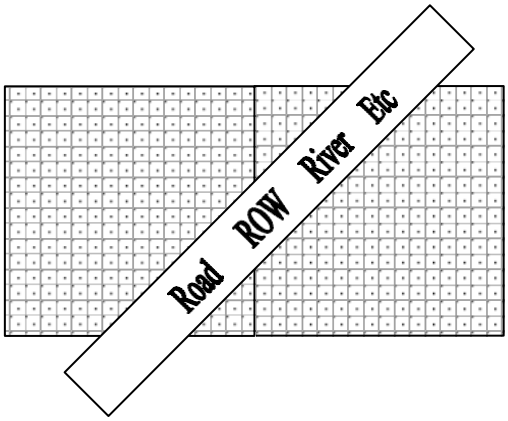




- A narrow connecting strip, less than 120 feet, but meets the 4:1 ratio established in s. NR 46.17(2), Wis. Adm. Code.



4. Land divided by a public or private road, utility ROW, lake, river, stream, or flowage is considered contiguous (1 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 an issue when one side of the division is under 10 acres or over 20% non-forested. If this situation occurs the total area must meet the eligibility requirements.



## ROAD RIGHTS-OF-WAY

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 DNR Foresters must 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

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. 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 considered in determining the 20% non-productive acreage. If a parcel exceeds the 20% non-productive limitation, the application should be adjusted to meet the eligibility requirements prior to submitting the application.

## UNSUITABILITY

Up to 20% of each parcel may be unsuitable for producing forest products. 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, etc. Non-productive lands also include water, marsh, keg, bog, and rock outcrop (s. 77.82(1)(b)1., Wis. Stats., and s. NR 46.17, Wis. Admin. Code.).
- **Critical sites.** Lands that contain critical sites (steep, red clay soils) or habitats ( e.g., pine/oak barrens or prairies).
- **Public and private roads, railroads and utility rights-of-way.**
- **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. This may include inactive farmland (CRP, CREP), grass openings, log landings, wildlife food plots, etc.

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

When dealing with additions, it is the entire parcel (original acres plus addition acres) that must meet the 80% stocking/productivity and unsuitability requirements.

**PROOF OF OWNERSHIP**

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.

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.

| Common Types of Land Ownership | |
|---|---|
| If the Legal Document states: | Meaning of the Ownership Type |
| 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 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. |

| If the Legal Document states: | Meaning of the Ownership Type |
|---|---|
| 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 is 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 s. 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 s. 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 s. 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. |

**OWNER NAME(S) AND ADDRESSES**

All owners of a piece of property must be entered into WisFIRS. CPWs and DNR Foresters need to check the WisFIRS database to determine if the landowner name is already present in WisFIRS. If owner names are missing, CPWs and DNR Foresters will be able to enter the missing data. Errors or changes in names must be processed through by Forest Tax Program personnel.

Addresses must be checked through the U.S. Postal Service database. WisFIRS will direct CPWs and DNR Foresters to check the database and accept the proper address. CPWs and DNR Foresters will be able to accept addresses if the U.S. Postal Service address is missing or not available.

**SIGNATURES**

Signatures of landowners are required on the MFL application and transfers 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 Estate Holder | Life estates 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 holder is an owner and must sign the application. Life estate holders with management land management rights must agree to the management prescriptions before signing the MFL application. If the life estate is no longer valid, documentation must be provided. |

| If the Legal Document is: | Signatures Needed | Justification |
|---|---|---|
| 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 and control interest in the land. |
| Encumbrance Holder (s. NR 46.16(3), Wis. Adm. Code). | 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. |
| Trusts | 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. |

## DEED RESTRICTIONS AND ENCUMBRANCES

If the deed has a **restriction against timber cutting**, the application must either be rejected or the deed changed. DNR Foresters 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 must be looked at on a case by case basis.

## 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.

## BUILDINGS WITH LIVING SPACE

Buildings used as a domicile as defined in NR 46.02(4), Wis. Admin. Code or developed for human residence as defined in NR 46.15(9), Wis. Adm. Code are prohibited on MFL lands. Buildings that contain a minimum of 5 of the following 8 characteristics are defined as "developed for human residence:"

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).

It is recommended that a minimum of one acre should be excluded for domiciles, industrial buildings, or building sites 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. Additional information can be found in the section on acreage.

## BUILDINGS WITHOUT LIVING SPACE

Buildings in which 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.

## STRUCTURES ASSOCIATED WITH BUILDINGS

Septic systems (including drain field and pipe to the field) and other structures (including water well, septic, free-standing solar panels, wind turbines, geothermal heating systems, etc.) are not allowed on MFL land unless they are associated with structures that are permitted on land designated as MFL. If the land the structure is on does not qualify for designation, or the owner has chosen to not enter it in MFL, septic systems will not be allowed on adjoining MFL land. Landowners should keep this in mind when identifying building sites they leave out of the program.

Keeping a building and associated structure together will avoid problems in the future should landowners sell the acres they left out of the program around the building. If the associated structure were in fact on MFL land, it could not be sold with the acres left out of MFL without first withdrawing the MFL land in the legal description (MFL land in a legal description cannot be split). Structures that are associated with buildings that are not allowed on MFL properties are also determined to be incompatible with the practice of forestry.

Only structures that could be used while working or recreating on the land are allowed on MFL lands. Domiciles, permanent or secondary residences are not allowed. This has not changed. This policy clarifies what is considered part of the area developed for the structure and binds it. This policy follows the same line of thinking used when the list of building characteristics was developed in s. NR 46.15(9), Wis. Adm. Code.

**What about land entered on January 1, 1999 or earlier that included an associated structure that would no longer be allowed today?** Existing associated structures will be allowed to continue until the expiration of the MFL term, but new associated structures must follow the current policy. These structures will not be eligible for re-enrollment in MFL.

## Examples of Buildings and Associated Structures

| Examples of Buildings and Associated Structures | | | |
|---|---|---|---|
| If the building is a: | And the use is for: | Then Entry is: | Justification |
| Permanent Residence | A domicile. | Not allowed | MFL does not allow human residences (s.77.82(1)(b)3., Wis. Stats.) or domiciles (NR 46.15(12), Wis. Admin. Code). |
| Secondary or vacation home | Recreating on the lands and the lands were enrolled into MFL with effective dates of 1987 through 1999. | Allowed | The effective date for NR 46.15(9), Wis. Admin. 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 domicile. Lands with secondary or vacation homes will be ineligible for re-enrollment unless they meet the conditions of NR 46.15(9), Wis. Admin. Code. |
| Secondary or vacation home | Recreating on the lands and the lands were enrolled into MFL effective January 1, 2000 and later. | 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 NR 46.15(9), Wis. Admin. Code. NR 46.15(9), Wis. Admin. Code became effective on January 2,1999, allowing landowners applying for entry on January 1, 2000 to have full knowledge of the building criteria. |
| Secondary or vacation home | Recreating on the lands and the lands were enrolled into MFL on or before January 1, 1999 prior to the effective date of the building characteristics in NR 46.16(9), Wis. Admin. Codeand before the September, 2004 announcement in the Forest Tax and Stewardship Newsletter that announced that no new human residences can be built on MFL lands. | Conditionally allowed | The effective date for NR 46.15(9), Wis. Admin. Code was January 2, 1999. 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 NR 46.15(9), Wis. Admin. Code. Landowners who had built a secondary or vacation home prior to the September, 2004 announcements 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 NR 46.15(9), Wis. Admin. Code. |
| Cabin | Recreating on the MFL property. | Allowed | Administrative Code identifies characteristics common in buildings. 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 buildings and sheds for storage of personal property. | Not allowed | Lands are developed for industry (s. 77.82(1)(b)2, Wis. Stats. and NR 46.15(10), Wis. Admin. Code). Storage units represent a commercial use for the purpose of conducting trade. |

| Examples of Buildings and Associated Structures | | | |
|---|---|---|---|
| If the building is a: | And the use is for: | Then Entry is: | Justification |
| Storage or Pole sheds or garage | Storing tools used for working or recreating on the property. | 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. |
| Storage or Pole shed or garage | Storing tools and equipment not used for working or recreating on the property. | Not allowed | Buildings that store a landowners tools, equipment, furniture, or other household items are not used for working or recreating on the property and indicates a developed use that is incompatible with the practice of forestry (s. 77.82(1)(b)2., Wis. Stats. and NR 46.15(11), Wis. Admin. Code). |
| Storage or Pole sheds or garage | Storing tools and equipment not used for working or recreating on the property. | Not allowed | 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. and NR 46.15(10), Wis. Admin. Code). Forest products are defined as those products in which trees are severed from the stump and in which yield tax is collected (NR 46.15(33), Wis. Admin. Code). |
| Church | Practicing religious ceremonies and other activities. | Not allowed | 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 NR 46. 15(11), Wis. Admin. Code). |
| Information center | Educating people or for public meetings. | Not allowed | 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 NR 46. 15(11), Wis. Admin. Code). |
| Barn | Housing of animals for agricultural purposes | Not allowed | Land that is developed to house animals is developed for industry (s. 77.82(1)(b)2., Wis. Stats. and NR 46.15(10), Wis. Admin. Code). |
| Barn | Housing of pets | Not allowed | 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. and NR 46.15(11), Wis. Admin. Code). |
| Maple syrup boiling shack | Boiling down sap for home use or retail. | Conditionally allowed | Buildings may be allowed depending on the size and scale of the operation. CPWs and DNR Foresters should consult Forest Tax personnel with specific situations if unsure whether the boiling shack should be allowed under MFL. |
| Maple syrup processor | Boiling down and packaging sap for retail. | Not allowed | Land that is developed to process maple syrup is developed for industry (s. 77.82(1)(b)2., Wis. Stats. and NR 46.15(10), Wis. Admin. Code). |

## GRAZING

Grazing by domesticated animals is not permitted (s. 77.875, Wis. Stats.).

## LAND DEVELOPED FOR COMMERCIAL RECREATION

Land developed for commercial recreation is **not eligible** for enrollment into MFL (s. 77.82(1)(b)2., Wis. Stats. and Section NR 46.15(8), Wis. Adm. Code). The NR 46 definition of "developed for commercial recreation" is shown below, followed by examples of commercial recreation.

> ***(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.*

| Examples of Lands Developed for Commercial Recreation | | | |
|---|---|---|---|
| If the land is used for a: | And the Reason is to: | Then Entry is: | Justification |
| Cabin rental unit | Rent or lease cabins for recreation and relaxation. | Not allowed | The land is held for a commercial enterprise and landowner is receiving compensation for a recreational use. |
| Campground | Allow customers a place for camping in developed areas. | Not allowed | The land is held for a commercial enterprise. |
| Ski hill | Provide downhill ski hills, lifts, and other amenities for winter recreation. | Not allowed | The land is held for a commercial enterprise. |
| Ropes course | Provide various agility courses for recreational activities. | Not allowed | The land is held for a commercial enterprise. |
| Golf course | Provide developed areas for golfing. | Not allowed | The land is held for a commercial enterprise. |

**CONSIDERATION FOR RECREATIONAL USES**

Landowners are not allowed to receive consideration or lease their lands for recreational uses when enrolled in the MFL program (s. 77.83(2)(am), Wis. Stats.). The MFL was changed in October 2007 as a result of 2007 Wisconsin Act 20. The change in law became effective on January 1, 2008. The Forest Tax Program mailed letters to all MFL participants to inform them of the change in the MFL program.

s. 77.83(2)(am), Wis. Stats. states that*:*

1. *For land designated as managed forest land under an order that takes effect on or after October 27, 2007, no person may enter into a lease or other agreement for consideration if the purpose of the lease or agreement is to permit persons to engage in a recreational activity.*
2. *For land designated as managed forest land under an order that took effect before October 27, 2007, all of the following apply:*
    a. *An owner of managed forest land may enter into a lease or other agreement for consideration that permits persons to engage in a recreational activity if the lease or agreement terminates before the January 1 immediately following October 27, 2007.*
    b. *A lease or other agreement for consideration that permits persons to engage in a recreational activity and that is in effect on October 27, 2007 shall be void beginning on the January 1 immediately following October 27,2007.*
    c. *Subdivisions 1. and 2. do not apply to any lease or other agreement if the consideration involved solely consists of reasonable membership fees charged by a nonprofit organization and the lease or agreement is approved by the department.*

The change to the MFL program was made retroactive to all MFL landowners regardless of year of entry or whether lands were developed for commercial recreation. Landowners were given options for how to resolve any conflicts prior to January 1, 2008. These options were:

- Cease to charge cash, goods or services for allowing recreation on MFL lands. Landowners would still be able to determine who would have access to their closed MFL lands; they just wouldn't be allowed to receive consideration for allowing recreational activities.
- Continue to charge cash, goods and services for allowing recreation but remove lands from the MFL program. Landowners who withdrew from the MFL program were required to pay a withdrawal tax and fee (s. 77.88(3) and (5), Wis. Stats.)

The definition of consideration is found in NR 46.15(3m) Wis. Admin. Code and clarifies the legislative intent of 2007 Wisconsin Act 20 which prohibits receiving consideration for recreation on MFL land. The definition of "consideration" is not meant to prohibit landowners, neighbors, and friends from assisting each other in property management activities, such as clearing and maintaining fences, watching each other's properties, or sharing land management activities (such as conducting timber stand and wildlife habitat improvement projects where several parties could collectively supply the proper equipment). The definition of "consideration" is also not meant to prohibit hunters and other recreational users from thanking landowners for recreating on their lands or providing a gift for the use of the land, as long as the gift is reasonable and given freely. DNR encourages friendly hunter−landowner relationships. The definition of "consideration" is meant to prevent landowners from requiring cash, goods, and services from recreational users as a condition for using lands under the MFL program for recreational uses. In other words, landowners are prohibited from requiring that a recreational user pay cash (for example pay a lease on non−MFL lands, a hunting lodge or cabin, vehicle parking space, or making a donation to a charity or fund raiser), provide a material good (for example an ATV, culvert, gravel, television, or any other household or non−household item), or provide a service (for example shingle and put siding on a house, build a wildlife pond, restore an antique automobile, bale hay or harvest grain, etc.) as a condition for permitting recreation on their MFL land.

Non-profit Organizations that have received 501c(3) status from the Internal Revenue Service (IRS) and charge for recreation on their lands are not subject to s. 77.83(2)(am), Wis. Stats., and are allowed to enter into MFL. To receive authorization for entry, the organization must send a letter to FTP with the following elements:

- Explanation of the non-profit status confirming they have the 501c(3) designation from the IRS.
- List of recreational activities and fees charged for those activities.
- Proof that the organization is charging rates similar to other recreation groups in the area.

Rod and Gun, Hunting, or Recreation Clubs that are organized as a corporation, LLC or partnership are eligible for MFL entry. The club must file and execute the proper documentation under Chapters 179-183 Wis. Stats., with by-laws or articles of incorporation developed. Members of the club must split the costs of ownership and are not allowed to charge other members or non-members for only recreational rights.

Many Rod and Gun, Hunting, or Recreation Clubs have received 501c(7) status from the IRS. These groups have similar characteristics as a 501c(3) but do not qualify for the non-profit designation as provided by the Legislature and are subject to the provisions set forth by s. 77.83(2)(am), Wis. Stats. Special hunts or activities in which the public pays to attend, including special shoots, are prohibited since the club would be receiving consideration for these activities. Lands in which these activities will occur are not eligible for entry under the MFL program.

| Examples of Consideration in Recreational Activities | | | |
|---|---|---|---|
| If the land is used for a: | And the Reason is to: | Then Entry is: | Justification |
| Game or hunting preserve | Allow clients the right to take game for a fee. | Not allowed | Game farms and other lands where owners receive income from hunting are considered to be commercial recreation (landowners are receiving consideration). *NOTE: Prior to 2007 Wisconsin Act 20, game and hunting preserves were allowed under MFL if they did not include any type of development, including fences that kept animals enclosed within a given area.* |
| Dog Training and Trialing | Enclose game animals or birds for dog training and conducting dog trials. | Not allowed | Fencing requirements do not allow for free ranging of wild animals. Dog trials are commercial events in which consideration is exchanged for the right to enter a dog into the trial. Lands could also be held for commercial enterprises. |
| Class A captive wild animal farm (game farm) | Operate a captive wild animal farm that earns $10,000 or more in annual sales, or sells certain native reptiles or amphibians. | Not allowed | MFL does not allow landowners to receive compensation for recreational purposes on MFL lands, regardless of open or closed tax status. Sales of wild animals may include other sales of animals or animal parts, making the captive wild animal farm for commercial, trade or industrial use. Lands could also be held for commercial, industrial or trade purposes. |
| Class B captive wild animal farm (game farm) | Operate a captive wild animal farm that earns less than $10,000 in annual sales and do not plan on selling native reptiles or amphibians. | Not allowed | MFL does not allow landowners to receive compensation for recreational purposes on MFL lands, regardless of open or closed tax status. Sales of wild animals may include other sales of animals or animal parts, making the captive wild animal farm for commercial, trade or industrial use. Lands could also be held for commercial, industrial or trade purposes. |
| Public shoot on a 501(c)7 non-profit recreational club | To charge non-members a user fee for the right to shoot in a competition, and/or provide prizes and refreshments. | Not allowed | Clubs who charge fees for non-members to shoot in a competition are receiving consideration for a recreational activity. |
| Rental of a cabin either on or off the MFL lands | To obtain access to open or closed MFL lands. | Not allowed | Landowners who lease cabin in which part of the cabin lease allows access to MFL lands are receiving consideration for the MFL lands. |
| Parking Lot Fee | To charge hunters to park for use of MFL lands. | Not allowed | Landowners who receive consideration for a hunter to obtain access to MFL lands are receiving consideration. |

## LAND DEVELOPED FOR INDUSTRY

Land developed for industry is **not eligible** for enrollment into MFL (s. 77.82(1)(b)2., Wis. Stats. and Section NR 46.15(10), Wis. Adm. Code). The NR 46 definition of "developed for industry" is as shown below, followed by examples of industrial uses.

> ***(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.*

| Lands Developed for Industry | | | |
|---|---|---|---|
| If the land is used for a: | And the Reason is to: | Then Entry is: | Justification |
| Self storage shed or other rental unit | Rent or lease storage units to customers. | Not allowed | The land is held for a commercial enterprise. |
| Self serve vegetable and fruit stand | Sell produce to customers. | Not allowed | The land is held for a commercial enterprise. |
| Retail store and shops | Sell consumer goods, products or services to customers. | Not allowed | The land is held for a commercial enterprise. |
| Oil change garage | Service motorized vehicles and other mechanical equipment | Not allowed | The land is held for a commercial enterprise. |
| Storage garage | Store equipment for a business other than for producing timber products | Not allowed | Buildings 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 is held for an agricultural or residential use. |
| Communication equipment | 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. |
| Advertising bill board | Advertise products along roadways. | Not allowed | The land is held for a commercial enterprise. |
| Dump site | Place household and commercial refuse, highway debris, and other unwanted materials. | Not allowed | The land is held for a residential, commercial and industrial uses. |
| Gravel pit | Gravel is mined, sold or given away to customers and used off site. | Not allowed | The land is held for an industrial use. |
| Gravel pit | Gravel is used to improved infrastructure on the MFL property for creation and maintenance of forest access roads. | 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. |
| Orchard and vineyard | Grow and sell fruits for wholesale or retail. | Not allowed | The land is held for an agricultural use. |
| Game farm | Game animals are raised for the commercial sale of meat. | Not allowed | The land is held for an agricultural and commercial use. |

## LAND INCOMPATIBLE WITH THE PRACTICE OF FORESTRY

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.

***(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.*

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/forestry/Publications/Guidelines/
- Silviculture Handbook - http://dnr.wi.gov/forestry/Publications/Handbooks/24315/

Any practices that are not considered a generally accepted forestry practice would fall into the category of incompatible with the practice of forestry. The following table shows some of the commonly asked questions about land uses and whether they can be entered into the MFL program.

| Land Uses Incompatible with the Practice of Forestry | | | |
|---|---|---|---|
| If the land is used for a: | And the Reason is to: | Then Entry is: | Justification |
| Vegetable garden | Grow food for people or feed for domestic animals | Not allowed | Land is held for production of food for human or domestic animal use. |
| Flower garden | Decorate lands for personal pleasure or for resale. | Not allowed | Landscaping is not allowed on MFL lands. Gardens where plants are resold constitute a business or trade. |
| Lawn | Decorate lands for personal pleasure. | Not allowed | Lawns are commonly associated with domiciles and areas developed for human residence. |
| Mowed grass areas | Provide fire protection following FireWise recommendations. | 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. |
| Animal Housing | Provide houses and barns for pets or other domestic or wild animals. | Not allowed | Providing housing for pets is a residential use, while providing housing for domestic or wild animals is an agricultural or industrial (trade) use. |
| Apple trees | Provide apples for family use or resale | Not allowed | Land is held for production of food for home use and is an agricultural crop. |
| Apple trees | Improve wildlife habitat | 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. |

| If the land is used for a: | And the Reason is to: | Then Entry is: | Justification |
|---|---|---|---|
| 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. |
| Gravel pit | Sell or give away gravel for landscaping or infrastructure improvement projects (highways, etc.) | Not allowed | Land is held for the purposes of conducting trade. |
| Septic systems, geothermal heating coils, wind turbines | Provide for services of human residences | Not allowed | Infrastructure that is associated with a structure (human residence, industry, trade, etc.) that is not allowed on MFL also cannot be allowed on MFL lands. |
| Maple syrup production | Provide syrup for home use or commercial use (actual tapping and extracting syrup) | Allowed | Maple syrup production is not incompatible with the practice of forestry. Non-timber resources are an allowable use. However, if the non-timber resource use begins to preclude the landowner from practicing sustainable forestry then the land will need to part of the 20% non-suitable or withdrawn from MFL. |
| Sphagnum moss harvesting | Sell the moss for uses such as gardening | 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. |
| Cabin rental unit | Receive consideration for a recreational activity | Not allowed. | Rental units on MFL lands are considered to be developed for commercial recreation, which is prohibited under the MFL program under s.77.82(1)(b)2., Wis. Stats. Rental units on FCL lands show that the lands are more used for other purposes other than forestry, which is contrary to the purposes of the FCL program under s.77.01, Wis. Stats. |
| Building used in the production of maple syrup. | Boil down maple sap before moving to a different location for final processing. Can be either for home or commercial use. | Conditionally allowed, depending upon scale. | Buildings or sheds to boil sap would likely be considered a building for working or recreating on the property. Size and scale of individual buildings may render different decisions based on individual sets of facts. Lands in which tubing is hung year round and in which the landowner will not allow harvesting may be included as part of the 20% unsuitable category or left on the regular property tax rolls. Buildings used in the commercial processing and retailing of maple syrup are used for commercial and trade purposes. |

| If the land is used for a: | And the Reason is to: | Then Entry is: | Justification |
|---|---|---|---|
| Museum or building for outdoor education | Provide public historic or natural resource education to the public. | Not allowed | Buildings on MFL lands are allowed if used for working or recreating on the property by the landowner. Buildings used by other people would become a commercial, industrial, trade use or residential use. |
| Wildlife Food Plot | Provide additional food sources for wildlife and enhance recreational hunting opportunities. | 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.) |

**MANAGEMENT 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 DNR Forester.

A landowner granted **large block status** must have a management plan; however the management plan does not need to be a site-specific management plan or be on file with the department. Large ownerships 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. If large block MFL lands are purchased by a small landowner, the new landowner must acquire and submit a site-specific management plan for the property within one year in order to continue under MFL designation.

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. *Note: Landowners should be made aware that changes to sound forestry and stand conditions may require that changes to mandatory practices are required, since DNR Foresters 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). If the proposed cutting does not conform to the management plan or is not consistent with sound forestry practices, the DNR Forester shall assist the owner in developing an acceptable proposal before approving the request (s. 77.86(1)(d), Wis. Stats.).*

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 CPWs and DNR Foresters enter the proper data, however information that CPWs and DNR Foresters 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 is an example of a landowner objective.

   **Landowner Objectives for Management of the Enrolled Lands:**
   - 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).** CPWs and DNR Foresters 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. CPWs and DNR Foresters 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 CPWs and DNR Foresters to the public web site for information on habitat, specie 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 15 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.

   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. Add acreage of similar stands in the addition to the corresponding stand in the original entry. The new stand information should include the *total* combined acreage for both the original order and the addition. For example, stand 1 in the original order is 15 acres. The same stand exists in the addition and is 10 acres. Stand 1 should now reflect a total acreage of 25 acres.
   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 DNR Forester 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).

4. **Prefix, if applicable.** There are four (4) prefix codes. The only codes that can be entered into WisFIRS when developing new MFL application is the "P" and "Z" codes.

   P Plantation
   Z "No timber management" zone (These stands are included in the 20% non-productive or not suitable.)
   M Practice postponed for market considerations. (Used to indicate when a practice has been postponed due to market conditions. Each DNR area will establish guidelines. This prefix is to be used at the time the practice is due and issued by DNR staff only. This code is not to be used when writing an MFL plan for entry purposes.) NOTE: This code will be built into WisFIRS in a later WisFIRS release date.
   V Practice postponed for silvicultural conditions. (Used to indicate when a practice has been postponed due to silvicultural reasons. Each DNR area will establish guidelines. This prefix is to be used at the time the practice is due and issued by DNR staff only. This code is not to be used when writing an MFL plan for entry purposes.) NOTE: This code will be built into WisFIRS in a later WisFIRS release date.

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 5-11$^2$). Refer to M.C. 8625.2 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 CPWs and DNR Foresters to choose a habitat type that exists in the county in which the land lies. Habitat types are useful to help CPWs, DNR Foresters and landowners determine successional trends in order to determine silvicultural systems and management practices. CPWs and DNR Foresters 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. CPWs and DNR Foresters 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 CPWs and DNR Foresters 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 and Forest Aesthetics Handbook, 2431.5. for more information.)

12. **Basal Area and Stocking.** Stocking guidelines are found in Appendix 3. CPWs and DNR Foresters 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 specie per acre, including both boards and cords.

13. **Silvicultural System.** Determine the silvicultural system that will move the stand to the desired future condition. 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. 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
- Cutting Notice Filed. NOTE: The "E" code from the old Plan Trac program is shown in WisFIRS as "cutting notice filed."

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. **Mandatory practices (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. Determining 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. The mandatory requirements are found in NR40, Wis. Admin. Code.

While violations of NR 40, Wis. Admin. 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 country 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). Practices specific to individual stands may specify activities to improve the forest and related resources.

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 vise 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 DNR Forester determine that this practice is especially important to highlight for the landowner. Most of the practices common to the entire property are allowed on MFLlands and are compatible with sound forestry. Landowners learn more about non-mandatory practices through links to the DNR public web site.

CPWs and DNR Foresters can recommend openings and other non-productive areas as long as it doesn't make the 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. Admin. 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 Handbook and are included in the 80% productive forest category. DNR Foresters 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 are implemented on MFL lands, including the following:

- **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 DNR Foresters are encouraged to review the forest health links to ensure that prescribe 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 Remarks section is not included in the landowner's management plan. Wording may include the following topics:

    a. **Non-productive and unsuitable percentage of each 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. **Buildings**. Describe buildings present and their use, and the presence of landscaping or other development around such buildings.
    c. **Recorded plats**. Documentation regarding recorded plats.
    d. **Incompatible uses**. Lands used for a purpose other than forestry are not allowed under the MFL program unless specifically permitted by the MFL law.
    e. **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.
    f. **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).

**TAX LAW MAP**
**(MFL - Form 2450-133; FCL Form 2450-133 or 2450-034)**

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 DNR Forester's (or tax law 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 *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.

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 the Forest Tax Program.

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.

Updated maps must be sent to the landowner following a harvest, after tree planting, or when land has been transferred.

Required items:

- Order number.
- Landowner name. If there is more than one owner, list the contact owner and check the multiple owner 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 (MFL only).
- 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. The highlighting must be placed inside 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.
- **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. If you are using fGIS or ArcView to prepare your MFL maps, you may also fill the open lands using a semi-transparent yellow fill.

- 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.

- Land features, such as roads, lakes, streams, fences, power lines, etc.
- Stand locations.
- Indicate the area closed to public access with diagonal slash marks (\\\\\\\). 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. For large account landowners, map legends must also include stand acreage since large landowners are not required to submit forest stand data into WisFIRS.
- 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, show where existing entry is located.
- 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. Order numbers of adjacent MFL/FCL may be included but are not required.

  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.

## CLOSED AREAS
**(s. 77.83, Wis. Stats., and 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 160 acres in the municipality, of which not more than 80 acres may be land designated as managed forest land prior to 2005, except in option 2 below.

Closed Area Options
A closed area may consist of either option 1 or 2 below and does not need to be contiguous (s. NR 46.19, Wis. Adm. Code).

(1) An area or areas consisting of any combination of: (a) an entire parcel(s) of MFL.
   (b) all of an owner's MFL within a quarter-quarter section(s), government lot(s) or fractional lot(s). NOTE: This option may result in 1987 through 2004 entries with more than 80 acres closed, especially if lands within a government lot or fraction exceed 40 acres in size. See Closed Area Example 6).
   (c) 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.
(2) Any combination of two entire quarter-quarter sections, government lots or fractional lots.

Unless the owner is closing an entire parcel (see (a) above), they must close all acres in one legal description before closing additional acres in another description. Options 1(b) and 1(c) 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.**

The designated closed 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. Closed area must be designated with cross hatching (\\\) on the MFL map and by description on the application.

An owner may re-designate the closed or open area of an order **twice** during the order period (s. NR 46.18(6), Wis. Adm. Code). This request must be in writing through the MFL Public Access Modification Request (Form 2450-193). New landowners of managed forest land may designate a different or additional area closed to public access on the application for transfer. A request to change the open-closed tax status at the time of transfer does not count toward the two times to change the tax status during the MFL order period. The land to be re-designated must meet the closed area criteria as specified by law. The DNR Forester is responsible for submitting to FTP an updated open-closed map identifying the change when it affects a portion of a legal description. Changes in closed/open acreage designations are done by Amended Orders throughout the year. 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 FTP by December 1 in order to be effective the following January 1.

Closed areas under earlier orders (1987 through 1994) will remain as designated until the order is modified by the landowner. If the open/closed acres are changed or the land is transferred, the rules in effect at the time of modification apply. Refer to Wisconsin Tax Law History in chapter 10 to see changes that occurred in 1994.

If acquisition of additional closed MFL land results in a landowner(s) exceeding the allowable closed acreage, the landowner(s) must decide which lands will be "open" to public access and which will be "closed". Landowners cannot exceed the closed acreage limitation. (Revised interpretation from the DNR Bureau of Legal Services in 2003.)

Landowner Responsibilities
Landowners are responsible to identify the specific on-the-ground boundaries of MFL areas closed to public access and place signs indicating these locations, if desired. Landowners are also responsible to enforce and prosecute any trespass violations.

Access Across Adjoining Land; Same Ownership

If access to open MFL lands is available only by crossing the owner's contiguous land which is "closed" MFL land or non-MFL land, the landowner must still provide access to the open MFL area. A specific access point, route, or corridor may be identified. This access must be "reasonable" (s. NR 46.20, Wis. Adm. Code). If a specific access point is identified, signs meeting the requirements of s. NR 46.21, Wis. Adm. Code, and indicating its location are required. Only walking access is required; motorized access may be denied.

Access Across Adjoining Land; Different Ownership

If all lands surrounding open MFL land are in another ownership, persons wishing access to the MFL lands must seek permission from the owner of the adjacent lands for access to the open MFL land. If the MFL owner has "access by easement or otherwise" (s. NR 46.20(2), Wis. Adm. Code) across the adjoining ownership and it is the only access to the open MFL land, the MFL owner may not restrict public access across it. However, if it is not clear from the language of the "easement or otherwise" that the rights extend to the public, the public should secure permission from the adjoining owner to cross their property.

Temporarily Restricted Access Due to Timber Sales

The landowner may restrict public access to any area of open MFL land which is within 300 feet of any building or within 300 feet of an active commercial logging operation that conforms to the management plan (s. 77.83(2)(b), Wis. Stats.). A cutting notice must have been filed. This does not apply if the landowner is cutting firewood for personal use in the landowner's dwelling.

Lands Remaining After Partial Transfer or Withdrawal

If all or any part of an owner's closed managed forest land is withdrawn or 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.).

Lands Transferred

At the time of transfer (or within the 30 day appeal period), the new owner may designate the same or a different area closed to public access. The designated closed area must meet the criteria allowed by law (s. 77.83(1)(a), Wis. Stats.). The request to change the open/closed areas may be written on the application for transfer.

Additions to Existing Entries

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

Acquiring Closed Lands

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 must not be exceeded. (This is a revised interpretation from the DNR Bureau of Legal Services in 2003.)

**EXAMPLES OF CLOSED AREAS**

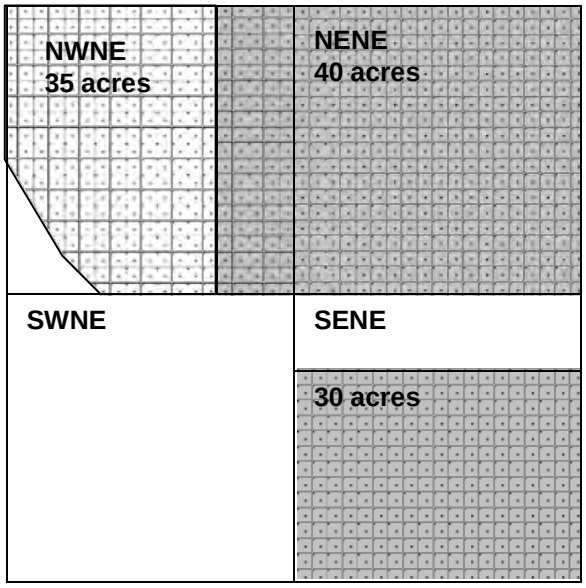
1. **160 acres (or less) designated as closed (80 acres of lands enrolled prior to 2005):**

| | |
|---|---|
| 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.

= MFL lands

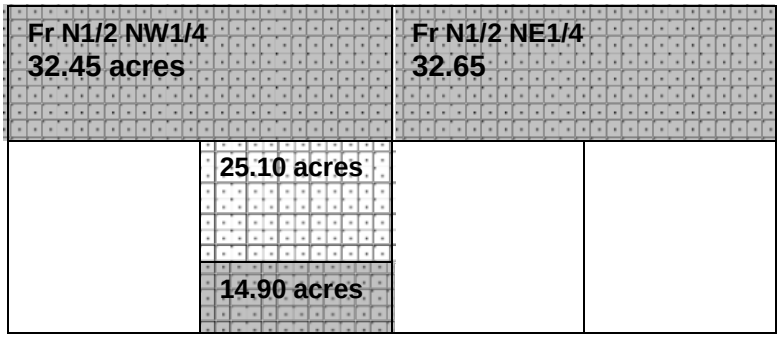
= Closed area



2. A combination of all land within a fractional lot(s) and an additional block for a total of 160 acres (or less) closed for public access (80 acres in lands enrolled prior to 2005).

= MFL land

= Closed area

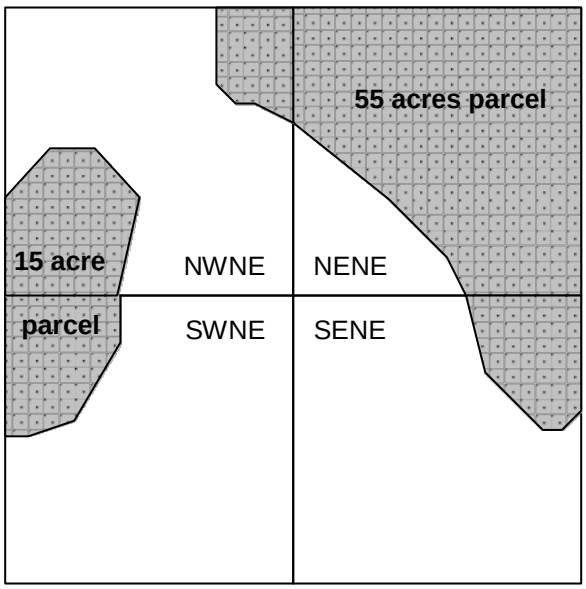



3. **One or more entire parcels closed:**

Entry is 70 acres in two parcels. Entire entry is designated as closed.

= MFL land

= Closed area

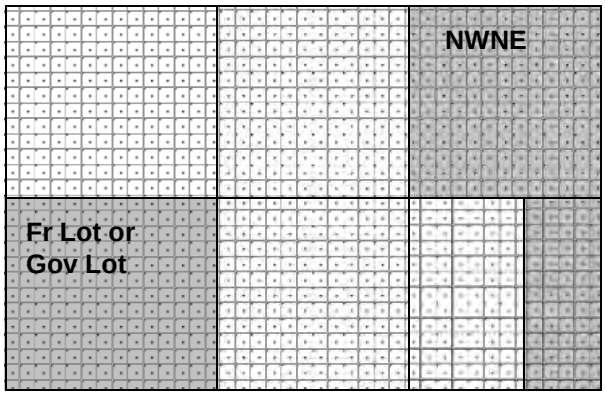


4. **80 acres (or less) designated as a closed area:**

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.

= MFL land

= Closed area

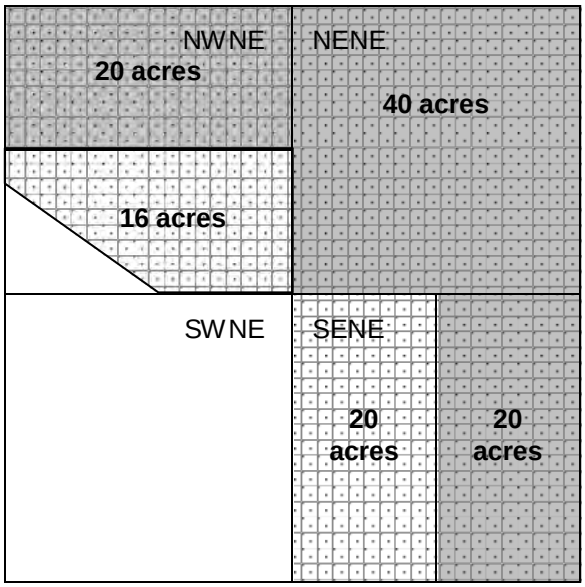



5. **This combination of land is <u>NOT</u> <u>ELIGIBLE</u> TO BE CLOSED BECAUSE IT INCLUDES MORE THAN <u>ONE</u> "ADDITIONAL" BLOCK OF LAND.** You must close all the MFL acres in a legal description before moving to another legal description to close additional acres. The only exception to this is when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

= MFL land

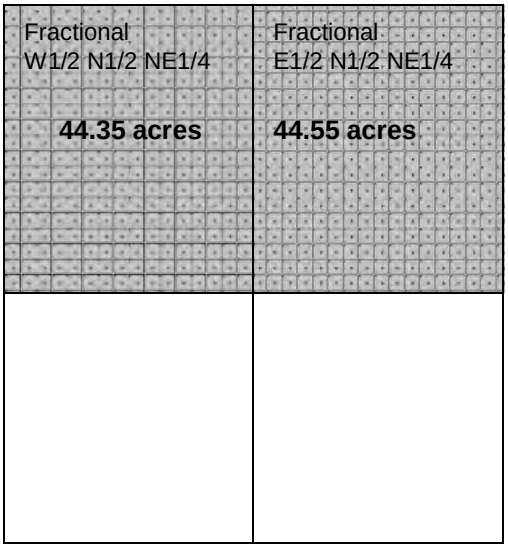
= What the landowner requested to be closed

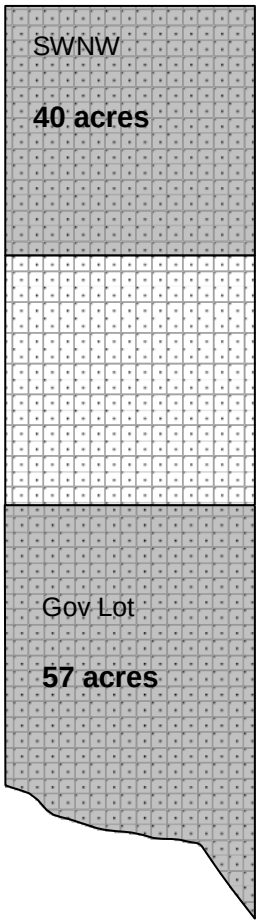


6. **One or a combination of two entire quarter-quarter sections, government lots or fractional lots closed. These do not have to be contiguous and may result in more than 80 acres closed if lands were enrolled prior to 2005.**

= MFL land

= Closed area



## OPEN AREAS

The legal documentation of the location and acreage open to public access is the MFL map. The landowner is responsible for identifying this area on the ground.

Open areas may be re-designated **twice** during the order period. (Adjustments made during a transfer or as the result of withdrawal do not count toward the two times.) Changes in open/closed acreage designations are done by Amended Orders. Orders issued prior to December 15 take effect January 1 of the following year.

### Public Access

Lands under MFL are open to public access unless specifically designated as closed. Public access is permitted for hunting fishing, hiking, sightseeing, and cross-country skiing only (s. 77.83(2)(a), Wis. Stats.). It is the position of the DNR for purposes under chapter 77 of the Wisconsin Statutes that hunting does not include trapping, bear dog training, target practice, or sighting a rifle.

A landowner may not restrict the number of people who access the land for an approved use.

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 is identified, signs indicating its location are required.

If all lands surrounding open MFL land are in another ownership with no access by public road, only persons with permission of an adjacent landowner have access to the open MFL land.

If the MFL owner has “access by easement or otherwise” (s. NR 46.20(2), Wis. Adm. Code) across the adjoining ownership, and it is the only access to the open MFL land, the MFL owner may not restrict public access across it. However, if it is not clear from the language of the “easement or otherwise” that the rights extend to the public, the public should secure permission from the adjoining landowner to cross the property. If the DNR Forester is aware of such an easement, a copy should be submitted with the fieldwork for review by DNR legal staff to assure accurate information regarding the owner's public access obligation.

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 considered the same as tree stand use on State lands which means removal 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.

Bait stations are an accepted and allowable method of hunting conditional upon no damage to the property. Section NR 10.07(2m), Wis. Adm. 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.

Landowners should contact the local sheriff for littering, damage and trespass problems. In some circumstances, credentialed DNR staff may be available to assist (s. 77.83(2)(c), Wis. Stats.)

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.

Restricted Access

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

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.). DNR Foresters may assist landowners with wording on signs which prohibits vehicle access. See Signing – MFL and FCL for examples.

Leases

On a case by case basis, leases should be reviewed and analyzed based on the statutory prohibitions and definitions of "developed" in s. NR 46.15, Wis. Adm. Code and for the receiving of consideration in s. NR 46.15(3m), Wis. Admin. Code. In general, if the land is altered or developed for a use that is incompatible with the practice of forestry, it would not be allowed regardless if consideration is received for the use. Seek guidance from FTP as needed. Leases for hunting on open MFL lands are not permitted because public hunting is already allowed.

Trespass Law

Section 943.13, Wis. Stats., does not restrict public access as provided in the MFL and FCL. In the opinion of DNR legal counsel and Wisconsin Legislative Council, those under MFL "open" and FCL have "expressly" consented to such public use.

**SIGNING - MFL and FCL**

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

An owner may 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” 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" signs on non-tax 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.

The following are examples of suggested 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,
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, FISHING, HIKING, 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, FISHING, HIKING, 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

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

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

Landowners are expected to provide access to their 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" 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, FISHING, HIKING, X-COUNTRY SKIING, SIGHT SEEING (Wis. Stats. 77.83 (2)(a))

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

PUBLIC USES PERMITTED ON FOREST CROP LAND: 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.

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.

ACCESS TO

OPEN MANAGED FOREST LAND

ACCESS TO

FOREST CROP LAND

MANAGED FOREST LAND
PUBLIC USES PERMITTED:
HUNTING, FISHING, HIKING, 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 & EDUCATION IN DEER MANAGEMENT. SAFE & ETHICAL HUNTING. OBEYING TRESPASSING 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 & EDUCATION IN DEER MANAGEMENT. SAFE & ETHICAL HUNTING. OBEYING TRESPASSING LAWS.

## APPLICATION MATERIALS

A MFL application must include the following materials. The MFL application is submitted to the DNR Forester in the county in which the land lies for review.

1. These items must be printed and reviewed with the landowners. Landowners, lien holders, conservation easement holders, etc. must sign the application and agree to the proposed management plan.
    - MFL Application (Form 2450-129)
    - Managed Forest Law Stewardship Forestry Plan (Form 2450-194)
    - Managed Forest Law Map(s) (Form 2450-133)

2. These items must be provided with the application and reflect the lands that are being enrolled.
    - Copy of recorded proof of ownership
    - Copy of tax bill(s) which includes the PIN
    - Copy of applicable, recorded certified survey maps (CSM)
    - One copy of the remittance form.
    - Application fee.

3. These items will be entered into WisFIRS.
    - Recon data. CPWs, Cooperating Foresters and DNR Foresters can print the summary of recon data onto the Land Exam and Practices Report Form 2450-128.

## 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, DNR Foresters 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.). The management plan fee is calculated annually based on the comparable commercial market rate charged by Certified Plan Writers (s. 77.82(2m)(am), 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 DNR forester requests an invoice for the management plan fee from FTP. The order number and exact number of acres being enrolled into the MFL program will be required.
2. FTP e-mails the DNR forester an invoice.
3. The DNR forester 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)(a)(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.

The management plan fee will be recalculated annually for each entry year.

## MFL APPROVAL PROCESS

DNR Forestry Supervisors are responsible to ensure that all reviews are completed within 45 calendar days using the MFL Packet Review Checklist (Form 2450-189) or comparable WisFIRS procedures. Reviews may be completed by the Forestry Supervisor or delegated to other forestry staff.

The reviewer has the responsibility for the accuracy of the facts and the mandatory practices documented in the report. Each report 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 and landowner for amendments. Reasons for denial 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 submitted to FTP on or before October 1.

If all MFL eligibility requirements are met, FTP will issue and 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 DNR Forester. FTP microfilms the originals. Electronic copies of the files may also be kept in WisFIRS.

Landowners may withdraw an area of land or their MFL application on or before December 31 in the year prior to the effective date of the MFL Order of Designation.

## 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 landowner and their CPW of the changes necessary to qualify the plan for approval upon subsequent review. If the landowner fails to return the application and management plan by the date designated by the DNR Forester, the application will not be approved (s. NR 46.18(5), Wis. Adm. Code).

The DNR Forester may provide a statement for the landowners to sign indicating they do not accept the plan and wish to withdraw the application. A copy of the letter signed by the landowners should be scanned and stored in the Documents Correspondence tab in WisFIRS.

### Revisions to Management Plans after MFL Entry

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.
- Required if DNR Foresters come across old MFL plans that prescribe FSC prohibited pesticides.
- Required to amend management prescriptions based on current stand conditions and current science.
- 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. Plans generated through WisFIRS will allow management plans to be updated regularly.

## DELINQUENT PROPERTY TAXES

All property taxes must have been paid. 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 FTP is notified of delinquent taxes, FTP will notify the DNR forester. The DNR forester shall assist the landowner and FTP to determine if taxes are paid or if the application will be denied entry.

## PUBLIC NOTICE AND HEARINGS

(s. 77.82, 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

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 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.

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 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, FTP 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.

## 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. Only the original letter and application need to be forwarded to FTP. The DNR Forester should retain a copy of the letter.

If the landowner elects to withdraw his application after the order has been issued, but before the effective date (January 1), FTP will issue a rescinding 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.

## 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 by FTP for one of the following reasons:

- lands expiring from FCL (Special Class Lands are not included) since the new owner would be subject to a termination tax if it were not allowed,
- 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.

DNR Foresters should recommend denial of the application to FTP with a note describing the sale of the land and a copy of the deed, or a note signed by the landowner requesting that the application is withdrawn.

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, 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.

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

1987 – 2004 Entries: Lands cannot be added to MFL orders entered in 1987 through 2004.

Special Provisions for 1987-2004 Entries

- If the land that is being considered for an addition to a 1987-2004 entry CAN stand alone (does meet the MFL eligibility requirements on its own) then the land must be entered as a new and separate order of entry.
- If the land that is being considered for an addition to a 1987-2004 entry CANNOT stand alone (does not meet with the MFL eligibility requirements on its own) then the contiguous 1987-2004 entry may be withdrawn and reentered with the new contiguous acres. No withdrawal tax or fee is assessed on the land that is withdrawn and reentered with the new acres.

2005 and Later Entries: Land may be added to the order if it meets the requirements below.

- Original entry must have been entered in 2005 or later.

- The total added land must be at least 3 acres in size, but may be in separate locations (e.g. three one-acre pieces contiguous to an existing entry).

- At least part of the addition must be contiguous to an existing MFL entry.

- If the land being added is a parcel greater than 10 acres, it may be treated as an addition or a new Order of Designation. A separate order permits the landowner to withdraw or transfer that land independently in the future.

  If the owners apply to enter land that is contiguous to an existing entry and land that is not contiguous to the existing entry in the same year, the land must be on the same application. Therefore, in this case only, there will be some land that is included in the addition that is not contiguous to the existing entry.

  If the land being added lies across a municipal line and is unable to meet eligibility requirements on its own, i.e. is less than 10 acres in size, less than 80% productive, and greater than 20% unsuitable to produce, it may be added to an existing MFL entry as a multi-municipal MFL entry.

- All owners of the addition must be identical to the owners of the original order.

- The addition will have the same expiration date as the order to which it is added.

- After the addition, each MFL parcel must meet the 80% productivity requirement.

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

Stand Numbers

If the timber types and supporting recon data for the stands in the addition are unique and *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 should reflect the original plus addition acreage.

Map

The map may show all acres (original plus addition), but only highlight the land being added. The open and closed acreage listed in the header must only reflect the acres being added.

## FCL CONVERSION

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 FCL order that is expiring and must be entered under MFL at the end of the FCL to continue without lapse in a tax law program. 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 the withdrawal taxes section.)

## WITHDRAW AND REDESIGNATION ORDER

2003 Wisconsin Act 228 removed the portion of the law that allowed the addition of land to 1987-2004 MFL entries due to the changes in the acreage share taxes and closed acreage fees. It also recognized that by not allowing these additions there would be some new lands (e.g., parcels less than 10 acres, parcels that are more than 20% nonproductive) that would not be eligible for entry. Special provisions were included to create an opportunity to enter these lands.

a. If the land being considered for an addition to a 1987-2004 entry CAN stand alone (does meet the MFL eligibility requirements on its own) then the land must be entered as a new and separate order of entry.
b. If the land being considered for an addition to a 1987-2004 entry CANNOT stand alone (does not meet the MFL eligibility requirements on its own) then the contiguous 1987-2004 entry may be withdrawn and reentered with the new contiguous acres. No withdrawal tax or fee is assessed on the land that is withdrawn and reentered with the new acres. Requirements include:

    - A separate application for the withdrawal and re-designation of each MFL order must be filed. The fees for these entries are the same as regular entries.
    - Land being added does not meet the eligibility requirements on its own.
    - Land being added is contiguous to the existing 1987-2004 entry.
    - Land being added must be at least 3 acres in size.
    - All the land in the original 1987-2004 entry is withdrawn and reentered.
    - The original 1987-2004 land cannot change in size, shape or acreage when it is re-entered. Existing building sites cannot be moved when the original land is re-entered.
    - The new entry (old acres plus new acres) meets all the eligibility requirements.

**DENIALS OF ENTIRE ENTRIES**

MFL applications can be denied if any of the eligibility requirements are not met, however it is expected that DNR Foresters work with certified plan writers and landowners 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 're-submittal' process in WisFIRS. If the DNR Forester's recommendation is to deny entry for any reason, the recommendation to deny is recorded in WisFIRS. DNR Foresters are required to explain why denial is recommended and communicate that recommendation to the certified plan writer and landowner. The DNR Forester should forward all supporting documentation to the Forest Tax Program for processing. The Tax Law Field Specialist in Tomahawk coordinates the field inspections and documentation for denials of industrial or large account enrollments.

| 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 the taxes were paid | s. 77.82(7)(a)5., Wis. Stats. | Delinquent Property Taxes |
| 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 |
| 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 lands 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 Commercial Recreation<br><br>Land Developed for Industry<br><br>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.<br>NR 46.15(9), Wis. Admin. Code<br>NR 46.15(18), Wis. Admin. Code | Buildings with Living Space<br><br>Buildings without Living Space<br><br>Structures Associated with Buildings<br><br>Examples of Buildings<br><br>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)(c), Wis. Stats.<br>NR 46.18(5)(1), Wis. Admin. Code<br>NR 46.18(5)(3), Wis. Admin. Code | MFL Approval Process |
| 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. | NR 46.18(5)(1), Wis. Admin. Code<br>NR 46.18(5)(3), Wis. Admin. Code | MFL Approval Process |

| Reasons for Denial | Explanation | Legal Reference | Handbook References |
|---|---|---|---|
| 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 signature(s) of all owners. | 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. | NR 46.17(2), Wis. Admin. Code | Definition of Forest Parcel |
| Additions less than 3 acres | Lands to be added to an existing MFL are less than 3 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 and MFL Withdrawal and Designations. | s. 77.82, Wis. Stats. | FCL Conversions<br><br>Withdrawal and Re-designation Orders |
| 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. | 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 Plan when Filing for Renewal |
| 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. | NR 46.16(1)(d), Wis. Admin. Code<br>NR 46.16(1), Wis. Admin. Code | Signatures |

**CUTTING IN VIOLATION OF THE PLAN PRIOR TO ENTRY**

If DNR accepts an MFL application and management plan from a landowner, and the landowner cuts in violation of the management plan prior to the effective date of the MFL order of entry, the DNR Forester should document the situation in the landowner's file and provide additional time for an amended management plan to be developed if the current management plan no longer matches the on-the-ground stand conditions. Amended management plans must be approved by the DNR Forester by October 1 unless an alternate date is established. DNR may deny an MFL application if an amended management plan is not approved by October 1. Landowners who cut in violation after October 1 and before January 1 are required to have a new management plan developed.

**FAILURE TO COMPLY WITH CURRENT MANAGEMENT PLAN WHEN FILING FOR RENEWAL**

s. 77.82(12), Wis. Stats. allows landowners to renew their MFL after the end of their MFL designation period. The department may deny the application only if the land fails to meet the eligibility requirements under sub. (1), if the owner has failed to comply with the management plan that is in effect on the date that the application for renewal is filed, or if there are delinquent taxes on the land. If the application is denied, the department shall state the reason for the denial in writing.

DNR Foresters 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 DNR Forester Determines that: | Then renewal should be: | Justification |
| The landowner was withdrawn from MFL for failure to implement a mandatory practice. | Landowner is back on regular property tax rolls and is paying ad valorem property taxes. | Approved | A landowner who has been withdrawn from MFL and has lands on the regular property tax roles does not have an MFL management plan in effect on the date that the MFL application is filed. |
| 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. DNR Foresters 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 is not implementing a mandatory practice. | A first or second reminder letter has been issued to the landowner, 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. DNR Foresters can justify recommending denial of the application by submitting copies of the enforcement case. |

| Examples of When MFL Renewal Requests Should Be Approved or Denied | | | |
|---|---|---|---|
| If the situations is: | And DNR Forester Determines that: | Then renewal should be: | Justification |
| 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. DNR Foresters 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. DNR Foresters must justify that the reasons for the delay are reasonable when |
| The landowner has chosen not to continue implementing a mandatory practice. | Various reasons provided by the landowner. | Denied | DNR Foresters should immediately begin the stepped enforcement process to document landowner refusal to complete a mandatory practice. DNR Foresters can justify recommending denial of the application by submitting copies of |
| The landowner has cut in violation of the cutting notice and management plan. | 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. DNR Foresters can justify recommending denial of the application by submitting copies of the enforcement case, even if the restitution or mediation deadline is after the dater the MFL renewal |

**SALE OR TRANSFER**
**(s. 77.88(2), Wis. Stats., and s. NR 46.23, Wis. Adm. Code)**
**(Form 2450-159, Notice of Conveyance and Petition for Transfer)**

All, or parts of an entry, **within certain limitations**, may be transferred. A landowner must file a Notice of Conveyance and Application for Transfer (Form 2450-159) within 30 days of the date of the deed. Transfers with a change in open and closed designation must be received by FTP 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.

Criteria

A MFL transfer can be:

1. an entire MFL entry.
2. an entire parcel of MFL land.*
3. all of an MFL entry in a legal description (quarter-quarter section, fractional lot, and governmental lot).

* See definition of "parcel" in the general information section of this chapter.

If the transfer does not meet one of the above criteria, the entry is considered partitioned and all or part of it will be withdrawn, with the withdrawal tax prorated between the new and old owner based on their respective acreage. The law means to discourage partitioning. Land transferred must also meet the minimum **eligibility requirements** (e.g. each parcel must be 80% productive, 10+ contiguous acres, etc). Withdrawals will include only those parcels or descriptions needed to bring the entry under compliance (NR 46.22(1), Wis. Admin. Code), including the following.

a. An entire quarter quarter section, government lot or fractional lot of managed forest under the same order.
b. An entire parcel or parcels of managed forest land.
c. All managed forest land under the same order owned by the owner in a quarter quarter section, government lot or fractional lot if the withdrawal is required as a result of a mistake by the owner.

The land remaining after a partial transfer will be continued if it meets the minimum **productivity** requirements (80% productive), even if the area remaining is less than 10 acres. In cases where a parcel less than 10 acres is remaining after a partial transfer, the landowner should be made aware that, if it is sold/transferred, it would have to be withdrawn because it does not meet the minimum size requirement (10 or more contiguous acres). For the same reason, it would not be eligible for renewal under MFL at the end of the order period. DNR Foresters processing transfers from a large landowner who meets the requirements in NR 46.18(4), Wis. Admin. Code to a small landowner are encouraged to contact the Forest Tax Field Manager and/or Forest Tax Field Specialist to evaluate eligibility of remaining large landowner lands.

If partitioning occurs as the result of a will, the land must be withdrawn. A will does transfer the ownership and must follow all rules associated with transfers.

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.

Procedures

Landowner: Sends a Notice of Conveyance and Petition for Transfer (Form 2450-159) to the DNR forester within 30 days of the date of the deed. This must also include:

- $100 transfer fee
- copy of the recorded legal instrument of title (deed, land contract, etc.)
- copy of the tax bills showing the county PIN(s)

The new owner may change the existing open or closed area(s) at the time of transfer **and** twice during the order. All landowners, current and new, and lien holders must sign the form. If the new landowner refuses to sign the form, a Withdrawal Order will be issued and a withdrawal tax and fee assessed. The landowner does not have appeal rights under these circumstances.

Transfers with a request to change the open and closed designation must be received by FTP by December 1 in order to be effective the following January 1.

DNR Forester: Stamps the date in which transfers are received in the DNR Forester's office. Reviews Form 2450-159 for completeness and validity of the MFL transfer (see transfer checklist below) within 30 days. If the 30 day timeline cannot be met DNR Foresters must communicate with the landowner the reasons why the transfer cannot be processed and document that communication in the landowner's file. If transfers are correct and complete, signs and dates the form, then sends the form with check and attachments to:

Wisconsin Department of Natural Resources
P.O. Box 78116
Milwaukee WI 53278-0116

DNR Forester may send the landowner a letter acknowledging receipt of the transfer and the continued processing by FTP. These letters can identify next steps in management plan development. Sample letters are found in Appendix 17.

If information is missing or there are problems with the transfer, establishes a timeline to obtain the missing information or sends the entire transfer back to the landowner, including the check, and begins the process to gain compliance according to Chapter 60 of the Forest Tax Law Handbook.. DNR Foresters should not hold on to a landowner's transfer fee longer than 30 days.

FTP: Issues a transfer order within 30 days. Sends original to be recorded at the Register of Deeds. Sends a copy of the order to the new and former landowners, DNR forester, municipality clerk and assessor, and Department of Revenue. Sends information to landowner on developing a management plan if lands were purchased from a large landowner as defined in NR 46.18(4), Wis. Admin. Code.

DNR Forester/ Tax Law Sends new landowner a management plan, map and information on MFL, updates recon, and submits an updated map, land exam and practices report, and plan (if revised) to FTP. Specialist

Landowner: Hires a certified plan writer to develop a management plan if lands were purchased from a larger landowner as defined in NR 46.18(4), Wis. Admin. Code and submits to DNR Forester within one year of the date FTP issues the MFL Transfer Order.

DNR Forester Reviews the MFL management plan within 45 days and approves the management plan or returns to the certified plan writer and landowner for corrections. Continues to work with the certified plan writer and landowner until the management plan is approved. Sends a copy of the management plan, map and Land Exam and Practices Report to FTP for filing.

A transfer order is not issued for survivors of joint ownership (joint tenants or survivorship marital property). DNR Foresters should request the "name change" in WisFIRS by sending notification to FTP using the Master File Change Request (Form 2450-156). Documentation of survivorship must be submitted.

Transfer Checklist

Entire Transfer:

- Correct fee attached.
- Correct revision date of the transfer form submitted.
- Copy of recorded 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 enclosed.
- All owners have signed, including life estate holders (unless an official document, e.g. Power of Attorney) provides otherwise. Trustees must sign for trusts, president must sign for corporations or companies, all members must sign for LLC, and all partners must sign for partnerships. See additional information under MFL eligibility requirements.
- All encumbrance or deed restriction holders, including timber rights, have signed (if applicable).
- Make sure closed acreage is appropriate/eligible if land being transferred is already closed or if new owner is requesting closed acres.
- Make sure that the lands meet the eligibility requires under s. 77.82(1), Wis. Stats.
- Sign and date the transfer at the bottom of the transfer form.

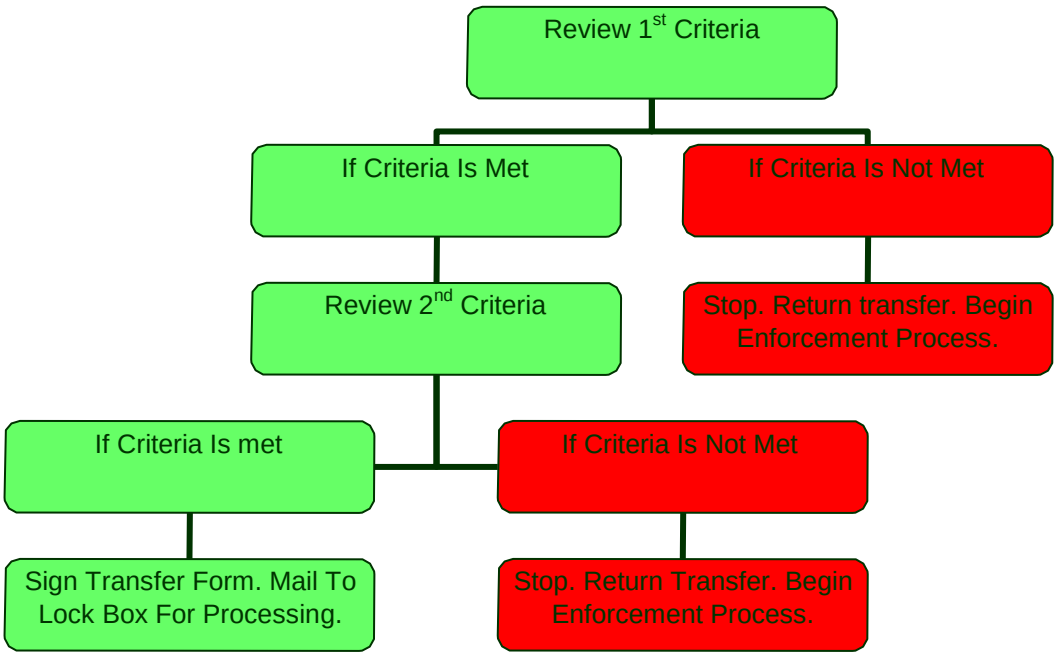
Partial Transfer:

- All of the items under "entire transfer" completed.
- An entire parcel(s) or all the MFL land within a legal description(s).
- Each parcel of the land transferred meets the minimum eligibility requirements under s. 77.82(1), Wis. Stats.,
- Each parcel of the land retained by the original landowner meets the 80% productivity requirement (parcels retained can be less than 10 contiguous acres).

DNR Foresters should evaluate MFL transfers in two steps:

**Review Criteria 1**: Determine if lands that were purchased were an entire parcel or parcels of managed forest land (included the entire MFL entry), all of an owner's managed forest law within a quarter quarter section, or all of an owner's managed forest land within a government lot or fractional lot as determined by the U.S. government survey plat.

**Review Criteria 2**: Determine if lands that were purchased meet eligibility requirements, including if each parcel is 10 acres or more, 80% productive, no more than 20% unsuitable and is not developed for commercial recreation, industry, any use incompatible with practice of forestry, or a human residence.




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 the DNR Forester on or after May 15, 2009 must meet the transfer requirements.

Lands that were transferred by land contract in which their transfer forms were received by the DNR Forester 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 transfers 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 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 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 of a trust.

Transfer 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 MFL designation. Some of these withdrawals may be exempt from withdrawal taxes and fees. See Exempt Withdrawals in the Withdrawal section of this chapter.

Transfers from an Industrial (large account) Owner to a Non-industrial Owner

Large account owners are those ownerships that are administered by the Tomahawk FTP office. 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 the DNR Foresters within 30 days of the date of the DNR Forester receives the transfer unless there are extenuating circumstances. It is the responsibility of the DNR to prepare the plan if lands were transferred prior to January 1, 2012, but new owners can hire a CPW to prepare the plan if they wish.

Small landowners who purchase lands from a large 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 to the DNR Forester for approval.

DNR Foresters will review the management plan within 45 days and will work with the certified plan writer and landowner if adjustments to the management plan are required. DNR Foresters will submit copies of the approved management plan, map and Land Exam and Practices Report to FTP for filing.

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. DNR Foresters 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 to a non-industrial owner (small account) must meet all eligibility requirements under s. 77.82(1), Wis. Stats. i.e. be 10 acres in size, 80% productive, no more than 20% unsuitable, etc. 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 with payment of all withdrawal taxes and fees.

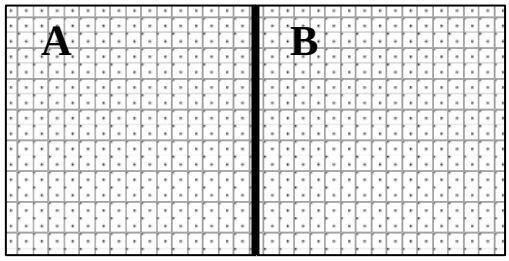
| When a Transfer Form is Required | | | |
|---|---|---|---|
| If the original ownership type is: | And the change in ownership is to a: | Then a transfer is: | Justification |
| Limited Liability Partnership | Limited Liability Partnership (LLP) where the partnership and entity are still the same. | 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. |
| Limited 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 the legal descriptions affect 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 y 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 the legal descriptions affect 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 settle 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 |
|---|---|---|---|
| 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 settle 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. |
| Please note the following guiding principles:<br>• If ownership changes due to a deed or document change, a copy of the recorded ownership change is required.<br>• 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. | | | |

**EXAMPLES OF TRANSFERS**

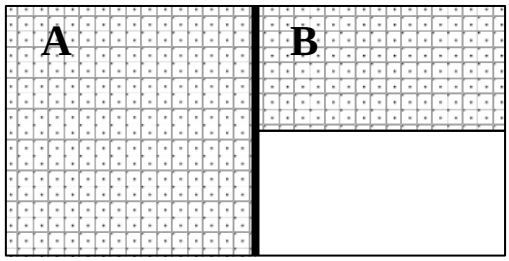
1. **The entire description "B (which is all MFL land) is sold.**
   Is "B" eligible for transfer? **Yes**, the law allows that all MFL land in a description can be transferred provided the parcel transferred meets the minimum eligibility requirements. Land remaining must meet the 80% productive requirements.

= MFL entry




2. **All of the MFL land in description "B" is sold.**
   Is "B" eligible for transfer? **Yes**. The law allows that all MFL land in a description can be transferred provided the parcel transferred meets the minimum eligibility requirements. Land remaining must meet the 80% productive requirements.

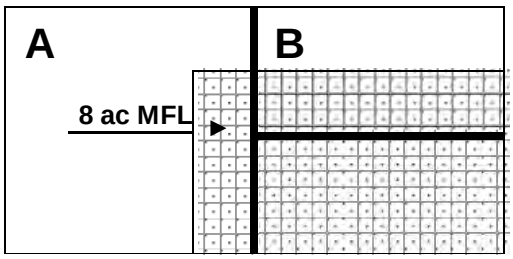
= MFL entry




3. **The south portion of description "B" (~ 20 acres) is sold.**
   Can the MFL land under the new owner be transferred? **No**, the law only allows for transfer of all the MFL lands within a legal description; anything less is considered a partition and would require a withdrawal of all MFL lands within the description. The withdrawal tax would be prorated between the new and old owner based on their respective acreage.

   If all the MFL land in description B were sold, could the land remaining in "A" (less than 10 acres) be continued by the old owner? **Yes**, as long as it meets the productivity requirements.

= MFL entry



4. **Can the MFL land transferred continue?**

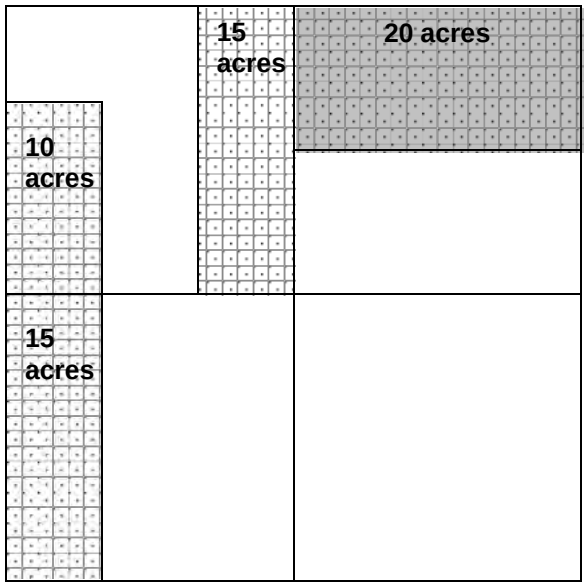
**Yes**, as long as it meets the 80% productive requirement and all the MFL land within the legal description was transferred to the same owner.

**Can the MFL land retained continue?**

**Yes**, both the 15 acre and the 25 (10+15) acre parcel may continue provided they each meet the 80% productivity requirement. Land retained may continue even if it is less than 10 acres if it meets the productivity requirement.

= MFL land

= Transferred land



5. **Can the MFL land transferred continue?**

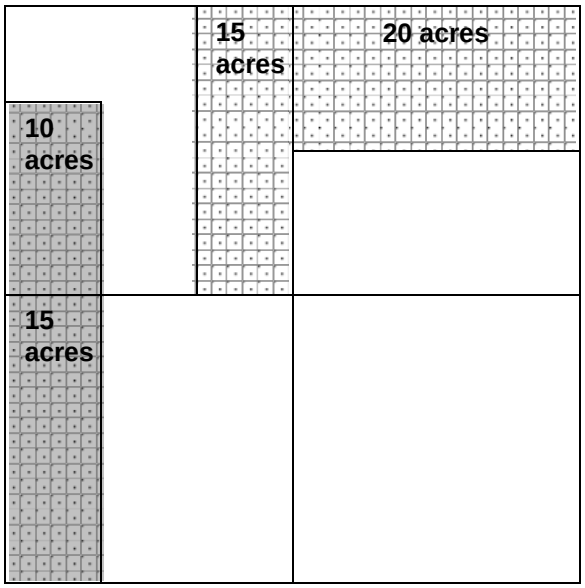
**Yes,** the 25 (10+15) acre parcel may continue provided it meets the 80% productivity requirement. It is an entire parcel of MFL land.

**Can the land retained continue?**

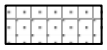
**Yes,** the 35 (15+20) acre parcel may continue provided it meets the 80% productivity requirement. It is an entire parcel of MFL land.

= MFL land

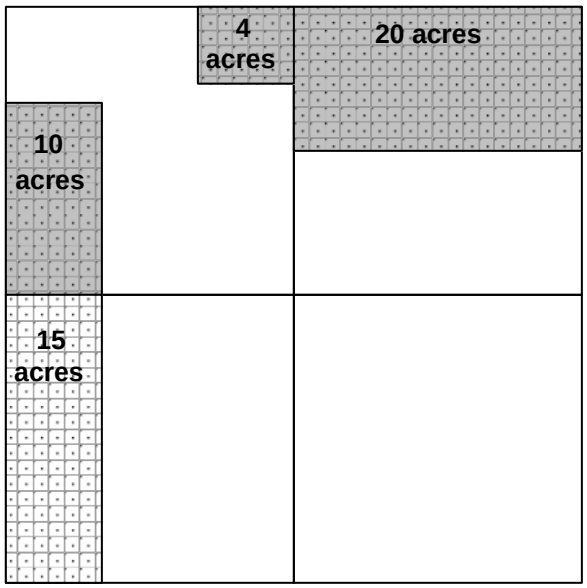
= Transferred land



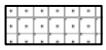
6. **Can the MFL land transferred continue?**
   **Yes**, provided all MFL land within each legal description is transferred to the same ownership and the minimum requirements of 10 acres and 80% productive are met. The MFL land retained will continue as long as it meets the 80% productive requirement.


= MFL land

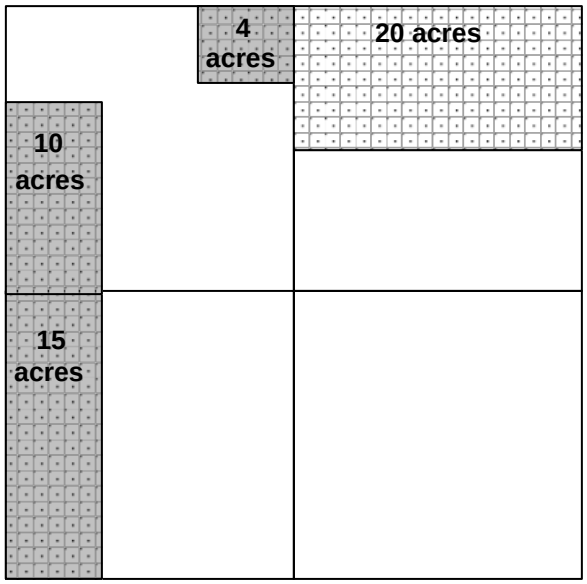
= Transferred land




7. **Can the MFL land transferred continue?**
   The **25 acre parcel** (10+15) **may continue** as long as it was transferred to the same ownership and the parcel meets the 80% productivity requirement. The **4 acre parcel will be withdrawn** because it does not meet the 10 acre minimum size requirement.


= MFL land

= Transferred land



**CUTTING NOTICE AND REPORT - MFL and FCL**
**(MFL - s. 77.86(1)(b), Wis. Stats., FCL - s. 77.06, 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 DNR Forester time to evaluate the proposed harvest and make a determination on whether approval by the DNR Forester 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 and search keyword '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, etc.), harvest method (i.e. selection, group selection, thinning, etc.), target residual condition (i.e. basal area, crown closure, gaps, seed trees per acre, etc.), 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.). Guidelines can be found in the Wisconsin DNR BMP for Water Quality Manual at http://dnr.wi.gov and search keyword 'forestry bmp' for more information on Wisconsin's Forestry Best Management Practices for Water Quality.

- **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 and search keyword 'invasives' or by visiting visit 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 Forester responsible. The NHI data can only be provided 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. 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 the DNR Forester 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 DNR Foresters 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 the DNR Forester responsible. 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 DNR Forester. 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 DNR Forester 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 DNR Forester 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 DNR Foresters 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.

DNR Foresters 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 DNR forester.

**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 DNR Forester and assess the harvesting site for BMP needs for water quality and invasive species. |
| 2. | DNR Forester | 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. DNR Forester 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.<br>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 DNR Forester at least 30 days prior to harvesting timber. |
| 7. | DNR Forester | Date stamp cutting notice received.<br>Determine whether or not the cutting notice requires department approval (see **DETERMINING WHETHER THE CUTTING NOTICE REQUIRES DEPARTMENT APPROVAL** section below). |
| 8. | DNR Forester | 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 DNR Forester 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 DNR Forester 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 DNR Forester 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 DNR Forester 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 DNR Forester **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 the cutting notice form.

4. If the NHI prescription is not addressed on the submitted cutting notice, the DNR Forester should complete a NHI review using the NHI Portal (see Appendix 10 for instructions). If an Element Occurrence (EO or 'hit'), is found, the DNR Forester 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 DNR Forester'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 DNR Forester 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 DNR Forester may only complete the NHI and the Archeological, Historical, and Cultural prescriptions.

For cutting notices that require DNR approval, the DNR Forester 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 DNR Forester 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.).

Assist means providing silvicultural, ecological and cultural guidance to develop an acceptable proposal and complete the cutting notice. Assist also means DNR Foresters 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 DNR Forester 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 DNR forester may approve the Cutting notice.

**If cutting notice DOES REQUIRE DNR APPROVAL, the DNR Forester 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 DNR Forester 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 DNR Forester 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 DNR Forester'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, including the Generally Accepted Practices (see GAP's in Table 21.1) and other cover type guidance.
- 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.
- Cooperating Forester or SAF, WCF, or ACF accredited forester, or Master Logger involved in sale establishment.
- 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.
- 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 DNR Foresters determines that cutting has begun and no cutting notice has been filed the DNR forester should follow through with procedures under Failure to File a Cutting Notice in Chapter 60.

If the DNR Forester determines that active cutting is not following an approved cutting notice the DNR forester should 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.

DNR Foresters, 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 DNR Forester'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.** DNR Forester should document actions to verify that cutting will be taking place and that amendments to the cutting notice are not needed. DNR Forester 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 DNR Forester 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 DNR Forester should approve or deny 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 DNR Forester should approve or deny 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 DNR Forester must 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 Cutting Notice and Report is required even when a yield/severance tax is not assessed. All forest products cut after the effective date of the Order of Designation, except as noted below, are subject to yield/severance taxes even if the stumpage was sold prior to the effective date of the Order. All forest products (except fuelwood used in the owner's dwelling) are subject to the yield/severance tax regardless if they are utilized or not.

Timber harvested within the first 5 years of a 2005 or later MFL order is exempt from the yield tax. Lands converted from FCL to MFL under the special conversion provision, and MFL lands renewed at the end of the original MFL order,

are not eligible for this exemption, including lands added to the renewal at the time of renewal or at a later date. 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. They must follow through by filing a new Cutting Notice for the volume that remains to be harvested.

| 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, 24T,or 26T only) | 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) | | |

## 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.

2. Checks the exempt box if the MFL harvest is exempt from yield tax.

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

4. Works with the landowner to resolve problems (or see Steps to Successful Compliance and Enforcement, Chapter 60).

5. Sends approved report to FTP for billing.

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

## CUTTING REPORT VIOLATIONS

If no Cutting Report is submitted by the landowner, the DNR Forester should 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.

## YIELD TAX (S. 77.87, WIS. STATS.) OR SEVERANCE TAX (S. 77.06(5), WIS. STATS.)

Yield and Severance tax is no longer assessed on MFL or FCL land as of April 16, 2016.

Yield and severance taxes are calculated using the harvested volumes reported on the approved Cutting Report. Yield tax rates are established annually and are found on the DNR public web site at http://dnr.wi.gov. Search *yield tax rates*. The average yield tax rates for each market zone are in effect from November 1 through the following October 31. The MFL yield tax equals 5% (10% severance tax for FCL) of the established stumpage value of merchantable timber cut during the order period.

Yield/severance tax stumpage values will be reduced 30% for approved **catastrophic losses** caused by ice, snow, insects, disease, wind, or water. Yield/severance tax stumpage values will be reduced 70% for approved catastrophic losses caused by fire. Approved reductions must involve 30% of the merchantable timber on 5 contiguous acres and cause a 30% reduction of value to the owner (s. NR 46.30(1)(d), Wis. Adm. Code).

FTP will notify the landowner of the yield/severance tax payment due based on information provided on the Cutting Report.

MFL The yield tax payment is due on the last day of the month following the date the assessment is mailed to the landowner at the last known address.

Late yield tax payments will be assessed at an interest rate of 12% per year.

Yield taxes not paid by August 31 following the due date will be certified to the tax district (municipality) and will be added to the property tax bill as a special charge. Amounts that go unpaid on the property tax may make the land subject to sale by the county under s. 77.87, Wis. Stats.

FCL The severance tax payment is due on the last day of the month following the date the assessment is mailed to the landowner at the last known address.

Late severance payments have a 10% penalty with an interest rate of 1% per month until paid.

Severance tax bills that go unpaid will be turned over to DNR legal staff for collection.A supplemental yield/severance tax may be assessed within one year after the final Cutting Notice is filed if the DNR determines the actual volume cut exceeded the volume reported (s. 77.87(2), Wis. Stats.).

All yield and severance tax payments are paid to the municipality where the land is located (s. 77.89, Wis. Stats.). Annual aid payments ($0.20/acre) are recovered by the DNR from the severance tax (FCL) collected, and the balance is paid to the municipality where the land is located. The municipality shares 20% of all yield, severance, and annual aid tax payments it receives from the DNR with the county.

## UPDATING PROCEDURES

### Forester Database

Initial entry and updating of all recon data and landowner information will be done via Plantrac or WisFIRS by the local DNR Forester or certified plan writer.

**Initial Entry of MFL Applications** – Completed by CPW through WisFIRS. Approval completed by DNR Forester and Forest Tax Program.

**Recon Data Associated with Withdrawals, Transfers and Expired FCL Contracts and MFL Orders** – DNR Forester through Plan Trac. A new process will be developed when existing Plan Trac data is migrated to WisFIRS. DNR Foresters will keep recon data of expired FCL and MFL as a Forest Stewardship plan.

### FTP Oracle Databases

**Name and address**: Changes that are not a result of a transfer must be sent to FTP via e-mail, regular mail, or online form. Note the order number(s). Changes as a result of a transfer are taken care of when the Transfer Order is issued.

**Statewide Recon Database**: Changes are downloaded from Plantrac and submitted annually by the local DNR Forester to FTP in Madison. Once WisFIRS is operational recon data will no longer need to be submitted to FTP.

**Order Entry Database** (includes all legal description and acreage information on the Master List): Change requests should be submitted in the following ways:

**Transfer form** - when ownership of land changes. See transfer sections in Chapter 20 - MFL and Chapter 30 - FCL.

**Request for Master File Change** - to correct errors or discrepancies in our data, and make changes due to new surveys. Explain reason for change requested and provide copies of pertinent documents (e.g. survey). Generally, a correction or amended order will be issued for these changes.

## STUMPAGE VALUE CALCULATIONS

The stumpage values are used as a basis for collecting yield and severance taxes. The yield and severance tax is a deferred property tax that landowners pay to reimburse local municipalities and counties for taxes that they did not pay while they were growing their trees for harvesting. A weighted 3 year average stabilizes the deferred property tax payment so that local municipalities can have some assurance of regular deferred property tax payments from lands under the MFL and FCL programs.

Stumpage values are calculated by the following procedure.

| | | |
|---|---|---|
| July 1 | DNR and Cooperating Foresters | Submit current timber sale data. |
| July | FTP | Compile data and develop preliminary stumpage value |
| August | FTP | Public comment period |
| September | FTP | Finalize values based on comments |
| November 1 | | Stumpage values are effective |

The preliminary stumpage values are calculated using the following formula:

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

$$\frac{\qquad\qquad\qquad

## WITHDRAWALS

**(ss. 77.88(1) and 77.88(3), Wis. Stats., and s. NR 46.22, Wis. Adm. Code) (Form 2450-140)**

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

### Voluntary Withdrawals

An MFL withdrawal order may be issued any time of the year; however, the land may not be assessed as general property until January 1 following the date of the order. The Declaration of Withdrawal – Managed Forest Law Form (2450-140) must be received by FTP 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 parcel of managed forest land.
- All of an owner's managed forest land in a quarter-quarter section, government lot, or fractional lot.
- One to three or more acres of lands per parcel for a residential lot if lands were enrolled in the MFL program with effective dates of January 1, 1997 or earlier. Landowners withdrawing more than 3 acres of land must provide documentation of a city, village, township or county zoning ordinance that establishes the minimum acreage for the construction of a human residence.

If the acreage remaining is either less than 10 acres **or** more than 20% non-productive, that acreage must also be withdrawn with withdrawal taxes and fees assessed.

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 FTP 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.

### Withdrawal Tax Estimation

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

### DNR Forester Responsibilities

- DNR Foresters will be notified of withdrawals for the purpose of building a residence to verify the following information:The number of withdrawals per parcel of MFL land.
- If the remaining lands in the parcel meet the eligibility requirements for continued enrollment in the MFL Program.

DNR Foresters will need to submit an updated map of the lands remaining after a withdrawal for a residence for recording at the register of deeds office. This map must be uploaded into WisFIRS before the withdrawal is processed, since the map of the remaining lands will be recorded to correctly show the lands remaining in the MFL program. Upon receipt of an Order of Withdrawal, the DNR Forester will update the forest reconnaissance and land exam records.

Involuntary Withdrawals (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).
2. The owner's failure to comply with this subchapter or the management plan.
3. Cutting by the owner in violation of s. 77.86.
4. The owner's development or use of any part of the parcel for a purpose which is incompatible with the purposes specified in s. 77.80.
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.

The municipality must certify to the Department that the personal property tax is delinquent. The certification will be sent to FTP and will include the legal description, 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 contiguous acres, more than 20% non-productive).

Withdrawal Taxes (s. 77.88(5), Wis. Stats.)

Initial MFL Entries

The withdrawal tax during the initial order will be the HIGHER of:

- The total net property tax for the acreage under the law in the year prior to withdrawal multiplied by the number of years the land was under the law. All acreage share and yield tax payments are subtracted.

- 5% of the established stumpage value of merchantable timber present less any acreage share and yield tax payment made during the order period.

Converted FCL Entries

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 the MFL order was issued. After the first 10 years the withdrawal tax follows the same rules as an initial MFL entry.

Withdrawn and Re-designated Entries

The withdrawal tax for withdrawal and re-designation orders for which the original order expiration date has not passed is calculated by the sum of the following:

- Original acres: The total net property tax for the acreage under the law in the year prior to re-designation multiplied by the number of years the land was under the original order. All acreage and yield tax payments are subtracted.
- All acres: The total net property tax for the acreage under the law in the year prior to withdrawal multiplied by the number of years the land was under the new order. All acreage and yield tax payments are subtracted.
- Example: 20 acres were entered into MFL in the year 2000 (to expire December 31, 2024). In 2006, the land is withdrawn and re-designated and 5 additional acres are added. In this case, "original acres" applies to the 20 acres under the original order and "all acres" applies to the entire 25 acres.

If the expiration of the original order has passed, the withdrawal tax follows the same rules as an initial MFL entry. In the example above, this would be applicable beginning with the year 2025.

Stumpage Value Determinations

The DNR forester shall provide the volume estimate for the stumpage value determinations.

The landowner may request their own estimator who must be approved by FTP or a forester may be appointed by the circuit court. The landowner shall pay the entire cost of obtaining the estimate. The estimate obtained shall be considered final (s. 77.88(6), Wis. Stats.).

To determine if a field cruise is needed FTP uses the following procedures:

1. The Tax Law Field Specialist estimates the stumpage value based on volumes reported on the stand exam.

2. FTP compares the initial estimate from the Tax Law Field Specialist with the tax calculation determined by the Department of Revenue.

3. If the estimate from the Tax Law Field Specialist is more than $200 greater than the tax calculation supplied by the Department of Revenue, FTP will request an appraisal from the DNR Forester. Accuracy levels are outlined in s. NR 46.24(2), Wis. Adm. Code. Field sheets should be retained to defend the estimate, if necessary. Before completing a cruise, the DNR Forester should also review the definition of "merchantable timber" found in s. NR 46.24(3), Wis. Adm. Code.

Refer to Appendix 4 for an example of an appraisal summary.

Prior to withdrawal, the DNR may provide the landowner with information on how the withdrawal tax is calculated and provide cover type maps and the current stumpage value schedule. However, this estimate becomes less useful as the order progresses since the back tax calculation will tend to prevail.

Withdrawal Fee (s. 77.88(5m), Wis. Stats.)

A $300 withdrawal fee is assessed on each withdrawal. It is included on the invoice with the withdrawal tax.

Non-renewal of MFL

No withdrawal tax or termination tax is assessed for non-renewal at the end of the order period.

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 under s.
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.

The purchaser must complete the Declaration of Withdrawal Exempt (Form 2450-162) signifying that it will be used for an exempt use.

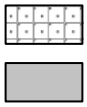
If exempt withdrawal results in a partition, the land remaining may continue under MFL designation unless the land fails to meet the eligibility requirements under s. 77.82(1). (77.88 (8), Wis. Stats.)

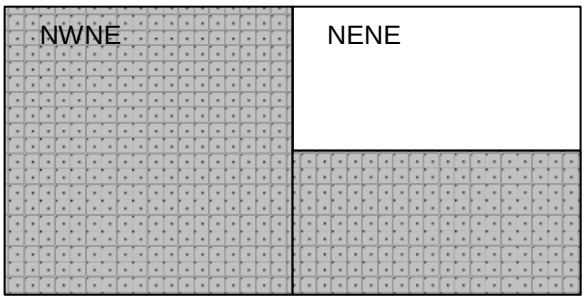
**EFFECTIVE DATE FOR WITHDRAWALS**

*Withdrawals are effective on the January 1 following 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.*

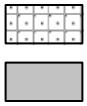
**WITHDRAWAL EXAMPLES**

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

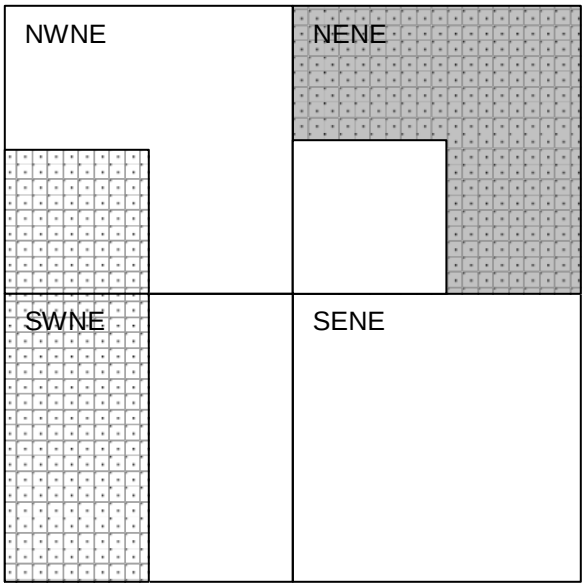


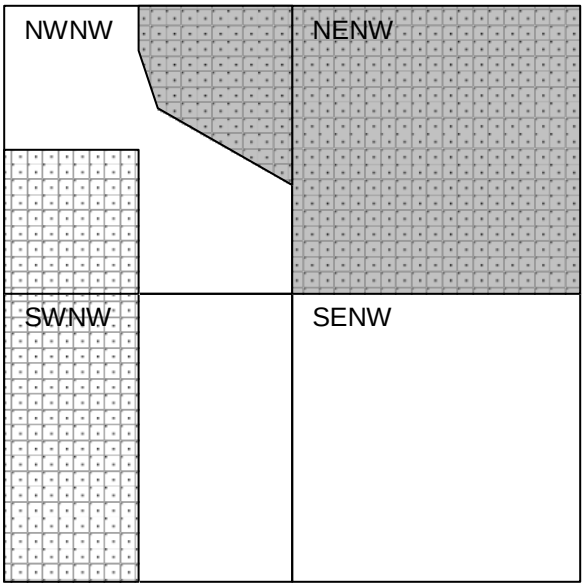

2. Entry 1 and Entry 2 both contain 2 parcels of MFL land. In both entries, either parcel may be withdrawn without affecting the eligibility of the other parcels.




Entry 1




Entry 2

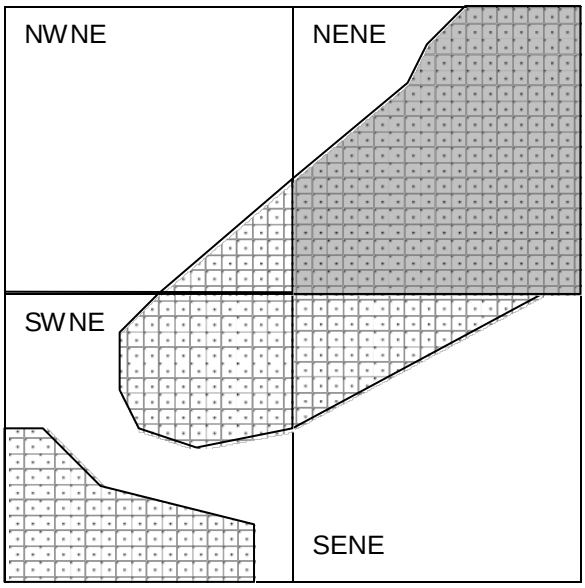


3. All the MFL land within a legal description (quarter-quarter, government lot or fractional lot) may be withdrawn because it's all of the owner's MFL land within the legal description. Land remaining will continue provided it meets the eligibility requirements (10 acres minimum and 80% productive).

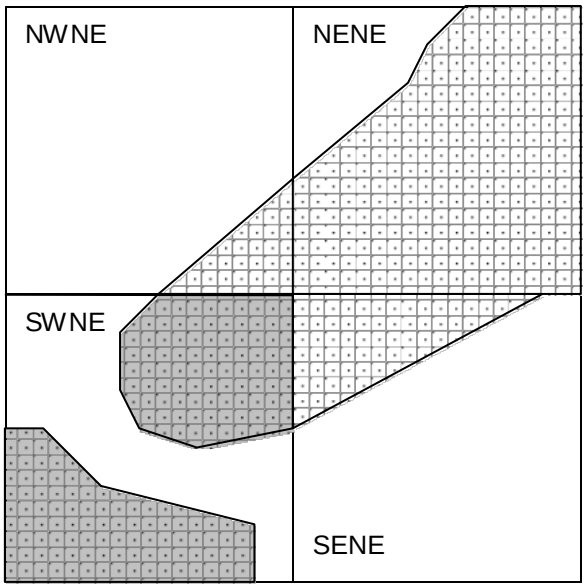
= MFL land

= Withdrawn land

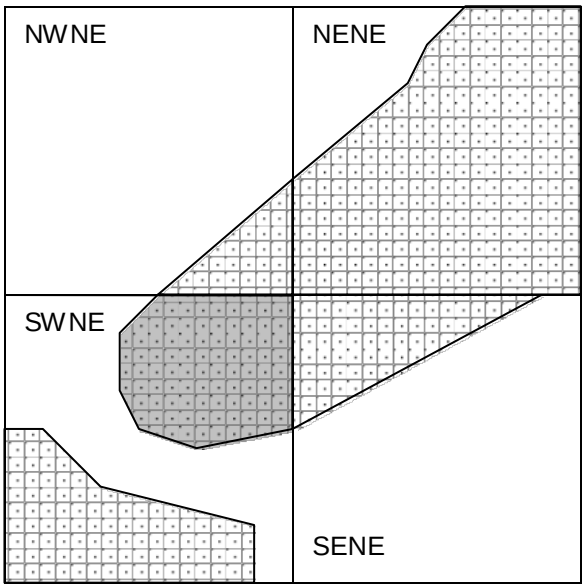
Withdrawal 1 – Acceptable




Withdrawal 2 - Acceptable




Withdrawal 3 – Not acceptable (This withdrawal would not be allowed because it is not an entire parcel or all MFL in the legal description.)

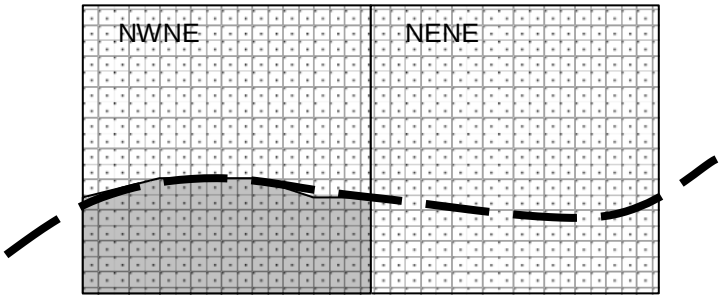


4. 80 acres entered as managed forest land. Part of a description is requested to be withdrawn (land lying south of town road). The request divides the description.

   The withdrawal would not be allowed because it is not an entire parcel or all the MFL land in the legal description. Therefore, the entire description (NWNE – 40 acres) must be withdrawn. MFL land in the remaining description is not affected if minimum eligibility requirements are met.

   = MFL land

   = Withdrawn land



## 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 DNR Forester (in consultation with FTP) 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 the landowner will receive written notification of the conditions of the research.

**BULK SAMPLING FOR FERROUS ORE**

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 in 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. Bulk sampling application forms do not exist, however landowners are expected to submit their plan by providing all information requested in s. 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. Within DNR, the Waste and Materials Management Program has the lead role in reviewing applications for mining permits. The Bureau of Science Services has the lead role in 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 EXPIRATION

Landowners are notified roughly 1¾ 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. The application process is the same as for a new enrollment.

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

## PUBLIC RECORDS REQUESTS

Printouts requested by the public are available through the Forest Tax Program (FTP). There may be a charge for this information. Examples include mandatory practices, land open to public access (use available order form), mailing labels, etc. Many printouts, including those listed as examples, can be found on the DNR public web site at http://dnr.wi.gov.

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 sustainable forest certification standards established by the American Tree Farm System® (ATFS) Group Certification and the Forest Stewardship Council (FSC) programs. 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 not to depart from the MFL Certified Group also agree to conform to ATFS and FSC standards.

Development of the Managed Forest Law Certified Group may:

- Elevate private woodland owners' confidence in responsible forest management through third-party certification;
- Improve timber harvest quality on MFL lands through better monitoring;
- Strengthen the MFL's effectiveness as a forestry public awareness and landowner education program;
- Recognize the sound forestry practiced by MFL participants by rewarding them with access to global 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 Program (administered by the American Forest Foundation -AFF) has 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 surveillance audits were required beginning in 2012.

ATFS requires that an ATFS Independently Managed Group (IMG) categorizes group members into one of three categories for the purposes of completing annual reports and paying of 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 sustainable forestry worldwide through market demand. FSC sets forth principles, criteria, and indicators that span economic, social, and environmental concerns. The program is not designed specifically for small private forest owners, but FSC has guidance for "Small and Low Intensity Managed Forests" that apply to family woodlands like those in Wisconsin's MFL Certified Group. FSC forest management programs are used in over 57 countries around the world. The FSC's international headquarters are located in Bonn, Germany. FSC-US is the national "chapter", with its main office in Minneapolis, MN.

A full FSC audit of the MFL – Tree Farm Certified Group was contracted with SmartWood, an FSC certifying body, in 2007. The field audit occurred in March 2008. The FSC registration was issued on December 4, 2008 and runs until December 3, 2013, provided that annual surveillance audits confirm ongoing conformance.

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. AFF Standards of Sustainability and FSC standards 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 will be 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 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.

Wisconsin statutes allow continued MFL designation for parcels of less than ten acres that remain after an authorized transfer, however such remainders of less than ten acres are not eligible to participate in the MFL Certified Group.

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 that 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. MFL plans are not fixed “contracts” since even the most carefully prepared plan can become outdated before the MFL term expires. 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.

A qualified Tree Farm inspector must approve MFL plans for land to be included in the certified croup. The qualified inspector may be the forester preparing the MFL Forest Stewardship Management Plan or the DNR forester or area/district reviewer approving the plan.

## 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 Forest Tax Law Policy Chief is designated as the 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 central office staff, district staff and cooperating foresters. The group manager (including delegated roles):

- Maintains the records of the group organization.
- Track participation in the MFL Certified Group with the MFL master database.
- Processes 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.

### DNR Service Foresters

MFL Certified Group services offered by DNR Foresters 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

The 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.

MFL participants with 2005 or prior orders of designation were automatically included in the MFL Certified Group when MFL was certified by the American Tree Farm System. MFL participants with 2009 or prior orders of designation were automatically included in the MFL Certified Group when MFL was certified by the Forest Stewardship Council. During each certification process, MFL landowners were given the opportunity to opt out of the certification program by submitting an MFL Certified Group Departure Request (Form 2450-191).

Since 2009, an MFL Certified Group Member commits to the Certified Group Standards by signing the MFL Application for Designation or MFL Transfer Form (Form 2450-159), which includes information that inclusion in the MFL Certified Group is automatic unless the landowner signs and returns a Managed Forest Law Certified Group Departure Request (Form 2450-191). These forms and the Managed Forest Law Stewardship Forestry Plan (Form 2450-194) states 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 information also stipulates that the 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 Departure Request (Form 2450-191).

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.
    c. Not planting Genetically Modified Organisms (GMO)[1] in the forest.
    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. Striving to consider appropriate liability insurance and safety requirements in timber sales and other contracts.
    g. Using the ATFS and FSC logos in conformance with their 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. Tree retention is expected to maintain, enhance, or restore habitat components and associated stand structures in abundance and distribution that could be expected from naturally occurring processes. Tree retention is not required on timber sales 10 acres in size or less in order to encourage adequate regeneration and operability of the stand unless it meets landowner goals and is consistent with sound forestry practices. Tree retention is required on timber sales greater than 10 acres unless a lower amount of retention is needed to ensure adequate regeneration or operability of the stand.

## 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
- AFF Tree Farm Group Certification application fees
- Annual ATFS Group Administrative Fee
- ATFS Education and Information Fee in the form of providing on-going landowner education programs administered by the Department
- 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.

[1] GMO definition from Wikipedia: "A genetically modified organism (GMO) is an organism whose genetic material has been altered using genetic engineering techniques. These techniques are generally known as recombinant DNA technology. With this technology, DNA molecules from different sources are combined into one molecule to create a new set of genes. This DNA is then transferred into an organism and causes the organism to acquire modified or novel traits."

Group Membership for New MFL Orders and Transferred Lands

New MFL applicants and people acquiring MFL land through transfers will be included in the MFL Certified Group, unless they submit a Managed Forest Law Certified Group Departure Request ( Form 2450-191). Information explaining the MFL program and certified group program will be provided to new applicants and transferees so they can make informed decisions. The MFL Notice of Land Conveyance and Petition for Transfer (Form 2450-159) will include basic information about the MFL Group certification option.

Large-ownership industrial MFL tracts transferred to individual 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. DNR foresters 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.

Voluntary Departure from Group Membership

MFL landowners may elect to depart from the MFL Certified Group at any time without prejudice to continued MFL eligibility by submitting an MFL Certified Group Departure Request (Form 2450-191). In addition, anyone voluntarily withdrawing from MFL shall be dropped from the 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 (Form 2450-192), except as noted below:

- If a landowner submits an MFL Certified Group Departure Request (Form 2450-191) for an MFL Order a second time, they are ineligible to reactivate MFL Certified Group membership for that MFL Order again. 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.
- 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 digital 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 (such as FSC-SmartWood), 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) 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 the local DNR forester 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
- 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, highly hazardous 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 Forest Tax Law Policy Chief - Group Manager. Team, area or district forestry supervisors shall help resolve issues before passing a complaint up the line 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 born 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 (CFM) Report Form, 2400-100E — 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 *or* the field foresters completing inspections of group member lands must have completed the ATFS Tree Farm inspector training course.

The Department will use PlanTrac or 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 (PlanTrac or WisFIRS) and reported on the CFM Report Form, 2400-100E. Notice of Investigation copies will be sent to the Forest Tax Law Policy Chief.

### 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", dated May 5, 2007 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, DNR Foresters 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 Cooperative Forest Management report or other form.

In the event that a DNR forester 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.

### Timber Harvest Monitoring

DNR Foresters 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).

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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.

To verify that private timber sales conform to MFL sound forestry[4] and forest certification standards, DNR foresters 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 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 or High Conservation Values 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 DNR Forester should report them to the landowner or the landowner's agent, not the logger. The landowner is responsible for taking any necessary action.

DNR Service Foresters may ask landowners or their agents about private timber sale contract terms to verify MFL sound forestry compliance, but DNR foresters 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 species present

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 DNR foresters 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).

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[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 DNR foresters 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.

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 may allow access to certain markets and, in some cases, provide price premiums. Ultimately, when finished goods are produced from raw materials that originate from certified lands, 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 American Forest Foundation's 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.

MFL Certified Group CoC applies *only* to stumpage and other s. 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.

Chain of Custody Control System

1. Wisconsin DNR is the custodian of the following MFL Group certificate numbers:

   ATFS Certificate Number **NSF-ISR 1Y544-T1** (Certifying Body: NSF-International Strategic Registrations)

   FSC Certificate Number **SW-FM-COC 003626** (Certifying Body: SmartWood).

   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.

[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.

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 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 SmartWood-Rainforest Alliance) only if such use is consistent with guidelines published by the owners of the logos. Any use of FSC or SmartWood certification trademarks and public information related to certification claims shall be submitted through the Forest Tax Law Group Manager to SmartWood 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 and SmartWood-FSC 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 annual reporting information is contained in ATFS Form GO-07 (Group Organization Annual Reporting) and SmartWood report forms.

The group manager will submit the annual reports to the American Tree Farm System and SmartWood 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 Forest Tax Program 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. The group manager will summarize the findings, areas needing improvement and commendations in a report for the November Field Operations Team. Items that require policy decisions will be sent to the Forestry Leadership 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.

FSC and ATFS Standard Details

ATFS and FSC develop hierarchies of principles, criteria, performance measures and indicators that auditors reference in reviews. The FSC standard used for the 2011 MFL Certified Group assessment was the FSC-US Forest Management Standard (v1.0), complete with Family Forest Indicators and Guidance approved by FSC-IC on July 8, 2010. This Standard is available at:
http://fscus.org/images/documents/standards/FSC-US%20Forest%20Management%20Standard%20v1.0%20with%20FF%20indicators.pdf. The ATFS assessment in 2011 was based on the 2010-2015 AFF Standards of Sustainability, which is available at
http://www.treefarmsystem.org/stuff/contentmgr/files/1/b6def982f32878ce457388c59ba57a4b/misc/finalaff2010standardsguidance.pdf. ATFS and SmartWood also have group certification and chain of custody program requirements, available on their Internet sites. Future FSC and ATFS reviews will apply the applicable standards that are in effect at the time of the audits.

# 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…

> *To qualify for approval, a management plan shall be prepared by a plan writer certified by the department or the department itself…* (s. 77.82(3)(c), Wis. Stats., effective Nov 1, 2005)

The legislature through the Act directed the department to:

> *...promulgate rules specifying the qualification that a person must satisfy to become a certified plan writer. ...* (s. 77.82(3)(g), Wis. Stats., effective April 28, 2004)

This change, along with other changes, was recommended in the Governors 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 each initial and 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.

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 and submit it with the course registration form. Pre-study material and the pre-study test are available on the DNR web site or from the Forestry Training office.

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 two-day session covering the CPW and MFL plans.

4. Within 120 calendar days of completing the basic CPW training, a CPW candidate must submit an IQS form and two MFL plans, covering at least three different timber types, and prepared within the last three years, to the Forest Tax Section (FTS) for review. The plans must include all required documentation, including a copy of the petition and all attachments, and must be approved by the Department.

   A plan review team established by the FTS will review each plan using the Plan Review Checklist (Form 2450-189) within 60 calendar days of receipt.

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 offered one opportunity to correct the errors or omissions the Department identified in the review. Plans with identified errors or omissions should be corrected and returned to the FTS within 60 days of notification. Plans which are not returned to FTS within 60 days, 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 plans, **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)

Plans meeting this requirement will be reported on the annual CF renewal application by the CPW.

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 (Form 2450-189A or 2450-189B) 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).

   The CF status will be monitored by the FTS.

6. Submit a report of managed forest law management plan packet preparation costs charged as an independent certified plan writer during the preceding 12 months by May 31 of each year in a method approved by the department. (s. NR 46.165(4)(f), Wis. Adm. Code).

The data will be collected by FTS in May each year. The data reported must include the county, acres, base rate and per acre rate for each plan packet prepared from the proceeding June 1 through May 31. The data is used by FTS 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*:

- FTS will monitor these three requirements for all CPWs.
- 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 FTS 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 Area Forestry Leader (AFL). The program goal is to settle disputes and improve performance at the area level prior to making a recommendation for certification revocation.

   - The AFL 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) an AFL or Forestry Team Leader (FTL) and 3) a representative from the FTS.
   - The CPW Review Board will review the recommendation for certification revocation and make a recommendation on the revocation to the Chief Sate Forester.
   - The Chief State Forester will issue the final decision.

   The MFL Management Plan Review Checklist (Form 2450-189) 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 DNR forester or other reviewer and submitted to the supervisor/area forestry leader when there is a recurring problem. The AFL may also identify problems.

Length of Revocation and Re-certification (s. NR 46.165(6), Wis. Adm.

Code) Revocation for *lapse*:

There is no minimum revocation period. The individual must complete **all** the eligibility requirements (numbers 1-8, page 22-1) 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 22-1, must be completed with one exception. The 2 plans submitted under #4 under Eligibility must have been prepared after the certification was revoked.

Notification of Revocation

The FTS 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.

Affect 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 Forest Tax Section Chief of the Bureau of Forest Management will provide general administration of the CPW program for the Division of Forestry. The Forest Tax 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.

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# 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. The last contracts expire December 31, 2035.

| | Entries prior to 1972<br>(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<br>$0.20/acre/year for special class | $1.66/acre/year; will be adjusted in 2012 and at 10-year intervals |
| CONTRACT PERIOD | 50 years only | 25 or 50 years<br>(landowner's choice) |
| PRODUCTIVITY | | No more than 20% non-productive (beginning in 1980) |
| 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 |

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| | |
|---|---|
| MANAGEMENT SCHEDULE | Schedules are written for 25 years; 50 year contracts have a new schedule developed during the 25th year for the last half of the contract. New schedules should be prepared when practices are re-scheduled (Form 2450-121, or substitute Form 2450-132 with landowner objective and signatures optional). |
| 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 2450-34 or Form 2450-133). |
| OTHER REQUIREMENTS | Located outside the incorporated limits of a city or registered plat.<br>Held permanently for growing timber under sound forestry practices.<br>Capable of producing merchantable wood products within 100 years of entry.<br>A minimum level of tree stocking must be present at time of entry.<br>No mining or landfill operations present (exploration operations not adversely affecting the forest resource are allowed).<br>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.<br><br>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).<br><br>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. |
| RENEWALS | None, after January 1, 1987. Expiring FCL contracts were not renewed due to repeal of the law. They 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 continue until 2013 and have the following modifications:<br><br>• acreage share payments are $0.20/acre/year for the contract period,<br>• no state contribution is paid nor severance tax levied,<br>• a cutting notice must be filed with the DNR; however, a cutting report is not required (note: after reviewing the cutting notice, foresters should return the original to the landowner keeping a copy for their files for follow up contacts to ensure harvests were conducted as approved),<br>• use of lands for grazing or any other purpose except forestry is cause for withdrawal. |

| | |
|---|---|
| TERMINATION TAX | A 10% severance tax on the value of standing merchantable timber is charged if the land is not designated MFL at the expiration of the FCL contract. See example of appraisal in appendix 4. |
| TRANSFERS | Must be reported within 10 days of the transfer of the deed. A transfer order is not issued for survivors of joint ownership. These are handled as a "name change" in Plantrac with notification to the Forest Tax Section (FTS). |
| 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).<br><br>Withdrawals are effective the January 1 following the date of the withdrawal order.<br><br>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 April of each year, FTS mails a notice of FCL expiration to affected landowners via certified mail of FCL orders expiring December 31 of the following year. An option to petition lands 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 on the intranet for DNR foresters at the same time.

The forester must update the recon through Plantrac.

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.

### Termination Tax

A 10% tax on the value of the standing merchantable timber is assessed for lands not entered under the MFL due either to landowner choice or ineligibility. No FCL expiration stumpage assessment is calculated for lands enrolled under the MFL.

A landowner is not required to enroll all of their expiring FCL land under the MFL. Also, their land may not all qualify for MFL designation. In these case, only the portion of the land which is not renewed under MFL is assessed a termination tax.

The landowner must choose to have the DNR (local forester or tax law field specialist) estimate the volumes at no additional cost, or to have an agreed upon estimator determine the volumes entirely at the landowner's expense. If the DNR and the landowner cannot agree upon an estimator, one will be appointed by the judge of the circuit court of the county in which the land lies, and the expense will be paid jointly by the DNR and the landowner.

The merchantable volume estimates calculated by the DNR (local forester or tax law specialist) may 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.

### Special Class Lands

There is no termination tax assessed for land designated FCL special class.

**MANAGEMENT SCHEDULE**
**(Form 2450-121)**

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.). Forms 2450-132 and 2450-132A may be used in place of the management schedule, but note on the plan that it is for FCL, not MFL. Signatures are not required on FCL plans.

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 Forest Crop Law 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 the Forest Crop Law.

Landowners With Mandatory Practices to Complete

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. A Cutting Notice and Report (Form 2450-032) and the forester's address and phone number should be provided to the landowner. Mandatory practice information and letters can be generated in Plantrac.

The forester may revise the management schedule if there is a basis in sound forest management. A copy of the revised schedule must be sent to the landowner and FTS.

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 withdrawal. Since management schedules are not signed by the landowner, a recommendation for withdrawal should be made when it can be shown that sound forestry is not being adhered to or followed based on the silvicultural objective set for the stand.

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. This was determined by DNR legal staff after review of the statute and administrative code (letter dated 1/20/87 from Jim Christenson to Joe Frank).

Procedures

Landowner: Within 10 days of a deed transfer, submits a Transfer of Ownership (Form 2450-035) to the DNR forester. The signature(s) of the current owner(s) and a copy of the signed and notarized deed are required. Trustee documentation is required if the trustees of the trust are not listed on the deed or if the trustees on the deed have changed. 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.

Forester: 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 sends the transfer on to FTS. If information is missing or there are problems with the transfer, contacts the landowner for follow-up.

FTS: Issues a transfer order. Sends original to be recorded at the Register of Deeds. Sends a copy of the order to the new and former landowners, DNR forester, municipality clerk and assessor, and Department of Revenue.

Forester/Tax Law Specialist: Sends new landowner a management schedule, map, and information on FCL. Updates recon and submits updated map, land exam and practice report, and management schedule (if revised) to FTS.

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 Plantrac with notification sent to FTS.

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.
  - Trustee documentation is required if the trustees of the trust are not listed on the deed or if the trustees on the deed have changed.
- ✓ 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). Trustees must sign for trusts, the president and secretary must sign for corporations or companies, all members must sign for LLCs and all partners must sign for partnerships.)
- ✓ 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 DNR Forester on or after May 15, 2009 must meet the transfer requirements.

Lands that were transferred by land contract in which their transfer from were received by the DNR Forester 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

| Is a transfer required when… | | | | |
|---|---|---|---|---|
| | | There is a conveyance | | |
| **Original Ownership Type** | **Specific Scenario** | **by deed, land contract by other ownership document?** | **An owner passes away?** | **Comments** |
| General partnership | Sale from general partnership to LLP where entity is still same | No | n/a | Example: Black River general partnership conveys land to Black River LLP. Deed simply changes ownership type. |
| General partnership | Sale from general partnership to LLP where entity is completely different | Yes | n/a | Example: Bob & Tom Smith general partnership conveys land to Jacobsons LLP. Deed conveys land to entirely different & unrelated party. |
| Husband & wife | No other ownership relationship stated | Yes | Yes | |
| Joint tenants | | Yes | No | |
| Life estate & individual | Sale to same 2 people as individuals | No | n/a | No transfer: Life estate holder passes away |
| Life estate & individual | | Yes | See comments | Transfer: Individual owner passes away |
| LLC or corporation | Change in officers/members | No | No | |
| LLC or corporation | Sale to different owner | Yes | n/a | |
| LLP or partnership | Change in partners | No | No | |
| LLP or partnership | Sale to different owner | Yes | n/a | |
| Survivorship marital property | | Yes | No | |
| Tenants in common | | Yes | Yes | |
| Trust | Change in trustees | Yes | See comments | No transfer: Trustee passes away & no new trustees result<br>Transfer: Trustee passes away & there are no new trustee(s) |
| Trust | Rotating trustees | | | No transfer: Trustee passes away & no new trustees results |
| Trust | where all trustees involved listed as owners on MFL order | No | See comments | Transfer: Trustee passes away Y there are now new trustee(s) |
| Trust | Sale to different owner | Yes | n/a | |

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

**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.

Failure to pay the withdrawal tax results in cancellation of the request and continuation under the FCL law.

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 (Form 2450-159).

**Procedures**

Landowner: Initiates the process by filing a Declaration of Withdrawal (Form 2450-008) with the DNR. A worksheet, available from FTS, can assist the landowner in estimating the withdrawal cost.

FTS: Sends a copy of the withdrawal request to the local forester or tax law field 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. Daily interest is assessed for late payments.

FTS: 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.

Forester: Updates recon after receipt of the Order of Withdrawal via Plantrac.

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.

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 withdrawal taxes. 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.

**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 petition be filed by the appropriate deadline. A termination tax will not be assessed on these renewals.

3. Remain under FCL until the contract expires and do not renew/enter MFL. A termination tax will be assessed according to Chapter 77, Wis. Stats.

4. Withdraw from FCL before contract expiration. An early withdrawal penalty will be assessed according to Chapter 77, Wis. Stats.

General Information

- Petitions can be submitted at any time. The conversion petition was made a part of the MFL Petition for Designation/Conversion (Form 2450-129).

- All other MFL petition and processing deadlines apply.

- Lands that are applied for conversion by July 1 will be placed on the ICPW referral list unless an ICPW is contracted to prepare the management plan packet or a formerly-prepared plan is submitted with the petition. Landowners may also hire an ICPW directly for entry under the May 15 (March 1) application deadline.

- The DNR does have up to 3 years to process petitions to convert, but an effort should be made to complete conversions within the first year. If the petition is on the MFL petition referral list and the hired ICPW guarantees completion of the plan by the following July 1, then the aforementioned rule does not apply.

- MFL petition fees detailed in Chapter 20 apply.

- All or Nothing

  ¾ 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.
  ¾ **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 forester via Plantrac.
- 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<br>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.<br><br>Forest Tax Section notifies the forester and appropriate local officials of expired contracts and deletes recon data.<br><br>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:<br><br>• harvest of mature timber,<br>• thinning of plantations and natural stands for merchantable products according to sound forestry practices,<br>• 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.<br><br>The non-productive portion is limited to 20% of the contiguous area. Minimum stocking requirements must have been met at the time of entry.<br><br>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.<br><br>Must be outside recorded plats, incorporated villages or city limits at the time of entry.<br><br>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.<br><br>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.<br><br>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.<br><br>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

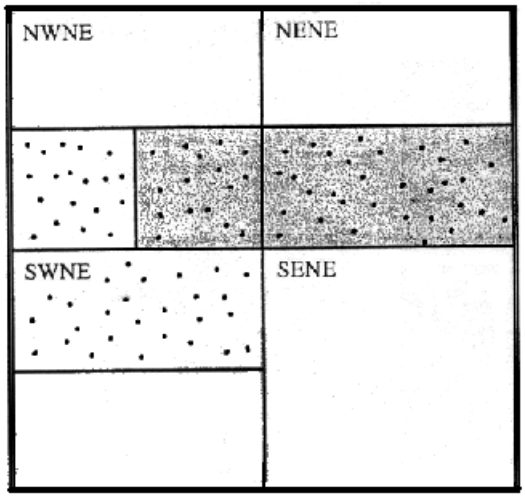
| | |
|---|---|
| Landowner | Submits a Declaration of Withdrawal form to the Department, including the name and address of any new landowner. |
| Forest Tax | Using the current average F-1 land values provided by the Department of Revenue, calculates the withdrawal tax then issues a Withdrawal Order 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. |

**Examples of Partitioning**

1. Conveyance Results in a Partition
   Requires declassification of the entire WTL Order (60 acres)

- = WTL land

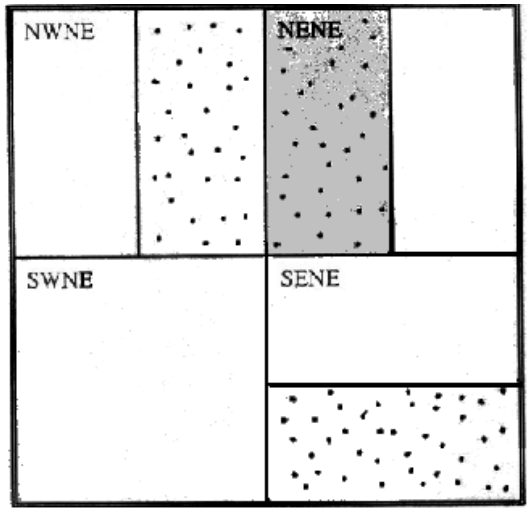
  Shaded = transferred land




2. Conveyance Results in a Partition
   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

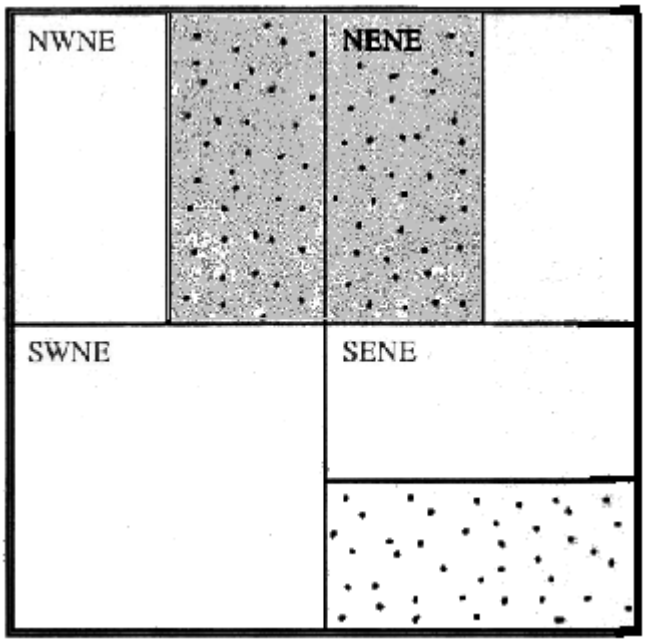



3. Conveyance Results in **no** Partition

All lands may remain under the law, or either entire parcel may be voluntarily declassified.

- = WTL land

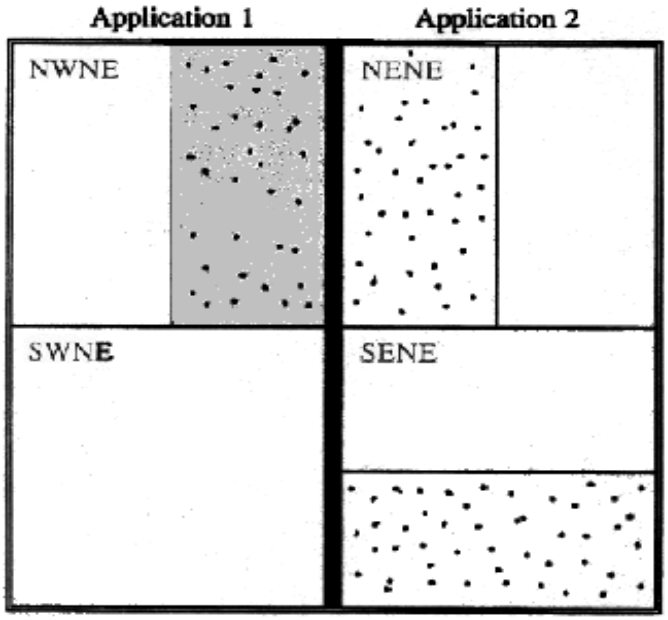
Shaded = Transferred land




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 50

## INSTRUCTIONS FOR COMPLETING/UPDATING TAX LAW FORMS

### LAND LISTING

**(Form 2450-131)** [Format: paper, electronic (MS Word or Plantrac)]

The Land Listing is the document used to create the Order of Designation and master file. In the appropriate box, the Land Listing must include:

1. **Name and address**. The names of all owners must appear on the Land Listing. Place the name and address of the "contact" or "primary" owner in the name and address block. List the additional owners in the description column, after the descriptions, with the heading "additional owners". Do not use "et al" to represent other owners on this form.

   Do not include spouses as owners unless they are listed on the deed.

   Use the same name and address as used on the Land Exam and Practices Report (Form 2450-128). The name used must be one of the owners, not an agent or legal guardian.

   Individual Owners:
   Last name, first name, middle initial (Note: Do not use "et al" here)
   Smith, John, A.

   Other Owners (Corporate, Limited Liability Company, Partnership, Estates, etc.)
   Use entity name
   Mosinee Paper Corp.
   John A. Smith LLP

   Besides the name fields, the landowner database has a field for an "in care of" contact, two address lines, city, state, zip code, and country.

2. **Order length**. Enter 25 or 50 years as selected by the landowner.

3. **County**. Enter county name.

4. **Town/Village/City**. Check box before town, village or city then enter the name.

5. **Order No**. Enter the order number assigned by the Forest Tax Section (FTS). This includes the county code (2 digits), a 3 digit sequence number assigned by FTS, and the year of entry (4 digits). For additions, the order number matches the order number of the original entry. The order number is written at the top of the petition (July 1 deadline) or on the order number request from (May 15 deadline). Notify FTS if the number is missing or if you need a new order number.

6. Departure from MFL Certified Group. If the owner would like to opt out of the MFL Certified Group, check the box and attach Form 2450-191.

7. **T** (township number). Enter the correct township number.

8. **R** (range number) and **dir.** (range direction). Enter the correct range, including "E" or "W".

9. **Sec.** (section). Enter the correct section number.

10. **Desc. Code** (description code). Enter the correct description code. See Appendix 1 for a list of all valid codes.

11. **Description, PIN and CSM**. Enter the legal description text.

    Enter the county **parcel identification number** (PIN) on the same line or the line immediately below the legal description. Be sure to include all PINs that apply to the land in the legal description.

Each legal description should appear only once, even if there is more than one PIN for it.

Enter the **certified survey map** (CSM) information, if applicable, on the line below each legal description it applies to (e.g. Lot 1 CSM 1234 V34 P235). A CSM may include more than one description.

12. **Open, closed, and denied acreage** for each description (this total should equal the acres on the petition). Total the open, closed, and denied acres for the entire entry at the bottom of the page.

    - If all land owned within the description is being entered, then the acreage should match the tax records; it may be decimal acres.

    - If only part of the land owned in the description is being entered, then the acreage should be in **WHOLE NUMBERS** unless…

        - There is a certified survey showing the exact acreage of the land being entered or excluded.
        - All land owned within the parcel ID number is being entered. (This situation can arise when multiple parcel ID numbers occur within the same legal description.)
        - The dimensions of the excluded land are included on the map (e.g. 330' x 396' for a 3.0 acre area).
        - A partial acreage is needed to bring the closed acreage up to the 160 acre limit.

    - Acres denied may be in decimal acres.

13. **Additional concerns.**

    - When the on-the-ground acreage differs from the county acreage, the land listing should correspond with the county (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.

        - Include comments on acreage discrepancies in the land exam remarks.
        - The plan preparer should inform the landowner of the discrepancy and the landowner can follow up in resolving the situation. The plan preparer can inform the county/municipality of the issue and resolve the discrepancy if an agreement can be made quickly, but he is not responsible for this. The plan preparer is only responsible for preparing the packet to DNR standards, using the county acreage, noting discrepancies on the land exam (remarks), and notifying the landowner of the issue.
        - If the county updates the acreage after enrollment, FTS will correct the acreage accordingly. This may require adjustments to the amount of closed acreage (80/160 closed acre limit).

    - If the entire petition is denied, indicate the reason below the descriptions, using the denial numbers on the following page. This reason will be incorporated in the Denial Order sent to the landowner from FTS.

    - If part of the acreage included in the petition is denied, then explain the circumstances in the remarks section of the land exam. The forester should notify the landowner of the change. A denial number is not required, but may be used for further clarification.

    - For multiple municipality petitions, submit one land listing for each order number.

**DENIAL REASONS**

| | |
|---|---|
| **Denial 1 - Unpaid Taxes** | The county treasurer reports delinquent property taxes on the petitioned land or the landowner fails to provide proof that the taxes are paid by October 15. |
| **Denial 2 - Not 10 Acres** | The land is less than 10 contiguous acres of eligible forest land in a single municipality. |
| **Denial 3 - Unproductive Land** | Less than 80% of the land is producing, or capable of producing, 20 cubic feet of merchantable timber/acre/year. |
| **Denial 4 - Unsuitable For Timber Production** | More than 20% percent of the land is unsuitable for producing merchantable timber. |
| **Denial 5 - Incompatible With Forestry** | The parcel is developed for commercial recreation, industry, human residence, or another use determined by the Department of Natural Resources (DNR) to be incompatible with the practice of forestry. |
| **Denial 6 - Within Plat** | The 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. |
| **Denial 8 - No Signed Management Plan** | A management plan was prepared and presented to the landowner, who declined to sign it. |
| **Denial 9 - No Encumbrance Holder Signature** | The signatures of all encumbrance holders were not obtained on the petition as required by s. 77.82(2)(f), Wis. Stats. |
| **Denial 10 - Owner Signatures Missing On Petition** | All owners of record have not signed the petition. |
| **Denial 11 - Proof of Ownership Missing** | A copy of the legal instrument giving the petitioner an ownership interest in the petitioned land(s) was not supplied. |
| **Denial 12 - Currently Designated as FCL or MFL** | The land subject to the petition is presently designated as Forest Crop Law (FCL) or Managed Forest Law (MFL) land and will not expire by the next January 1. Forest lands cannot be designated as forest tax law lands under two orders at the same time. |
| **Denial 13 - Width Requirement** | The petitioned land does not meet the minimum width requirements of 120 feet or exceeds the length to width ratio of 4 to 1 for eligibility. |
| **Denial 14 – Addition Less Than 3 Acres** | The eligible land included on the petition to be added to an existing order is less than 3 acres. |
| **Denial 15 – Petitioned Land Sold/Transferred** | The ownership of the lands petitioned for designation changed after the petition was filed. |
| **Denial 16 – Unacceptable Harvest After Plan Prepared** | The petitioned land was harvested in an unacceptable manner after the plan was prepared. |
| **Denial 17 – No ICPW Hired to Prepare Plan** | For referral list petitions only. One or more independent certified plan writers made an offer to prepare the management plan, but none were hired. |

| | |
|---|---|
| **Denial 18 – ICPW prepared Plan Not Approvable By July 1 Deadline** | A management plan was prepared but did not meet DNR approval by the required deadline. |
| **Denial 19 – Management Plan Not Submitted By Deadline** | A management plan and supporting documents were not submitted by the required deadline. |

**LAND EXAM AND PRACTICES REPORT**
**(Form 2450-128)** [Format: paper, electronic (MS Word or Plantrac)]

The Land Exam and Practices Report creates the reconnaissance (recon) file and forest practices reminder ("tickler") system. All recon data must be entered into Plantrac. Updates to Plantrac data are submitted annually by the local forester to the Forestry Data Coordinator in Madison. The data on the local computer is the master data. The FTS file is a backup.

Use this form for:

- New MFL entry.
- Additions to existing MFL entry.
- Entry of a new owner(s) due to a partial transfer of MFL or FCL.
- Creation of a new stand numbers for MFL or FCL.
- Recon update to an existing stand for MFL or FCL.
- Initial entry of FCL backlog recon.

A paper form can be completed or the form can be created on Plantrac once the recon data is entered.

**HEADING INFORMATION**

Order Number

**MFL** order numbers (2 digit county code, 3 digit sequence number, 4 digit entry year) are assigned by FTS. The order numbers for new entries appear on the Forest Tax intranet. If additional numbers are needed, contact FTS for a new number. The order number for an existing entry is located on the Master File printout. The order number assigned after a partial transfer is located on the Transfer Order.

**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.

Owner's Name

Enter the “primary” or “contact” landowner. This must be the same name used on the Land Listing. The name used must be one of the owners, not an agent or legal guardian.

If there is more than one owner, only the primary landowner will be listed as there is only room for one owner in the field. You may use “et al” on this form to indicate multiple owners, but it is not required.

Individual owners:
Last name, first name, middle initial
Smith, John, A.

Other Owners (Corporate owners, Limited Liability Company, Partnership, Estates, etc.):
Use entity name
Mosinee Paper Corp.
John A. Smith Revocable Trust, LLP

Include an “in care of” line if applicable.

Address

Enter the address using official abbreviations (see Appendix 2). The database will store up to two lines of an address, as well as a city, state, zip code, and county.

Landowner Objective

Enter the appropriate code in the box in the upper left-hand corner of the form. Select the code based on the objective statement on the petition or from a direct discussion with the landowner.

| Code | Objective |
|---|---|
| 1 | Timber |
| 2 | Timber/Wildlife |
| 3 | Timber/Wildlife/Aesthetics |
| 4 | Timber/Aesthetics |

Land Description

The land description includes the:

- County name where the property is located
- County code (see below)
- Section number (only one section per page)
- Township number (only one township per page)
- Range number (include E or W) (only one range per page)
- Town/Village/City name (include TN, VIL, CTY as appropriate)

| County | Code | County | Code | County | Code |
|---|---|---|---|---|---|
| Adams | 01 | Iowa | 25 | Polk | 49 |
| Ashland | 02 | Iron | 26 | Portage | 50 |
| Barron | 03 | Jackson | 27 | Price | 51 |
| Bayfield | 04 | Jefferson | 28 | Racine | 52 |
| Brown | 05 | Juneau | 29 | Richland | 53 |
| Buffalo | 06 | Kenosha | 30 | Rock | 54 |
| Burnett | 07 | Kewaunee | 31 | Rusk | 55 |
| Calumet | 08 | LaCrosse | 32 | St. Croix | 56 |
| Chippewa | 09 | Lafayette | 33 | Sauk | 57 |
| Clark | 10 | Langlade | 34 | Sawyer | 58 |
| Columbia | 11 | Lincoln | 35 | Shawano | 59 |
| Crawford | 12 | Manitowoc | 36 | Sheboygan | 60 |
| Dane | 13 | Marathon | 37 | Taylor | 61 |
| Dodge | 14 | Marinette | 38 | Trempealeau | 62 |
| Door | 15 | Marquette | 39 | Vernon | 63 |
| Douglas | 16 | Menomonie | 40 | Vilas | 64 |
| Dunn | 17 | Milwaukee | 41 | Walworth | 65 |
| Eau Claire | 18 | Monroe | 42 | Washburn | 66 |
| Florence | 19 | Oconto | 43 | Washington | 67 |
| Fond du Lac | 20 | Oneida | 44 | Waukesha | 68 |
| Forest | 21 | Outagamie | 45 | Waupaca | 69 |
| Grant | 22 | Ozaukee | 46 | Waushara | 70 |
| Green | 23 | Pepin | 47 | Winnebago | 71 |
| Green Lake | 24 | Pierce | 48 | Wood | 72 |

Page Number

Consecutively number all Land Exam pages for the entire Petition for Designation (Page 1 of 3, Page 2 of 3, etc.).

**STAND INFORMATION: PART A**

Year - Productive timber types only

Record the year the site index and basal area were measured.

Stand Prefix (Item 1)

Stand prefixes are used to identify land features or special considerations. These codes can be used separately or in combination (up to two) (e.g. P, A, PA).

A Aesthetic area
P Plantation
Z "No timber management" zone (These stands are included in the 20% non-productive or not suitable.)
M Practice postponed for market considerations. (Used to indicate when a practice has been postponed due to market conditions. Each DNR area will establish guidelines. To be used at the time the practice is due and to be issued by DNR staff only. This code is not to be used when writing an MFL plan for entry purposes.)
V Practice postponed for silvicultural conditions. (Used to indicate when a practice has been postponed due to silvicultural reasons. Each DNR area will establish guidelines. To be used at the time the practice is due and to be issued by DNR staff only. This code is not to be used when writing an MFL plan for entry purposes.)

The area guidelines for codes M and V will be published in the appendix of this handbook, as they become available.

Stand Number (Item 2)

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 being located in different counties or having different prescriptions.

Stand numbers for additions can be handled in three ways:

1. If the timber types and supporting recon data for the stands in the addition are unique and *different* from the original order, then use the next consecutive number available. 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.

2. If the same timber type and supporting recon data are represented in both the addition and the original entry:

   a. The same stand number may be used for both acreages. The new stand information should include the *total* combined acreage for both the original order and the addition. For example, stand 1 in the original order is 15 acres. The same stand exists in the addition and is 10 acres. Stand 1 should now reflect a total acreage of 25 acres.
   b. OR: A different stand number may be assigned to the addition, keeping the two stands separate for record keeping purposes. For example, although the stands are identical, the forester 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).

Timber Type - Primary/Secondary/Understory (Item 3)

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 5-11$^2$). Refer to M.C. 8625.2 for additional information.

In typing a stand using basal area, the procedure should initially determine what the primary size class is. In classifying saw-timber stands where both large and small saw-timber are present, it must be determined whether the greatest stocking lies in the large or small saw-timber so as to classify the size class. Then within the size class, determine the primary forest type.

Productive Cover Types*

| | | | |
|---|---|---|---|
| A | Aspen | MR | Red Maple |
| BH | Bottomland hardwoods | NH | Northern Hardwoods |
| BW | White birch | O | Oak |
| C | Cedar | OX | Scrub oak |
| CH | Central hardwoods | PR | Red pine |
| FB | Balsam Fir | PW | White pine |
| FS | Fir-spruce, white spruce | SB | Black spruce |
| H | Hemlock | SH | Swamp hardwood |
| MC | Miscellaneous (other) conifers | SW | White spruce |
| MD | Miscellaneous (other) deciduous | T | Tamarack |
| | | W | Black walnut |

Non-productive Cover Types*

| | | | |
|---|---|---|---|
| AX | Off-site aspen | KB | Muskeg bog |
| F | Farmland - active | KEV | Emergent vegetation |
| FG | Grazed pasture - active | KG | Noncommercial lowland grass |
| G | Grass | KH | Noncommercial herbaceous vegetation |
| GG | Grass (true grasses) | L | Lake |
| GH | Herbaceous vegetation | LB | Lowland brush |
| GLS | Low growing shrubs | LBB | Bog birch |
| I | Recreation or industrial | LBA | Lowland brush/tag alder |
| IA | Parking area | LBD | Dogwood |
| ICG | Campground | LBW | Shrub willow |
| IP | Picnic area | LM | Minor lake |
| ITH | Nature/hiking trail | LMS | Minor stream or river |
| ITM | Motorized vehicle trail | ROW | Right of way |
| ITS | Snowmobile/horse trail | UB | Upland brush |
| K | Keg | Z | Rock outcrop |

* Refer to M.C. 8625.2 for definitions for cover types.

Size class - in inches

Where two size classes are present, there must be a separation of two density classes before the lower size class becomes the primary type. In classifying sawtimber stands where both large and small sawtimber are present, determine in which size class the greatest stocking or most volume lies.

| Code* | Diameter Range | Class |
|---|---|---|
| 0005 | 0-5 | Seedlings/saplings |
| 0509 | 5-9 | Poletimber, softwood |
| 0511 | 5-11 | Poletimber, hardwood |
| 0915 | 9-15 | Small sawtimber, softwood |
| 1115 | 11-15 | Small sawtimber, hardwood |
| 1500 | 15+ | Large sawtimber |

*Codes used in Plantrac. Codes or diameter range may be used when completing Form 2450-128 without Plantrac.

Density Codes - Use the density code number (NH 5 - $11^4$), not "prime" marks. Density should be determined using all of the forest types in that product class (e.g. all large and small sawtimber volume is used to determine the density code for sawtimber stands.

Example: A stand with 30 sq. ft. of large saw oak, 70 sq. ft. of small saw oak, and 90 sq. ft. of northern hardwood poles be typed as O $11\text{-}15^3$/NH $5\text{-}11^3$ – the sawtimber density being based on the combined sawtimber basal area of 100 sq. ft. Overstory determines primary type except when the overstory is of poor density and the understory is the managed stand.

Example: A stand consisting of: A-90 $ft^2$, MR-15 $ft^2$, MH-10 $ft^2$ and AW-10 $ft^2$ of poletimber (totaling 125 $ft^2$) and OR – 15 $ft^2$ of sawtimber would be typed as A $5\text{-}11^3$/O $15+^1$ with the primary density being determined from the combined poletimber basal area of 125 $ft^2$.

Seedlings/Saplings *:

| Code | | Seedling/Acre | Sapling/Acre |
|---|---|---|---|
| 1 | Poor | 1- 600 | 1-300 |
| 2 | Medium | 601-1500 | 301-900 |
| 3 | Good | 1501+ | 901+ |

*Primarily for natural stands. With uniform spacing such as plantations, 600 trees/acre qualifies as "good".

| Size Class | Units Per Acre | Density Classes | | | | |
|---|---|---|---|---|---|---|
| | | 5 | 4 | 3 | 2 | 1 |
| Pole-timber and Saw-timber | Basal area (sq. ft./acre) | 180+ | 131-180 | 81-130 | 41-80 | 10-40 |

Habitat Type (Item 4) - Optional

Use only where the habitat classification system is applicable. Refer to Appendix 8 for codes.
(Note: Some tax law habitat codes are different than those used for compartment recon.)

Acres (Item 5) - Rounded numbers

Match the land listing with the exception of rounding and include only the acres being designated for entry under the law.

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), Wis. Adm. Code).

If the on-the-ground acreage differs from the county (tax bill) acreage, use the county acreage (match the land listing). 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.

Year of Origin (Item 6)* - Even-aged types only

Use borings of dominant and codominant trees, planting records, adjacent stand data, or fire records.

Total Height (Item 7 )* - Even-aged types only

Report height in whole numbers for primary types only. Measure dominant and codominant trees to calculate the average height of the stand.

Average DBH (Item 8)

Record the average DBH of the primary type in whole numbers.

Site Index Tree Species Code (Item 9)* - Even-aged types only

Enter the code for the species used to determine site index. The codes in Plantrac are:

| | | | |
|---|---|---|---|
| A | Aspen | MH | Sugar maple |
| AB | Black ash | MR | Red maple |
| AW | White ash | O | Oak |
| BA | Basswood | OR | Red oak |
| BE | Beech | OW | White oak |
| BW | White birch | PJ | Jack pine |
| BY | Yellow birch | PR | Red pine |
| C | White cedar | PW | White pine |
| CH | Cherry | SB | Black spruce |
| EA | American elm | SW | White spruce |
| F | Balsam fir | T | Tamarack |

Site Index (Item 10)* - Even-aged types only

Report site index to the nearest foot. 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. (See the Silviculture and Forest Aesthetics Handbook, 2431.5.)

The maximum site index allowed is 99.

* Items 6, 7 and 9 are not required for northern hardwood (NH) or hemlock hardwood (HH) unless being managed on an even-aged basis.

Stocking (Item 11)

For seedling or sapling sized stands (dbh 0-5"), use density codes.

A stand may have a density of 1, but not meet the minimum stocking level.

For pole and sawtimber stands (dbh 5+"), use basal area.

Record the average basal area per acre for all trees 5" dbh and up in the stand, inclusive of live culls. If the stand is converting from saplings to poles, the basal area should include all dominant and codominant trees even though some are less than 5" dbh.

Volume (Item 12)

Report the total net volume of all species per acre, including both cords and board feet.

Report cords to the nearest whole number. Report board feet to the nearest whole board foot (do not use M).

Soil Type (Item 13)

| Code | Classification |
|---|---|
| A | Sand |
| B | Loamy sand |
| C | Sandy loam |
| D | Silt loam |
| E | Clay loam |
| F | Peat |
| G | Muck |
| H | Superior red clay |
| J | Sand mantled clay |

| | |
|---|---|
| K | Poorly drained mineral |
| L | Loam |

Management Objective (Item 14) - Productive types only

Select the management objective for the next rotation, consistent with the written forestry plan.

| Code | Natural Regeneration |
|---|---|
| A | Type will perpetuate itself or regenerate naturally after cutting |
| | Natural Conversion After Cutting or Treatment |
| B | To spruce-fir (FS) |
| C | To white pine (PW) |
| D | To red pine (PR) |
| E | To jack pine (PJ) |
| F | To northern hardwoods (NH) |
| G | To other species (specify under remarks) |
| | Forced Type Maintenance |
| H | By seeding, planting, or site preparation (trees or agricultural crops) |
| | Forced Conversion After Cutting or Treatment |
| J | To spruce or fir (FS) |
| K | To white pine (PW) |
| L | To red pine (PR) |
| M | To jack pine (PJ) |
| P | To other species (specify under remarks) |
| | No Management |
| N | Productive type, but designated as a non-forest management zone (acres included in non-productive/not suitable acreage for eligibility determination). |

**MANAGEMENT PRESCRIPTIONS: PART B**

Record the next prescription which needs to be undertaken for the stand. The management plan must include all activities to be completed during the entire order period. More than one prescription may be coded for a stand.

All management prescriptions require:

- A prescription code.
- Year of completion.
- "M" for mandatory practices (leave blank if the practice is only a recommendation), or use
- "E" if the timber sale is currently established.

If no practice is scheduled or if a previously scheduled practice has been completed, leave the column blank. Do not enter a zero.

Mandatory practices ("M") 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.

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 1996, the scheduled completion year would be 1997 or later, even if silviculturally the stand was mature in 1990.

Prescription Codes:
Stand Improvement TSI (Item 15)

| Code | Treatment |
|---|---|
| 7 | Thinning or weeding |
| 8 | Cull tree removal (including girdling or liberation cut) |
| 9 | Crop tree release |
| 10 | Pruning |
| 11 | Noncommercial disease control (sanitation cut) |
| 12 | Noncommercial insect control (sanitation cut) |
| 13 | Release |

Planting Needs (Item 16) (Note: The plan should specify the species and number of seedlings/acre to be planted)

| Code | Treatment Recommended |
|---|---|
| 14 | Hand plant |
| 15 | Machine plan |
| 16 | Direct seed |

Site Preparation (Item 17)

| Code | Treatment Recommended |
|---|---|
| 17 | Seedbed preparation for natural or direct seeding |
| 18 | Preparation or planting |
| 19 | Treatment to stimulate coppice or root suckering |
| 20 | Slash treatment |

Intermediate Cut –Thinning (Item 18) – Commercial timber sale only

| Code | |
|---|---|
| 4 | Harvest scattered mature or over-mature trees |
| 5 | Thin or make improvement cut |
| 6 | Salvage or sanitation cut |

Regeneration Cut – Harvest (Item 19)

Code
1 Clearcut entire area or clearcut in strips or blocks
2 Selection harvest cut under all-aged management
3 Other regeneration cut: seed tree or shelterwood

Wildlife and Aesthetics (Item 20) - Productive types only

Record recommendations for each stand for approved wildlife and aesthetic practices included in the management plan. Record a minimum of one wildlife code and one aesthetic code. Up to three recommendations per stand can be recorded. The code includes an alpha prefix and a 1 or 2 digit prescription code.

AESTHETIC PRESCRIPTIONS

Aesthetic Design Considerations

These techniques can be incorporated into silvicultural systems to mitigate their impact on the landscape, with minimal loss in productivity.

Code

A01 Visual Penetration or Diffusion - The objective here is not total concealment of management activity, but moderation of its impact. Management techniques may be to encourage understory development, longer-lived species, tree crown expansion, etc. in corridors, roadsides, trails, water areas, or near developments.

A02 Cutting Strategies - Modify harvest practices to reduce the visual impact. These techniques will alter one or more of the following: size, shape, distribution, or time of harvest (age diversity).

A03 Silvicultural System - When there is a sufficient component of shade-tolerant species within a stand, an even-aged silvicultural system may be converted to an all-aged management system that generates less aesthetic impact.

A04 Tree Retention - Retaining individual longer-lived trees, small groups of longer-lived or younger age class of trees, or "feathering" the edge of harvest units.

A05 Slash Control - Modification of the normally recommended slash control practices, to reduce adverse aesthetic impacts.

A06 Other Special Considerations - Altering normally recommended timber harvest practices such as type of equipment, road location, landing location, special cutting or seasonal restrictions, which are prescribed to reduce aesthetic impacts.

Aesthetic Enhancement

These techniques are most appropriate in high sensitivity areas, which enhance the aesthetic resource and produce or maintain the desired visual condition. These practices produce long-term benefits and are prescribed when aesthetics is a primary resource.

Code

A10 Life Span - Significantly increasing the rotation age from the normally recommended rotation for timber management objectives ("significantly", for the purposes of this code, generally means an increase in the rotation of 50% or more).

A11 Stocking Level - Increasing or decreasing the normally recommended basal area stocking levels to obtain desirable aesthetic conditions.

A12 Ecotype Diversity - Prescribing activities which increase non-timbered vegetative communities including grass (grass opening), forbs, shrubs, and non-timber species.

A13 Aesthetic/Timber Species Diversity - Management practices which increase timber species for aesthetic objectives, through species, form, and size diversity.

A14 Physical Diversity - Activities (vistas, thinning, road location, etc.) which make the non-vegetative components such as rock outcrops, lakes, streams, or topography a planned aesthetic component of the forest scene.

A15 Short-term Enhancement - Activities which change existing adverse situations of "tunnel-like" conditions and "fiber factory" appearances to desirable natural-appearing landscapes.

A16 Planting - Tree shrub species which are planted for their desirable aesthetic effect.

Aesthetic Preservation

These prescriptions are intended to preserve or maintain existing stand conditions over time by generally excluding timber management activities. Keep in mind acres managed for this objective are considered nonproductive or not suitable for timber production. Nonproductive/not suitable acres shall not exceed 20% of each parcel.

Code

A20 Site Preservation - The site does not meet the requirements of being a commercial forest site (e.g. bog, pond, rock outcrop) but is valued for aesthetic reasons.

A21 Stand Preservation - For aesthetic reasons, the existing stand will primarily be affected by biological changes, and a harvesting management plan is not prescribed.

A30 Owner not interested in aesthetics prescription for that stand.

A40 No aesthetic prescription applicable.

WILDLIFE PRESCRIPTIONS

Code

W01 Age-classes Diversity - This code refers to recommendations that urge the landowner to harvest a particular stand to increase the proximity of different age-classes to a particular wildlife species (e.g. grouse).

W02 Shrub Understory - Includes any recommendations relating to increasing/maintaining the understory component of a stand. It could include underplanting of shrubs, thinning of plantations, stripcuts, or scallop cuts along woodlot edges.

W03 Shelter/Nest Cover - This includes recommendations such as planting small conifer stands for winter cover, hedgerows, protection of cavity trees, brush piles, or nest boxes.

W04 Food Sources - Maintenance or enhancement of wildlife food items are covered with this code. Specific examples: preservation or management for mast production, snag trees, creating or maintaining grass-forb openings, trail seeding, fruit and berry plantings, or annual food patches.

W05 Sensitive Wildlife - Beginning with 1997 entries, please use the endangered resource codes E01 - E08 under Item 19 (Other).

W06 Recreation - Recommendations that relate to the encouragement or management of wildlife-based recreation are included in this code. Examples include: walking trails, observation blinds, wildlife harvest recommendations (e.g. increase antlerless deer harvest or trophy buck management).

W07 Damage Control - Wildlife damage control recommendations for any species should use this code. This includes providing information on DNR animal control permits, seedling protection, or antlerless deer harvest recommendations.

W30 Owner not interested in wildlife prescription for that stand.

W40 No wildlife prescription applicable.

Other (Item 21) - Optional (see exception below)

If the management plan includes mandatory best management practices for water quality or recommended endangered resources practices, then the appropriate code must be recorded.

FORESTRY BEST MANAGEMENT PRACTICES FOR WATER QUALITY PRESCRIPTIONS

These guidelines help protect water quality, fish, and other aquatic organisms during forest management activities. Note: Page numbers referenced are from "Wisconsin's Forestry Best Management Practices for Water Quality: Field Manual for Loggers, Landowners and Land Managers," FR-093 95. "Forestry Facts" summarizing each BMP chapter are available from the forest hydrologist.

Code

B01 Fuels, Lubricants, Wastes and Spills - Equipment maintenance location, and storing and handling fuels, lubricants, and wastes (Chapter 4 in the BMP field manual, pp. 13-14).

B02 Riparian Management Zones - Harvesting and wheeled or tracked machine operation (Chapter 5 in the BMP field manual, pp. 15-20).

B03 Forest Roads - Planning, construction, drainage, soil stabilization, maintenance, and stream crossings (Chapter 6 in the BMP field manual, pp. 21-37).

B04 Timber Harvesting - Skid trails and landings (Chapter 7 in the BMP field manual, pp. 38-40).

B05 Mechanical Site Preparation and Tree Planting - Machine operation and placement of residues (Chapter 8 in the BMP field manual, p. 41).

B06 Prescribed Burning and Wildfire - Planning and implementing prescribed burns, precautions during wildfire, and after-fire maintenance (Chapter 9 in the BMP field manual, pp. 42-43.)

B07 Chemicals - Cautions and procedures that complement existing government regulations (Chapter 10 in the BMP field manual, pp. 44-45).

B08 Wetlands - Roads and skid trails, equipment operation, rutting concerns, and slash placement. Includes 15 federally required BMPs for forest roads in wetlands (Chapter 11 in the BMP field manual, pp. 46-49).

ENDANGERED RESOURCES (ACTIVE/PASSIVE MANAGEMENT) PRESCRIPTIONS

Code

E01 Rare Animal Management - Recommendations for specific management activities (thinning, harvest, harvest modification (size, shape, density, timing), planting, restoration) to promote or protect the presence or habitat of a rare, threatened, or endangered animal.

E02 Rare Animal Protection - Recommendations for no active management (no harvesting, thinning, nor planting) in a stand to protect or promote the presence or habitat of a rare, threatened, or endangered animal.

E03 Rare Plant Management - Recommendations for, or that include, specific management activities (thinning, harvest, harvest modification (size, shape, density, timing), planting, restoration) to promote or protect the presence or habitat of a rare, threatened, or endangered plant.

E04 Rare Plant Protection - Recommendations for no active management (no harvesting, thinning, nor planting) in a stand to protect or promote the presence or habitat of a rare, threatened, or endangered plant.

E05 Rare Aquatic Management - Recommendations for specific management activities (thinning, harvest, harvest modification such as buffer strips or harvest timing, planting, road and trail modifications to decrease erosion) to promote or protect the presence of a rare, threatened, or endangered aquatic resource (mussel, fish, dragonfly, etc.) or its habitat.

E06 Rare Aquatic Protection - Recommendations for no active management (no thinning, harvest, planting, nor road or trail construction) in a stand to protect or promote the presence of a rare, threatened, or endangered aquatic resource (mussel, fish, dragonfly, etc.) or its habitat.

E07 Rare Natural Community Management - Recommendations for specific management activities (thinning, harvest, harvest modification (size, shape, density, timing), planting, prescribed burning restoration) to promote, protect, or restore the presence of a rare natural community.

E08 Rare Natural Community Protection - Recommendations for no active management (thinning, harvest, planting, nor road or trail construction) to protect, promote, or restore the presence of a rare natural community.

E09 No Known Occurrence - No occurrence of a threatened or endangered resources was discovered during the site visit or found on the Natural Heritage Inventory.

**REMARKS**

Include the percent of non-productive land for each parcel. Describe buildings present and their use, the presence of landscaping or other development around such buildings, documentation regarding recorded plats and incompatible uses, **and 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. List additional mandatory practices. Document reasons for denial.

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).

**REVIEW RESPONSIBILITIES**

The Land Exam and Practices Report must be signed by a DNR reviewer. The reviewer has the final responsibility for the accuracy of the facts and the mandatory practices documented in the report. Each report must be checked for completeness, accuracy, consistency, and inclusion of sufficient information to support the recommendations. Each region will decide who will be responsible for the reviews.

**TAX LAW MAP**
**(MFL - Form 2450-133; FCL Form 2450-133 or 2450-034)**

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 forester's (or tax law specialist's) file. Photocopies of aerial photographs are not acceptable maps. Use of GIS (Geographic Information Systems) or digital maps may be acceptable, but must first be approved by FTS. It is important that the map be neat and easy to read to determine the land being entered, stand boundaries, and closed/open designations.

A separate map is required for each section. The map sheet (a section diagram) should include only **the lands recommended for entry** in that 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 FTS.

If the petitioned land exceeds the 20% limitation for total percent of non-stocked lands and lands unsuitable for producing merchantable timber, then the map must exclude the excess non-productive acreage and must correspond to what is actually being entered. Do not split cover types to accommodate the 20% non-productive limitation unless the landowner has done so on the petition.

The original map (not a photocopy) needs to be routed to FTS as part of the MFL entry package.

Updated maps must be sent to the landowner following a harvest, after tree planting, or when land has been transferred.

Required items:

- Order number.
- Landowner name. If there is more than one owner, list the contact owner used on the Land Listing and check the multiple owner box.
- The address has been dropped from the tax law map beginning with the 12/00 revision date. This change will be incorporated into Plantrac with future upgrades.
- 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 (MFL only).
- 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. The purple Staedtler Textsurfer Classic highlighter is preferred. The highlighting must be placed inside the entry boundaries.

- Indicate the area closed to public access with diagonal slash marks (\\\\\\). Areas without slash marks will be considered open to public access.

- Stand numbers.

- Map legend. Include all symbols represented on the 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 M.C. 8625.2 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 acreage.

- For additions, show where existing entry is located.

- If the on-the-ground acreage differs from the county (tax bill) acres, indicate the land listing acreage in the map header (open and closed acres). In the map body, map the entry to reflect the on-the-ground acreage.

- Adjacent ownership and land use, including tax law entries. Order numbers of adjacent MFL/FCL may be included but are not required.

| | | | |
|---|---|---|---|
| F | Farmland/cropland | O/ | Other ownership (e.g., o/w = other wooded) |
| G | Grass | FP | Grazed Pasture |
| K | Marsh | W | Wooded |

**CUTTING NOTICE AND REPORT** - MFL and FCL
**(Form 2450-032)**

All forest products cut after the effective date of the Order of Designation, except as noted below, are subject to yield/severance taxes even if the stumpage was sold prior to the effective date of the Order. All forest products (except fuelwood used in the owner's dwelling) are subject to the yield/severance tax regardless if they are utilized or not.

Timber harvested within the first 5 years of a 2005 or later MFL order is exempt from the yield tax. Lands converted from FCL to MFL under the special conversion provision, and MFL lands renewed at the end of the original MFL order, are not eligible for this exemption.

Yield/severance taxes are calculated using the harvested volumes reported on the approved Cutting Report and stumpage rates established annually in s. NR 46.30, Wis. Adm. Code. Stumpage rates are in effect from November 1 through the following October 31.

CUTTING NOTICE - Part A

Landowner

**At least 30 days prior to cutting,** the landowner, for all entries, provides the Cutting Notice to the local forester (industrial owners submit to tax law field specialist). The following information should be provided on the notice:

- Legal description of proposed cutting area. Use a separate column for each description. This must be **identical** to the Master List.
- Estimated volume to be harvested, by species and products (see codes which follow). Write log volumes to the nearest board foot (e.g. 3126); do not use "MBF". Write pulpwood volumes to the nearest cord (e.g. 12).
- Description of proposed cutting practices.
- Whether cutting is associated with catastrophic loss.
- Signature (not all landowners need to sign). Consultants who sign on behalf of the landowner must provide proof of authority to act as an agent.

Acreage and stand numbers may be included in the remarks section.

Forester or Tax Law Field Specialist

- Field inspects proposed cutting area as needed.
- Checks for accuracy and approves if the proposed practices comply with the management plan. The forester, as a condition of approval, may request a harvest description, post sale treatment, regeneration practices, or copies of documents (contracts, scale sheets, tally sheets).
- Verifies catastrophic loss request (s. NR 46.30(1)(e), or NR 46.301(1)(f), Wis. Adm. Code).
- If appropriate, notes that the Cutting Notice was received after the timber was harvested. Indicates whether the harvest was done in a manner that exceeded what would have been approved as sound forestry, notes which descriptions will require assessment of double stumpage, and notes what the prescription for cutting would have been.
- Verifies "Special Classification" designation for FCL lands where appropriate.

- Works with landowner to resolve problems. If an agreement is not attainable, documents the reasons in writing with a copy sent to the landowner, FTS, and the tax law field specialist.
- Returns original approved Cutting Notice to landowner.
- Retains a copy for the forester's file.
- Quarterly, submits a copy or summary of the cutting notice(s) to FTS. If a summary is used it must include the landowner name, MFL/FCL order number (on Master List), county, town/village/city, township, range, section, legal description, and approval date.
- Sends reminder letters to landowners whose Cutting Notice is more than one year old. A summary by county of approved and overdue notices is available from FTS.

CUTTING REPORT - Part B

Not required for FCL lands with "Special Classification" designation, but recommended so forester can determine if the cutting was in compliance.

Landowner

Provides the following information to the local forester (industrial owners submit to tax law field specialist) on the original Form 2450-032:

- Actual volumes cut by species, product, and description.
- If no cutting was done, indicate "No Cut".
- Record sawbolt volume under cords or logs based on diameter.
- 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.** They 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. They must follow through by filing a new Cutting Notice for the volume that remains to be harvested.

Forester or Tax Law Field Specialist

- Within 15 working days, verifies sale completion, adherence to cutting practices, and accuracy of reported volumes. A site inspection or other activities may be necessary to establish the facts.
- Checks the exempt box if the MFL harvest is exempt from yield tax.
- Includes the codes for species and product, which were cut, but not pre-printed on the report.
- Works with the landowner to resolve problems (or see Enforcement, chapter 60).
- Sends approved report to FTS for billing.
- Updates recon (using pre-printed stand exam sheets) to indicate completion of mandatory practices and schedules the next practice within the order period.

Species Codes

| | |
|---|---|
| A | Aspen |
| AS | Ash |
| BA | Basswood |
| BE | Beech |
| BW | White birch |
| BY | Yellow birch |
| C | Cedar |
| CH | Cherry |
| E | Elm |
| F | Balsam fir |
| FU | Fuelwood |
| H | Hemlock |
| HI | Hickory |
| MH | Sugar maple |
| MO | Soft maple |
| MO | Other maple |
| MX | Miscellaneous |
| OO | Other oak |
| OR | Red oak |
| OW | White oak |
| PJ | Jack pine |
| PR | Red pine/Scotch pine |
| PW | White pine |
| S | Spruce |
| T | Tamarack |
| W | Walnut |

Product Codes

| | |
|---|---|
| 10 | Logs |
| 18 | Mixed |
| 20 | Cords |
| 23 | Firewood |
| 31 | Posts 7-8 ft |
| 32 | Poles 10-12 ft |
| 33 | Poles 14-16 ft |
| 34 | Poles 18-20 ft |
| 35 | Poles 21-30 ft |
| 36 | Poles 31-40 ft |
| 37 | Poles 41-50 ft |
| 38 | Poles 51-60 ft |
| 39 | Poles 61-70 ft |
| 40 | Unsheared Christmas trees |
| 41 | Sheared Christmas trees |

## UPDATING PROCEDURES

Forester Database

Initial entry and updating of all recon data and landowner information will be done via Plantrac by the local forester. This includes withdrawals, transfers, and expired contracts.

FTS Oracle Databases

Name and address: Changes that are not a result of a transfer must be sent to FTS via e-mail or regular mail. Note the order number, change desired, and reason for change. Changes as a result of a transfer are taken care of when the Transfer Order is issued.

Statewide Recon Database: Changes are downloaded from Plantrac and submitted annually by the local forester to FTS in Madison.

Order Entry Database (includes all legal description and acreage information on the Master List): Change requests should be submitted in the following ways:

- Transfer form - when ownership of land changes. See transfer sections in Chapter 20 - MFL and Chapter 30 - FCL.
- Request for Master File change form or letter/memo - to correct errors or discrepancies in our data, and make changes due to new surveys. Explain reason for change requested and provide copies of pertinent documents (e.g. survey). Generally, a correction or amended order will be issued for these changes.

# 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 designed as a guide for enforcement of both the Tax Laws and for Managed Forest Law Group Certification under the American Tree Farm System (ATFS) and the Forest Stewardship Council (FSC). This chapter should be consulted while trying to gain compliance for steps on procedure and documentation, in the event that enforcement is the outcome. Communicating with colleagues who have had some experience in gaining compliance and/or enforcement action can help provide directions or ideas on how to gain compliance. *All enforcement actions and follow-up documentation that are sent to the Forest Tax Section (FTS) should be sent through the first line supervisor.*

## STEPS TO SUCCESSFUL COMPLIANCE OR ENFORCEMENT

**Documentation is critical to any successful enforcement action.** *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 2 or step 3. Remember, in all cases documentation is critical.

Step 1. Initial contact with landowner. This can be written, verbal via phone or in person but **must** be followed with written correspondence regarding the contact (documentation). Address correspondence to the landowner and copy (cc) the landowner's agent/logger/consultant forester/etc.

Step 2. Send a letter specifying the actions necessary to correct violations and ATFS/FSC certification non-conformances where applicable. This letter must specify what violations have occurred, what actions must occur to bring the property and landowner back into compliance, who is responsible for those actions, a timeline for implementation of the plan and the possible consequences for failure to make the corrections. Consequences for failure to carry out a mandatory practice may include the assessment of the $250 non-compliance penalty and/or withdrawal. If you are unsure of what steps the landowner should take to comply with statutes and/or ATFS/FSC standards contact your immediate supervisor for instruction.

In most cases 10 to 14 days is a reasonable amount of time to allow for the actions to take place or for a response from the landowner. If applicable, include a copy of the ATFS/FSC standards at this time. ATFS standards and the chain of custody control system can be found in Chapter 21. The FSC standards are available at http://www.fscus.org/standards_criteria/regional_standards.php. You may include a copy of ch. 77, Wis. Stats., and ch. NR 46, Wis. Adm. Code, with relevant passages highlighted. These must be sent no later than step 3. For group certification issues only – Document the mailing of the letter in the file as to the date and time of delivery to the U.S. Post Office and the location of that office. Certified mail may also be used to document the mailing and may document the receipt, if a return receipt is requested, and signed for by the landowner. Copy (cc) letter as in Step 1.

Be sure to verify the current ownership and address with the county property listing office if not done previously.

Step 3. Apply/utilize this step for noncompliance that would result in withdrawal from the MFL program. Skip this step and proceed to step 4 if the nonconformance is related to Managed Forest Law Group Certification (ATFS Standards) only.

For cases where a violation would result in withdrawal from the tax laws and the Certification Program, send a Notice of Investigation (NOI) to the landowner via mail. Document the mailing of the letter in the file as to the date and time of delivery to the U.S. Post Office and the location of that office. Certified mail may also be used to document the mailing and may document the receipt, if a return receipt is requested, and signed for by the landowner. The Department's policy is to apply this NOI to all tax laws even though it is only written in the Managed Forest Law, s. 77.88(1)(a), Wis. Stats.

Copy (cc) NOI as in Step 1 and direct to the FTS and chain of command. A copy of the NOI must also go to the Town Chairman, Village President, and City Mayor where the property is located. If a noncompliance fee is being assessed in addition to the above recipients a copy must also be mailed to the municipal clerk where the property is located. **Remember field foresters "recommend" withdrawals.**

If the owner has failed to complete an MFL mandatory practice, in addition to the NOI, the Department Forester shall issue a "certificate of assessment" to have the municipality impose a $250 noncompliance penalty as per s. 77.876(1), Wis. Stats. The "certificate of assessment" can be in the form of a cover letter, memo, or statement in the NOI. The first line supervisor shall approve the assessment of the noncompliance penalty(s) and review the NOI before delivery to the landowner and government officials. Sample NOI's are found in the appendix. Sample language for the noncompliance penalty assessment is included in the NOI section of this chapter.

Step 4. This step will be taken if: (1) there is nonconformance to the Managed Forest Law Group Certification and notification has failed to gain compliance or (2) no action has been taken as a result of the NOI therefore a withdrawal will be recommended to the FTS.

Send enforcement case notification directly to FTS, with copies through the first line supervisor and the chain of command. Enforcement case **packet must be readily identifiable** by the FTS and include:

* Name, current address, phone numbers, MFL or FCL, order number, and if they are a member of the MFL Group Certification.
* Chronological summary (an Investigative Report [Form 4100-161] and Case Activity Report [Form 4100-160] are recommended for this but not required). See the appendix for sample summaries.
* Copies of all documentation and communications. This may include copies of correspondence, information collected during field inspections, issues discussed during personal or verbal contact, etc.
* Copies of maps, land exam, and management plan with violations highlighted.
* Copies of all documents involved, such as Cutting Notice and Report Forms, deeds, transfers, etc.
* Supporting photography, witness statements, etc.
* Any other supporting case information.

Step 5. FTS responds to the field forester within 7 to 10 working days regarding receipt of the enforcement case package.

Step 6. Field forester waits for further instructions from FTS and/or Bureau of Legal Services.

The steps are summarized at the end of this section.

In some specific cases a citation can be used and/or wood products may be seized. Credentialed DNR foresters, rangers, or wardens should be contacted if seizure or citation actions are being considered. It is a matter of courtesy to contact the district attorney before seizing wood products, so he is aware of what is going on. The local district attorney should become more familiar with you and the program for improved enforcement success. When products are seized the Department is responsible for the security of those products.

**Miscellaneous hints or suggestions on enforcement:**

- Enforcement actions or enforcement possibilities may be affected by the year in which the land was entered, due to changes in statutes and administrative codes that occurred after the land was entered.
- Any deviations (unapproved) from the management plan or harvest schedule are the responsibility of the landowner. However, the landowner's technical advisor (logger, consultant, etc.) must be copied.
- Length of negotiations is up to you. You know when you are at an impasse. Thirty days is reasonable, and if resolution is not accomplished by that time, enforce the statute to its extent.
- Before face to face meetings on violations, check "probation and parole records" and the list of "records and warrants" available through your nearest credentialed DNR employee.

- On a "failure to file a cutting report or filing a false cutting report" (s. 23.79, Wis. Stats.) enforcement case, be sure to have the court direct that all applicable reports be submitted. This can save hours of field time reconstructing stands. **Discuss with district attorney the process to obtain the court order under s. 23.79(3), Wis. Stats.**
- Suggestion on wording: use "I will recommend that the Forest Tax Section initiate the withdrawal procedure", as opposed to "I will withdraw you from the program".
- Get someone with credentials on your team!

**Steps to Successful Compliance and Enforcement**

| | **MFL and FCL** | **Group Certification** |
|---|---|---|
| Step 1 | Initial contact | Initial contact |
| Step 2 | Letter stating actions to correct situation<br><br>May include: ch. 77 Wis. Stats & ch NR 46 | Letter stating actions to correct situation, document mailing<br>May include: ATFS & FSC Standards and ch. 77 Wis. Stats & ch. NR 46, Wis. Adm. Code (if applicable) |
| Step 3 | NOI<br>Should include noncompliance penalty when appropriate **(MFL ONLY)** | Send NOI **only if** violation may result in withdrawal from MFL |
| Step 4 | Send enforcement case notification to FTS | Send enforcement case to FTS |
| Step 5 | Response from FTS within 7-10 days | Response from FTS within 7-10 days |
| Step 6 | Forester waits instruction | Forester waits instruction |

## NOTICE OF INVESTIGATION (NOI)

s. 77.88(1)(a), Wis. Stats., requires that the Department use a Notice of Investigation for the 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 Notice of Investigation to all tax law investigations.

A NOI must be utilized after the first written deadline has passed without action on the part of the landowner. This comes in step 3 of the steps to successful enforcement.

A NOI is nothing more than a good business letter that begins with the statement that the letter is a Notice of Investigation. There are examples of NOIs in the appendix.

A NOI is required in circumstances that will cause a recommendation to withdraw or when a $250 noncompliance penalty will be assessed as per s. 77.876(1), Wis. Stats.

NOIs must include:

- order number
- legal description of involved parcel
- description of the violation, and if applicable, which ATFS/FSC standard is nonconforming
- probable consequence
- action required to alleviate the problem
- a deadline for action by the landowner (10-14 days is usually reasonable)
- specific statute reference(s)
  copy of ch. 77, Wis. Stats., and ch. NR 46, Wis. Adm. Code
- noncompliance penalty assessment statement, if applicable

A NOI is sent to landowner with copies to:

- landowner's "agent", consultant forester, logger, etc.
- FTS
- up the chain-of-command
- the pertinent government official (city mayor, town chairperson, village president), as listed in s. 77.88(1)(a), Wis. Stats.

## NONCOMPLIANCE PENALTY

A noncompliance penalty will be assessed when a landowner fails to carry out mandatory forestry practices by the date stated in the MFL plan. The penalty is $250 per practice not completed. The penalty will be used to gain compliance when necessary and will be billed and collected by the municipality where the land is located. The funds received as a penalty will be shared between the municipality (80%) and county (20%).

MFL noncompliance penalty assessment statements, to be included in NOI for failure to complete a mandatory practice, should be sent to the municipal clerk as well as the chairman/president/mayor. Sample language for the statement is as follows:

> This Notice of Investigation is being sent to the chairman/president/mayor and clerk of the Town/Village/City of (name) as the certification required under s. 77.876, Wis. Stats. for the failure to complete the mandatory practice(s) listed above by the time required in the MFL management plan or subsequent written correspondences. The municipality is directed to bill you for a noncompliance penalty of $xxx ($250 per practice not completed). Unpaid noncompliance penalties will be added to the property tax bill as a special charge. If the mandatory practices or appropriate actions described in this letter are not completed by the dates given, your file will be sent to the Forest Tax Section in Madison with a recommendation for withdrawal. When land is withdrawn from Managed Forest Law, a withdrawal tax and fee are assessed.

**If compliance is gained through the NOI process, remember to notify FTS of the successful compliance so that the case may be updated or removed from the FTS and/or Legal Services case docket.**

## MANAGEMENT PLAN VIOLATIONS

This section covers a failure to follow a Managed Forest Law (MFL) management plan, and failure to practice sound forest management on Forest Crop Law (FCL). **(MFL - s. 77.88(1), and s. 77.876(1), Wis. Stats.; FCL - s. 77.10, Wis. Stats.)**

The most effective way of assuring sound forestry under the MFL is through the signed management plan. This requires mandatory practices in the management plan be precisely and sufficiently detailed, including a stated silvicultural objective, to enable enforcement.

A mandatory practice must be completed or initiated by **December 31st** of the scheduled year or the landowner is considered in violation of the management plan. When appropriate, a practice may be rescheduled or the plan may be amended with mutual consent of the landowner and the Department. Failure to complete or initiate (setup, sold, in progress, etc.) a mandatory practice under MFL will result in the Department issuing a certificate of assessment to have the municipality impose a $250 noncompliance penalty. The noncompliance penalty is assessed for each mandatory practice that fails to be accomplished or initiated by the Department's deadlines.

## FCL WITHDRAWAL AS A RESULT OF A FAILURE TO PRACTICE SOUND FORESTRY

Section 77.10(1), Wis. Stats., provides for FCL withdrawal if the owner fails to practice sound forestry on the land. "Sound forestry" for purposes of the FCL is defined under s. NR 46.02(17), Wis. Adm. Code. "Sound forestry" can encompass many practices designed to attain some reasonable and justifiable landowner management objective. The Department's burden of proof should not be taken lightly.

The most effective way of dealing with this problem is through the approval process for the Cutting Notice and Report (Form 2450-032) and documentation of Department prescriptions or opinions given to the landowner relative to the issue. FCL management schedules can assist in determining if "sound forestry" is being practiced. Stated silvicultural objectives and precise cutting prescriptions on the Notice or in a signed plan referenced on the Notice provide a good enforcement tool.

If a case for withdrawal due to the landowner's failure to practice sound forestry can be established, the forester must send the recommendation for withdrawal through channels to the FTS, complete with documentation sufficient for use at a hearing. Include the descriptions and acreage which are subject to the withdrawal recommendation. (For post-1972 contracts, withdrawal must be for one or more entire legal descriptions. For pre-1972 contracts, withdrawal 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.)

Follow the steps to successful compliance and enforcement.

Supervisory review of recommendations for withdrawal may include field inspection of the land in question.

## CUTTING VIOLATION PRIOR TO ENTRY – MFL ONLY

When a landowner harvests on a potential MFL parcel prior to the January 1st entry date, and in a manner inconsistent with the management plan that was written or is being developed for the parcel, it is within the Department's authority to refuse to enter the parcel into MFL. The Department can deny the petition and require the landowner to submit a new petition with another application fee. The forester should document the harvesting being conducted and contact the FTS. The land listing should be used along with the appropriate denial code as listed in Chapter 50.

## IF A MANDATORY PRACTICE IS NOT INITIATED

The PLANTRAC system should be utilized to generate letters reminding landowners of the mandatory practices that are due. **The first letter is sent in the first quarter of the year before the practice is due (step 1).** The letter should describe the practice, provide information on assistance and discuss the expectation for commencing or completing the practice. **The second letter is typically sent by the end of January of the year the practice is due**, **and stresses the deadline. The second letter should include a statement concerning the $250 noncompliance penalty (step 2)**.

The forester must verify that the mandatory practice has not been initiated (setup, sold, in progress, etc.) by December 31st of the year due. The forester should follow the steps to successful compliance and enforcement by initiating a NOI and a MFL noncompliance penalty assessment as necessary **(step 3)**. The assessment is $250 per practice. If they have already been assessed a noncompliance penalty for the practice(s) the next step is to recommend withdrawal **(step 4).**

## WHEN TO RECOMMEND WITHDRAWAL

After the NOI has been sent, if there continues to be no response or action taken by the date specified, recommend to FTS that they start the withdrawal procedure (step 4 in Steps to Successful Enforcement). Documentation sent through channels must be readily identifiable and include:

- All applicable items as listed in step 4.
- A recommendation of the specific area to be withdrawn. Recommendations must be consistent with the statutory withdrawal as specified under each law. Pre-1972 FCL contracts may withdraw less than entire legal descriptions if a minimum of 40 contiguous acres remain under the law. Post-1972 FCL contracts may be withdrawn only by entire legal descriptions.
- A Request for Master File Change (Form 2450-156) or letter explaining the situation.

After the FTS reviews the withdrawal recommendation, FTS will either:

1. Initiate a withdrawal, including FCL hearing,
2. Request additional information to assist in making the final determination,
3. Deny the withdrawal request. Any person that received the NOI will receive a letter of explanation for the decision.

**CUTTING NOTICE OR CUTTING REPORT VIOLATIONS** - MFL and FCL only
**(MFL - s. 77.86, Wis. Stats.; FCL - s. 77.06, Wis. Stats.)**

**(It is a matter of policy and courtesy to contact the county district attorney before issuing a citation or seizing wood products, so he is aware of what is going on and can become more familiar with you and the tax law program. Program familiarity by the district attorney may improve enforcement success.)**

After examining the proposed Cutting Notice (Form 2450-032) submitted by the landowner, the forester may:

- Approve the Cutting Notice as submitted.
- As a condition of approval, place prescriptions regarding the volume of forest products to be removed and the manner in which the harvest is to be carried out based on sound forest management. A bond may be required (see chapter 20, Cutting Notice and Report section).
- Do not approve the proposed cutting because:
  - it is not within the schedule/plan.
  - it is not a sound forestry practice.

If the Cutting Notice is not approvable, the forester should:

- Write the landowner within 30 days of the Cutting Notice filing date (date received) to explain the necessary forestry practices and/or modifications required to have an acceptable cutting proposal. A discussion to identify modifications that are acceptable should take place at the site with the landowner, and/or the owner's agent, and/or the operator. Modifications may include identifying the harvest method, requiring a specific residual basal area and post sale treatments. If a sound silvicultural solution can be negotiated, the modified cutting notice may be approved. The management plan may also have to be amended to reflect the modification.

- If no resolution can be reached within 30 days of the Cutting Notice filing date, the forester again must inform the landowner in writing: the reasons for non-approval, what prescriptions are required, that cutting may not proceed, the consequences if cutting does proceed (citation, double severance, and/or withdrawal from the tax law and the certification program), and their appeal rights. This letter could be in the form of a NOI if there is past history with the landowner.

- If an impasse is reached between the forester and landowner, the forester may refer the matter through channels to the Forest Tax Field Manager located in Tomahawk. The landowner may also initiate the request for a review of the situation by the Forest Tax Field Manager.

  The Forest Tax Field Manager, in conjunction with the regional Forestry staff and/or State Silviculturalist, identifies cutting alternatives (if any) which could be approved. Within 30 days, the Forest Tax Field Manager notifies the landowner. If the landowner rejects the prescriptions, the Forest Tax Field Manager sends a letter to the landowner and copy to the forester, regional Forestry staff, State Silviculturalist and FTS, re-iterating the required prescriptions and the consequences of not following them, including non-compliance penalties and involuntary withdrawal.

- If an owner proceeds to cut without an approved Cutting Notice, the forester should consider the action a "Failure to File a Notice of Intention to Cut" under ch. 77, Wis. Stats.

  **MFL** Landowners who fail to file a Cutting Notice may forfeit up to $1,000.
  **FCL** Does not provide for a penalty for failure to file a Cutting Notice. Enforcement comes at the completion of the sale with
  - double stumpage if they cut in excess of the amount prescribed by the Department; and/or
  - withdrawal (s. 77.06(1), Wis. Stats.).

**FAILURE TO FILE A CUTTING NOTICE**

Once the forester knows a Cutting Notice has not been filed on a proposed or active cutting operation, the forester should:

- Inform the owner of the Cutting Notice requirement under ch. 77, Wis. Stats., and county requirements for a notice of intent to cut under s. 26.03, Wis. Stats. Inform MFL landowners that a citation can be issued for a failure to file the Cutting Notice. It carries with it a forfeiture of up to $1,000 (maximum). 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.
- Establish why a Cutting Notice was not filed and determine whether immediate filing of an acceptable Notice is a satisfactory resolution to bring the owner into compliance. This determination may take into consideration 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.

If filing a Cutting Notice is an acceptable solution,

- Inform the owner that a Cutting Notice in accordance with the management plan must be filed **within 10 days**.

If filing a Cutting Notice is not an acceptable solution, determine what other action is necessary including:

- For MFLs, determine if a citation should be issued. Department forest rangers and other credentialed law enforcement personnel can issue citations on the MFL Cutting Notice and the county notice, s. 26.03, Wis. Stats.
- For FCLs, no specific penalty is provided by the statute if a FCL Cutting Notice is not filed, 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 forester may contact the county to determine if a notice of intent to cut under s. 26.03, 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, Wis. Stats.) or refrain from certain conduct (such as continuing to cut).
- The forester, with the cooperation of a credentialed Department employee, may seize cut products on the sale area (s. 26.06(1), Wis. Stats.) thereby stopping further removal. Cutting without having filed a Cutting Notice or county notice of intent to cut is considered unlawful cutting, making seizure of cut products appropriate. 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. If a notice is not filed within 30 days of the seizure, issue a citation for failure to file a Cutting Report (MFL or FCL). It may be prudent to inform the district attorney about issuing the citation if they are not familiar with the tax laws.
- In any criminal or civil forfeiture proceeding, the forester should urge the prosecutor to request, as a part of the judgment (s. 23.79, Wis Stats.), that cutting reports be ordered by the court so that yield/severance taxes or 20% of the merchantable timber value can be determined and assessed if applicable. (Distinguish between FCL and MFL penalties.)
- If the forester is recommending withdrawal, a NOI must be prepared and sent out. A NOI could be used earlier in the process as well.
- The Department may initiate forced withdrawal of the involved lands.

## CUTTING IN VIOLATION OF AN APPROVED CUTTING NOTICE

Violations discovered during periodic examination or while examining Cutting Reports, must be documented by the forester with copies of documentation sent through channels to the FTS. For violations discovered in progress, the forester may order a stop to the unlawful cutting or may seize unlawfully cut products, s. 26.06(1), Wis. Stats.

**Intentional** cutting in violation of the Cutting Notice renders a landowner liable for:

MFL: Forfeiture of 20% of the current value of the merchantable timber cut and/or involuntary withdrawal, s. 77.86(5)(b), Wis. Stats.

FCL: Double severance on all cut products is appropriate when the cutting exceeds the Department prescription or where it can be established that the cutting exceeds what the Department would have prescribed, s. 77.06, Wis. Stats. This is not a forfeiture. Cutting in excess of the Department prescription may lead to involuntary withdrawal for failure to practice sound forestry, s. 77.10, Wis. Stats. A Cutting Report should be on file even if forced through prosecution.

Documentation is critical, refer to the steps to successful enforcement.

## FAILURE TO FILE A CUTTING REPORT

Special reminder: cutting reports are not required for FCL special classifications. Lands under "special class" designation are identified on the FCL master listing.

**Regular 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. Section 77.09(1), Wis. Stats., provides for up to a $1,000 forfeiture for failure to file a cutting report or intentionally filing a false cutting report.

**MFL**: A cutting report must be filed within 30 days of completion of cutting, s. 77.86(4), Wis. Stats.

- Section 77.86(5)(a), Wis. Stats., provides up to a $1,000 forfeiture for intentionally filing a false Cutting Report.
- Section 77.86(5)(b), Wis. Stats., provides for a forfeiture equal to 20% of the current value of the merchantable timber cut for intentionally cutting in violation of s. 77.86, Wis. Stats.
- **Unlike the FCL, MFL provides no citation authority for failure to file a cutting report. The only penalty for unintentional failure to file any report is withdrawal under s. 77.88(1), Wis. Stats.** Try to work with the landowner to gain compliance.

Imposition of either penalty 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 forester will make this determination based on inspection of the sale area and consideration and documentation of 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).

Contact landowner to get a cutting report and follow the steps to successful compliance/enforcement all the way through to recommendation to withdrawal if necessary.

In any criminal or civil forfeiture proceeding, the forester should urge the prosecutor to request as a part of the judgment, that cutting reports be ordered by the court to review and use for yield, severance or double severance tax assessments, s. 23.79, Wis. Stats.

## SUPPLEMENTAL SEVERANCE/YIELD TAX

Sections 77.08 and 77.87(2), Wis. Stats., provide that a supplemental severance/yield tax may be assessed at any time within one year after a Cutting Report is filed if the Department determines the timber actually cut exceeds the amount on which the severance/yield tax was paid.

When this situation (whether from erroneous or fraudulent reporting) is identified, the forester will take action as follows:

- Notify the landowner by letter that the Department is investigating in order to determine if supplemental yield tax will be assessed.
- Investigate and document volumes to be included in the supplemental assessment. The FTS will prepare an invoice for the supplemental tax and mail it to the landowner. The owner should be informed of the right to request a hearing (under s. 77.90, Wis. Stats.) within 30 days of the billing. FTS will arrange a hearing through legal counsel if requested.

Note: Who is responsible to pay the yield or severance tax if a landowner fails to pay yield or severance tax and then sells the property? The seller or the new owner? In the case of FCL, the seller is still responsible. The Department will try to get payment from the original owner who did the cutting. Under MFL the Department will try to collect from the old owner, the one that realized an income from the sale of the timber. However, the ultimate burden is with the new owner since unpaid yield taxes may be collected through the taking of a tax deed by the county treasurer. Action to collect the unpaid tax from the new owner will be discussed with the Bureau of Legal Services first.

## FAILURE TO FILE A TRANSFER FORM

FCL: 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, s. 77.10(1)(b), Wis. Stats.

MFL: Within 30 days after the transfer, the transferee must file a Managed Forest Law Notice of Land Conveyance and Petition for Transfer (Form 2450-159). This certifies to the Department intent to comply with the existing management plan for the land and with any amendments agreed to by the Department and the transferee. It provides proof that each person holding an encumbrance on the land agrees to the designation s. 77.88(2)(e), Wis. Stats.

If the Department Forester discovers that a transfer has not been completed, follow the steps to successful compliance and enforcement:

- Inform the landowner in writing of the violation and send the appropriate transfer form. Specify a date that the form and appropriate materials must be returned. Usually 10-14 days is a reasonable amount of time. Send a copy of the management plan so that the new owner will be aware of program requirements **(step 1)**.
- If the first letter is not acted upon, send a follow up letter **(step 2)** or you may proceed directly to the NOI **(step 3).**
- If the landowner still fails to comply send a NOI **(step 3).**
- If the landowner does not file the applicable transfer form by the date specified on the NOI, submit the enforcement case as directed in **step 4.**

**If the land is withdrawn from MFL or FCL for failure to file the transfer the owner does not have the right to appeal. Make the owner aware of this in the enforcement process.**

**POSTING VIOLATIONS** - MFL and FCL only
**(MFL - s. 77.83(2), Wis. Stats.; FCL - s. 77.03, Wis. Stats.)**

See chapter 20, Signing (MFL and FCL), for an explanation on allowable signs and landowner requirements.

**MFL and FCL**: For any perceived posting violations or access violations follow the steps to successful compliance/enforcement. Good documentation, as always, is important.

Document completely all forester actions, contacts, and correspondence to insure the Department's ability to present a strong case in any subsequent legal action. Additional documentation must include some or all of the following:

- Pictures of the signs (if practical).
- 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 posting violations.

**MFL only:** A citation may be issued to an owner who posts an open area improperly or otherwise restricts or refuses access to open land for purposes authorized by the law, 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. A citation could be used as early as after the first step in the steps to successful compliance/enforcement or in a later step. This is up to the forester's discretion. They should consider the history of the landowner. Under MFL, a hearing is not required before withdrawing the land due to a posting violation; however, a landowner may request and be granted a contested case hearing under s. 77.90, Wis. Stats.

**FCL only:** There are no provisions in the statutes for citations for posting violations. The steps to successful compliance/enforcement are the only route to take. Advise the landowner that repeated violations might result in withdrawal from the program with withdrawal tax. A hearing must be held before a withdrawal from FCL will occur.

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.

## PARTITIONING VIOLATIONS

A partitioning violation occurs when a landowner transfers a part of the tax law entry and it does not follow the rules established for a legal partition under the law. Legal partitions (partial transfers) are discussed within the chapter for each individual law (MFL - ch. 20, FCL - ch. 30).

If a forester discovers an illegal partition or is notified of an illegal partition:

- Inform the landowner in writing of the violation and, if the situation cannot be corrected, recommend that they file a voluntary withdrawal. If the situation cannot be corrected and they are unwilling to file a voluntary withdrawal inform FTS. Send all pertinent information regarding the violation, including:

  - explanation of violation (include name and address of each landowner and acres of tax law land owned by legal description)
  - copies of letter(s) to landowner(s)
  - map showing split
  - copies of deed, certified survey maps, or other pertinent legal documents.

- FTS will follow-up.

## CONSIDERATION FOR RECREATION VIOLATIONS

### Elements of the Offense

For successful prosecution the violation must have the following elements:

- Land is enrolled in Managed Forest Law
- A person enters into a lease or agreement for consideration
- Purpose of the lease or agreement permits persons to engage in a recreational activity
- Lease or agreement for consideration is in effect any time after December 31, 2007
- Does not apply if the lease, agreement, or consideration solely consists of reasonable membership fees charged by a non-profit organization and the lease or agreement is approved by the Department. Also does not apply to recreational trails open to the public such as snowmobile trails or the Ice Age Trail.

### Definitions

**Consideration**: To constitute consideration, a performance or return promise must be bargained for. The performance may consist of (a) an act other than a promise, or (b) a forbearance, or (c) the creation or modification of a legal relationship. A clear example of a performance or return promise is where a person pays cash for the right to hunt or recreate on any given piece of land.

Not all consideration or compensation needs to include the exchange of money. Exchanges of goods or services are also a consideration and a violation of the law if that exchange of goods or service was negotiated for the right to use the land for any of the specific recreational activities. Simply put, if you barter for something of value in return for recreational use of your property, that is "consideration" and not allowed on MFL lands.

Actual "gifts" are not prohibited however, the giving of a "gift" as a precondition for use of the MFL lands for some form of recreational activity changes the nature of the "gift" to consideration.

**Non-Profit Organization:** For purposes of the new leasing law a non-profit organization will have been granted 501(c) tax exempt status by the federal government. Examples include Boy and Girl Scouts of America, church organizations, or social organizations such as homeless shelters, nursery schools, adoption services, and youth groups.

**Recreational Activity**: The statutes cite the following examples **but this list is not all inclusive.** A situation in which a landowner receives consideration for **any** recreation on MFL is prohibited.

- Hunting
- Hiking
- Fishing
- Sight-seeing
- Cross-country skiing
- Horseback riding
- Staying in cabins

MFL Consideration for Recreation Laws

**77.83(2)(am)1.**, Wis Stats. For land designated as managed forest land under an order that takes effect on or after October 27, 2007, no person may enter into a lease or other agreement for consideration if the purpose of the lease or agreement is to permit persons to engage in a recreational activity.

**77.83(2)(am)2.,** Wis. Stats. For land designated as managed forest land under an order that took effect before October 27, 2007, all of the following apply:

**77.83(2)(am)2.a.**, Wis. Stats. An owner of managed forest land may enter into a lease or other agreement for consideration that permits persons to engage in a recreational activity if the lease or agreement terminates before the January 1 immediately following October 27, 2007.

**77.83(2)(am)2.b.**, Wis. Stats. A lease or other agreement for consideration that permits persons to engage in a recreational activity and that is in effect on October 27, 2007 shall be void beginning on the January 1 immediately following October 27, 2007.

**77.83(2)(am)3.**, Wis. Stats. Subdivisions 1. and 2. do not apply to any lease or other agreement if the consideration involved solely consists of reasonable membership fees charged by a nonprofit organization and the lease or agreement is approved by the department.

Enforcement Steps

Initial enforcement will concentrate on blatant violations and responding to complaints received. Examples of blatant violations could include a landowner who advertises a hunting lease on their MFL lands in a newspaper, magazine, or the internet, or a ski hill that charges for cross country skiing on MFL lands.

If a forester believes a landowner is in violation of this law, or a complaint has been made, the forester should contact their supervisor to coordinate the investigation.

Areas with credentialed foresters may coordinate the investigation themselves. The local conservation warden should also be informed of this investigation due to the potential for cross-over of violations between programs.

Areas of the state where there isn't a credentialed forester to conduct the investigation, the local conservation warden can be asked to assist, making sure the warden's supervisor is aware of the request.

Please contact the Forest Tax Law Enforcement Specialist or the Private Lands Forestry Law Enforcement Specialist to answer specific questions or for advice on how to investigate possible violations.

A citation may be issued for landowners who are receiving consideration for recreation on MFL lands. Foresters should continue to monitor those landowners issued a citation for violations, similar to enforcement of posting violations. Withdrawal may be recommended after repeated violations.

A Notice of Investigation without a citation may be issued if, during the course of an investigation, the forester believes the landowner was truly unaware of the new law or other mitigating circumstances make a citation unnecessary. Foresters should continue to monitor the landowner for compliance.

As with all cases documentation with tools such as a warden complaint form plays an important role in being able to defend any case that is contested.

Penalty

77.83(4), Wis. Stats. Any person who fails to comply with sub. (2) (am) shall forfeit an amount equal to the total amount of consideration received by the person as a result of violating sub. (2) (am) or $500, whichever is greater.

The statute you would reference when issuing a citation would be:
77.83(2)(am)1. or 77.83(2)(am)2., Wis. Stats. - *Leasing or Entering into Agreement on Managed Forest Land for Consideration*

- *(Use 77.83(2)(am)1., Wis. Stats. if order number of MFL is after October 27, 2007)*
- *(Use 77.83(2)(am)2., Wis. Stats if order number of MFL is prior to October 27, 2007)*

When determining bond amount. You use the base amount as the **forfeiture**… either $500.00 or the lease amount. You would still have to add the penalty assessment plus court costs.

A forfeiture of $500.00 would be:
(Forfeiture + 26% of forfeiture + court costs = bond amount.) or
$500.00 + (.26 x 500) + $123.00 = **$753.00**

A lease of $1000.00 would be:
$1000.00 + (26% x $1000) + $123.00 = **$1383.00**

**INVOLUNTARY WITHDRAWAL**
**(MFL – s. 77.88, Wis. Stats.; FCL – s. 77.10, Wis. Stats.)**

Withdrawal requests may be initiated by the board of the municipality (town/village) the land lies in, by the Department of Revenue or by the Department of Natural Resources.

Investigations for involuntary withdrawals (declassification) may be initiated for:

MFL
- Failure to meet eligibility requirements.
- Failure to comply with the management plan or any part of the MFL subchapter.
- Intentionally cutting in violation of the management plan.
- Cutting on lands with delinquent taxes.
- Cutting Notice is not filed at least 30 days prior to cutting.
- Intentionally filing a false cutting report.
- Uses or developments incompatible with forestry practices.
- Posting or denying access to open MFL land.
- Delinquent personal property tax (initiated by municipality).

FCL
- The land is used for purposes other than forestry.
- Sound forestry is not being practiced (destructive cutting, etc.)
- 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.

MFL Group Certification Departure:

There may be times when a landowner is in violation of a ATFS or FSC standard but it would not cause a withdrawal from MFL. For example:

- Incorrect application of a pesticide. This would be a violation of AFTS Standards related to compliance with laws and regulations and the safe use of pesticides.
- Use of a FSC prohibited pesticide. This would be a violation of the relevant indicators under FSC Principle 6. 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 using search tools.
- MFL Group certified stumpage or cut products were not separated from non-MFL products. This would be a violation of the relevant indicators under FSC Principle 8 and MFL Group chain of custody control system (CoC) 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.

## WITHDRAWAL PROCEDURE

**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 Group Certification Program.**

FTS

1. Receives information indicating a withdrawal may be necessary; forwards it to or contacts the forester to verify the information.

OR

Forester

1. Receives/discovers information indicating a withdrawal may be necessary.
2. Based on information received from FTS or other source, determines if a withdrawal should be recommended.
3. Sends the landowner a NOI indicating the facts and advises of pending withdrawal. Occasionally FTS will write the NOI.
4. When possible resolves problems with the landowner or when appropriate offers alternatives available.
5. Submits to FTS a Request for Master File Change (Form 2450-156), a copy of the NOI, maps showing details of any conveyance which occurred and pertinent correspondence and related documents. The names and addresses of all landowners must be provided.

FTS

6. Reviews all information and determines if withdrawal is the correct course of action. If it is the correct course of action:

   MFL: Issues an Order of Withdrawal then completes the withdrawal tax calculation and billing.

   FCL: Requests a contested case hearing. If hearing is in the Department's favor, a Withdrawal Order will be issued, then the penalty will be calculated and billed.

   MFL and FCL: Copy of withdrawal orders are sent to the DNR forester, landowner, register of deeds, municipal clerk and assessor, Department of Revenue (DOR) - district supervisor of assessment, DOR – Madison

   MFL Group Certification: Issues a letter to the landowner indicating that they have been withdrawn from the Group Certification program, the reasons for withdrawal and advises them of appeal procedures. Removes the landowner from the Group Certification.

| | | |
|---|---|---|
| Forester | 7. | For MFL and FCL: Once the withdrawal is effective, deletes the acreage from recon using PLANTRAC to delete the appropriate stands. The effective date is on the order. |
| Municipal Clerk | 8. | For MFL and FCL: Makes note of the information. |
| Assessor | 9. | For MFL and FCL: Adjusts status on tax role for year withdrawal is effective. |

## 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. (request for judicial review), by anyone who has been adversely affected by the decision. There are only three cases where the landowner does not have the right to a review under both statutes. The affected landowner may file a petition for review in the appropriate court under s. 227.53, Wis. Stats., but has no right to an administrative review 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)(f), 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 recorded.

3. When personal property taxes are not paid on buildings located on MFL lands, s. 77.88(3m), Wis. Stats.

## APPEAL PROCESS

1. A petition/request for a contested case hearing or judicial review of a decision must be submitted to the agency (which made the decision) **within 30 days after service of the decision**. For decisions on forest tax law issues, the request must be sent to the FTS Chief. Requests for judicial review must also be sent to the circuit court in the county where the petitioner resides.

2. The FTS and Bureau of Legal Services will review requests for contested case hearings and either schedule a hearing or give a written denial stating the reason within 20 days, s. 227.42, Wis. Stats.

3. The DNR forester, as well as the FTS or other DNR staff as needed, will present evidence in support of the Department's case at any scheduled hearings.

4. 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 Bureau of Forest Management Director within 30 days after service of the decision. The Director will establish 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 non-Departmental costs associated with establishing this committee will be born 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 Director, whose decision is final.

## HEARINGS

**FCL:** A contested case hearing before the agency is required for any involuntary FCL withdrawal except when a **new owner** declines/refuses to certify their intent to continue to practice forestry, s. 77.10(1)(b), Wis. Stats. Their intent is shown when they complete and sign a FCL transfer form.

**MFL:** ENTRY: The Department may hold a public hearing to take testimony relating to the eligibility of land for entry under MFL, s. 77.82(6), Wis. Stats. This is just a public hearing to gather information and not the same as a contested case hearing.

INVOLUNTARY WITHDRAWALS: The Department does not have to hold a contested case hearing to proceed with an involuntary withdrawal, but the owner or someone else could petition to review the decision and request an administrative hearing, a judicial review or both.

**CONTESTED CASE HEARING PROCESS**

1. A request for a hearing should be submitted through the FTS to the Bureau of Legal Services. Request should include all documentation needed to show the violation and what the actions were by each party.

2. The Bureau of Legal Services will make a determination on whether or not to proceed with a hearing.

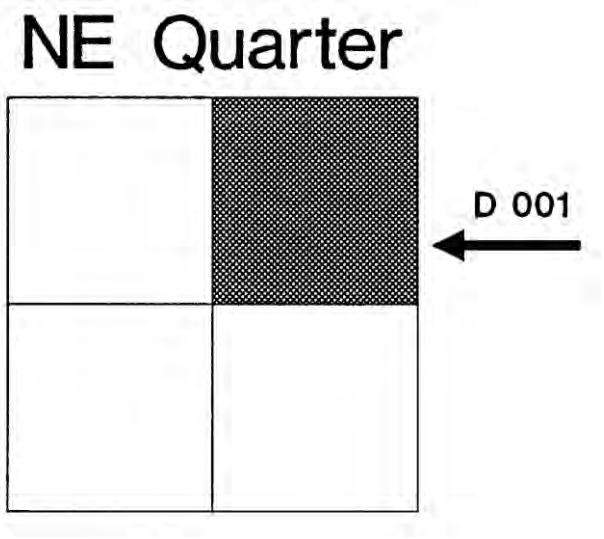
   - If a hearing is scheduled, the forester or other expert may be called upon to provide further information or to testify at the hearing.
   - If they decide not to schedule a hearing, they will give an indication as to why not, and what other course of action should be taken, i.e., NOI, a letter from FTS or Legal Services, etc.

Appendix 1

STANDARD DESCRIPTION CODES

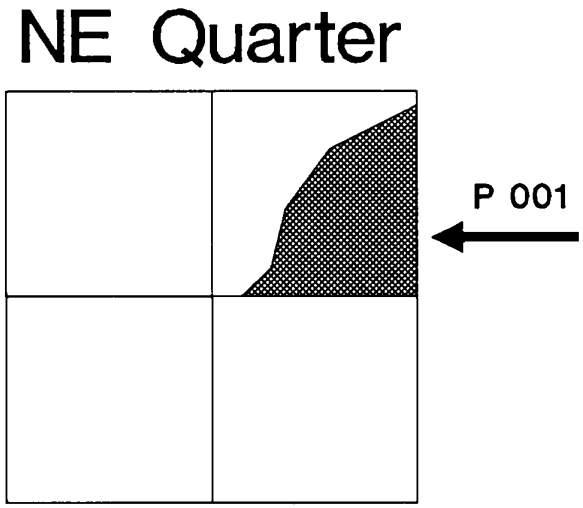
**All of a Standard Description**

| 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 |



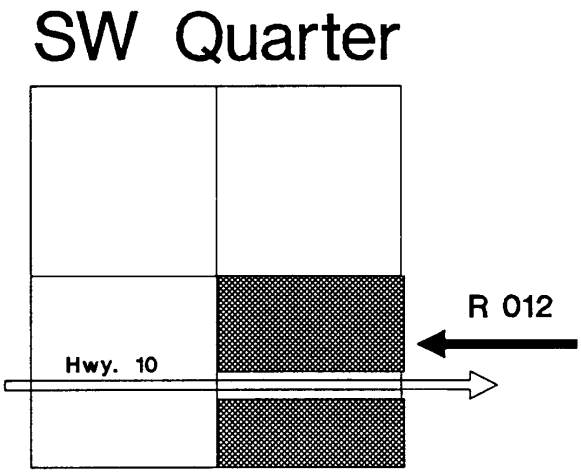

**Part of Standard Description**

| 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 |
| P 012 | SESW, PT OF |
| P 013 | NESE, PT OF |
| P 014 | NWSE, PT OF |
| 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**

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| 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 |
| D 042 | E1/2 W1/2 FR SEC |
| D 043 | W1/2 W1/2 FR SEC |
| D 044 | N1/2 FR SEC |
| D 045 | S1/2 FR SEC |
| D 046 | N1/2 N1/2 FR SEC |
| D 047 | S1/2 N1/2 FR SEC |
| D 048 | N1/2 S1/2 FR SEC |
| D 049 | S1/2 S1/2 FR SEC |
| D 050 | E1/2 S1/2 N1/2 FR SEC |
| 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 |
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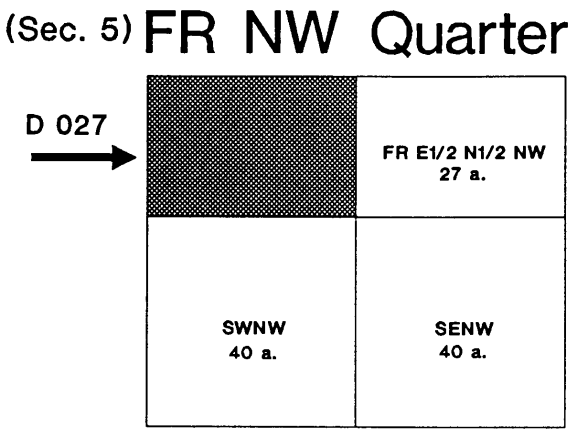


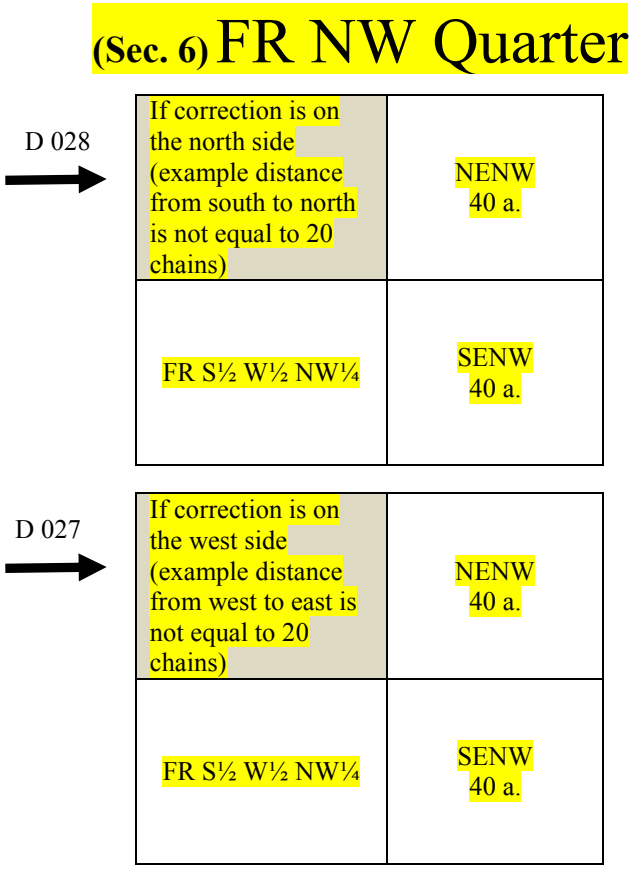

**Part of Fractional Description**

| Code | Description |
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| P 019 | FR W1/2 N1/2 NE1/4, PT OF |
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| 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 |
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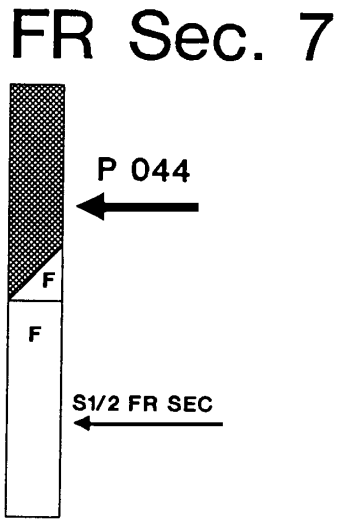


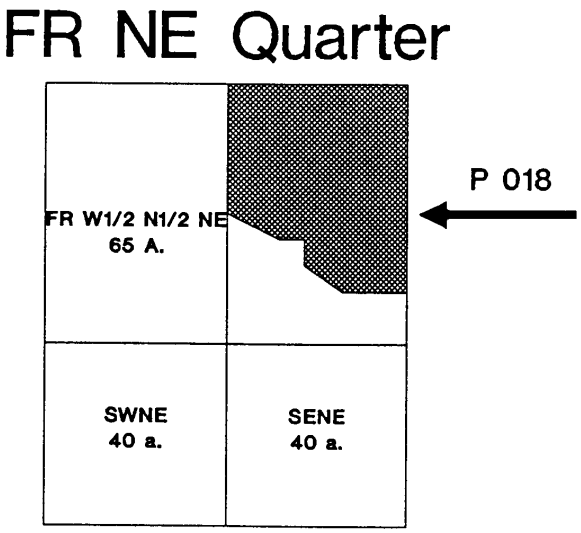


(Note: Fractional descriptions may be larger or smaller than standard descriptions.)

**All of a Fractional Description, EX ROW**

| Code | Description |
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| R 025 | FR W1/2 NW1/4, EX ROW |
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| 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 |
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| R 037 | FR S1/2 E1/2 SW1/4, EX ROW |
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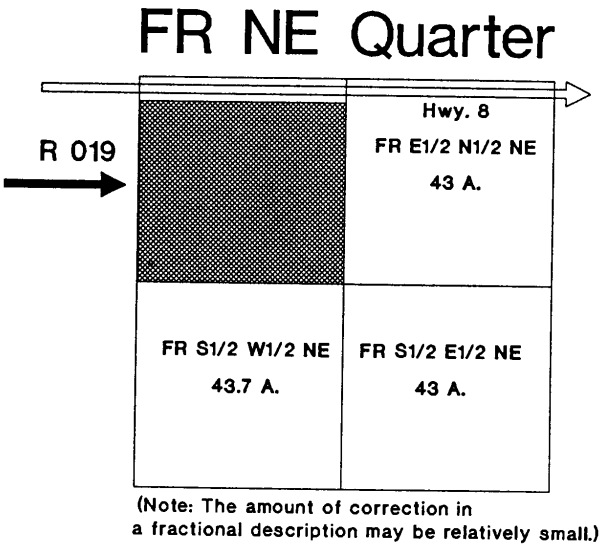
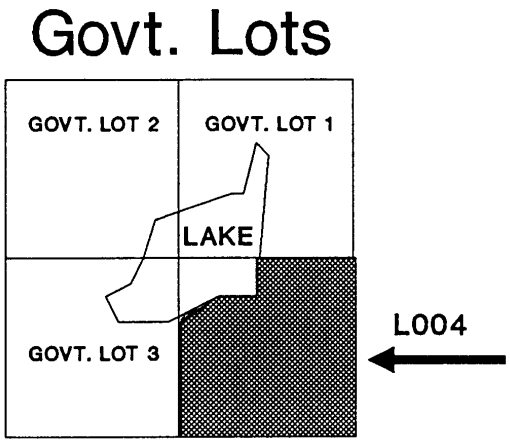


**All of a Government Lot**

| 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 |
|---|---|
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| 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

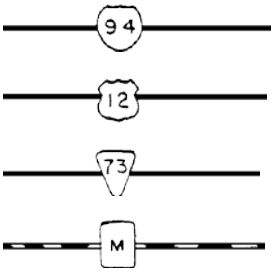
| | | | | | |
|---|---|---|---|---|---|
| AL | ALABAMA | ME | MAINE | OR | OREGON |
| AK | ALASKA | MD | MARYLAND | PA | PENNSYLVANIA |
| AZ | ARIZONA | MA | MASSACHUSETTS | RI | RHODE ISLAND |
| AR | ARKANSAS | MI | MICHIGAN | SC | SOUTH CAROLINA |
| CA | CALIFORNIA | MN | MINNESOTA | SD | SOUTH DAKOTA |
| 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

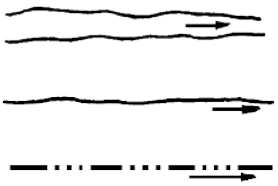
Single Track Railroads

Multiple Track Railroads

Abandoned Railroads

Powerlines

All fence lines



Rivers

Creeks and Streams

Intermittent Streams

Ditch

Dike

Dam

Bridges

Lakes

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.

RESERVED FOREST LAND - Forest land which has been withdrawn from timber utilization through statute, ordinance, or administrative order.

## 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. |
| 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. |
| 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 ≤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. |
| 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. |
| 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.<br>Bldg.<br>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<br>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.<br>Bldg.<br>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

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.

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 11 | Pole-timber | 5 - 9″ or 11″ |
| 9 or 11 - 15 | Small saw-timber | 9″ or 11 - 15″ |
| 15+ | Large saw-timber | 15″+ |

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] | | |
|---|---|---|---|---|
| | | 3 | 2 | 1 |
| Seedlings [1/] | Trees | 1,501+ [2/] | 601-1,500[2/] | 200 - 600 |
| Saplings [1/] | Trees | 901+ | 301 - 900 | 100 - 300 |

| Size Class | Units Per Acre [3/] | Density Classes | | | | |
|---|---|---|---|---|---|---|
| | | 5 | 4 | 3 | 2 | 1 |
| Pole-timber and Saw-timber | Basal area (sq. ft./acre) | 150+ | 111 - 150 | 71 - 110 | 31 - 70 | 10 - 30 |

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 covert 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.

Overstories (saw timber and pole timber) are given precedence in primary typing except when the overstory is of poor density and the understory consists of a stand of desirable species. There must be a separation of two density classes before a seedling/sapling size class becomes the primary type and a poor density overstory becomes the secondary type.

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 $5\text{-}11^4$
Secondary Type NH $5\text{-}11^2$
Understory Type PW $0\text{-}5^2$

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 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. 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 class.

To determine the secondary type, use the following procedure.

1. Delete the basal area, size class and timber type used in the primary timber type from consideration in determining the secondary timber type.

2. Determine the cover type based on the highest distribution by basal area of all merchantable trees in the remaining forest type. For seedling and sapling stands, determine the cover type based on the number of seedlings and saplings by forest type. Again, in some cases no one timber type will reach 50% and you will have to choose the type that best represents the stand.

3. Determine the size class based upon the basal area size class distribution of all merchantable trees within the secondary cover type determined above. Again, for seedlings and saplings use 0-5.

4. Determine the density code based on the basal area of all merchantable trees from Steps 2 and 3. For seedlings and sapling stands use the number of trees in the stand.

**Example 1**

| | | |
|---|---|---|
| Stand Basal Area | 15 sq. ft. of large saw timber oak<br>15 sq. ft. of large saw timber northern hardwoods<br>45 sq. ft. of small saw timber northern hardwoods<br>25 sq. ft. of northern hardwood pole timber<br>10 sq. ft. of aspen pole timber<br>110 Total Basal Area | |
| Primary Cover Type: | NH | The primary cover type is northern hardwood since 85 sq. ft. of the 110 sq. ft. are northern hardwoods, for 77% of the total basal area. Since northern hardwood species make up more than 50% of the basal area, this stand is typed as NH.<br><br>(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 since the majority of the northern hardwood basal area is in the small saw timber size class.<br><br>(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" since a total of 75 sq. ft. are in the saw timber product class.<br><br>(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:<br><br>15 sq. ft. of large saw timber oak<br>15 sq. ft. of large saw timber northern hardwoods<br>~~45 sq. ft. of small saw timber northern hardwoods~~ (used in primary type)<br>25 sq. ft. of northern hardwood pole timber<br>10 sq. ft. of aspen pole timber<br>65 Remaining Basal Area |
| Secondary Cover Type: | NH | The secondary cover type is northern hardwood since 40 sq. ft. of the remaining 65 sq. ft. of basal area are in northern hardwoods.<br><br>(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 since the majority of remaining northern hardwood basal area is pole timber size.<br><br>(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" since 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[2] |

**Example 2**
Stand Basal Area – All merchantable trees are pole timber size (5-11")

90 sq. ft. of aspen
15 sq. ft. of red maple
10 sq. ft. of hard maple
15 sq. ft. of red oak
10 sq. ft. of white ash
140 Total Basal Area, plus

600 seedlings and saplings of white pine

| | | |
|---|---|---|
| Primary Cover Type: | A | The primary cover type is aspen since >50% of basal area in the stand is aspen.<br><br>(90 out of 140 sq. ft. for 64% of the basal area). |
| Size Class: | 5-11 | The size class is 5-11 since all aspen are in the 5-11" size class. |
| Density: | 4 | The density code is "4" since 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:<br><br>~~90 sq. ft. of aspen~~ (used in primary type)<br>15 sq. ft. of red maple<br>10 sq. ft. of hard maple<br>15 sq. ft. of red oak<br>10 sq. ft. of white ash<br>50 Remaining Basal Area, plus<br><br>600 seedlings and saplings of white pine |
| Secondary Cover Type: | NH | The secondary cover type is northern hardwood since 35 sq. ft. of the remaining 50 sq. ft. of basal area are in northern hardwoods (red maple, hard maple, white ash). |
| Size Class | 5-11 | The size class is 5-11 since all of the remaining northern hardwood species are in the 5-11" size class. |
| Density | 2 | The density code is "2" since a total of 35 sq. ft. are in secondary type (NH) and size class (5-11), being 15 sq. ft. of red maple + 10 sq. ft. of hard maple + 10 sq. ft. of white ash. |
| Understory Cover Type: | PW | The understory cover type is white pine since 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: | 1 | 600 seedlings per acre are part of Density Code 1. |

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$^{1}$ |

**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 and the FCL termination tax. FTS will notify foresters 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 | Value/Unit* | Total Value | Factor+ | Payment Due |
|---|---|---|---|---|---|---|
| Red Oak | Sawlogs | 27,800 BF | $97.00/1000 BF | $2,696.60 | x5% | $134.83 |
| Sugar Maple | Sawlogs | 18,800 BF | $58.00/1000 BF | $1,090.40 | x5% | $ 54.52 |
| Other Hardwood | Sawlogs | 10,600 BF | $44.00/1000 BF | $ 466.40 | x5% | $ 23.32 |
| Other Hardwood | Pulpwood | 788 cords | $ 4.00/cord | $3,152.00 | x5% | $157.60 |
| | | | | Total payment due = | | $370.27 |

* Use rates in effect at the time of the withdrawal or expiration (s. NR 46.30, Wis. Adm. Code).

\+ 10% for FCL termination tax

Data for FCL termination tax/MFL withdrawal tax 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/terminated. 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

| Form Name | Which Law | Form Number | Where Found |
|---|---|---|---|
| Certified Group Application | MFL | 2450-192 | e-forms, public web site |
| Certified Group Departure | MFL | 2450-191 | 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 |
| Forest Tax Map | FCL | 2450-034 | e-forms, WisFIRS |
| Land Exam and Practice Report | MFL, FCL | 2450-128 | e-forms, WisFIRS |
| FCL Management Schedule | FCL | 2450-121 | e-forms, WisFIRS |
| Management Plan Review Checklist | MFL | 2450-189 | e-forms, WisFIRS |
| Managed Forest Law Map | MFL | 2450-133 | e-forms, WisFIRS |
| Master File Change Request | MFL, FCL | 2450-156 | e-forms |
| Notice of Land Conveyance and Transfer | MFL | 2450-159 | e-forms, public web site |
| MFL Application for Designation/Conversion | MFL | 2450-129 | e-forms, WisFIRS |
| Public Access Modification Request | MFL | 2450-193 | e-forms, public web site |
| Salvage Stumpage Appraisal Worksheet | MFL, FCL | 2450-030 | e-forms |
| Stewardship Forestry Plan (computerized) | MFL | 2450-194 | WisFIRS |
| 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 are examples of Notice of Investigation letters. Foresters are not compelled to use them but should be sure that all NOI's include:

- Order number
- Legal description of involved parcel
- Description of the violation, and if applicable, which ATFS and/or FSC standard is nonconforming
- Probable consequence
- Action required to alleviate the problem
- A deadline for action by the landowner (10-14 days is usually reasonable)
- Specific statute reference(s)
- Copy of ch. 77, Wis. Stats., and ch. NR 46, Wis. Adm. Code
- Noncompliance penalty assessment statement, if applicable

**State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES**

**Jim Doyle, Governor**
**Matthew Frank, Secretary**
**Ronald W. Kazmierczak, Regional Director**

**2984 Shawano Ave.**
**Green Bay, WI 54307**
**Telephone 920-662-5156**
**FAX 920-662-5413**

January 7, 2009

Harry Sydney
166 E Prospect St
Port Washington, WI 53074

## NOTICE OF INVESTIGATION

In a matter regarding lands entered under the Wisconsin Managed Forest Law, more particularly described as:

Kewaunee County, Franklin Township
Township 22N Range 23E Section 4, NESE
Order # 31-044-2006

You are hereby notified that, under the provisions of the Managed Forest Law, Chapter 77, Wis. Stats., the Department of Natural Resources is investigating the following alleged violation:

**Failure to comply with the mandatory practice, scheduled for the year 2008, as stated in the Managed Forest Law management plan, violation of s.77.88.**

This notice of investigation is being sent to the clerk and town chairman of Franklin as the certification required under s.77.876, Stats., of the failure to complete the mandatory practice(s) listed above by the time required in the MFL Forest Management Plan or subsequent written correspondences. The municipality is directed to bill you for a noncompliance penalty of $250 ($250 per practice not completed). Unpaid noncompliance penalties will be added to the property tax bill as a special charge. If the mandatory practices or appropriate actions described in this letter are not completed by the dates given, your file will be sent to the Forest Tax Section in Madison with a recommendation for withdrawal. When land is withdrawn from MFL, a withdrawal tax and fee are assessed.

## METHOD TO CORRECT ALLEGED VIOLATION

1) Seek professional forestry assistance in setting up the mandatory harvest in stand #1. The timber marking and subsequent DNR Cutting Notice (Form 2450-032, enclosed) must be filed and approved by **May 1, 2009**. The timber harvest must be completed by **March 1, 2010**.

**OR**

2) Voluntarily withdraw the above lands from the Managed Forest Law.

   If you elect to withdraw the above listed lands from the Managed Forest Law, advise me by **May 1, 2009** and use the enclosed withdrawal form. Withdrawal is not effective until the withdrawal tax is pad. The withdrawal is effective beginning the following January 1st.

**CONSEQUENCE OF FAILURE TO CORRECT ALLEGED VIOLATION**

Failure to respond to this notice by the deadline date or failure to take corrective action on the alleged violation by the deadline date may result in a recommendation to the Forest Tax Section to withdraw the above listed lands from the Managed Forest Law per Chapter 77.88. Withdrawal from the Managed Forest Law can involve substantial taxes and fees.

Sincerely,

**DEADLINE DATE: YOU MUST NOTIFY ME BY MAY 1, 2009 OF YOUR INTENT TO CORRECT THIS VIOLATION.**

Shelley Wrzochalski
Forester

Enclosures

Cc: Ken Symes- Forest Tax Law Enforcement Specialist, Madison
Ron Jones- Lakeshore Area Forestry Leader, Appleton
Ed West – Franklin Town Chairman
Ken Ruettgers - Franklin Town Clerk

**State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES**

**Jim Doyle, Governor**
**Matthew Frank, Secretary**
**Ronald W. Kazmierczak, Regional Director**

**2984 Shawano Ave.**
**Green Bay, WI 54307**
**Telephone 920-662-5156**
**FAX 920-662-5413**

March 16, 2009

Mr. Dean Johnson
166 E Prospect St
Port Washington, WI 53074

**NOTICE OF INVESTIGATION**

In a matter regarding lands entered under the Wisconsin Managed Forest Law, more particularly described as:

Brown County, Holland Township
Township 21N Range 20E Section 23, SWSE
Order # 05-056-1999

You are hereby notified that, under the provisions of the Managed Forest Law, Chapter 46, Wis. Adm. Code, the Department of Natural Resources is investigating the following alleged violation:

Exceeding the 20% non-productive acreage limitation, per parcel, violation of s. 77.82 (1)(a)2, Wis. Stats.

**METHOD TO CORRECT ALLEGED VIOLATION**

Reduce acreage of non-forest cover (grass, shrubs) so that the non-productivity of the enrolled parcel does not exceed 20%. The non-productive acreage of this parcel is currently 28%. In stand #6, plant tree species suitable to the site, in order to meet the appropriate stocking of 600 seedlings/ac. or 300 saplings/ac.

**OR**

Voluntarily withdraw the above lands (in the SWSE quarter-quarter, totaling 21 acres) from the Managed Forest Law. If you elect to voluntarily withdraw the above listed lands from the Managed Forest Law, fill out the enclosed Declaration of Withdrawal (Form 2450-140) and return it to me by **September 1, 2009**. The withdrawal is effective beginning January 1, 2010.

**CONSEQUENCE OF FAILURE TO CORRECT ALLEGED VIOLATION**

Failure to take corrective action on the alleged violation by the compliance deadline may result in a recommendation to the Forest Tax Section to withdraw the above listed lands from the Managed Forest Law per Chapter 46, Wis. Adm. Code. Withdrawal from the Managed Forest Law can involve substantial withdrawal taxes and a $300 withdrawal fee. Land withdrawn from the Managed Forest Law it is also removed from the MFL Certified Group.

Sincerely,

**DEADLINE DATE: PLEASE NOTIFY ME BY SEPTEMBER 1, 2009 OF YOUR INTENT TO CORRECT THE ABOVE VIOLATION**

Shelley Wrzochalski
Forester

enc.

Cc: Ken Symes - Forest Tax Law Enforcement Specialist, Madison
Ron Jones- Lakeshore Area Forestry Leader, Appleton
Perry Kemp - Holland Town Chairman

**State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES**

**Jim Doyle, Governor**
**Matthew Frank, Secretary**
**Ronald W. Kazmierczak, Regional Director**

**2984 Shawano Ave.**
**Green Bay, WI 54307**
**Telephone 920-662-5156**
**FAX 920-662-5413**

April 16, 2009

Paul McJulien
166 E Prospect St
Port Washington, WI 53074

**NOTICE OF INVESTIGATION**

In a matter regarding lands entered under the Wisconsin Managed Forest Law, more particularly described as:

Langlade County, Wolf River Township
Township 21N Range 20E Section 23, SWSE
Order # 05-016-1994

You are hereby notified that, under the provisions of the Managed Forest Law, Chapter 46, Wis. Adm. Code, the Department of Natural Resources is investigating the following alleged violation:

Failure to certify to the Department an intent to comply with the existing management plan by submitting a Managed Forest Law Notice of Land conveyance and Petition for Transfer form within 30 days of the date of the deed, in violation of s. 77.88(2)(e).

**METHOD TO CORRECT ALLEGED VIOLATION**

1. Complete and submit the enclosed, partially completed MFL Notice of Conveyance and Petition for Transfer form to the DNR Forestry office in Gays Mills by the deadline below.

**OR**

2. Voluntarily withdraw the above lands from the Managed Forest Law. If you elect to withdraw the above listed lands from the Managed Forest Law, advise me by May 1, 2009 a nd use the enclosed withdrawal form. Withdrawal is not effective until the withdrawal tax is paid. The withdrawal is effective beginning the following January 1st.

**CONSEQUENCE OF FAILURE TO CORRECT ALLEGED VIOLATION**

Failure to respond to this notice by the deadline date or failure to take corrective action on the alleged violation by the deadline date may result in a recommendation to the Forest Tax Section to withdraw the above listed lands from the Managed Forest Law per Chapter 77.88. Withdrawal from the Managed Forest Law can involve substantial taxes and fees..

Sincerely,

**DEADLINE DATE: PLEASE NOTIFY ME BY SEPTEMBER 1, 2009 OF YOUR INTENT TO CORRECT THE ABOVE VIOLATION**

Shelley Wrzochalski
Forester

enc.

Cc: Ken Symes - Forest Tax Law Enforcement Specialist, Madison
Ron Jones- Lakeshore Area Forestry Leader, Appleton
Perry Kemp - Holland Town Chairman

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 |

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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 |

1

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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

**Note: this four-page appendix should accompany NHI data reports provided to Certified Plan Writers and Qualified Cooperating Foresters (CFs) with appropriate NHI training following the procedures in Chapter 10, Private Forestry Handbook.**

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). 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 results (whether acquired through WisFIRS or the NHI Portal) will include Element Occurrences (EOs) within one-mile of the project area. 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. Again, since only the department can determine if take is being avoided for a listed species, the DNR forester 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 in order 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 particular 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 the NHC Forestry Liaison, Drew Feldkirchner at (608) 267-5129 or Drew.Feldkirchner@Wisconsin.gov with questions.

## Procedure

**A. Writing an MFL Plan**

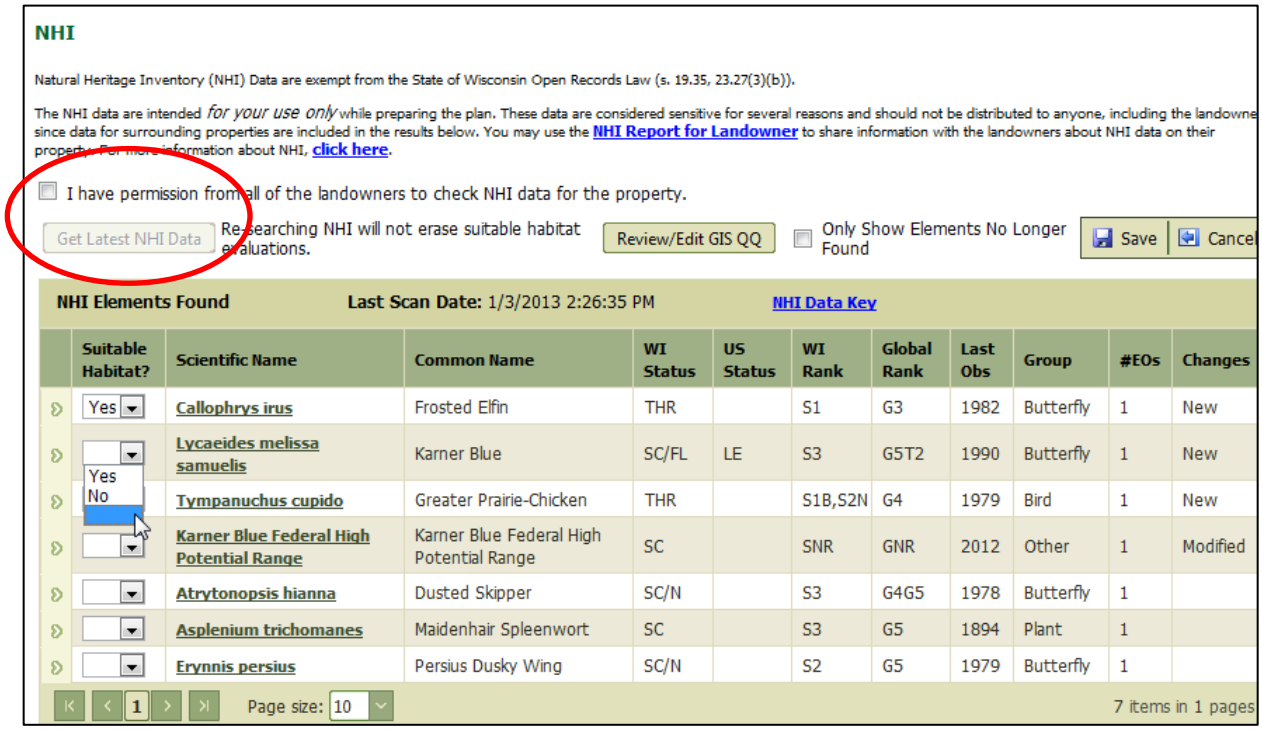
The NHI data for plan-writing are provided through the WisFIRS Private Lands application. A general description of the procedures is below; additional technical details are provided in the WisFIRS Private Lands training manual.

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** make a determination for each EO regarding whether suitable habitat is likely to exist on the property. This information will be important for future users of the plan in developing management prescriptions.
8. **DNR Forester** reviews the information along with the rest of the plan.



**NHI**

Natural Heritage Inventory (NHI) Data are exempt from the State of Wisconsin Open Records Law (s. 19.35, 23.27(3)(b)).

The NHI data are intended *for your use only* while preparing the plan. These data are considered sensitive for several reasons and should not be distributed to anyone, including the landowne since data for surrounding properties are included in the results below. You may use the NHI Report for Landowner to share information with the landowners about NHI data on their property. For more information about NHI, click here.

I have permission from all of the landowners to check NHI data for the property.

Get Latest NHI Data | Re-searching NHI will not erase suitable habitat evaluations. | Review/Edit GIS QQ | Only Show Elements No Longer Found | Save | Cancel

**NHI Elements Found** **Last Scan Date:** 1/3/2013 2:26:35 PM NHI Data Key

| 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 |
| Yes / No | 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 | |

1 Page size: 10 7 items in 1 pages

## B. Preparing a Timber Sale Cutting Notice or WFLGP Grant

If at all possible, the NHI lookup should be done in the early planning stages, well before marking or developing a grant occurs. The DNR Forester must do the lookup for CPWs or CFs using the NHI Portal. 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 Portal should take NHI Training and/or watch the portal instructional video available online.

1. **CPW or CF** who have taken the NHI Training submits a request to the department forester by email or letter with the following information. Cooperators may be referred to the standard data request procedure (see http://dnr.wi.gov keyword: ER Review) if workload becomes a limiting factor or for projects that the Department does not review, fund or approve.
   - the location of the property, by public land survey township, range, section and quarter-quarter section;
   - number of acres;
   - a map with the property boundary shown for irregularly shaped properties;
   - the name of the landowner and a statement that they have permission from the landowner to make the request;
   - the CPW's or CF's contact information;
   - and the date of the request

2. **DNR forester** draws the project area in the NHI Portal and enters a project title in the following format: MFL: Landowner Name (replacing "Landowner Name" with the actual landowner's name).

3. **DNR Forester** chooses the standard buffer, and continues to the Element Occurrence Summary

4. **DNR Forester** downloads the "detailed data" report and provides it to the CPW or CF **along with a copy of this appendix**. This can be done via email or hardcopy.

5. **CPW or CF** returns the hardcopy detailed report with the cutting notice and deletes the electronic copy of the report.

6. **DNR Forester** retains a record of the lookup date and results with the cutting notice.

7. The request is complete.

WIDNR - NHI Portal - Windows Internet Explorer

https://dnrx.wisconsin.gov/nhiportal/summary

Wisconsin Department of Natural Resources

WIDNR - NHI Portal

Map | EO Summary | Review | Unfinished Reviews | Portal and Species Questions

## Element Occurence Summary

| 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 |

**Intersected Waterbodies (optional)**

Click a waterbody to view an EO summary for that area:

Unnamed, Unnamed, Unnamed, Potter Flowage, Unnamed, Unnamed, Unnamed, Unnamed, Unnamed, Unnamed, Unnamed, Unnamed, Unnamed, Unnamed, Unnamed, Unnamed, Unnamed, Unnamed, Seventeen Flowage, Unnamed, Unnamed, Unnamed, Unnamed, Unnamed, Unnamed, Unnamed, Partridge Crop Flowage, Unnamed, Unnamed, Unnamed, Unnamed, Unnamed, Unnamed, Unnamed, Unnamed, Unnamed, Unnamed, Unnamed, Unnamed, Seventeen Flowage, Unnamed, Unnamed, Unnamed, Unnamed, Unnamed, Range Line Flowage, Unnamed, Unnamed, Unnamed, Unnamed, Unnamed, Unnamed, Unnamed, Unnamed, Unnamed, Unnamed, Unnamed, Unnamed, Unnamed, Unnamed, Unnamed, Unnamed, Unnamed, Unnamed, Unnamed, Unnamed, Unnamed, Black Duck Flowage, Unnamed, Unnamed, Seventeen Flowage, Unnamed, Unnamed, Unnamed, Unnamed, Unnamed, Unnamed, Unnamed, Unnamed, Unnamed, Unnamed, Unnamed, Unnamed, Unnamed, Unnamed, Unnamed, Unnamed,

Begin Review *(For DNR Staff Only)* →

Download Detailed EO Data

Explanation of Detailed Data

Appendix 11

# SHARING ARCHEOLOGICAL AND HISTORICAL DATA

Procedure and Information for Sharing Archaeological and Historical Resources with an Independent Certified Plan Writer and Cooperating Foresters

**Legal Requirements**
Section 44.40, Wis. Stats, required 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 were 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, since 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) or private lands (ch. 157, Wis. Stats.).

**Maintenance of Archaeological and Historical Inventory**
The Wisconsin Historical Society (WHS) maintains the inventory of *recorded* archaeological and historical resources. Through cooperation with the Division of Historic Preservation, Wisconsin Historical Society, 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. CPWs and Cooperating Foresters request information from the DNR Forester for the legal descriptions in which an MFL application will be developed. *Note: Archaeological and historical resources are not available in WisFIRS similar to the NHI database. CPWs and Cooperating Foresters must request information from the local DNR Forester.*

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 area, the DNR Forester requests 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.
    - 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 DNR Forester the type of resource identified in the WHS database. If the site is a burial site or includes a burial component, the DNR Forester will be so advised, since the requirements are more stringent for burial sites than for non-burial (archaeological sites) and historic structures.

5. The DNR Forester reports back to the CPW or Cooperating Forester with the results of the archaeological and historical search, including information learned regarding protection and/or management of the site.

**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 the DNR Forester by the DNR Archaeologist will include only the following generalized types of resources. The DNR Archaeologist will provide the DNR Forester with copy of a WHS-created USGS topographic map identifying archaeological and/or historic site locations with related unique site or structure numbers.

- Burial site
- Archaeological site
- Historical structure

**Identifying Exact Resource Locations**
Since the archaeological and historical database identifies resources to the legal description (quarter-quarter section), landowners, CPWs, Cooperating Foresters and DNR Foresters 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).

  John Broihahn, State Archaeologist
  Historic Preservation – Public History, Room 307
  816 State St.
  Madison, WI 53706-1482
  Voice Mail 608-264-6496
  Fax 608-264-6504

  OR
- 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.

**Management of Archaeological and Historical Resources**
The ability to complete management practices on private lands depends on the reason why the work is being conducted.

For private lands for wildlife habitat management work, surveys and evaluations – if required - will be done by an outside archaeological consultant.

- Surveys and evaluations are needed for creating new wetland/run-off ponds or enhancing wetlands through scrapes or dikes.
- Surveys and evaluations are not needed for wetland restoration through ditch plugs or breaking drainage tile, prairie or savanna restoration.

For any other project on private land except for silvicultural work that does not disturb the soil (work should be done in well frozen conditions), surveys and evaluations will be done by an outside consultant. A list of consultants is available from the Wisconsin Historical Society at http://www.wisconsinhistory.org/archaeology/preserve/pdf/arch_consultants.pdf. 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

**Burial sites.**

*Legal Requirements*
s. 157.70 (2r), Wis. Stats. requires that no person may intentionally cause or permit the disturbance of a burial site or cataloged land contiguous to a cataloged burial site. This law applies equally on public and private lands. 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.

*Entry into MFL*
Lands with burial sites are allowed to be enrolled into MFL. Burial sites are protected by law, meaning that there can be no disturbance of the site within a minimum 15 feet from the perimeter or base of a mound or other defined burial area or site – *as mapped by WHS*. 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.

Refer also to DNR's *BURIALS, EARTHWORKS, AND MOUNDS PRESERVATION POLICY & PLAN (*http://intranet.dnr.state.wi.us/int/land/div/policies.htm )

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.

*Management around Burial Sites*
Management options around burial sites may 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 ≈15 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 windthrow 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.

Appendix 12

SAMPLE LETTER TO NOTIFY NEW LANDOWNER OF MFL REQUIREMENTS

The Private Lands Specialist Team (PLMT) has recommended that DNR Foresters notify landowners of MFL requirements and acknowledge the processing of their transfer requests. This allows DNR Foresters 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 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

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,

DNR Forester

Attachments

- MFL Highlights

Appendix 13 A

# 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 13 B

# 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)

[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

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®)

Appendix 13 C

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 | |