

## **Wisconsin Act 358 – Program Implementation Guidance for Wisconsin’s Managed Forest Law (MFL) and Forest Crop Law (FCL)**

Act 358 makes changes to Wisconsin’s Managed Forest Law (MFL) and Forest Crop Law (FCL). Program guidance for implementing the new law has been developed by an internal Department MFL Legislation Implementation team using current information and legal interpretations.

The Department is now soliciting comments from the public on this draft program implementation guidance. Once the 21-day public comment period is complete, all comments will be considered. The program implementation guidance will be revised as needed, and final program guidance will be made available to the public.

Comments related to this draft guidance document should be emailed to: [DNRMFLlegislation@wisconsin.gov](mailto:DNRMFLlegislation@wisconsin.gov).

## Wisconsin Act 358 – Program Implementation Guidance for Wisconsin’s Managed Forest Law (MFL) and Forest Crop Law (FCL)

### Severance/Yield taxes:

Act 358 removes DNR authority to assess (invoice) and collect 10% severance tax on FCL land and 5% yield tax on MFL land for timber and forest products harvested.

No invoices for yield or severance tax have been sent since April 16, 2016 for MFL and FCL lands. For MFL or FCL lands with outstanding yield or severance tax due, the invoice has been voided and any payments received from those invoices on or after April 16, 2016 will be refunded.

Cutting notices and reports are still required to be submitted for both MFL and FCL lands since the statutes requiring them were not affected by this Act (MFL ss. 77.86(1) and (4), FCL ss. 77.06(1) and (4), Wis. Stats.). Cutting notice and report forms still need to be submitted to Madison after final volumes are received and approved by the DNR Forester.

### Cutting Notices:

Act 358 has added additional people who are eligible to submit a cutting notice not requiring DNR approval (listed as the last three bullets in the list below). DNR approval is not required prior to cutting if the cutting notice is submitted by any of the following **and** the cutting is under the terms of the management plan:

- a Cooperating Forester
- a forester accredited by:
  - the Society of American Foresters (SAF) (SAF accredited means SAF Certified Forester)
  - Wisconsin Consulting Foresters (WCF)
  - the Association of Consulting Foresters (ACF)
- a person who holds at least a bachelor’s degree from a forestry program provided by an accredited institution and who has 5 years full-time experience engaged in managing forests (includes timber harvesting, wildlife management, water quality and recreation to maintain a healthy and productive forest)
- a person who holds a degree or diploma from a 2-year forestry program provided by an accredited technical or vocational school and who has 5 years full-time experience engaged in managing forests (includes timber harvesting, wildlife management, water quality and recreation to maintain a healthy and productive forest)
- a person who has 5 years full-time experience engaged in managing forests (includes timber harvesting, wildlife management, water quality and recreation to maintain a healthy and productive forest)

Note: this is the same for FCL enrollments as well.

The process for individuals interested in being placed on the Cutting Notice Register involves the following steps:

Step 1: Contact Ron Gropp, DNR Private Forestry Staff Specialist; contact information:

Phone: (608) 267-7659

Email: [ron.gropp@wisconsin.gov](mailto:ron.gropp@wisconsin.gov)

Step 2: Individuals requesting to be placed on the DNR Cutting Notice Register must include the following information in their request:

- Are you a Cooperating Forester?

- Are you a Forester accredited by the Society of American Foresters (SAF), Wisconsin Consulting Foresters (WCF) or the Association of Consulting Foresters (ACF)?
- Do you have a Bachelor's degree or a two-year degree or diploma from an accredited Forestry Program, and at least 5 years of experience? Please describe your experience.
- Do you have at least 5 years of experience? Please describe your experience.

**Note:** Experience means having been engaged in the full-time profession of managing forests; including timber harvesting, wildlife management, water quality and recreation to maintain a healthy and productive forest.

Step 3: Once submitted, DNR will evaluate and confirm or deny your request. You will receive notification confirming or denying your request to have your name added to the DNR Cutting Notice Register. The Cutting Notice Register will be placed on our DNR website soon.

A person submitting the cutting notice must indicate their affiliation (e.g. Cooperating Forester, SAF Certified Forester) or their qualifications and experience on the cutting notice, along with their name in the "Forester/Accreditation" box on the Cutting Notice and Report form.

Act 358 requires the DNR to notify the person who filed the cutting notice by certified letter or email no later than the end of the next business day (after the department's decision has been made) if the department is denying the cutting notice. The reason(s) for the denial must be specified in the letter and/or email. This would apply to any cutting notices submitted by a person that is required to have DNR approval or in cases where the landowner has requested DNR approval on the cutting notice form.

Act 358 states that the department shall not restrict an approved cutting notice based on NHI (Natural Heritage Inventory). Restrictions for NHI cannot be added to an approved cutting notice.

### **Buildings and Improvements:**

Act 358 prohibits the enrollment of a parcel in MFL if there is a building or improvement associated with a building located on that parcel. This change applies to all 2017 and future entries. An improvement is defined as any accessory building, structure, or fixture that is built or placed on the parcel for its benefit or landscaping done on the parcel. This means buildings or improvements of any kind (with or without living space) and structures associated with them are prohibited. Improvement does not include any of the following:

- Public or private road
- Railroad or utility right-of-way
- Fence, unless the fence prevents the free and open movement of wild animals
- Culverts
- Bridges
- Hunting blinds
- Structures and fixtures needed for sound forestry practices

Examples of structures and fixtures needed for sound forestry practices may include such things as skid trails, landings, deer exclosures and clear-span bridges.

The department is considering the two options below regarding additional structures and fixtures needed for sound forestry. Please use the public review process on our website to comment and/or provide suggestions.

1. Small sheds that are no larger than 120 square feet that store tools and equipment used in forestry practices are allowed on MFL land. (Please suggest other or additional criteria that could be used to define a structure or fixture that would be needed for sound forestry.)

**OR**

2. Buildings such as storage facilities for tools, equipment, ATVs, etc., are not allowed on MFL land.

At this time, hunting blinds are defined as a structure that is used exclusively for active hunting. During the rule making process, hunting blinds may be more clearly defined and certain structures may no longer be considered a hunting blind. Landowners wishing to enroll or subject to renewal in 2017 and in the future should be made aware of this possibility so they can decide if they would like to exclude acreage around their hunting blinds or withdraw acres to construct a more elaborate hunting blind.

Existing buildings can continue to be present on and be built on pre-2017 MFL entries as long as the building rules are followed (building is not a residence or domicile / does not have 5 or more of the 8 characteristics listed in s. NR 46.15(9), Wis. Adm. Code., and the Forest Tax Law Handbook). Any lands enrolled or renewed in the future will need to exclude buildings and improvements.

#### **Minimum Acres:**

Act 358 increases the required minimum acreage to 20 acres per MFL parcel for all 2017 and future entries. Parcels that do not meet the 20 acre requirement are not eligible for enrollment\*.

\*Landowners seeking to renew their land in the program may be eligible for a one-time opportunity to do so without having to satisfy the 20 acre requirement; reference the "Renewals" section for additional information and guidance.

#### **Access:**

Act 358 requires land designated as MFL open (to public recreation) to be accessible to the public on foot by public road or from other land open to public access. Other lands open to the public may include: public land (state, county, federal), open MFL, FCL land and/or land accessible by easement. This applies to all current and future entries. Land designated as MFL closed is not subject to the access requirement.

Land surrounded entirely by MFL closed or non-MFL lands under the same ownership are eligible to be designated as MFL open because s. NR 46.20(2), Wis. Adm. Code indicates that the landowner may not restrict public access through or across those lands to access the MFL open land. The landowner may limit the public access to a reasonable corridor or location which must be signed according to s. NR 46.21(3)(c), Wis. Adm. Code.

MFL lands surrounded by land not owned by that owner but which are accessible to the public by an easement or by other means may be eligible to be designated as MFL open.

The access to the open land must be signed according to s. NR 46.21(3)(c), Wis. Adm. Code, if the access is limited to a reasonable corridor or location through MFL closed land, non-MFL land and/or by easement.

### **Leasing MFL lands:**

Act 358 repeals the prohibition of leasing MFL lands that had been enacted in 2007. An owner of managed forest land that is designated as closed may enter into a lease or other agreement for consideration that permits persons to engage in recreational activities on the land. All current and future MFL closed acres may be leased for recreational activities. "Recreational activities" means outdoor activities that are compatible with the practice of forestry, as determined by the department. "Recreational activities" includes hunting, fishing, hiking, sight-seeing, cross-country skiing, horse-back riding, and staying in cabins (s. 77.81(6), Wis. Stats.).

### **Closed acreage limit:**

Act 358 raises the closed acreage limit on MFL lands. The new statutory language states that an owner may designate not more than 320 acres of MFL land as closed to public access in each municipality. This means no more than 320 closed acres per owner, per municipality.

The current rules as listed in s. NR 46.19(3), Wis. Adm. Code, will still be used to designate closed acreage. A land owner can:

- Designate as closed all of the acreage in a Managed Forest Law parcel or multiple parcels (*MFL parcel, not tax parcel*).
- Designate as closed all of the owner's MFL land in a quarter-quarter section, government lot, or fractional lot.
- If necessary, designate an additional block of acreage within a legal description, not exceeding a length to width ratio of 4:1, to complete the total closed area.

In summary, unless an owner is closing an entire MFL parcel, they must close all the acres in one legal description before closing acres in another legal description.

### **Additions to MFL entries:**

Rules on additions now apply to all entries, regardless of the year it was enrolled. Previously, lands enrolled in 2004 or earlier could add lands through a "withdrawal and re-designation". That type of application no longer exists and an addition may be made to all MFL entries. Lands added to the original entry will be taxed at the same rate as the land currently entered.

Additions must be at least 3 acres in size, have no buildings or improvements, and at least part of the lands being added must be contiguous to the existing MFL entry. All the owners of the addition must be identical to the owners of the existing entry/order, and after the addition the MFL parcel(s) must meet the productivity requirements. There is no limit on the number of acres that may be added to an existing MFL entry.

### **MFL Withdrawal taxes and fee:**

For MFL lands that do not meet the definition of "large property" (s. 77.81(2r), Wis. Stats.\*), withdrawal tax is calculated by multiplying (net property tax rate in year prior to withdrawal order being issued) by (assessed value in the year prior to withdrawal order being issued) and multiplying that number by 10 or by the number of years the land was designated as MFL, whichever number is lower. The 5% timber valuation is no longer used, and acreage share and yield tax credits are no longer applied.

For “large property” MFLs, the withdrawal tax during the order period will be the **higher** of the following:

- The (net property tax rate in year prior to withdrawal order being issued) x (assessed value in the year prior to withdrawal order being issued) multiplied by the number of years the land was designated as MFL less any acreage share tax payment made during the order period.

OR

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

For FCL lands that were converted to MFL and the land is withdrawn within 10 years after the date on which the MFL order was issued, the withdrawal tax will be the **higher** of the following:

- The MFL withdrawal calculation above (the one that applies based on if the landowner is a large property owner or not).

OR

- The amount that the FCL withdrawal tax would have been at the time the MFL order was issued.

If converted lands are withdrawn after the first 10 years the withdrawal tax is calculated as a regular MFL withdrawal.

The \$300 withdrawal fee will continue to be included in all withdrawal tax invoices.

\*Large property is defined in s. 77.81(2r), Wis. Stats., as “one or more separate parcels of land that are under the same ownership, that collectively are greater than 1,000 acres in size, and that are managed forest land or forest croplands or a combination thereof.”

Note: “Large property” should not be confused with large account or “large ownership” landowners that are referenced in s. NR 46.18(4), Wis. Adm. Code. All large accounts/ownerships are large properties, but not all large properties are large accounts/ownerships.

### **Voluntary Withdrawals – General:**

The current rules for general voluntary MFL withdrawals continue to be the same under Act 358. Landowners may file a Declaration of Withdrawal (form 2450-140) for an entire MFL entry, an entire parcel of MFL land, all of the MFL land in a quarter-quarter section, or all of the MFL land in a government/fractional lot. A withdrawal tax and fee will be assessed for the withdrawn land.

### **Voluntary Withdrawals – Construction or Small Land Sales:**

Act 358 allows MFL landowners to voluntarily withdraw for the purposes of construction or small land sales. Landowners wishing to withdraw under this provision must provide a copy of the zoning ordinance from the city, village, township or county that establishes a minimum acreage for ownership of land/small land sales or construction sites, if one exists. Where ordinances exist, the landowner must request not less than that minimum acreage be withdrawn. If no ordinances exist, one to five acres can be withdrawn for the purposes of construction or small land sales. Landowners should indicate on any open space of the Declaration of Withdrawal form that they are requesting the withdrawal for the purpose of construction or a land sale until the withdrawal form can be updated. A withdrawal tax and fee will be assessed for the withdrawn land.

For this provision, Act 358 specifically states that “partial” acreages cannot be withdrawn. In other words, only whole number acreages can be withdrawn; no “decimal” acreages (e.g. 1.5 acres cannot be withdrawn). It also specifically states that the withdrawn land must be at least one acre in size and no more than five acres, so a withdrawal request for land less than one acre or more than five acres cannot be processed.

This type of voluntary withdrawal may only occur once per MFL parcel for a 25 year entry/order or twice per MFL parcel for a 50 year entry/order.

For landowners that have built an ineligible building or structure on their MFL land, the above type of withdrawal may be used to rectify the situation.

### **Voluntary Withdrawals – Natural Disasters:**

The MFL landowner may notify the DNR Forester that their lands have been damaged by a natural disaster (defined as fire, ice, snow, wind, flooding, drought or disease, s. 77.81(4m), Wis. Stats.). The DNR Forester will then confirm how the productivity of the land could be restored and establish a time period that the landowner will have to restore the site's productivity.

If the restoration is implemented but unsuccessful, the landowner would be able to voluntarily withdraw the minimum number of acres that would bring the parcel back up to being at least 80% productive (under the productivity/sustainability withdrawal rules described below). No withdrawal tax or fee will be assessed for these types of voluntary withdrawals.

If the landowner does not sufficiently attempt the restoration, then the lands may be subject an involuntary withdrawal with a withdrawal tax and fee.

### **Voluntary Withdrawals – Productivity & Sustainability:**

Act 358 allows a MFL landowner to file a request to voluntarily withdraw lands from their MFL entry if the MFL parcel has become:

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

The DNR Forester will evaluate the request to confirm that the parcel is either less than 80% productive or more than 20% unsuitable. If confirmed, the DNR Forester will determine the minimum number of acres that must be withdrawn in order for the parcel to again meet the productivity requirements. No withdrawal tax or fee will be assessed for these types of voluntary withdrawals.

### **Voluntary MFL Withdrawal Processes:**

*One withdrawal form per order number per withdrawal type, and until the form is updated the reason for the withdrawal **must** be written on the form.*

#### **Landowner (LO) sends form to or contacts local DNR forester (DNR FR)**

**LO withdrawing entire MFL entry, an entire parcel of MFL land, all of the MFL land in a quarter-quarter section, or all of the MFL land in a government/fractional lot**

- DNR FR reviews remaining land, if any, for productivity, eligibility, etc., per s. 77.88(3)(b)2., Wis. Stats.
- DNR FR sends LO signed, completed form to Madison (CO) until WisFIRS updated and uploads updated map into WisFIRS, if not an entire withdrawal
- CO processes withdrawal with withdrawal tax & fee
- After withdrawal order issued, DNR FR updates WisFIRS if any remaining land

**Note:** Maps are required when withdrawing anything less than entire entry/order; the new MFL map will be recorded by the county.

#### **LO withdrawing for construction/small land sale**

- DNR FR reviews remaining land for productivity, eligibility, etc., per s. 77.88(3)(b)2., Wis. Stats.
- DNR FR updates MFL map
- LO signs letter or document that map is correct (like when amending a plan, until withdrawal form updated)
- DNR FR uploads updated map into WisFIRS, and sends withdrawal form & any other info to CO (e.g. survey) until WisFIRS can be updated to accept
- After withdrawal order issued, DNR FR updates WisFIRS

#### **LO withdrawing for natural disasters**

- DNR FR starts documentation, conducts field visit, and presents information and options to LO (i.e. number of acres affected, restoration plan, etc.). Approximately 3 to 5 years will be allowed for restoration (bringing entry/parcel back into 80% productivity), this will be determined on a case by case basis.

LO attempts restoration and attempt fails (or restoration is not possible due to site conditions)

- DNR FR determines minimum number of acres to withdraw (confirms with team leader) to bring entry/parcel back up to 80% productivity
- DNR FR updates map and uploads into WisFIRS
- LO signed, complete withdrawal form to CO for processing without tax and fee
- after withdrawal order issued, DNR FR updates WisFIRS

LO refuses to try restoration\*

- DNR FR begins enforcement, see chapter 60 of Forest Tax Law Handbook 2450.5
- LO is subject to involuntary withdrawal at legal description level with tax & fee

\*The landowner may be eligible to withdraw under the productivity or sustainability provision below.

#### **LO requests withdrawal for productivity or sustainability issues due to environmental, ecological, or economic factors**

- DNR FR starts documentation and conducts field visit
- DNR FR, team leader and Forest Tax Law Specialist determines whether the landowner is eligible to withdraw their land under this provision

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

- DNR FR determines minimum number of acres to withdraw (confirms with team leader) to bring entry/parcel back up to 80% productivity
- DNR FR updates map and uploads into WisFIRS
- LO signed, complete withdrawal form to CO for processing without tax and fee
- After withdrawal order issued, DNR FR updates WisFIRS

If determined that the landowner is not eligible for withdrawal under this provision, DNR FR presents options to LO, like restoration (if applicable), voluntary withdrawal for entire, parcel or legal level with tax and fee, etc.

Some examples of items that may have caused the property to fall below productivity due to **environmental, ecological, or economic** factors are:

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

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

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

The DNR may determine if an attempt is reasonable by comparing the difference between the closed land tax rate and the state average ad valorem taxes for forested land for a 10 year period and the quote or established practice cost rates used by the department.

In certain situations, there may be no reasonable attempts that would bring the site up to 80% productivity and the entire MFL parcel or property may be eligible to be withdrawn without tax and fee.

Some examples of situations that have caused the property to fall below productivity for reasons **not** due to **environmental, ecological, or economic** factors are actions like cutting contrary to the landowner's management plan.

#### **Land Remaining after a Withdrawal (whether voluntary or involuntary):**

All land remaining after a withdrawal must meet the following requirements in order to continue to be enrolled in the MFL program.

For pre-2017 MFL entries, each parcel of land remaining after a withdrawal will be considered eligible for continued MFL enrollment if:

- it is at least 10 acres
- it contains an improvement or structure (as long as it is not a domicile, not a building with more than 4 or the 8 building characteristics, not a building/structure used for commercial recreation, industry, or any other use determined to be incompatible with the practice of forestry)
- it is at least 80% productive\*
- it meets all of the other eligibility requirements in s. 77.82(1), Wis. Stats.

For 2017 and later MFL entries, each parcel of land remaining after a withdrawal will be considered eligible for continued MFL enrollment if:

- it is at least 20 acres\*\*
- it has no buildings or improvements (note that "improvements" does not include structures or fixtures needed for sound forestry practices)
- it is at least 80% productive\*
- it meets all of the other eligibility requirements in s. 77.82(1), Wis. Stats.

\*If the land remaining after the withdrawal does not meet the productivity requirements (at least 80% productive; no more than 20% unsuitable), the landowner may be able to apply for one of the new voluntary withdrawal provisions described above (productivity & sustainability).

\*\* If a landowner has renewed an MFL entry of less than 20 acres under the one time renewal provision in s. 77.82(1)(a)1., Wis. Stats., then the remaining land must be at least 10 acres in size for continued MFL enrollment.

### **MFL transfers of ownership:**

Act 358 changes transfer eligibility to be based strictly on whether or not the MFL land involved in a transfer of ownership meets the eligibility requirements (s. 77.82(1)a. and (1)b., Wis. Stats). Transferred lands and lands remaining after a partial transfer will now be evaluated for MFL eligibility as follows:

For land being transferred that is part of a **pre-2017** entry/order:

- If the land applied for transfer meets the pre-Act 358 eligibility requirements for acreage and buildings (minimum of 10 contiguous acres, not developed for a human residence) and the rest of the post-Act 358 eligibility requirements then the Department will issue a transfer order and allow the MFL lands to remain under MFL designation.
- If the land applied for transfer does not meet the pre-Act 358 eligibility requirements for acreage and buildings (minimum of 10 contiguous acres, not developed for a human residence) and the rest of the post-Act 358 eligibility requirements, then the Department will issue a withdrawal order and assess the withdrawal tax and fee.
- If the transfer is a partial transfer of a pre-2017 MFL entry/order, the remaining MFL land will be allowed to stay under MFL designation only if the land meets the pre-Act 358 eligibility requirements for acreage and buildings (minimum of 10 contiguous acres, not developed for a human residence) and the rest of the post-Act 358 eligibility requirements.
- If the remaining land does not meet the pre-Act 358 eligibility requirements for acreage and buildings (minimum of 10 contiguous acres, not developed for a human residence) and the rest of the post-Act 358 eligibility requirements, then the Department will issue a withdrawal order and assess the withdrawal tax and fee.

Also, be aware of the following details pertaining to transfers and eligibility associated with pre-2017 MFL entries/orders:

- The pre-Act 358 exception that allowed some MFL parcels less than 10 acres in size to remain under MFL designation has been repealed. Under Act 358 any remaining MFL land less than 10 acres in size created as the result of a transfer involving a pre-2017 entry/order must be withdrawn from MFL and be assessed the withdrawal tax and fee.

For land being transferred that is part of a **2017 and future** entry/order:

- If the land applied for transfer meets the new eligibility requirements (minimum of 20 contiguous acres\*, at least 80% productive, not developed for a use that is incompatible with the practice of forestry, no buildings or structures, etc.) then the Department will issue a transfer order and allow the lands to remain under MFL designation.
- If the land applied for transfer does not meet the new eligibility requirements, then the Department will issue a withdrawal order and assess the withdrawal tax and fee.

- If the transfer is a partial transfer of a 2017 or future MFL entry/order the remaining MFL land will be allowed to stay under MFL designation only if the land meets the new eligibility requirements (minimum of 20 contiguous acres, at least 80% productive, not developed for a use that is incompatible with the practice of forestry, no buildings or structures).
- If the remaining MFL land does not meet the new eligibility requirements, then the Department will issue a withdrawal order and assess the withdrawal tax and fee.

\*If a landowner has renewed an MFL entry of less than 20 acres under the one time renewal provision in s. 77.82(1)(a)1., Wis. Stats., then the remaining land must be at least 10 acres in size for continued MFL enrollment.

**Note:** Updated maps are required to be submitted with the transfer form when a transfer will change the shape of the land within a quarter-quarter section or government/fractional lot, the new MFL map(s) will be recorded by the county.

### **Contracts:**

Act 358 specifies that all current and future MFL orders are now considered contracts. If a statute is enacted or a rule is promulgated in the future that “materially changes” the terms of the order, a landowner must accept the modifications to their contract or voluntarily withdraw the land without withdrawal tax and fee. Material changes will be defined during the rule making process (writing of Administrative Code). More information on this provision will be shared in the future.

### **Renewals:**

Act 358 now defines a renewal application **very specifically**. If a landowner meets several criteria (listed below), they are eligible for a renewal and renewal applications are not required to include a MFL management plan. Prior to Act 358, if any of the land from the existing (MFL or FCL) entry/order was being re-enrolled immediately upon expiration, the application was considered a renewal.

For 2017 and all future applications, the land must be identical (see *What does it mean to be “identical”?* below) in order to be considered a renewal. This provision requiring lands to be identical in order to qualify as a renewal (and therefore not require a management plan) is a significant change.

The criteria that the application must meet in order to be eligible as a renewal (not need a management plan) are:

- the land in the renewal application must meet the eligibility requirements under s. 77.82(1), Wis. Stats.\*
- the land in the renewal application must be identical to the land under the existing entry/order
- the landowner must be in compliance with their current management plan
- the management plan must contain mandatory practices during the term of the renewed order (i.e. the next 25 or 50 years) if the department determines such practices are required
- the mandatory practices in the management plan must have been reviewed within the 5 years prior to the application date of the renewal
- the management plan must have been updated within the 5 years prior to the application date of the renewal to reflect the completion of mandatory practices
- there are no delinquent taxes on the land

\*Act 358 allows for a MFL entry/order with an effective date of 2016 or earlier that is between 10 and 20 acres to apply **one time** for a renewal without meeting the new 20 acre requirement. If an application for 2017 enrollment is between 10 and 20 acres, but DOES NOT meet the criteria above, it will not be eligible for enrollment by any other means; lands less than 20 acres must be considered a renewal in order to qualify for continued enrollment.

There are two main benefits that a landowner can take advantage of through the renewal process:

- (1) no longer needing to submit a management plan with the renewal application, and
- (2) one-time renewal at less than 20 acres.

If these are not a concern for the landowner, the application can be for a “new entry” and the land does not need to be identical (but a new management plan would be required and the land must be at least 20 acres).

The land being renewed must also meet the new eligibility requirement which indicates that no buildings or improvements are allowed. Excluding acreage due to a building or an improvement, or for any other reason, would cause the land applied for renewal to not be identical to the land in the current entry/order and therefore not qualify as a renewal.

<b>Original entry:</b>	<b>After excluding building/improvement, acreage is:</b>	<b>Result:</b>
Contains building/improvement	< 20 acres	<ul style="list-style-type: none"> <li>• Not identical therefore not a renewal</li> <li>• Must be a renewal to qualify for one-time renewal at &lt;20 acres</li> <li>• Since &lt;20 acres, not eligible as “new entry”</li> </ul>
Contains building/improvement	≥ 20 acres	<ul style="list-style-type: none"> <li>• Not identical therefore not a renewal</li> <li>• Because ≥ 20 acres can enroll as a “new entry”</li> <li>• New management plan needed with application</li> </ul>

***What does it mean to be “identical”?***

At the time the renewal application is submitted, the land in a renewal application must be identical to the land under the existing entry/order. There are some scenarios where upon renewal, it may be determined that the existing order should have been previously corrected due to erroneous information. Here are some examples:

- *Acreage change due to county re-surveying*  
This occurs when a county determines that what was once thought to be a “true” forty (40.000 acres) is determined to actually be, for example, 39.980 acres or 40.010 acres. In this scenario, the land would still be considered “identical” because the boundaries of the land and the land itself are not changing; the area of land is just being described with a more accurate acreage.
- *Type or extent of legal description was incorrect at the time of enrollment.*  
Examples of this are:
  - Land was enrolled as “NWSW” and should have been enrolled as “FR N ½ W ½ SW ¼” according to the original land survey of Wisconsin. This is not a change in the boundaries of the land; the area of land is just being correctly described as a fractional legal description. The same would be true if land was enrolled as a standard legal description and should actually be a government lot according to the original land survey of Wisconsin.
  - Land was enrolled as “NWSW” and should have been enrolled as “NWSW, PART OF” or “NWSW, EX ROW”.

NOTE: These types of “corrections” assume the type/extent is all that was incorrect and the acreage was correct and is not changing.
- *Other types of acreage corrections.*  
If at the time of renewal it is determined that an acreage correction is needed due to the acreage being erroneous upon enrollment, these may be considered identical, but only upon review by the DNR. One example of this is a closer look at the deeds reveals that the MFL landowner never owned all of the land in the legal

description; a small sliver was actually owned by the neighbor according to the deeds that existed at the time of original enrollment. The acreage therefore needs to be corrected to remove the acreage never owned by the original enrollee. After review, the DNR may be able to consider the lands applied for renewal as identical.

If it is determined that one of these “correction” scenarios applies to the renewal application, the CPW will be responsible for providing documentation to support the correction with the application. DNR will have the final discretion in determining whether the lands are identical or not, based upon the documentation provided.

## **Renewal process for 2018 and future entries:**

### **What it means to have management plan “reviewed and updated”**

All stands have been updated and have a stand exam year that is less than 5 years old from the date of application. Other items also requiring update/check in WisFIRS are: name, address, legal descriptions, acres, owner goals/objectives, Natural Heritage Inventory & Archeological, Historical, Cultural and ecological landscape. All changes and updates must be reviewed and approved by the DNR forester.

### **What is required with renewal application?**

- Application form
- Deed
- Tax bill
- Map (updated in last 5 years from the date of application)
- Recon data & practices (reviewed & updated in last 5 years from the date of application)
- Other items in WisFIRS (reviewed & updated in last 5 years from the date of application)

### **Who can submit an application for renewal?**

#### **1. Landowner (LO)**

##### Process

- LO contacts local DNR forester (DNR FR).
- DNR FR verifies if LO is eligible for renewal (all criteria met, map and entire plan is also updated in last 5 years)
- **If LO eligible**
  - LO submits application form, application fee, deed & tax bill to DNR FR. DNR FR uploads form, attachments, and current map with new order number. DNR FR prints remittance form and submits with fee.
- **If LO not eligible** (all renewal criteria not met, plan/map not updated)
  - DNR FR refers LO to CPW list. LO must hire CPW to complete plan as new entry.

#### **2. CPW**

##### Process

- CPW submits application in WisFIRS as potential renewal, copies info into new draft renewal and submits all attachments/requirements to DNR forester for review and approval. If not approvable, DNR returns to CPW to complete plan as new entry.

### **Who can update stands in WisFIRS:**

- CPW - updates (and can create new if needed) all stands, as needed, uploads new map and adds practices then submits to DNR FR for review and approval. Needs to be done in last 5 years and/or after last harvest, if applicable, to be eligible for renewal. (WisFIRS updates are needed before this can take place, until then CPWs can supply DNR FR with information and map.)
- DNR forester - continues to update stand(s) and map(s) after harvests.

### Process

- LO contacts DNR FR and expresses an interest in applying for a renewal in the future.
- LO is referred to CPW list, if the LO is unable to get the services of a CPW then the DNR may update the entire map and plan.

### **DNR FR considers/answers questions before completing updates:**

- Is renewal possible, identical, etc.? Is it last 5 years? Any more scheduled harvests?

Note: Forest Tax will be adding to landowner expiration notice letters to contact the DNR FR as soon as possible if considering renewal.