



Wisconsin's Managed Forest Law

A Program Summary
PUB-FR-295 (Rev. November 2017)

This summary features the principle rules and obligations of the Managed Forest Law (MFL). Periodically, the Legislature or DNR may modify or amend the Managed Forest Law (Sections 77.80 to 77.91, Wis. Stats.) and its administrative rules (Chapter NR 46, Wis. Adm. Code). Such changes may apply to lands already enrolled under the law.

A complete text of the law is available at the Wisconsin State Legislature website at: <http://legis.wisconsin.gov/statutes/Stat0077.pdf>, http://docs.legis.wisconsin.gov/code/admin_code/nr/001/46.pdf or from the Tax Law Section, Wisconsin Department of Natural Resources, Box 7921, Madison, WI 53707-7921. Contact a local Tax Law Forestry Specialist for more specific answers or details about the MFL. To find a local Tax Law Forestry Specialist, visit <http://dnr.wi.gov> and search 'Forester'.

MFL is a landowner incentive program that encourages sustainable forestry on private woodlands in Wisconsin. 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.

To participate in the MFL program, landowners designate property as "Open" or "Closed" to public access for recreation, and commit to a 25 or 50-year sustainable forest management plan. The plan sets the schedule for specific forestry practices which landowners must complete. In return, MFL participants make a payment in lieu of regular property taxes.

APPLICATION PROCESS AND FEES

Each new MFL application must include a new or updated forest management plan, map of the property, forest stand data, deeds, tax statements and other documents as requested. The application must be prepared by a Certified Plan Writer (CPW). A CPW is a DNR certified, private consulting forester hired by landowners to prepare their MFL management plan. A current CPW list is available through DNR offices or you can find the listing by visiting <http://dnr.wi.gov> and searching keyword 'CPW'.

The online Forestry Assistance Locator offers a convenient way to solicit competitive CPW proposals for plan preparation and other forestry services. To use the Forestry Assistance Locator, go to <http://dnr.wi.gov> and search 'Forester'. Local Tax Law Forestry Specialists are also able to help applicants contact CPWs. In a rare circumstance, a Tax Law Forestry Specialist may be permitted to write a management plan if CPW services prove unavailable to a landowner. Landowners will be billed for this service.

A non-refundable application fee of \$30 per application is used to record the entry of land at the county register of deeds office. Applications must be made per municipality. In rare situations MFL lands may cross municipal, and sometimes county, lines. If the application crosses county lines the application fee must include \$30 per county.

Applications are submitted by the CPW through WisFIRS (a computer program that contains MFL plans and information) directly to the Tax Law Forestry Specialist responsible for the county in which the land is located. If submitted by June 1, eligible parcels are enrolled the following January 1. Once submitted, an application may become void if the property's ownership changes before the January 1 enrollment date.

The MFL tax rate is reflected on property tax bills in December of the first year of MFL entry

ELIGIBLE PROPERTY

MFL lands receive modified tax status to sustainably grow timber for wood products. To qualify and comply with the law, the lands are restricted from other industry or land use. Prohibited usage includes, but is not limited to, agriculture, grazing, commercial storage facilities, game farms, cell towers, mines, quarries, orchards and recreational developments such as a golf courses, campgrounds or raceways.

To qualify for MFL designation, a MFL parcel must:

- Be at least 20 contiguous acres under the same ownership.
- Be at least 80% covered by forest dedicated to growing commercial timber products and able to grow at least 20 cubic feet of wood per acre, per year. Up to 20% of each forest parcel may be deemed unsuitable to grow timber or in an unmanaged vegetation type such as brush, swamp, standing water, bog, rock outcrop, sand dune, abandoned farm field, roadway and utility or railroad rights-of-way. Wooded "no-cut" zones are considered unmanaged.
- Not be within a recorded subdivision. A forest parcel may qualify if it is within a recorded plat that has been vacated or an assessor's plat.
- Not be tax-delinquent. Current year property taxes must be paid by August 15.
- Be accessible to the public by foot, by public road or from other land open to public access, if the parcel is designated as MFL "Open" land.
- Have no buildings or improvements.

BUILDINGS AND IMPROVEMENTS ON MFL LAND

Lands being enrolled or renewed in the MFL program as of January 1, 2017, are not eligible if they contain a building or an improvement associated with a building. An improvement is defined as any accessory building, structure or fixture that is built or placed on the parcel for its benefit, or any landscaping. This means buildings of any kind (with or without living space) and improvements associated with them are prohibited. The following are not considered improvements for the benefit of the property and are allowed on land enrolled in the MFL program:

- Public or private roads
- Railroads or utility right-of-ways
- Fences, unless the fence prevents the free and open movement of wild animals
- Culverts
- Bridges
- Hunting blinds
- Structures and fixtures needed for sound forestry

Applicants considering building on their land should discuss, with their plan writer, the possibility of such buildings and exclude potential building sites from their MFL application. It is important to exclude enough acreage to contain septic systems, drain fields, gardens, lawns, pet areas and any related facilities and structures. Local ordinances should be reviewed to determine location, layout and setback restrictions.

MFL land may not be landscaped, gardened or developed for ornamental purposes (e.g. rock gardens, sculptures, game courts, etc.).

MANAGEMENT PLAN

Landowner goals lay the groundwork for the management plan and influence the scope of forest management practices. Applicants should discuss the reasons they own their woodland with their CPW or local Tax Law Forestry Specialist. To help landowners get the most from their land, MFL plans contain recommendations related to forestry, wildlife, watershed, endangered resources and aesthetics. The plan describes the property and spells out any mandatory forest management practices required during the MFL entry period. Landowners and their local Tax Law Forestry Specialist may adjust management plans as stand conditions, knowledge on woodland management, and landowner objectives change.

Mandatory practices are forest management practices that must be carried out during the MFL entry period. These practices may include:

- Harvesting timber according to sound forestry standards.
- Thinning plantations and natural stands for merchantable products.
- Releasing trees from competing vegetation.
- Tree planting to maintain necessary forest density.
- Treating before and after harvest to ensure adequate forest regeneration.
- Controlling soil erosion.

A non-compliance fee of \$250 may be assessed by the local municipality on a landowner who fails to complete each mandatory practice according to schedule. Failure to follow the management plan can result in the withdrawal of MFL designation and an assessment of withdrawal taxes and fees.

MFL management plans also contain non-mandatory forestry, wildlife, watershed, endangered resource and aesthetic recommendations to help landowners get the most from their land.

Once entered in the MFL program, Tax Law Forestry Specialists remind landowners of mandatory practices roughly 2 years prior to the completion date of the practice. Details of the management practice, mostly timber harvests, are determined prior to implementing the practice. Landowners are encouraged to work with cooperating foresters and other resource professionals when implementing timber harvests and other management practices to ensure that forestry practices are conducted sustainably and will achieve desired results.

FOREST CERTIFICATION

Lands enrolled into the MFL program can enjoy membership in the MFL Certified Group. MFL Certified Group members benefit from the ability to sell timber as “certified” in the marketplace. An independent certification body verifies that MFL Certified Group lands are managed in conformance with American Tree Farm System® (ATFS) and Forest Stewardship Council® (FSC) standards of responsible forestry.

Participation in the MFL Certified Group is *voluntary*. Prior to July 1, 2015, all MFL lands were automatically included in the MFL Certified Group at the time of enrollment or transfer, and a landowner could choose to opt-out of the Group by filing the MFL Certified Group Departure Form (Form 2450-191).

As of July 1, 2015, inclusion in the MFL Certified Group is no longer automatic. For MFL enrollments beginning in 2017, and all transfers, landowners must choose to opt-in to participate.

Landowners can opt-in or out of the MFL Certified Group at any time by filing the **Managed Forest Law Group Application/Departure Request Form (DNR Form 2450-192)**.

Departure from the MFL Certified Group does not affect participation in the MFL program. However, only MFL Group members can market forest products as ATFS®- or FSC®-certified under the specific MFL Certified Group certificate numbers.

More information on the American Tree Farm System® is at <http://www.treefarmssystem.org/>
More information on the Forest Stewardship Council® is at <http://www.fscus.org/>

TIMBER HARVEST

DNR notifies landowners as their mandatory practices become due. Practices are best handled with the help of a professional forester. A list of professional foresters can be found by using the online Forestry Assistance Locator; go to <http://dnr.wi.gov>, search 'Forester'.

At least 30 days prior to cutting, the landowner must file a **Cutting Notice (Form 2450-32 Part A)** with the Tax Law Forestry Specialist responsible for the county in which the land is located. DNR approval of the cutting notice is not required prior to cutting if the harvest is consistent with the management plan **and** the cutting notice is submitted by a Cooperating Forester, by a forester accredited through the Society of American Foresters, Wisconsin Consulting Foresters or the Association of Consulting Foresters, or by a person with 5 years of full-time forest management experience. However, a landowner can request that the DNR review a cutting notice regardless of who is submitting it. Requests for DNR review must be indicated on the cutting notice.

Timber cutting must begin within one year after the cutting notice is approved, or within one year of being filed if the cutting notice does not require DNR approval. Landowners must report to the Tax Law Forestry Specialist the date cutting begins.

A cutting notice does not need to be filed if the landowner is cutting firewood for use in the landowner's dwelling.

Landowners **must** file a separate **County Cutting Notice** with the county clerk (Chapter 26, Wis. Stats.).

A **Cutting Report (Form 2450-32 Part B)** **must** be submitted to the local Tax Law Forestry Specialist within 30 days after cutting is completed.

PUBLIC ACCESS (Open or Closed to Public Recreation)

Lands enrolled in the MFL are designated as "Open" or "Closed" to public recreation. Open designation allows public access to the property only for hunting, fishing, hiking, sight-seeing and cross country skiing without additional permission from landowners. MFL land designated as Open must be accessible to the public on foot by public road or from other land open to public access. All land enrolled in the MFL program must meet the access requirements for land designated as "Open", regardless of enrollment date.

Closed designation affords landowners the right to restrict access.

A maximum of 320 acres per ownership, per municipality (city/town/village) may be designated as Closed. All MFL land under the same ownership in the municipality counts toward this limit.

Owners of MFL land are permitted, without fee, to modify their Open or Closed designation twice during their MFL entry period or when all or part of the MFL land is transferred. To change designation, landowners must submit a **Managed Forest Law Public Access Modification Request (Form 2450-193)** to the DNR or request the change in designation on the **Managed Forest Law Ownership Change Request (Form 2450-159)** during a transfer of ownership. Requests received by December 1 become effective no sooner than the following January 1. The landowner is responsible for identifying the boundaries of Closed areas and may post signs for that purpose. Addition to or sale of MFL land may alter land eligible for Closed designation.

For MFL lands Open to public recreation, landowners:

- **May** restrict or deny the use of motorized vehicles upon the parcel.
- **May** designate a specific access point or route to the Open MFL land. Typically, the public can access Open MFL parcels from a public road. When not obvious, public access must be reasonable and clearly identified. Where the public must cross the owner's non-MFL or Closed MFL land to access the Open MFL land, the landowner must identify the public access route.
- **May** post signs approved by the DNR to show the access route or identify the location of closed lands.
- **May** restrict access within 300 feet of any building or active commercial timber sale (cutting firewood for personal use does not apply) that conforms to the management plan.
- **May** grant additional uses to the public if the landowner so desires.
- **May not** deny access to any person.

- **May not** restrict the number of people accessing the parcel.
- **May not** post signs, which restrict or give the appearance of restricting permitted uses.

When using MFL lands Open to public recreation, the public:

- **May** access the land only for the purposes of hunting, fishing, hiking, sightseeing and cross country skiing.
- **May** access the land without asking permission.
- **May** access the land only by foot unless given other permission by the landowner(s).
- **May** use legal hunting methods including baiting and temporary tree stands during the hunting season(s). Land, trees or other property may not be damaged.
- **May not** use motorized vehicles or conduct target practice without landowner's permission.
- **May not** damage the property or anything on it.

When using MFL lands Open to public recreation, the public is encouraged to:

- Avoid trespass through awareness of their location, MFL boundaries and property lines.
- Treat the property and resources with respect. Damage and trespass incidents are enforced by the local Sheriff's Department, not the DNR.
- Let landowners know when and where they are going to be on MFL land. Though not a legal requirement, notification is courteous and enhances safety.

ANNUAL PROPERTY TAX

Each year, MFL landowners pay an acreage share tax instead of the regular (ad valorem) property tax. Landowners pay an additional fee for lands that are designated as "closed." MFL tax rates are adjusted every 5 years (next change will be in 2022) to reflect changing property tax rates. You can find the current tax rates by visiting <http://dnr.wi.gov> and searching keyword 'MFL'.

SALE OR TRANSFER OF MFL LAND

Some ownership changes on MFL land may require withdrawal from the program and assessment of a withdrawal tax and fee. Before selling, transferring or buying MFL land, owners should consult with a Tax Law Forestry Specialist, Certified Plan Writer (CPW) or Cooperating Forester.

MFL land can be conveyed and its MFL entry transferred to new ownership if it meets eligibility requirements. If the transferred land or land remaining after a transfer does not meet the requirements, then the Department may issue a withdrawal order and assess a withdrawal tax and fee.

Real estate disclosure laws require that sellers of MFL land **must** disclose the status of the MFL lands to prospective buyers if any portion of the land being sold will continue to be enrolled in the MFL program. Sellers have 10 days after acceptance of a contract of sale or an option contract to provide the buyer a written disclosure of the following: that lands will continue to be enrolled in the MFL program, the length of the entry period (25 or 50 years), that DNR monitors compliance with the management plan and the MFL program, and how to contact the DNR office. Sellers are also required to place in the disclosure statement the following statement: "Changes you make to property that is subject to an entry designating it as managed forest land, or to its use, may jeopardize your benefits under the program or may cause the property to be withdrawn from the program and may result in the assessment of penalties." Withdrawal penalties are generally considered withdrawal taxes and fees.

New owners are responsible to submit the **Managed Forest Law Ownership Change Request (Form 2450-159)** to the local Tax Law Forestry Specialist within 30 days of taking ownership. There is a non-refundable \$100 transfer fee. New owners are required to hire a CPW to develop an MFL management plan if MFL lands are purchased from an industrial or other large ownership and no longer meet industrial or large ownership requirements (i.e. less than 1,000 acres along with other requirements). This new MFL management plan must be submitted through WisFIRS to the local Tax Law Forestry Specialist within one year of the date of the transfer.

ADDITIONS TO MFL LANDS

Landowners can add land to existing MFL enrollments if the addition is at least three acres in size, contiguous to the existing MFL land and does not contain any buildings or improvements. All the owners of the addition must be identical to the owners of the existing enrollment, and after the addition, the entire MFL enrollment (original entry plus the addition) must meet the productivity requirements. Lands added to the original entry will be taxed at the same rate as the land originally entered and all the land will expire at the same time.

WITHDRAWAL OF MFL LANDS

Violation of MFL conditions or obligations may cause the DNR to withdraw lands from the MFL. This type of involuntary withdrawal will be subject to a withdrawal tax plus a \$300 withdrawal fee.

Landowners may voluntarily withdraw from MFL by submitting a **Declaration of Withdrawal (Form 2450-140)**. Voluntary withdrawals may be subject to a withdrawal tax plus a \$300 withdrawal fee. Requests received by DNR before December 1 become effective the following January 1. The following table describes permitted voluntary withdrawals:

| Voluntary withdrawal type | Description | Taxes and fees |
|----------------------------------|---|---|
| General | Landowners may withdraw 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. | Subject to withdrawal and tax fees |
| Construction or small land sales | Landowners can withdraw one to five acres for the purposes of construction or small land sales. This type of withdrawal must occur in whole number increments (i.e. not 1.5 acres), and may only occur once per MFL parcel for a 25-year order or twice for a 50-year order. | Subject to withdrawal and tax fees |
| Productivity/sustainability | Landowners can request to withdraw lands if the lands become: less than 80% productive; or more than 20% unsuitable for producing merchantable timber due to environmental, ecological, or economic factors. These cases must be evaluated and approved by the Tax Law Forestry Specialist. If confirmed, the landowner can voluntarily withdraw the minimum number of acres that would bring the parcel back up to 80% productivity, as determined by the Tax Law Forestry Specialist. Prior to being permitted to use this withdrawal provision a landowner may be required to attempt restoration of the non-productive land, if possible. | May not be subject to withdrawal and tax fees |

MFL lands sold to a governmental agency may be exempt from a withdrawal tax and fee.

The method used to calculate withdrawal tax depends upon the way in which the land was entered into MFL. Landowners can learn from their local Tax Law Forestry Specialist which method applies to their specific situation. The most common method multiplies the net tax rate by the previous year's assessed land value. This amount is multiplied by the number of years the land was enrolled in the MFL program or by 10, whichever is less. In other words, the withdrawal tax is capped at a maximum of 10 years

Lands remaining after a withdrawal must be able to meet eligibility requirements on their own. Eligibility requirements for lands remaining after a withdrawal will be assessed based on the year the original land was enrolled.

The Department of Revenue (DOR) is available to estimate the withdrawal tax for a fee. The form for a DOR withdrawal tax estimate can be found at: <http://www.revenue.wi.gov/forms/govtvc/pr-296f.pdf>.

MFL EXPIRATION

Landowners whose MFL entries will be expiring are notified approximately 1½ years in advance and notified of the opportunity to re-apply. At the end of an MFL entry period, MFL parcels are returned to regular property tax rolls unless they are renewed in the MFL program.

MFL entries with enrollment dates of 2016 or earlier that contain MFL parcels that are between 10 and 20 acres can apply **one time** for a renewal without meeting the 20 acre eligibility requirement, if the entry is identical to the original enrollment and all the other requirements are met.

APPEAL PROCESS

Landowners who are adversely affected by a DNR decision, such as an order to enter, withdraw, or correct lands enrolled in the MFL program, may appeal the decision through a judicial review and/or contested case hearing. Landowners are encouraged to seek legal advice from their own attorney when filing for an appeal.

- **Judicial Review.** Wisconsin statutes and administrative rules establish time periods within which requests to review Department decisions must be filed. For judicial review of a decision pursuant to sections 227.52 and 227.53, Wis. Stats., landowners have 30 days after the decision is mailed, or otherwise served by the Department, to file a petition with the appropriate circuit court and serve the petition on the Department. Such a petition for judicial review must name the Department of Natural Resources as the respondent.
- **Contested Case Hearing.** Pursuant to section 77.90, Wis. Stats., landowners who are adversely affected by a decision of the Department under subch. VI, ch. 77, Wis. Stats., other than as provided in sections 77.88(2)(ac)3., (2)(c), and (3m), Wis. Stats., may request a contested case hearing pursuant to section 227.42, Wis. Stats. Landowners have 30 days after the decision is mailed, or otherwise served by the Department, to serve a petition for hearing on the Secretary of the Department of Natural Resources. A petition for hearing must be made in accordance with section NR 2.05(5), Wis. Admin. Code, and served on the Secretary in accordance with section NR 2.03, Wis. Adm. Code. The filing of a request for a contested case hearing does not extend the 30 day period for filing a petition for judicial review.

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 the final determination 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 Wisconsin Department of Natural Resources provides equal opportunity in its employment, programs, services and functions under an Affirmative Action Plan. If you have any questions, please write to Equal Opportunity Office, Department of Interior, Washington D.C. 20240. This publication is available in alternative format (large print, Braille, audio tape etc.) upon request. Please call 608/267-7494 for more information.