



## Managed Forest Law Program

Prepared by: Rachel Letzing, Principal Attorney

The Managed Forest Land (MFL) program is the primary forest tax law program in Wisconsin and is administered by the Department of Natural Resources (DNR). In exchange for following a written forest management plan and program requirements, MFL landowners pay MFL program rates for property enrolled in the program instead of property taxes. The program was created in 1985 and has been amended numerous times since its enactment. This issue brief summarizes some of the key components of the MFL program.

### PROGRAM ELIGIBILITY

To be eligible for enrollment in the MFL program, a parcel of land must satisfy several requirements. The parcel must consist of at least 20 contiguous acres and at least 80% of the parcel must be producing, or capable of producing, a minimum of 20 cubic feet of merchantable timber per acre per year. In addition, the parcel must be accessible to the public on foot by public road or from other land open to public access, unless the MFL parcel or part of a parcel is closed to public access. [s. 77.82 (1), Stats.]

State law specifies that parcels developed for commercial recreation, industry, or uses incompatible with forestry are not eligible for the program. In addition, state law also prohibits the enrollment of a parcel if there is any building or improvement, as defined in state statute, associated with a building located on the parcel. [s. 77.82 (1), Stats.]

An MFL applicant must provide the DNR with a proposed management plan that includes specific provisions, including the owner's forest management objectives, the forestry practices that will be undertaken, and the time period in which each practice will be completed. A proposed management plan must be prepared by an independent certified plan writer, or by the DNR if it determines the applicant is unable to have a plan prepared by an independent certified plan writer. [s. 77.82 (2m) and (3), Stats.]

### MFL ORDER

If an application is approved, the DNR issues an "order" enrolling property in the MFL program. An MFL applicant must choose whether his or her MFL order will be in effect for 25 or 50 years. Such an order constitutes a contract between the state and the owner, and DNR is generally prohibited from amending or otherwise changing the terms of an existing order or forest management plan to conform with changes made to an MFL statute or rule after the order was entered or the management plan was approved. If a statute or rule is enacted during the period of the order that materially changes its terms, the landowner must either accept the modified contract or voluntarily withdraw his or her MFL land without penalty. [s. 77.82 (8) and (11), Stats.]

### OPEN AND CLOSED LAND

Land enrolled in the MFL program generally must be open to the public for hunting, fishing, hiking, sightseeing, and cross-country skiing, and accessible on foot by public road or from other land open to public access. Participants whose land is not closed to public access make "acreage share payments," which are calculated based on a formula in statute. A landowner has the option of designating up to 320 acres per municipality as "closed" if an additional fee is paid for each acre closed to public access. An MFL owner whose land is designated as closed may enter into a lease or other agreement for consideration that permits persons to engage in a recreational activity on the land. [ss. 77.83 (1) and (2) and 77.84 (2), Stats.]

## CUTTING NOTICES

Before an MFL owner may cut timber on his or her MFL land, the owner must file a notice of intent to cut and request approval of the proposed cutting from the DNR, unless an exception applies. Under these exceptions, DNR approval is not required if the cutting notice was provided by a cooperating forester or by a forester accredited by one of several, specified organizations, or by a person who has five years of experience engaged in the full-time profession of managing forests, including timber harvesting, wildlife, water quality, and recreation to maintain a healthy and productive forest. [s. 77.86, Stats.]

## ADDITIONS

With DNR approval and payment of a fee, contiguous parcels of at least three acres in size may be added to an owner's MFL order, regardless of date of the original order. State law specifies that the tax rate applicable to existing MFL land applies to the added land. [s. 77.82 (4), Stats.]

## RENEWAL

An owner of MFL land may apply for renewal of his or her MFL order. A new management plan is not required to be submitted for renewal of an MFL order. The DNR may deny the application for reasons including failure to meet program eligibility requirements, failure to comply with the management plan for the existing order, or because there has been no review of the mandatory forestry or soil conservation practices or the mandatory management activities contained in the management plan within the five-year period immediately preceding the date of the renewal application. [s. 77.82 (12), Stats.]

## REQUIRED AND VOLUNTARY WITHDRAWAL

An MFL owner may decide to voluntarily withdraw his or her land from the program or the DNR may, under certain circumstances, order that an owner's MFL land be removed from the program. The DNR may order the withdrawal of all or any part of a parcel of managed forest land after conducting an investigation for reasons provided in state law, including failure to comply with an MFL program eligibility requirement or with the management plan. In general, state law authorizes an owner of MFL land to voluntarily withdraw the land from the program, but the owner generally must pay specified taxes and a \$300 fee as a result of the withdrawal. [s. 77.88 (1), Stats.]

State law specifically authorizes an MFL owner to voluntarily withdraw part of an MFL parcel (one to five acres) for the purpose of selling or using the withdrawn portion of the parcel as a construction site. Such withdrawals are authorized one time during a 25-year order and two times during a 50-year order. An owner must pay withdrawal taxes and the fee for withdrawal of the land. [s. 77.88 (3j), Stats.]

Further, state law authorizes an owner to request to withdraw part of a parcel of land without paying withdrawal taxes or fees, and requires the DNR to issue a withdrawal order for the land, if the DNR determines that the parcel is unsuitable, due to environmental, ecological, or economic concerns or factors, for the production of merchantable timber. The order must withdraw only the number of acres that is necessary for the parcel to resume its sustainability to produce merchantable timber. [s. 77.88 (3k) and (3L), Stats.]

Withdrawal taxes for land withdrawn from the program are assessed at a rate equal to the property tax rate applicable to the land in the previous year, multiplied times the number of years the land was enrolled in the program, or 10 years, whichever is less. A different tax formula applies to land withdrawn from a large property. [s. 77.88 (5), Stats.]