



## State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

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### Legislative Study on the Managed Forest Law Program

Legislative Study Committee

Department of Natural Resources Testimony  
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Division of Forestry  
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This report provides additional information on topics and questions asked after the August 18, 2010 meeting of the MFL Legislative Study Committee.

#### 1. Definition of Non-Industrial Private Forest (NIPF) Landowner in the National Woodland Owner Survey

Information included in the background materials provided the MFL Legislative Study Committee included charts of forest land ownership trends, including ownership trends of NIPF and industrial landowners. Data used to develop these trends was from the National Woodland Owner Survey, which is the official census of forest owners in the United States.

The definition of NIPF landowners is different from the 1996 survey to the 2006 survey. The definition of NIPF includes families and individuals who own forest land and corporations and other private groups that own forest land, but do not own and operate a primary wood-processing facility. NIPF includes non-industrial corporations, such as timber investment management organizations (TIMOs) and real estate investment trusts (REITs), nongovernmental organizations, such as The Nature Conservancy, and some other groups, such as tribal lands.

#### 2. Definitions of Large and Small Landowners used in the MFL Program

The MFL program divides landowners into two categories for administration of MFL entries. The categories are:

**Large Landowner** – Large landowners are companies, LLCs, partnerships, TIMOs, REITs, trusts, individual people or groups of people who meet the definition of a large account. This definition is found in NR46.18(4), Wisconsin Administrative Code and includes the following items:

- Landowners must have 1,000 or more acres in two or more counties. Lands can be enrolled in either the Forest Crop Law (FCL) or MFL.
- Landowners must have a management plan that outlines management systems for harvesting and regenerating trees, inventorying and updating forest resources, protecting timber and non-timber resources, and protecting any other values required by

conservation easements with the department. The management plan is required to be provided the department upon audit of the company's management system.

- Landowners must submit a written commitment to provide, upon department request, information from the management plan for review or audit. The commitment describes the management plan and outlines the procedure used to update and amend the management plan.
- Landowners must demonstrate that they have access to technical forest management assistance through staff or consultant services.

Landowners request to become a large landowner through the Forest Tax Program. The Forest Tax Program evaluates the request and grants or denies large landowner status. Landowners who are accepted as a large landowner work through the Forest Tax Program for review of management plans and approval of individual management practices. The Forest Tax Program has a field office in Tomahawk, Wisconsin that is staffed by two permanent forestry specialists.

Large landowners are responsible to inventory their own forests and to maintain a database to determine where and when harvesting is done. The Forest Tax Program tracks where and when harvesting has been done on large landowners, but does not have a list of proposed management practices as with the small landowners.

**Small Landowner** – Small landowners are individual people, groups of people, LLCs, trusts, partnerships and other entities that do not meet the definition of a large landowner. MFL administration of small landowners lies with the local DNR foresters located in field stations throughout the state. Landowners have site specific management plans that indicate management practices and years in which the practices are to be completed. These practices and dates are listed in the Plantrac database, DNR's computer program that records forest reconnaissance data and management practices. DNR foresters remind landowners of practices due and work with landowners and cooperating foresters in establishing the practices. The department has the expense and responsibility to maintain the Plantrac database to ensure that management practices are completed in a timely manner.

### 3. MFL Landowners with Primary Residences other than Wisconsin

There are 3,281 landowners who list their primary residence in a state other than Wisconsin. These landowners own a total of 4,203 MFL entries and 560,226.407 acres for 7% of all MFL entries and 18% of the MFL land base.

The breakdown of small and large out-of-state MFL landowners is shown below.

MFL Landowner Category	Number of Landowners	Number of Entries	Acreage
Small (NIPF)	3,259	3,986	246,197.397
Large (Industrial)	22	218	314,029.010
TOTAL	3,281	4,203	560,226.407

Ninety-nine percent (99%) of out-of-state landowners are small landowners. These landowners own 44% of the out-of-state acreage.

One percent (1%) of out-of-state landowners are large landowners. These landowners own 56% of the out-of-state acreage. The large landowners include the following companies:

A A F E S TIMBERLAND INVEST L P
AMERICAN TIMBERLAND LLC
AUSTIN POLICE RETIREMENT SYSTEM
BALANCED TIMBERLAND FUND C
C F / F I A L L C
CHESTER COMPANY LTD
COWETT WISCONSIN
DOUBLE CJP EVANS FAMILY PARTNRSHP
GREAT NORTHERN FOREST LLC
HEARTWOOD FORESTLAND FUND V I L P
LA POINTE IRON COMPANY
MARENGO DEVELOPMENT CO LTD
NORTHWOODS A T P L P
PENOKEE IRON COMPANY
POTLATCH FOREST HOLDINGS INC
POTLATCH FOREST PRODUCTS CORP
POTLATCH Q R S WISCONSIN LLC
POTLATCH T R S WISCONSIN LLC
R G G S LAND & MINERALS LTD L P
RMK SELECT TMBRLND INV FUND 2 LLC
SHAWN STAPLES
STEIGER LUMBER CO

#### 4. DNR Cost to Administer the MFL Program

In 2009 the department spent 106,986 hours of time in administration and enforcement of the MFL program for a combined total of roughly 58 FTE equivalent time (across more than 100 employees) and \$2,567,523.36 in salaries and supplies. The time and salary is broken into twelve (12) separate activities.

Activity Code	Activity Name	Hours	Dollar Amount of Salary and Supplies
FRDA	PROVIDE TAX LAW FOREST LAND PLANNING - Activities such as the collection and analysis of stand data, preparation of stand management objectives and prescriptions, and the writing of MFL, FCL management plans. Includes the entry of data to the Plantrac database.	12,617.50	\$302,943.04
FRDB	PROVIDE SUSTAINED YIELD OF FOREST PRODUCTS ON TAX LAW LANDS - All activities related to the implementation of silvicultural principles, the establishment of timber sales, the use of visual management techniques and the incorporation of all other sustainable forestry practices.	10,181.50	\$284,347.03
FRDD	REFORESTATION OF CUT-OVER AND NON FORESTED LAND TAX LAW LANDS - All activities and expenditures associated with the artificial regeneration of trees and shrubs on forest sites. This work includes the planning, designing, site preparation, and the planting techniques	641.75	\$15,412.74

	necessary to accomplish the reestablishment of forest stands.		
FRDE	IMPROVE TIMBER QUALITY & GROWTH ON TAX LAW LANDS - All activities and expenditures associated with the improvement of stand composition, structure, growth, quality, and forest health. This work includes release, thinning, improvement cutting, salvage cuttings, sanitation cuttings, and pruning.	600.50	\$15,212.20
FRDF	FOREST WATER QUALITY IMPLEMENTATION ON TAX LAW LANDS - The implementation of forest water quality efforts relating to watershed planning, analysis, and restoration, water quality monitoring and implementation including non-point source pollution control BMP's on public and private forest lands.	1,693.75	\$11,479.13
FRDN	CERTIFIED PLAN WRITER PROGRAM - All time and expenditures associated with the administration and coordination of the Certified Plan Writer Program. This includes answering questions from CPWs, organizing CPW information, developing CPW processes, etc. It also includes work associated with the CPW Plan Review Team.	856.00	\$20,158.75
FRDP	PRIVATE FOREST TAX LAW ELIGIBILITY DETERMINATIONS - Time and expenses spent on the required pre-entry investigations and reports related to eligibility and entry of forest tax law orders. This includes deed searches at the courthouse, central office data entry, maintenance of the MFL referral list, review of MFL applications and DNR field packets, etc. The associated management plan writing is documented by a different activity code.	1,269.25	\$18,968.49
FRDS	CONTRACTS FOR MFL MANAGEMENT PLANS - All contracts and efforts to facilitate the completion of FCL-conversion and new MFL management plans. This includes reviewing, editing, and correcting management plans. Also includes providing information to and working with the contractors as well as training meetings.	601.25	\$13,545.59
FRDT	FOREST TAX - RECORDING FEES - All costs associated with the recording of forest tax law documents by the Register of Deeds.	104.50	\$1,883.52
FRDW	MFL ICPW PLAN REVIEW - Time and expenses reviewing MFL management plans and applications prepared by Independent Certified Plan Writers (ICPW). This includes all aspects of the review (office and field) carried out by field staff and supervisors.	7,148.25	\$175,337.34
FRDY	TAX LAW ENFORCEMENT - Activities including investigation, documentation, enforcement action or arrest for violations of Chapter 77 on private lands where the owner is not in compliance with the law. This includes enforcement of management plans, cutting notice and report violations, illegal partitioning, and posting violations. Enforcement of management plans begins with the Notice of Investigation. Include time spent in case preparation and as a witness in contested case hearings.	3,177.25	\$86,386.32
FRDZ	ADMINISTRATION OF PRIVATE FOREST TAX LAW - Time and expenses spent on the required investigations and reports related to continued eligibility after lands have	68,095.00	\$1,621,849.21

	been entered into MFL and FCL. This includes the processing of corrections, cutting notices, cutting reports, withdrawals, transfers, declassifications, yield taxes and termination taxes.		
<b>TOTAL</b>		106,986.50	\$2,567,523.36

Comparisons of the time and cost of administering the MFL and FCL programs shows the following correlations.

- **In 2009, each acre of land in MFL and FCL costs 78¢ per acre to administer.** There is a total of 3.1 million acres of land in MFL and 212,440.073 acres in FCL for a total of 3.3 million acres.
- **In 2009, costs to administer the MFL program made up 6% of the costs DNR had to implement the entire Division of Forestry programs,** including private, state and county forestry, fire control, law enforcement, urban, educational, ecological services, and conservation easement programs.
- **In 2009, costs to administer the MFL program made up 73% of the costs to administer the Private Forestry Program.** A total of \$3,494,406.65 was expended in the private forestry program in 2009, of which \$2,567,523.36 was associated with the forest tax law program. Other activities associated with Private Forestry include meeting with new landowners, administration of WFLGP, and developing and implementing non-tax law plans and practices.
- **In 2009, for every \$1.00 DNR expended in administration of the tax law programs \$2.08 was collected and returned to local municipalities in tax revenue.** Total tax revenue returned to local municipalities in 2009 was \$ 5,336,919.61, including FCL severance tax, FCL withdrawal tax, FCL termination tax, FCL annual aids, MFL yield tax, MFL withdrawal tax, and MFL annual aids.

#### **5. Size of MFL statewide property tax reduction and compensation back to local units of government.**

Every two years, the Department of Revenue (DOR) is required under section 16.425 of the Wisconsin Statutes to prepare a summary of existing tax exemption devices and their corresponding fiscal effects. The *Summary of Tax Exemption Devices* report was last developed in February 2009 and can be found in its entirety at <http://www.revenue.wi.gov/ra/09sumrpt.pdf>. DOR's report on impacts of lands enrolled in the MFL and FCL program is included below.

#### **Measuring the Tax Reduction under Forest Tax Programs**

In Table 1, the tax that would have been paid on land enrolled under the forest tax laws is termed the "Initial Tax Reduction." It was estimated by (1) multiplying the average net tax per acre on taxable forest land in each municipality by the number of acres enrolled under the forest tax laws in that municipality, and (2) summing these figures across the state for each forest tax law. The amount per acre is the state total under the forest tax law divided by state total acreage enrolled under that program.

Table 1  
FINANCIAL ANALYSIS OF FOREST TAX LAWS, 2007/08

Item	Forest Crop Law		Managed Forest Law	
	Amount (\$)	Per Acre	Amount (\$)	Per Acre
Initial Tax Reduction	\$6,409,767	\$23.64	\$83,556,887	\$28.51
Landowner Payments:				
Acreage Shares	191,134	0.71	2,667,351	0.91
Closure Fees	0	0.00	3,375,666	1.15
Severance/yield taxes	253,728	0.94	1,764,314	0.60
Termination taxes	263,335	0.97	0	0.00
Withdrawal taxes	341,132	1.26	3,630,326	1.24
Total Landowner Payments	\$1,049,329	\$3.87	\$11,437,656	\$3.90
Net Tax Reduction	\$5,360,438	\$19.77	\$72,119,231	\$24.61
Acres Enrolled	271,093		2,930,647	

The "Initial Tax Reductions" for 2007/08 were \$23.64 per acre under the FCL and \$28.51 per acre under the MFL. Landowner payments (excluding the MFL non-compliance and withdrawal fees, for which data are not available) are subtracted from the "Initial Tax Reduction" to determine the "Net Tax Reduction." As Table 1 shows, the "Net Tax Reductions," or tax savings, in 2007/08 were about \$5.4 million, or \$19.77 per acre under the FCL and about \$72.1 million, or \$24.61 per acre under the MFL. The total net tax reduction under the programs is about \$77.5 million, or about 86% of the total initial tax reduction of about \$90.0 million.

Since their equalized value is zero (due to being tax-exempt), forest tax laws indirectly affect property taxes by shifting part of the tax burden to other property owners and through a redistribution of school equalization aids compared to what the distribution would be if there were no forest tax laws. These effects are not reflected in Table 1 and are not analyzed in this report.

### Evaluation

The number of privately owned acres enrolled under the various forest tax law programs and the average property tax on taxable forest land for selected years are shown on Table 2.

Table 2  
ACRES ENROLLED AND AVERAGE PROPERTY TAX ON FOREST LAND, 1960 - 2007

Year	Acres Enrolled				Average Property Tax per Acre of Taxable Forest Land
	Woodland Tax Law	Forest Crop Law	Managed Forest Law	Total Acres Enrolled	
1960	60,431	361,211	0	421,642	\$ 0.52
1965	107,431	490,154	0	597,585	0.56
1970	154,185	643,514	0	797,699	0.87
1975	158,302	951,808	0	1,110,110	1.42
1980	256,349	1,287,833	0	1,544,182	3.31
1985	447,851	1,468,912	0	1,916,763	5.90
1990	472,236	1,452,194	372,102	2,296,532	6.87
1995	302,338	1,406,718	804,269	2,513,325	7.76
2000	55,507	471,727	1,971,474	2,498,708	12.90
2001	0	447,673	2,079,062	2,526,735	15.73
2002	0	428,790	2,231,154	2,659,944	17.96

2003	0	400,716	2,417,023	2,817,739	20.65
2004	0	356,226	2,629,513	2,985,739	23.26
2005	0	334,362	2,784,889	3,119,251	23.53
2006	0	295,417	2,843,447	3,138,864	24.82
2007	0	271,093	2,930,647	3,201,740	27.33

Sources:

Acreage: 1960-1985: Wisconsin Department of Natural Resources, Forestry Tax Unit. 1990-2007: State totals from Statements of Assessment filed with the Wisconsin Department of Revenue.

Tax per Acre: Calculated by the Wisconsin Department of Revenue for land in the "forest" class.

Although these forest land tax programs have probably increased the amount of timber harvested in the state, the extent to which such harvests can be attributed to the special tax laws is not known. Regardless, property taxes remain a major concern for forest land owners. Increasing demand for forest land for recreational and vacation home uses has led to significant increases in market values for such land. For a forest land owner interested in pursuing forestry, enrolling the land under the MFL is an increasingly attractive way to ease the tax burden. Recent MFL law changes which require enrollees to follow management plans and impose penalties for failure to follow those plans reduces the chances that enrollees will use MFL as a means of reducing taxes while waiting to sell the land for non-forestry purposes.

Despite the recent growth in participation in the special forest tax law programs, a significant portion of privately owned forest land is not enrolled under a forest tax law. Based on an estimated 10 million acres of forest land in private ownership, only about 32% is enrolled under the forest tax laws. It is likely that some of the 68% of forest land not enrolled is being used to grow a merchantable timber crop. Information is not available to determine why those owners have not enrolled their land under the programs given the substantial reduction in taxes they could obtain by doing so.

Information in this section is excerpted from a report by the Division of Executive Budget and Finance, and the Division of Research and Policy, Department of Revenue.

### **Managed Forest and Forest Crop Lands and Equalization Aid**

The loss in tax base in the local municipality may be partially offset by state equalization aid when land is entered into the Managed Forest Land (MFL) program. This will only occur for the distribution of the school levy, however, since at this time, the state is only actively running an equalization formula for school districts.

The degree to which any school district's loss of tax base is offset by school equalization aid will vary by school district, according to both the magnitude of school aid increases and the particular district's characteristics relative to other school districts. Due to the annual running of the school equalization aid formula, the impact of the loss to a school district's tax base from land newly entered into the MFL program may be distributed statewide.

Since the state last ran the shared revenue formula for the state's county and municipal equalization efforts in 2001 for municipalities and in 2003 for counties, no increases in shared revenue have been received by a municipality or county for land newly entered into the MFL program subsequent to these years. Consequently, for the payment of county and municipal levies, the impact of the loss of tax base for counties and municipalities from land newly entered into the MFL program has been absorbed by the owners of remaining taxable land solely within the specific county or municipality where the new MFL property is located.

Information provided by Paul D. Ziegler, Department of Revenue.

## 6. MFL Enrollment Process

Landowners apply for the MFL program by June 1 of each year. Applications must include a proposed management plan, map, deed(s), recording fee, tax statements, and certified survey map (if one was created for the property). Lien holders must sign the MFL application, including mortgage holders, conservation easement holders, and others who have management rights on the property. All people who have management rights must also sign the management plan.

Landowners must hire a certified plan writer (CPW) to develop the application. Landowners and CPWs negotiate the cost of developing the MFL application and the time frame in which the work will be completed.

CPWs inventory the forest resources to determine the following items:

- Timber type –Establishes the starting condition of the forest, including tree species, size of timber, stocking (how many trees are growing on the property), health and growth rate of trees.
- Soil type –Used to determine site capability of the land, including soil fertility, moisture hold capacity, equipment limitations, etc. Aspect and slope influence the site capability of the land as well.
- Endangered or threatened species or species of special concern using the National Heritage Inventory – Determines threatened, endangered and special concern species that impact enrollment and management of the property.
- Historically significant sites using the Archeological and Historical Database – Determines archeological and historical sites that impact enrollment and management of the property. Examples of these sites include burial sites, ceremonial sites, logging camps, early homesteads, etc.
- Wildlife habitat, water resources, invasive species, etc.

Management plans are developed to meet landowner goals and MFL program requirements using information learned during the inventory of forest resources. Resources used in developing forest management and silvicultural prescriptions include the following:

- Silviculture Handbook – Recommends management actions to harvest, thin, and regenerate tree species common to Wisconsin.
- BMPs for Water Quality and Invasive Species – Recommends management actions to protect water quality and control invasive species.
- Generally Accepted Forest Management Guidelines (Forestry Publication #93 03Rev)
- Biomass Harvesting Guidelines – recommends sustainable harvesting for biomass
- Wildlife Action Plan – Recommends management action to enhance habitat for species of greatest concern.

Applications are submitted to the local DNR forester for review. Review is done by the local DNR forester, team leader and/or area leader using the MFL review checklist. Items that must be provided with an application are reviewed for accuracy and consistency. DNR foresters field check 10% or more of the applications, depending upon accuracy of the data submitted. Applications that are approved are sent to the Madison Forest Tax Program for data entry and issuance of the Orders of Entry.

Forest Tax Program personnel notify municipal clerks and county treasurers of lands to be enrolled. Municipal clerks are given opportunities to request denial of lands into MFL and must provide documentation to support their request for denial. The Forest Tax Program replies to the municipal clerk of its decision.



County treasurers report names of landowners with unpaid property taxes. DNR foresters contact the landowners requesting proof that property taxes have been paid before the lands can be enrolled into the MFL program.

All Orders of Entry are issued by November 21. Landowners, with the department of revenue, the supervisor of assessments, and the clerk of each municipality in which the land is located, and shall record the order with the register of deeds in each county in which the land is located. Landowners have until December 31 to request non-entry of their lands if they change their minds about MFL enrollment.

## **7. MFL Renewal Process**

Landowners are notified of upcoming MFL expirations 1¾ years prior to the expiration of their MFL entries. For example, landowners with MFL entries that expire on December 31, 2011 were notified of the upcoming expiration in April 2010. Landowners are required to follow the same process as new enrollments when re-enrolling their lands, meaning that they are required to hire a CPW, develop an MFL application, and submit the application (including all supporting documents) to their local DNR forester by June 1, 2011.

## **8. MFL Management Plan Template and Data Entry**

On July 1, 2009 all MFL management plans were required to be developed using the MFL management plan template. This template was developed to facilitate consistency and flexibility in the following:

- Format – one format is used statewide listing required items. Landowners and plan reviewers, including auditors of the MFL certified group, have similar places to find information regardless of location of MFL property and author of the management plan.
- Wording – CPWs and DNR foresters use consistent wording and definitions in describing timber types, silvicultural systems, management practices and other information. The template has text boxes where limited wording can be added to describe unusual situations particular to individual lands.
- Changing Plan Conditions – the management plan template can easily be changed by Forest Tax Program staff when requirements of the MFL program, Forest Stewardship program, FSC certification, Tree Farm certification or other programs change. Templates are emailed to CPWs and DNR foresters with instructions to begin using the new templates. Updates to individual management plans will be on the template, allowing all management plans to meet current standards.
- Updating Landowner Management Plans – updates to management plans can be made easily after management practices are completed and new practices are scheduled. Updates to management plans can also be made if stand conditions change requiring changes to management practices. Landowners will receive the most current management plan that meets the latest plan conditions as directed by program requirements.

The management plan template and development into the WisFIRS computer program will also allow for the following efficiencies:

- Eliminate the double and triple entry of data into separate field and central office databases. The different databases currently are written on separate programs and are not easily transferable between the different computer languages. CPWs current type data into Word documents and submit that data to DNR foresters. DNR foresters enter the data into Plantrac, which is an Access database. The Plantrac data is sent to the Madison office and transferred into a database that is run on the DNR main frame

through a series of SAS reports. This data must be input by hand by two central office staff, taking as much as 4 to 6 weeks of staff time.

- Reduce plan writing time for CPWs. CPWs have been reporting that they have cut their time in management plan writing in half with use of the management plan template.
- Reduce review time of MFL applications for DNR foresters. DNR foresters only need to review management prescription codes and text box fields to determine if the management plan is acceptable.

The WisFIRS computer program is being developed with an anticipated delivery date within one year. The savings in time will allow CPWs and DNR foresters to meet the expected increase in demand for services due to the expected higher enrollment rate now that the first group of MFL landowners will be re-enrolling their lands under MFL.