

SUBJECT: Revisions for Consideration

The following list provides potential changes to the MFL program that will either:

- reduce cost and time in administration,
- allow for continued ease in explaining, entering and enforcing the MFL program,
- provide for greater acceptance of the MFL program by the public,
- make program more attractive to landowners,
- address concerns and consistency in implementation and reporting or
- address concerns of forest industry and landowners.

Many of the potential changes outlined below cannot be dealt with in isolation since they are intertwined, in some cases contradict one another, and in others address the same issue in different ways. For example, leasing is impacted by decisions related to open/closed access.

The proposals came from the following three sources:

1. **SC:** Special Committee on Review of the Managed Forest Land Program Report, December 2011.
2. **CFTF:** Council on Forestry Task Force
(Note: The task force has not developed its final recommendations. The issues listed here are ones used as a starting point to further develop and prioritize recommendations.)
3. **DNR:** These proposed changes were generated by DNR staff for discussion purposes; they and do not represent the position of the Department.

Proposals are listed by category, in alphabetical order.

	Proposed Change	Origin	Key Components
E	ENTRY		
E.1	Increase minimum entry size allowed	CFTF	<ul style="list-style-type: none"> • Prevents small acreages from enrollment into MFL. • Increases the success with establishing timber sales and other mandatory practices.
E.2	Increase minimum forest productivity level for MFL eligibility	CFTF	<ul style="list-style-type: none"> • Prevents non-productive and non-forested lands from entry into MFL. • Allows only forested lands that will be managed for timber products to be enrolled in MFL. • Will reduce overall acreage allowed in law, i.e. less non forested wetlands, etc.
E.3	Eliminate the application referral process	DNR	<ul style="list-style-type: none"> • Eliminate the need to develop and manage a referral list • Eliminate the collection of a management plan fee • Eliminate the need to determine when services from a CPW are not available. • Allow landowners to develop their own application and management plan. (The landowner could choose to hire a CPW). • Eliminate the contracting of MFL applications by the Department.
E.4	Eliminate the signature of DNR foresters and landowners on the management plan	DNR	<ul style="list-style-type: none"> • Eliminate the provision that management plans shall be signed by the owner and a representative of the department. Removing this requirement allows for management plans to be regularly updated, especially since WisFIRS (computer system) will make the updating processes easier and faster.

L	LEASING		
L.1	Repeal prohibition on recreational leasing	SC & CFTF	<ul style="list-style-type: none"> • Repeal the current prohibition on leasing of MFL lands. • Permit the leasing including other agreements for consideration that permit persons to engage in a recreational activity. The managed forest law defines recreational activities to include hunting, fishing, hiking, sight-seeing, cross-country skiing, horseback riding, and staying in cabins.
M	MISCELLANEOUS		
M.1	Change MFL "Agreement" to a "Contract"	CFTF	<ul style="list-style-type: none"> • Changes to MFL could not be made retroactive to owners enrolled in MFL prior to the change. • Requires DNR to keep program provisions for lands enrolled in program for a 50 year period. • Increases program complexities, yet provides landowners assurance of stability.
M.2	Formally recognize economics in on-the-ground-management/silviculture	CFTF & DNR	<ul style="list-style-type: none"> • Economics may not be recognized to the degree desired by some stakeholders. • Increase flexibility of current minimum tree rotation ages to allow for shorter rotations.
N	NEW COMPONENTS OF MFL		
N.1	Designation of Forest Enterprise Areas	SC & CFTF	<ul style="list-style-type: none"> • Direct DNR to designate forest enterprise areas (FEA) in administrative rule. <ul style="list-style-type: none"> ◦ a combined area of no more than 200,000 acres. ◦ the department may only designate up to 10 FEAs with a combined area of not more than 75,000 acres of land. The minimum size of a FEA must be 5,000 acres. ◦ in designating FEAs, the DNR must give preference to areas that include at least 1,000 acres of land enrolled in the MFL program. • A town or county must apply to the DNR for designation of FEA. The proposed FEA must be consistent with the town or county forest preservation or development plan if one exists. • A town within a FEA will receive, from the forestry account of the conservation fund, an annual payment of \$1 for each acre of the town enrolled in the MFL program that is included in a FEA. A county within FEA will receive, from the forestry account of the conservation fund, an annual payment of 50 cents for each acre of the county enrolled in the MFL program that is included in FEA. The DNR may not include an acre of land in more than one FEA <ul style="list-style-type: none"> ◦ A town or county must use these funds for sustainable forestry and forest-based economic development within the town or county, including educating landowners about the benefits of participating in FEA, and contracting with a private forestry consultant to assist forest owners in preparing MFL applications or MFL owners in preparing management plans.
N.2	Managed forest land management plans and timber harvests	SC & CFTF	<ul style="list-style-type: none"> • Shift the contents of s. NR 46.18 (4), Wis. Adm. Code, to the managed forest land subchapter of ch. 77, Stats. • Direct the DNR to promulgate rules to permit the management plans of groups of owners of managed forest land to be modified in the same manner as permitted for large ownerships. • Require modified management plans for ownerships that exceed 1,000 acres to include the establishment of an annual allowable harvest. This requirement would not apply to ownerships exceeding 1,000 acres whose lands are certified by an independent third party. • Direct DNR to write rules to allow all managed forest landowners a three-year period in which to harvest timber.

O OPEN/CLOSE ACREAGE			
O.1	Eliminate the closed acreage maximum and ensure that open lands can legally be accessed by the public	DNR	<ul style="list-style-type: none"> • Allow landowners to open or close lands regardless of acreage. Would reduce a landowner's desire to subdivide properties and reduce the total number of MFL applications received. Average acreage per application would increase. • Create a provision to require landowner to create and identify access to lands open to public recreation or deny them the ability to enroll lands as open. Landowners who cannot provide access to open lands would lose their open tax status and only be allowed as closed MFL.
O.2	Eliminate the open/closed acreage modification maximum	DNR	<ul style="list-style-type: none"> • Eliminate the maximum number of times a landowner may request to change their open or closed tax status. Current law says twice in the enrollment period. Allow this ability to change the closed designation annually. Allow the Department to charge a fee (\$100) for each request to change the open or close tax status.
O.3	Limit the ability of MFL landowners or MFL applicants to close lands to the public.	CFTF & DNR	<ul style="list-style-type: none"> • Maintain a maximum number of acres a landowner can close to public access (currently 80 or 160). Require all new enrollees to be assigned a personally identifiable number. Any MFL ownership interest by an individual would count toward the closed MFL acreage limit on any lands enrolled in MFL. Remove the ability for non-natural persons (i.e. LLC, corporations, Trusts, etc.) to enroll lands as closed to public access.
R RENEWALS/CHANGES IN OWNERSHIP			
R.1	Allow additions to existing MFL entries regardless of entry year.	DNR, CFTF & SC	<ul style="list-style-type: none"> • Eliminate the references to the 2005 change in the MFL program when the change in tax calculation formula became effective. • Any additions to an existing entry would expire the same year as the original order. • Eliminate the requirements that after April 28, 2004 lands that meet eligibility requirements must be enrolled as new entries. • Eliminate the withdrawal and re-designation application process.
R.2	Allow lands to remain in MFL if natural events or splits in ownership cause lands to no longer meet productivity requirements.	DNR	<ul style="list-style-type: none"> • Eliminate, change or amend provisions that require that transferred lands must meet eligibility requirements. • Eliminate, change or amend provisions that require remaining lands after a transfer must meet certain requirements. • Create ability for lands to exceed the non-productive level if reason for the lands exceeding productivity levels is due to a natural event (flooding, insect, disease, etc.) • Create authority for rule making process to establish criteria when lands would be allowed to remain in MFL as is, withdrawn or brought back into productivity standards. • At the end of enrollment period (25 or 50 years) any lands not meeting productivity requirements would not be allowed to re-enroll.
R.3	Determine a different process and criteria for MFL renewals.	DNR	<ul style="list-style-type: none"> • Create a different application (or revise current application) for renewal of MFL lands. Renewals would eliminate the need for landowners to develop new management plans, and ultimately the review of those plans by DNR staff. This provision would also take work from the private sector, but would continue to require landowners to find a CPW for enrollment of new lands in MFL. • Eliminate the wording that directs the department to order the land withdrawn at the expiration of an MFL order period. DNR would be required to provide a list of lands expiring from the MFL program similar to the notification provided for the FCL program.

S SIMPLIFICATION			
S.1	Allow large ownerships that are 3rd party certified to be managed under the MFL with less DNR oversight, & with periodic State audits	CFTF	<ul style="list-style-type: none"> • Allow landowners who meet the current requirements of a large account additional flexibility if they maintain forest certification by a nationally recognized third party sustainable forest certifying body. • No department approval of cutting notices. Department would conduct periodic audits to insure compliance with the MFL. • Department staff would be allowed to accompany third party auditors during annual audits.
S.3	Clean up miscellaneous statutory provisions	DNR	<ul style="list-style-type: none"> • Eliminate the study requirement for the MFL program after 5 years of its existence. • Update the provision for DNR to report to the legislature on the number of exempt withdrawals. Remove references to WTL and include references to tribal lands. • Eliminate statutory provisions related to Woodland Tax Law.
S.4	Eliminate lands with improvements with assessed values except those improvements for land management purposes (culverts, fences, bridges)	DNR & CFTF	<ul style="list-style-type: none"> • Change statutory provisions to eliminate entry of lands with improvements that is not associated directly with land management. • Eliminate references to the building requirements. May need to keep this provision for those MFL entries that are already enrolled and will be grandfathered. • Include wording on the property tax rolls to show lands with improvements are not allowed after the effective date of the MFL statute. Similar wording would be added to statutory provisions for withdrawal of lands for failure to pay personal property taxes. • Set whole acre exclusion area surrounding any buildings.
S.5	Reduce DNR oversight intensity in on-the-ground-management through use of third-party certification and forester qualifications (Cooperating Forester e.g.)	CFTF & DNR	<ul style="list-style-type: none"> • May require a change in statutes pertaining to a landowner's liability if an agent or contractor of the landowner causes actions that require the lands to be withdrawn from the law. • Reduce the amount of on the ground inspections by DNR staff before and during management activities. • Establish an audit process of DNR field inspections. • May increase the risk that more MFL lands will lose third party forest certification. • Would increase the liability of qualified foresters. • Automatically approve cutting notice if timber sale is established by a qualified forester.
T TAXATION			
T.1	Change calculation for closed land acreage share and the distribution of the money collected	SC	<ul style="list-style-type: none"> • Owners of closed land under new managed forest land orders would pay the greater of the following: <ul style="list-style-type: none"> ○ The acreage share applicable to MFL orders that take effect on or after April 28, 2004. ○ A total of 25% of the full value of the closed managed forest land times the full value effective rate of taxation applicable to general property in the same taxation district as the closed managed forest land. • Modify the distribution of certain moneys received by local units of government in connection with the MFL program. <ul style="list-style-type: none"> ○ 20% of MFL payments for closed acreage received by a municipal treasurer would be paid to the DNR. ○ 48% of the closed acreage managed forest land payments received by a municipal treasurer (equivalent to 60% of the amount remaining after payment to the DNR) would be paid to the county. ○ From the closed acreage payments received by a county, the county must spend 5/6ths of the amount received to acquire by purchase, lease, easement, or other agreement land that is open to public recreational use, as defined in s. 77.895, Stats., except that a county with 40% or more of its total area consisting of public access lands may also elect to expend the reserved amount on activities to improve resource management, including forest growth, forest health, fish habitat, wildlife habitat, and watershed protection.

T.2	Change in rate for open/closed acreage	DNR & CFTF	<ul style="list-style-type: none"> • Rates increased or decreased • Add a third tier of rates to reflect – open, closed, and leased lands. A leased rate would require tracking which landowners had leases on an annual basis.
T.3	Change the collection and payment to municipalities of MFL yield and withdrawal taxes	DNR	<ul style="list-style-type: none"> • Have yield and withdrawal payments sent directly to county instead of DNR. • DNR notifies county of amount owed. County bills and collects from landowner. • DNR develops web based reporting system for counties to report payment received. • County would distribute amount due to local municipality.
T.4	Increase acreage share tax and eliminate yield tax payments	DNR	<ul style="list-style-type: none"> • Increase acreage share taxes from 5% to 6½% or percentage that would be comparable to the average value of yield tax payments. • Eliminate the need for DNR to require a bond from landowners who have a history of non-payment of yield taxes. • Increase the time allowed for when cutting notices are effective. Statutory changes would require that cutting must be completed 3 years after the date of approval of the cutting notice. • Change cutting report requirements to eliminate the reporting of timber volumes. • Eliminate the penalties for failing to file a cutting report or filing a false report. • Eliminate all references to assessing and collecting yield taxes from landowners. • Eliminate the 5 year exemption on payment of yield taxes for new MFL landowners, including provisions about the owner’s personal liability and delinquency charges. • Eliminate yield tax. • Replace yield tax with increase in the annual per acre fee.
W	WITHDRAWALS		
W.1	Allow small acreage withdrawals without full description withdrawal	CFTF/DNR	<ul style="list-style-type: none"> • Allow landowners to withdraw small acreage to be used for building site without impacting remaining MFL lands. • Limit the number of times a small acreage can be withdrawn during an order period, to prevent withdraw as you build subdivision developments. • Landowner would pay normal withdraw tax but only on acres removed. • Allowed withdraws would be in whole acres and limited in size.
W.2	Allow lands to be withdrawn from MFL in any configuration if land is sold and remaining pieces meet eligibility requirements	DNR,& CFTF	<ul style="list-style-type: none"> • Require that lands are withdrawn if landowners are not able to provide access to open lands. (NOTE: This provision may not be needed if the closed acreage limitation is removed.) • Allow land to remain in MFL after a sales or withdrawals if land is 10 or more contiguous acres and 80% productive forest with no more than 20% non-suitable for producing merchantable timber. • Eliminate the current exception that in very specific circumstances lands can remain in the program if less than 10 acres but 80% productive.
W.3	Eliminate the 5% yield tax comparison requirement for determining withdrawal taxes	DNR	<ul style="list-style-type: none"> • Eliminate the comparison of the 5% yield tax with the assessed value calculation. • Eliminate the need for a court ordered estimate if landowners disagree with the 5% yield tax calculation when determining withdrawal taxes.
W.4	Eliminate the need for an MOU with tribes who withdraw lands from MFL when entering trust status	DNR	<ul style="list-style-type: none"> • Eliminate the need for DNR to track tribal lands that are withdrawn from MFL and to treat those lands as if they were MFL until the date those lands would normally have expired, including payment of taxes, etc. • Eliminate the need to develop and enforce the MOU.

W.5	Reduce/restructure withdrawal taxes and fees	CFTF	<ul style="list-style-type: none"> • Modify the current withdraw tax formula to reduce the amount currently due on lands enrolled for long periods of time. • Consider a maximum number of years to be used in determination of the withdraw tax calculation formula.
W.6	Review of Sound Forestry Practices by Managed Forest Land Review Board	SC	<ul style="list-style-type: none"> • Create the MFL Review Board and an optional procedure for MFL owners who are dissatisfied with a DNR decision regarding the practice of sound forestry. <ul style="list-style-type: none"> ○ Under this procedure, a MFL owner who is dissatisfied with a DNR decision regarding the practice of sound forestry may request review of the decision by the MFL Review Board. The board members are appointed by the DNR secretary for three-year terms. The board consists of seven members: one DNR regional forester; one private consulting forester, one forester who represents the Society of American Foresters; one forestry academic; one county forest administrator; one member of a nonprofit conservation organization; and one private nonindustrial owner of a woodland enrolled in the MFL program. ○ The board must review and decide the issues included in MFL landowner's request within a reasonable time. Upon conclusion of the review process, the board must issue a recommendation to the chief state forester, who must then determine whether to accept the recommendation of the board. All decisions of the chief state forester must be in writing and include sufficient facts in order to substantiate the decision.

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