

The Managed Forest Law

A Review of Potential Program Revisions

Prepared By:

The Wisconsin Council on Forestry
Managed Forest Law (MFL) Committee

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SCOPE

The scope of this effort includes identifying and assessing potential modifications to the Managed Forest Law (MFL). The intent is to generate a set of modifications that can be introduced through legislative procedures to ultimately amend the Managed Forest Law. The alterations, as determined through the procedure described below, are meant to focus on efforts to modernize and streamline the program, and maintain overall program viability. More specifically, any modifications should ideally accomplish the following criteria:

- *Reduce DNR administration cost, conflict, and/or law complexity*
- *Maintain public, non-MFL stakeholder, understanding and support*
- *Maintain municipality and local government support*
- *Support the core MFL purpose of sound forest management and commercial timber production (as ref. Wis. Stat. 77.80)*
- *Encourage continued program enrollment and discourage non re-enrollment*
- *Address concerns of MFL forest land owner stakeholder groups*
- *Address concerns of industry stakeholder groups*

This document is intended to provide a summary of the potential modifications considered in this process including an analysis of the current situation, the proposed modifications, and related consequences. It is to serve as an informational document to inform the reader and as a baseline document to guide any forthcoming efforts to modify the Managed Forest Law.

PROCEDURE

This document is a result of the efforts of a committee established by the Wisconsin Council on Forestry (CoF) in 2012 to address concerns expressed by selected forestry stakeholders regarding numerous issues related to the DNR administration of the program and MFL landowner participation. The committee was convened in the spring of 2012 with an initial phase, and a second phase initiated after the CoF February 1, 2013 meeting. The initial phase focused on examining numerous issues brought forth by committee members and constituents while the second phase was to focus on producing this document with more detailed issue analysis. Efforts during this process also included a review of the recently published Dovetail Partners Inc. report; *Managed Forest Law Efficiencies Project*.

http://council.wisconsinforestry.org/pdf/MFL_AssessmentFinalReport.pdf

Individuals participating in the committee's efforts include:

- ❖ Richard Wedepohl – CoF Member, Wisconsin Woodlands Owners Association (Chair Phase 1)
- ❖ Tom Hittle – Steigerwaldt Land Services, Inc. (Chair Phase 2)
- ❖ Henry Schienebeck – CoF Chair – Great Lakes Timber Professionals Association
- ❖ Representative Jeff Mursau – CoF Member
- ❖ Representative Fred Clark – CoF Member
- ❖ Nancy Bozek – Wisconsin Woodlands Owners Association
- ❖ Kim Quast – CoF Member, Wisconsin Consulting Foresters – Quast Forestry Consulting
- ❖ Troy Brown – CoF Member, Lumber Industry Representative – Kretz Lumber
- ❖ Bill O'Brion – Plum Creek
- ❖ Richard Stadelman – Wisconsin Towns Association
- ❖ Mark Paulat – Wisconsin Department of Revenue

Technical Advisory/Non-voting members

- ❖ Robert Mather – Department of Natural Resources- Staff technical advisor
- ❖ Kathy Nelson – Department of Natural Resources- Staff technical advisor

The Department of Natural Resources, consistent with the Secretary's ongoing directive to provide technical assistance, but not policy advice, on any and all issues within the purview of the legislature, provided members to the committee for technical assistance only, and in furtherance of its obligations to provide technical assistance in support of the work of the Council. None of the proposals or conclusions represent the formal policy position of the Department, since formal policy determinations are generally within the scope of the authorities granted to the Natural Resources Board or the Secretary. Nothing in this document should be interpreted as the Department of Natural Resources support or policy advice, particularly considering the multiple user groups, stakeholders and natural resource impacts that were not represented as part of the deliberations in the generation of this document (Tribes, hunting, fishing, water quality, recreational access, etc.).

At the February 1, 2013 CoF meeting Council members were presented with a list of issues compiled by the DNR (See Exhibit 1) which contained those identified by the MFL Committee and additional administrative efficiency issues identified by the DNR in their capacity as a technical advisor. This list contained 29 general topics or issues. Council members were asked to select the top five issues of concern to be addressed as possible amendments to the MFL. Selections were tallied and summarized and for this document grouped into the following categories:

- * Tax Rates and Fee Structures
- * Management and Management Plans
- * DNR Oversight
- * Eligibility
- * Leasing and Open/Closed Acreage
- * Administration

Issues occurring at least three times in the Council member's list of their "top 5" were selected for additional analysis in this document. Certain issues were broken down further from the initial description for individual consideration and analysis.

RESULTS

The following report provides an analysis of each issue presented under the report group headings. This includes reference information on the initial issue identification, the "top 5" count, and the indication as to if the issue was identified by the DNR in their capacity as a technical advisor as an administrative efficiency topic (used in the CoF priority ranking process). A brief narrative covering the current situation and proposed modifications is presented along with indication as to if the change would be retroactive (in effect for lands already enrolled and new enrollments) or prospective (only in effect for new entries after MFL amendment). The MFL Committee's perceptions of the potential advantages and disadvantages of modifying the program is included as well as preliminary comments on fiscal and/or DNR labor considerations (it is recognized that more fiscal analysis will be required in any legislative efforts). Finally, an analysis as to how each issue meets the criteria identified in the scope is presented.

The MFL Committee in subsequent efforts unanimously agreed that five of the issues be removed from consideration either due to not meeting the defined scope or by selection of an alternative issue. The balance of the issues were moved forward for analysis and additional consideration.

The issues removed from further consideration include:

- Eliminate the need for an MOU with tribes who withdraw lands from the MFL.
- Permit management plans for groups of owners of managed forest land to be modified in the same manner as permitted for large ownerships.
- Allow all managed forest landowners a three-year period in which to harvest timber.
- Create a designation for Forest Enterprise Areas.
- Limit the ability of MFL landowners/applicants to close lands to the public.

The analysis of these five issues is contained in Exhibit 2.

The Modifications section contains 23 proposed revisions that the committee was able to agree to move forward. The four issues listed under the Administration group were deemed to be all reasonable and generally without concern to advance. The committee without too much difficulty or concern reached consensus on the proposed modifications on 12 of the issues. These 12 issues included:

- *Reduce/restructure withdrawal taxes and fees*
- *Change the procedure to allow Counties to generate and collect financial transactions for MFL yield and withdrawal taxes*
- *Eliminate the 5% yield tax comparison requirement for determining withdrawal taxes*
- *Allow small acreage withdrawals without full description withdrawal*
- *Allow lands to remain in MFL, or allow exempt withdrawal if natural events cause lands to no longer meet productivity requirements*
- *Increase minimum acreage entry size allowed*
- *Allow additions to existing MFL entries regardless of entry year*
- *Eliminate lands with improvements with assessed values*
- *Shift the contents of s. NR 46.18 (4), Wis. Adm. Code (large owners), to the managed forest land subchapter of Ch. 77, Stats*
- *Allow for electronic signature/approval by DNR and the landowners on revised management plan documents for existing participants*
- *Eliminate the application referral process*
- *Revise the current application process for renewal of MFL lands*

The committee after more lengthy discussion, and in some cases after reworking the specific proposed modification, was able to reach general consensus to move six of the seven remaining issues forward.

These six issues included:

- *Allow lands to remain in MFL, or allow exempt withdrawal if splits in ownership cause lands to no longer meet productivity requirements*
- *Require modified management plans for DNR designated large ownerships to include the establishment of an allowable harvest calculation*
- *Allow landowners to open or close lands regardless of acreage*
- *Require landowners to identify legal access to lands open to the public or deny the ability to enroll (or keep) MFL lands as open. Require all large owner lands to be open for public recreation*
- *Repeal prohibition on recreational leasing except for large owners*
- *Reduce DNR oversight intensity in on-the-ground-management for certified large owners*

The committee's conclusion on the remaining single issue; "Change in the rate for open/closed acreage", was a consensus to advance this topic such that further consideration be given to:

- Leaving the open acreage rate unchanged
- Lowering the closed acreage rate with the possibility of directing a portion of the closed acreage fee to the Counties and municipalities rather than all into the Forestry Account.

For any individual issue or proposed modification, the level of agreement, or importance of the modification being made to the MFL, typically varies by stakeholder, individual, or group. Adjusting the per acreage fee, and if so to what degree, is a modification where this is especially true. This, at least in part, played a role in the committee's inability to reach a consensus on a specific modification to advance this issue.

The ease at which the committee reached consensus on a given issue should not be misconstrued as an indicator of the importance of the individual issue for MFL modification, or as a scale of the extent of the benefits resulting from the change.

The package of 23 issues presented here comprises, what the committee felt, was a well-balanced group of modifications. Attempts to single out certain issues could have consequences with interconnected issues or may impact support for the overall process. The Summary section addresses this further. More detailed analysis of the issues and proposed modifications follows.

Additional information on the Managed Forest Law can be found here:

<http://dnr.wi.gov/topic/ForestLandowners/tax.html>

<http://dnr.wi.gov/files/pdf/pubs/fr/FR0295.pdf>

<http://dnr.wi.gov/topic/ForestManagement/documents/24505.pdf>

MODIFICATIONS

Tax Rates/Fee Structure

Proposed Revision: Change in rate for open/closed acreage

Consideration ID: T2
Council Member "Top 5" Count: 7
DNR Admin. Clean-up: □

Current Situation: MFL landowners pay an acreage share tax in place of regular property taxes. MFL landowners who close land to public recreation also pay a closed acreage fee. There are two acreage share and closed acreage fee formulas, depending if lands were enrolled in MFL in 2004 and earlier, or 2005 and later. Statewide data is used to determine the acreage share tax rate and closed acreage fees for both sets of formulas. Since assessed values, equalized values, tax rates, and other tax values differ depending upon land location within the state, using a statewide value can show greater MFL tax rate benefits in some parts of the state and lower MFL tax rate benefits in other parts of the state. Conversely, local municipalities may see that property tax revenues are greatly reduced with lands being enrolled in MFL, while other municipalities see a minimum reduction in property tax revenues. The open and closed per acre rates are summarized as follows looking back to 2003 and ahead to 2017.

EFFECTIVE DATES	Enrolled 1987 - 2004		Enrolled 2005 or Later	
	OPEN	CLOSED	OPEN	CLOSED
2003 - 2007	\$0.83	\$1.95	\$1.46	\$7.28
2008 - 2012	\$0.67	\$1.57	\$1.67	\$8.34
2013 - 2017	\$0.79	\$1.87	\$2.14	\$10.68

Open Acreage share tax = 5% of average statewide tax on productive forest land (\$42.70/acre)
Closed acreage fee = 20% of average statewide tax on productive forest land (\$42.70/acre)

Under current law, local municipalities normally keep 80% of the open acreage tax and the remaining 20% is remitted to the County. The entire amount of the closed acreage fee is remitted to the County, who then remits the entire amount to the State's Forestry Account for allocation by the Legislature.

Current MFL Open Acres ±: 1,107,000 acres (82% enrolled 1987 – 2004)
Current MFL Closed Acres ±: 2,138,000 acres (65% enrolled 1987 – 2004)
Total MFL Acres: 3,245,000 acres

Concern has been expressed by some that the current closed acreage fee, in particular, is too high and can lead to landowners seeking other tax treatments or pursuing land management which can have negative impacts on forest sustainability. Property taxes on land categorized for taxation purposes as Agricultural Forest can be lower than the MFL per acre closed rate in parts of Wisconsin. Concern has also been expressed that per acre property tax rates much above the open rate is not conducive to economically and sustainably managing forested properties for timber. There is also concern regarding revenue amount and shifting of tax burdens if rates were lowered.

Proposed Modifications: The MFL Committees conclusion was that lower rates, primarily for closed acreage, could be considered with additional consideration to be given to redirecting a portion of the closed acreage fee to local municipalities and Counties.

Retroactive / Prospective: The 2005 and later tax formula was made effective for all lands enrolled or re-enrolled in MFL on or after April 28, 2004, setting some precedent that any new tax rate or formula also be made prospective after the effective date of the law change, although there is no recommendation on this from the MFL Committee.

Analysis: (presented for a lowered closed acreage fee)

Proposed Revision: Change in rate for open/closed acreage (continued)

POTENTIAL ADVANTAGES / DISADVANTAGES

ADVANTAGES	DISADVANTAGES
1. Landowners will continue to receive a property tax reduction.	1. Loss of revenue to State Forestry Account
2. Enrollment in the MFL may be enhanced.	2. Public perception
3. Minimize loss of sustainably managed forestland due to other land taxation options that can have negative consequences.	3.

FISCAL ANALYSIS

A more specific modification would be required for fiscal analysis.

CRITERIA EVALUATION

Reduce WDNR administration cost, conflict, and/or law complexity	Maintain public, non-MFL stakeholder understanding and support	Maintain municipality and local government support	Support core MFL purpose of sound forest management and commercial timber production (as ref Wis. Stat. § 77.80)	Encourage continued program enrollment and discourage non re-enrollment	Address concerns of MFL forest owner stakeholder groups	Address concerns of forest industry stakeholder groups
Ø	-	Ø	+	+	+	Ø

Favorably meets criteria = “+”, Does not meet criteria = “-”, Neither favorable nor unfavorable = “Ø”

Proposed Revision: Reduce/restructure withdrawal taxes and fees

Consideration ID: W5
 Council Member “Top 5” Count: 3
 DNR Admin. Clean-up: □

Current Situation: Landowners who withdraw lands from MFL early are required to pay a withdrawal tax and fee based upon the assessed value of the land in the year prior to withdrawal, the net town tax rate, and the number of years under the law. All acreage share and yield taxes are subtracted. A \$300 withdrawal fee is added. Some withdrawal taxes can be high if lands were re-assessed while enrolled in MFL. The withdrawal tax does a variety of things: (1) reimburses local municipalities for lost tax revenue, and (2) provides an incentive to keep forests as working forests. In each scenario, landowners who withdraw early may not be providing timber products and other public benefits for the 25 or 50 year term in which they enrolled. The MFL withdrawal tax was originally designed to reimburse municipalities for unpaid property tax, however the longer the lands are enrolled in the MFL program the more chance that lands have been re-assessed. The reassessment has the effect of increasing the size of the withdrawal tax payment since the withdrawal tax formula uses the assessed value in the year prior to withdrawal and then calculates that value for the entire length that lands were enrolled in MFL, and can result in a withdrawal cost exceeding the actual value of the property. Previously paid acreage share and yield tax amounts are subtracted from the withdrawal fee owed by the landowner withdrawing the MFL lands.

Withdrawal penalties for converting agricultural use value taxed lands range from 5 to 10 percent of adjusted land values, unless left fallow for one year prior to development after which no penalties are assessed for conversion. Penalties for lands under the Farmland Preservation Program rezoned for development were eliminated by the legislature in 2011 because they were thought to be excessive. More information on the assessment of agricultural properties can be found here: <http://www.revenue.wi.gov/pubs/slf/pb061.pdf>

Proposed Modifications: Modify the current withdrawal tax formula to reduce the amount due on lands if voluntarily or involuntarily withdrawn. Establishing a maximum number of years to be used in the withdrawal tax formula would acknowledge the amount of time a landowner was enrolled in MFL and remained in compliance with the program before withdrawing. The procedure of subtracting the paid acreage share and yield taxes from the withdrawal fee would be eliminated. (This also provides for the elimination of the need to report harvest volumes on cutting reports by legal description.) The calculation of the withdrawal fee would be based on the ad valorem tax for the individual parcel the year prior to withdrawal. The MFL Committee concluded that 5 to 10 years would be a reasonable maximum number of years to be used to calculate withdrawal tax.

Retroactive/Prospective: Reducing the amount of withdrawal taxes due would be beneficial to all MFL landowners.

Analysis:

POTENTIAL ADVANTAGES / DISADVANTAGES

ADVANTAGES	DISADVANTAGES
1. Reduces the amount of withdrawal taxes paid by MFL landowners.	1. Potentially reduces the amount of withdrawal taxes received by local municipalities and counties.
2. May reduce questions landowners ask of DNR about number of years in the program.	2. Potentially lead to more lands being withdrawn from the MFL.
3. May reduce the number of certifications DNR makes to local municipalities for failure to collect on withdrawal taxes.	3. Some landowners may find it advantageous to withdraw from the program prior to completing practices.
4. More equitable with withdrawal penalties in place for agricultural use property tax programs.	
5. Simplifies the calculation and overall process and eliminates the need to report harvest volumes by legal description.	

Proposed Revision: Reduce/restructure withdrawal taxes and fees (continued)

FISCAL ANALYSIS

This change could lower money received by local municipalities and counties.

CRITERIA EVALUATION

Reduce WDNR administration cost, conflict, and/or law complexity	Maintain public, non-MFL stakeholder understanding and support	Maintain municipality and local government support	Support core MFL purpose of sound forest management and commercial timber production (as ref Wis. Stat. § 77.80)	Encourage continued program enrollment and discourage non re-enrollment	Address concerns of MFL forest owner stakeholder groups	Address concerns of forest industry stakeholder groups
+	Ø	-	Ø	+	+	Ø

Favorably meets criteria = “+”, Does not meet criteria = “-”, Neither favorable nor unfavorable = “Ø”

***Proposed Revision:* Change the procedure to allow Counties to generate and collect financial transactions for MFL yield and withdrawal taxes**

Consideration ID: T3
Council Member "Top 5" Count: 7
DNR Admin. Clean-up:

Current Situation:

MFL Yield Tax: The DNR bills landowners for yield tax every one to two months following completion of a timber harvest on MFL lands and the submittal of a cutting report by the landowner. DNR calculates amount owed (volume harvested by forest product multiplied by an average annual zonal rate). There are 13 zones in the state to better reflect market conditions. The landowner is given until the end of the month following billing to pay the invoice and the State can charge 12% interest on late payments. The DNR collects monies, including interest, and is required by statute to pay the local municipality annually. (Normally this payment is done quarterly). The local municipality is then required to pay the County 20% of amount collected annually. This occurs in 71 Counties with a total of approximately 2,000 invoices statewide annually. The number of invoices by County varies widely from a couple invoices per year to several hundred.

MFL Withdrawal Tax: The DNR determines which lands are no longer in compliance with the law. The landowner is provided an opportunity to come into compliance and if they fail to do so the DNR issues an Order of Withdrawal. Copies of that Order are sent to the County and local municipality. The DNR then works with the Department of Revenue (DOR) to determine the MFL withdrawal tax amount (DOR determines the "net property tax rate" value). DNR credits any yield and acreage share taxes paid for that specific parcel, adds a \$300 administration fee, generates the bill, collects the funds, and pays the local municipality once payment has been received. The DNR keeps the \$300 administration fee and sends the remainder to the local municipality. The local municipality currently keeps 80% and sends 20% to the County.

Proposed Modifications: Have the Counties take over the MFL yield and withdrawal billing and collection.

MFL Yield Tax: The DNR would continue to insure that timber is harvested sustainably and determine the amount of the yield tax owed. The DNR would enhance their computer system to compute the bill amount and make that information available for a County to download an electronic file. Counties would be given access to the DNR computer data base to facilitate timely and simple access to those records for which an invoice needs to be prepared. Counties would invoice and collect yield taxes from landowners. They would also be able to charge interest on late amounts. Counties would then be required to split those funds with the local municipality as required by law. (20% county/80% local municipality). Counties would handle any unpaid bills as a special charge on the property tax bill as currently authorized by Statute. Local DNR foresters would be made available for landowner or municipality questions regarding an individual yield tax account.

MFL Withdrawal Tax: The DNR would still determine when to issue an Order of Withdrawal. The County would determine and collect the withdrawal tax due. The DNR would seek to have the withdrawal tax rate formula simplified to be the actual property tax rate for that specific parcel the year prior to withdrawal as previously described. This change would make the determination much simpler and better reflect the actual taxation rate that would have been paid had the land not been enrolled in the MFL. Once the withdrawal tax is collected, the County would send the local municipality their share. The DNR would seek to allow the County to bill and keep the \$300 administration fee and would also seek to not have the landowner receive credits for any MFL acreage share or yield taxes paid while enrolled in the law.

Retroactive/Prospective: This proposed process would be used for all existing and future MFL and FCL entries/landowners.

Analysis:

Proposed Revision: Change the procedure to allow Counties to generate and collect financial transactions for MFL yield and withdrawal taxes (continued)

POTENTIAL ADVANTAGES / DISADVANTAGES

ADVANTAGES	DISADVANTAGES
1. DNR role in collecting yield (severance) and withdrawal taxes is reduced. DNR cost to administer MFL program is reduced.	1. Local county offices would need to establish a billing system for collection of the taxes. Administration cost increases for counties.
2. Landowners and the public would have a greater understanding of who receives money paid while under the MFL (FCL) programs. The transactions are handled by the local unit of Government that actually receives the monies.	2. State would no longer be able to gain any interest revenues from any monies collected and held prior to distribution to local municipalities.
3. Counties have best landowner mailing and contact information.	3.
4. Quicker billing/receipts turn-around time so improved cash flow for local units of government.	4.
5. Simplifies the withdrawal tax formula and calculation.	5.
6. DNR focuses on basic administration of the law and sustainable forestry implementation.	6.
7. Reduces number of steps if bill is not paid by landowner to certify as a special charge on the property tax bill.	7.

FISCAL ANALYSIS

DNR would incur a one-time cost to set up the new procedure in WISFIRS so the data is readily available to the County. Counties would have some increased on going workload to bill and collect monies and pay portions to the local municipalities.

CRITERIA EVALUATION

Reduce WDNR administration cost, conflict, and/or law complexity	Maintain public, non-MFL stakeholder understanding and support	Maintain municipality and local government support	Support core MFL purpose of sound forest management and commercial timber production (as ref Wis. Stat. § 77.80)	Encourage continued program enrollment and discourage non re-enrollment	Address concerns of MFL forest owner stakeholder groups	Address concerns of forest industry stakeholder groups
+	Ø	+	Ø	Ø	Ø	Ø

Favorably meets criteria = “+”, Does not meet criteria = “-”, Neither favorable nor unfavorable = “Ø”

Proposed Revision: Eliminate the 5% yield tax comparison requirement for determining withdrawal taxes

Consideration ID: W3
 Council Member "Top 5" Count: 5
 DNR Admin. Clean-up:

Current Situation: Landowners are required to pay the higher of two withdrawal tax calculation formulas, which include the formulas based on (1) assessed value, net town tax rate and number of years in the MFL program, or (2) 5% of the established value of timber based on tree species, volume and product within the established market zones. In 90% of the cases the formula based on assessed value is used, especially if the lands were enrolled in MFL for 3 or more years. DNR determines the 5% yield tax calculation based on forest reconnaissance data in the DNR computer data base. If the two withdrawal tax calculations are close, DNR requests DNR Foresters to obtain new forest reconnaissance data before making the final determination of which withdrawal tax calculation to use.

Proposed Modifications:

- 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.
- Use the withdrawal calculation modification proposal as previously described.

Retroactive/Prospective: This proposal would need to be made retroactive to all MFL landowners in order to create efficiencies in MFL administration.

Analysis:

POTENTIAL ADVANTAGES / DISADVANTAGES

ADVANTAGES	DISADVANTAGES
1. Saves administrative time for DNR in not having to estimate the 5% on all of the withdrawals or obtaining new forest reconnaissance on those withdrawals where the comparison is close.	1. Ends up with a possible reduction in payments to local municipalities and counties for a few withdrawals.
2. Removes the time spent explaining the situations in which the 5% calculation is used.	2.
3. Eliminates the need to obtain a court appointed forester if landowner disagrees with the 5% estimate, saving MFL administrative time and costs.	3.

FISCAL ANALYSIS

The proposal could result in reduced payments to local municipalities, and save time and costs for DNR in determining which of the two withdrawal tax calculations results in a higher payment.

CRITERIA EVALUATION

Reduce WDNR administration cost, conflict, and/or law complexity	Maintain public, non-MFL stakeholder understanding and support	Maintain municipality and local government support	Support core MFL purpose of sound forest management and commercial timber production (as ref Wis. Stat. § 77.80)	Encourage continued program enrollment and discourage non re-enrollment	Address concerns of MFL forest owner stakeholder groups	Address concerns of forest industry stakeholder groups
+	Ø	Ø	Ø	Ø	Ø	Ø

Favorably meets criteria = "+", Does not meet criteria = "-", Neither favorable nor unfavorable = "Ø"

Eligibility

Proposed Revision: Allow small acreage withdrawals without full description withdrawal

Consideration ID: W1

Council Member "Top 5" Count: 5

DNR Admin. Clean-up: ☐

Current Situation: Landowners are allowed to withdraw lands from MFL if they are (1) an entire parcel of MFL lands (which is not necessarily the same as a tax parcel), (2) all MFL lands within a quarter-quarter section, or (3) all MFL lands within a government lot or fractional lot. Lands that are transferred must meet MFL eligibility requirements. Lands that are transferred that do not meet these criteria need to be withdrawn from MFL. Most MFL withdrawals are due to splits in ownership and purchasing lands that are less than 10 acres.

Proposed Modifications:

- Allow landowners to withdraw small acreage to be used for building site or land sale without impacting remaining MFL lands eligibility provided remainder meets minimum acreage eligibility.
- Limit the number of times a small acreage can be withdrawn during an order period (in part to prevent withdrawal as subdivision developments) to a maximum of 2 withdrawals for lands under a 25 year MFL order and 4 withdrawals for lands under a 50 year MFL order.
- Landowner would pay normal withdrawal tax, as proposed in the "*Reduce/restructure withdrawal taxes and fees*" modification but only on acres removed.
- Allowed withdrawals would be in whole withdrawal acres and limited in size to 1.0 to 5.0 acres and meet minimum zoning requirements.

Retroactive/Prospective: In effect for all present and future MFL entries.

Analysis:

POTENTIAL ADVANTAGES / DISADVANTAGES

ADVANTAGES	DISADVANTAGES
1. Withdrawal taxes would be calculated only on lands that are withdrawn.	1. DNR would need to create a tracking system to know when a landowner has reached the maximum number of times in which small acreages have been withdrawn. DNR administration cost will increase with this tracking system.
2. More lands remain in MFL and under an MFL management plan.	2. Additional MFL Correction Orders would be developed to correctly show lands enrolled in MFL after a partial withdrawal has occurred.
3. This amendment would balance the proposed amendment to not allow improvements on MFL lands.	3. May increase parcelization.
4. Provides more flexible future property management.	4.

FISCAL ANALYSIS

DNR would incur one-time costs of (1) developing a withdrawal tracking system, (2) developing administrative codes to identify withdrawal criteria. Additional costs would be incurred annually when DNR Foresters re-develop MFL maps and Forest Tax Program Specialists process MFL Correction Orders to show lands enrolled in the MFL program.

Proposed Revision: Allow small acreage withdrawals without full description withdrawal (continued)

CRITERIA EVALUATION

Reduce WDNR administration cost, conflict, and/or law complexity	Maintain public, non-MFL stakeholder understanding and support	Maintain municipality and local government support	Support core MFL purpose of sound forest management and commercial timber production (as ref Wis. Stat. § 77.80)	Encourage continued program enrollment and discourage non re-enrollment	Address concerns of MFL forest owner stakeholder groups	Address concerns of forest industry stakeholder groups
∅	∅	∅	+	+	+	∅

Favorably meets criteria = “+”, Does not meet criteria = “-”, Neither favorable nor unfavorable = “∅”

Proposed Revision: Allow lands to remain in MFL or allow exempt withdrawal if natural events cause lands to no longer meet productivity requirements

Consideration ID: R2a
 Council Member “Top 5” Count: 6
 DNR Admin. Clean-up: □

Current Situation: MFL lands must meet eligibility requirements for initial enrollment and continued eligibility, including (1) 10 or more acres, (2) at least 80% productive forest, (3) no more than 20% unsuitable/unproductive forest, (4) not developed for commercial recreation, industry, trade, or other land use incompatible with the practice of forestry, (5) not developed as a human residence. Lands that do not meet these criteria must be withdrawn from the MFL program. The number of withdrawals due to lands not meeting productivity requirements after natural events is low, however it is expected that the number may increase as a result of such invasive species as the Emerald Ash Borer.

Proposed Modifications:

- Establish the ability for lands to exceed the non-productive level for a designated amount of time to provide for restoration of forest productivity levels, and/or allow exempt withdrawal if reason for the lands exceeding non-productivity levels is due to a natural event (flooding, insect, disease, etc., to be further defined by DNR in administrative code).
- At the end of enrollment period (25 or 50 years) any lands not meeting productivity requirements would not be allowed to be re-enrolled.
- Administrative code could identify when MFL lands would be required to be brought back into compliance with MFL eligibility requirements.

Retroactive/Prospective: This will be retroactive for all existing and future entries.

Analysis:

POTENTIAL ADVANTAGES / DISADVANTAGES

ADVANTAGES	DISADVANTAGES
1. Allows landowners to remain under the MFL program if lands no longer meet enrollment criteria through natural events.	1. May appear to be inequitable, since lands that are not producing forest products may be allowed to remain in the MFL program.
2.	2. Lands not capable of generating timber and severance/yield tax are allowed to remain in the MFL and not on the ad valorem tax role.

FISCAL ANALYSIS

DNR would incur a one-time cost in developing administrative code that identifies the criteria when lands would need to be brought back into compliance with the original entry criteria. All other costs in processing would be incorporated into the existing MFL administration costs.

CRITERIA EVALUATION

Reduce WDNR administration cost, conflict, and/or law complexity	Maintain public, non-MFL stakeholder understanding and support	Maintain municipality and local government support	Support core MFL purpose of sound forest management and commercial timber production (as ref Wis. Stat. § 77.80)	Encourage continued program enrollment and discourage non re-enrollment	Address concerns of MFL forest owner stakeholder groups	Address concerns of forest industry stakeholder groups
∅	-	∅	∅	+	+	+

Favorably meets criteria = “+”, Does not meet criteria = “-”, Neither favorable nor unfavorable = “∅”

Proposed Revision: Allow lands to remain in MFL or allow exempt withdrawal if splits in ownership cause lands to no longer meet productivity requirements

Consideration ID: R2a
 Council Member "Top 5" Count: 6
 DNR Admin. Clean-up: ☐

Current Situation: MFL lands must meet eligibility requirements for initial enrollment and continued eligibility, including (1) 10 or more acres, (2) at least 80% productive forest, (3) no more than 20% unsuitable/unproductive forest, (4) not developed for commercial recreation, industry, trade, or other land use incompatible with the practice of forestry, (5) not developed as a human residence. Lands that do not meet these criteria must be withdrawn from the MFL program. Lands that were enrolled as larger ownerships with orders that met productivity requirements at the time of entry occasionally no longer qualify after a land transfer and MFL order division.

Proposed Modifications:

- Eliminate the provisions that require that transferred (sold and still under MFL) lands must meet the 80/20 productivity eligibility requirements, or modify, to allow exempt withdrawal.
- Eliminate the provisions that require remaining MFL lands after a transfer must meet the 80/20 productivity eligibility requirements, or modify, to allow exempt withdrawal.
- At the end of enrollment period (25 or 50 years) any lands not meeting productivity requirements would not be allowed to be re-enrolled.
- Administrative code could identify when MFL lands would be required to be brought back into compliance with MFL eligibility requirements.

Retroactive/Prospective: This will be retroactive for all existing and future entries.

Analysis:

POTENTIAL ADVANTAGES / DISADVANTAGES

ADVANTAGES	DISADVANTAGES
1. Allows landowners to remain under the MFL program if lands no longer meet enrollment criteria after transfer (land sale).	1. Removes the ability of local municipalities to receive withdrawal tax payments or to place lands on the regular property tax rolls sooner than the expiration of the MFL term.
2. Does not penalize new landowners acquiring portions of existing MFL lands (orders or full legal descriptions) that are no longer eligible due solely to reconfiguration.	2. May appear to be inequitable, since lands that are not producing forest products may be allowed to remain in the MFL program.
3. Does not penalize or restrict current MFL land owners desiring to sell portions of their ownership if the balance retained is no longer eligible.	3. The risk of remaining MFL lands not meeting eligibility after a land sale may be limiting parcelization, i.e., fragmentation may increase.
4. Likely keeps some productive forest land in the MFL which otherwise would be immediately withdrawn.	4.

FISCAL ANALYSIS

DNR would incur a one-time cost in developing administrative processes to address the modification. All other costs would be incorporated into the existing MFL administration costs.

Proposed Revision: Allow lands to remain in MFL or allow exempt withdrawal if *splits in ownership* cause lands to no longer meet productivity requirements
(continued)

CRITERIA EVALUATION

Reduce WDNR administration cost, conflict, and/or law complexity	Maintain public, non-MFL stakeholder understanding and support	Maintain municipality and local government support	Support core MFL purpose of sound forest management and commercial timber production (as ref Wis. Stat. § 77.80)	Encourage continued program enrollment and discourage non re-enrollment	Address concerns of MFL forest owner stakeholder groups	Address concerns of forest industry stakeholder groups
+	-	-	Ø	+	+	Ø

Favorably meets criteria = “+”, Does not meet criteria = “-”, Neither favorable nor unfavorable = “Ø”

Proposed Revision: Increase minimum acreage entry size allowed

Consideration ID: E1
 Council Member “Top 5” Count: 4
 DNR Admin. Clean-up: □

Current Situation: The minimum acreage of lands that can be enrolled into MFL is 10 contiguous acres. Of these 10 acres, 80% of the lands must meet productivity requirements, and no more than 20% of the lands can be unsuitable for producing timber products. None of the lands can be developed for commercial recreation, industry, trade or a human residence. The minimum size of 10 acres was originally chosen since the expired Woodland Tax Law (WTL) had a 10 acre minimum.

Proposed Modifications: Increase the minimum size requirements for new MFL entry or parcel size to 15 acres, and maintain the 10 acre minimum continued eligibility requirement.

Retroactive/Prospective: The proposal should affect new entries and re-enrollments only. Through expirations, most lands that are less than 20 acres will have expired in 25 years.

Analysis:

POTENTIAL ADVANTAGES / DISADVANTAGES

ADVANTAGES	DISADVANTAGES
1. Focus forest management activities on land ownerships in which harvesting is likely to be successful.	1. Individual forest parcels (not tax parcels) that are 10 acres in size may no longer be eligible for entry, even if they are a part of a larger land ownership and separated by a non-forestry use. An example would be 10 acres of forest separated from a 20 acre forest by agricultural land.
2. Increases the success with establishing timber sales and other mandatory practices.	2. Eliminates forest management incentive on small woodlots.
3. Encourage landowners to transfer larger ownerships to maintain continued eligibility.	3.
4. 15 acre limit (as opposed to a 20 acre limit) allows entry of ½ of “40”- acre legal descriptions that are < 40.0 acres.	4.

FISCAL ANALYSIS

This proposal would reduce MFL administrative cost to track small acreage plans and timber market opportunities. Certified plan writers (CPWs) would have fewer MFL applications to develop.

CRITERIA EVALUATION

Reduce WDNR administration cost, conflict, and/or law complexity	Maintain public, non-MFL stakeholder understanding and support	Maintain municipality and local government support	Support core MFL purpose of sound forest management and commercial timber production (as ref Wis. Stat. § 77.80)	Encourage continued program enrollment and discourage non re-enrollment	Address concerns of MFL forest owner stakeholder groups	Address concerns of forest industry stakeholder groups
+	Ø	+	+	-	-	+

Favorably meets criteria = “+”, Does not meet criteria = “-”, Neither favorable nor unfavorable = “Ø”

Proposed Revision: Allow additions to existing MFL entries regardless of entry year

Consideration ID: R1
 Council Member “Top 5” Count: 3
 DNR Admin. Clean-up:

Current Situation: Landowners who enrolled lands in MFL in 2004 and earlier are unable to add lands to these MFL Orders. The legislature addressed the inability to add lands to a 2004 or earlier MFL Order by creating the ability to withdraw the 2004 and earlier entry, and re-enroll those same acres with the additional acreage to be added under a 2005 and later MFL entry. A withdrawal tax is not issued in these situations. Landowners are taxed using the 2005 and later formulas. A new 25 or 50 year term would be in effect. Withdrawal taxes include the time the lands were enrolled in the 2004 and earlier order until the time that original MFL Order would normally have expired. DNR is required to track past withdrawals and re-designations.

Proposed Modifications:

- Eliminate the references to the 2005 change in the MFL program when the change in tax calculation formula became effective.
- Eliminate the requirements that after April 28, 2004 lands that meet eligibility requirements must be enrolled as new entries. Any additions to an existing entry would expire the same year as the original order. Eliminate the withdrawal and re-designation application process.
- Acreage added to an existing MFL entry is taxed at same rate as the initial acreage and treated the same for withdrawal fee calculations.
- Additions must be contiguous.

Retroactive/Prospective: Changes in accepting applications would need to be made **prospective**, since landowners who had already enrolled additional lands under the withdrawal and re-designation process are already in the MFL program. Changes in how to process withdrawal taxes would be made **retroactive** to reduce the tracking of Withdrawals and Re-designation MFL Orders, and the additional withdrawal tax calculations needed if lands are withdrawn early from the MFL program.

Analysis:

POTENTIAL ADVANTAGES / DISADVANTAGES

ADVANTAGES	DISADVANTAGES
1. Makes it easier for landowners to add lands to older MFL entries.	1. Prevents local municipalities from collecting larger acreage share taxes.
2. Opportunity to enter more acreage under a lower rate structure.	2.

FISCAL ANALYSIS

The number of additions to 2004 and earlier orders has historically been low. The future number possible with this proposed change is unknown but may be greater than past history due to more favorable circumstances for the landowner.

CRITERIA EVALUATION

Reduce WDNR administration cost, conflict, and/or law complexity	Maintain public, non-MFL stakeholder understanding and support	Maintain municipality and local government support	Support core MFL purpose of sound forest management and commercial timber production (as ref Wis. Stat. § 77.80)	Encourage continued program enrollment and discourage non re-enrollment	Address concerns of MFL forest owner stakeholder groups	Address concerns of forest industry stakeholder groups
+	Ø	Ø	+	+	+	Ø

Favorably meets criteria = “+”, Does not meet criteria = “-”, Neither favorable nor unfavorable = “Ø”

Proposed Revision: Eliminate lands with improvements with assessed values.

Except those improvements for land management purposes (culverts, fences, bridges, roads)

Consideration ID: S4
Council Member "Top 5" Count: 5
DNR Admin. Clean-up:

Current Situation: Landowners may enroll lands with buildings that are used for working or recreating on the MFL property. Buildings are taxed as personal property. DNR withdraws lands from MFL if personal property taxes become delinquent. Buildings used for a human residence must not exceed 4 of the 8 building characteristics as outline in NR 46, Wis. Admin. Code, except that buildings that were created prior to 2004, when DNR announced in the Forest Tax and Stewardship Newsletter that landowner who were enrolled in MFL prior to the 1997 statute change and who had not already built a human residence needed to abide by the NR 46 building requirements. DNR and town assessors spend a lot of time helping landowners evaluate building characteristics and criteria. Buildings that have already been built on MFL lands that exceed the NR 46 building requirements have been allowed to remain in the MFL program until expiration. Many cabins are upgraded or homes built new to allow for human residences and habitation. This provision has the appearance of not being compatible with the practice of forestry, making it difficult for the public to support the provision of buildings on MFL lands. Buildings that meet the building criteria and are landscaped also provide difficulties in determining if MFL lands with buildings can remain in the MFL program. Landowners who enrolled in MFL prior to the 1997 statute change view the change as an infringement on the rights that were in existence at the time they enrolled in the MFL program.

Proposed Modifications:

- Change statutory provisions to eliminate entry of lands with improvements.
- Eliminate references to the building requirements. Will need to keep this provision for those MFL entries that are already enrolled and will be grandfathered up to a specific date identified in the statute.
- 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.

Retroactive/Prospective: This would be in effect for all new entries.

Analysis:

POTENTIAL ADVANTAGES / DISADVANTAGES

ADVANTAGES	DISADVANTAGES
1. Makes it clear that buildings with assessed values must remain on the regular property tax rolls.	1. Lands with existing buildings would remain until the lands expire, so questions about buildings will not end until the last MFL with a building expires.
2. With time, the number of questions regarding buildings will decrease.	2. Will result in acreage around storage buildings not being eligible for MFL.
3. Town assessors will be able to tax lands with buildings as residential or other land classifications that best describe the building area.	3. Small acreage left out of MFL entries will be taxed at small parcel ad valorem rates.
4. Local municipalities will be able to collect delinquent taxes on buildings easier than through the personal property tax process.	4.

FISCAL ANALYSIS

MFL administration costs will decrease due to the reduced time in explaining building characteristics and landscaping issues. Time and cost savings will not be immediate, however.

Proposed Revision: Eliminate lands with improvements with assessed values (continued)

CRITERIA EVALUATION

Reduce WDNR administration cost, conflict, and/or law complexity	Maintain public, non-MFL stakeholder understanding and support	Maintain municipality and local government support	Support core MFL purpose of sound forest management and commercial timber production (as ref Wis. Stat. § 77.80)	Encourage continued program enrollment and discourage non re-enrollment	Address concerns of MFL forest owner stakeholder groups	Address concerns of forest industry stakeholder groups
+	+	+	+	-	-	Ø

Favorably meets criteria = “+”, Does not meet criteria = “-”, Neither favorable nor unfavorable = “Ø”

Management and Management Plans

Proposed Revision: Shift the contents of s. NR 46.18 (4), Wis. Adm. Code (large owners), to the managed forest land subchapter of Ch. 77, Stats.

Consideration ID: N2a
 Council Member "Top 5" Count: 5
 DNR Admin. Clean-up: ☐

Current Situation: DNR allows landowners who meet the criteria of a large landowner to keep their management plan and forest reconnaissance data for their properties in their own ownership or office, and to provide DNR with a commitment to follow their management plan. DNR has the authority to audit the large landowner's management plan and recon data. DNR has given consideration to large landowners in the management of their properties in that a large landowner, do not have to have a site specific management plan, but a general plan on the management of their properties. Large landowners have a forester on staff or retained, have recon data of their property and management criteria on when to harvest and update forest reconnaissance data. DNR may audit management plans and systems to determine continued eligibility under the MFL program.

Proposed Modifications: Copy the wording for large ownership requirements from NR 46, Wis. Admin. Code and place it into ch. 77, Wis. Stats. While the proposed change has little effect on large or small landowners, moving the NR 46 wording into statutes allowed for the statute to reflect different changes for large landowners. (See next page for the specific text of NR 46.18 (4).)

Retroactive/Prospective: This proposal has no effect to large or small landowners, either retroactively or prospectively.

Analysis:

POTENTIAL ADVANTAGES / DISADVANTAGES

ADVANTAGES	DISADVANTAGES
1. Allows MFL statutes to address concerns and issues related to large land ownership.	1.

FISCAL ANALYSIS

No fiscal impact to the administration of the MFL program.

CRITERIA EVALUATION

Reduce WDNR administration cost, conflict, and/or law complexity	Maintain public, non-MFL stakeholder understanding and support	Maintain municipality and local government support	Support core MFL purpose of sound forest management and commercial timber production (as ref Wis. Stat. § 77.80)	Encourage continued program enrollment and discourage non re-enrollment	Address concerns of MFL forest owner stakeholder groups	Address concerns of forest industry stakeholder groups
∅	∅	∅	+	∅	∅	∅

Favorably meets criteria = "+", Does not meet criteria = "-", Neither favorable nor unfavorable = "∅"

Proposed Revision: Shift the contents of s. NR 46.18 (4), Wis. Adm. Code, to the managed forest land subchapter of Ch. 77, Stats. (continued)

(4) LARGE OWNERSHIPS.

- (a) The requirements of this section for management plans may be modified by the department for ownerships exceeding 1,000 acres after consideration of the following:
1. Other land of the owner entered as managed forest land, forest crop land or other forest tax law programs administered by the department.
 2. The number of counties in which lands proposed for entry or renewal or the owner's existing managed forest land and forest crop land and woodland tax law lands lie.
 3. The existence and availability for review of a management plan prepared by or for the owner and acceptable to the department.
 4. Submission of a written commitment from an owner to provide, upon department request, information from the management plan for review or audit. The commitment shall describe the management plan and outline the procedure used to update and amend the management plan.
 5. An owner's demonstrated consistent accessibility to competent technical forest management assistance through staff or consultant services.
- (b) A management plan under s. 77.82 (3), Stats., shall be developed by owners who no longer qualify as a large ownership in sub. (4) (a). All items listed in s. NR 46.16 (2) (f), (g), and (h) must be submitted to the department for approval within one year after being notified by the department of no longer meeting the requirements in sub. (4) (a).

Proposed Revision: Require modified management plans for DNR designated large ownerships to include the establishment of allowable harvest calculations. This would not apply to lands that are third party certified or to lands under a working forest conservation easement.

Consideration ID: N2c
 Council Member “Top 5” Count: 5
 DNR Admin. Clean-up: ☐

Current Situation: Landowners who qualify as a large landowner are expected to follow their own management plans. DNR can audit those plans and other program criteria to ensure that lands continue to meet the conditions of the MFL program. Harvesting occurs according to the large landowner’s management plan.

Proposed Modifications: Require that an allowable harvest be established. This modification would need to provide for the multiple accepted approaches to calculating allowable harvests and allow harvest levels that can vary to some definable degree over time. The allowable harvest would need to be approved by DNR to ensure compliance with any statutory requirements. Administrative code would need to be developed to identify how and what is required in the allowable harvest analysis. Large ownership category landowners that are under a recognized third party forest certification or are under a working forest conservation easement would be excluded from this calculation.

Retroactive/Prospective: This provision would be retroactive.

Analysis:

POTENTIAL ADVANTAGES / DISADVANTAGES

ADVANTAGES	DISADVANTAGES
1. Prevents landowners from choosing to be inactive and meets the intent of the MFL to provide forest products to market.	1. Increases administrative cost of MFL program as DNR Foresters ensure that large landowners are meeting the conditions of the MFL provision.
2. May encourage large landowners to obtain third party certification.	2. Large landowners may lose some ability to time harvest and manage their asset in financially prudent manner.
3. May provide information on expected harvest volumes from large landowners.	3. Difficult to standardize one method for allowable harvest calculations.
4.	4. Requires DNR to track which large landowners are third party certified and/or under CEs.

FISCAL ANALYSIS

Increases in MFL administrative costs would include (1) one-time costs to establish criteria for developing an allowable harvest, contacting large landowners about the new program provisions and approving the allowable harvest criteria to ensure compliance with the MFL provisions, and (2) annual costs to ensure that large landowners continue to meet program requirements.

CRITERIA EVALUATION

Reduce WDNR administration cost, conflict, and/or law complexity	Maintain public, non-MFL stakeholder understanding and support	Maintain municipality and local government support	Support core MFL purpose of sound forest management and commercial timber production (as ref Wis. Stat. § 77.80)	Encourage continued program enrollment and discourage non re-enrollment	Address concerns of MFL forest owner stakeholder groups	Address concerns of forest industry stakeholder groups
-	Ø	+	+	-	-	+

Favorably meets criteria = “+”, Does not meet criteria = “-”, Neither favorable nor unfavorable = “Ø”

Proposed Revision: Allow for electronic signature/approval by DNR and the landowners on revised management plan documents for existing participants.

Consideration ID: E4
 Council Member "Top 5" Count: 5
 DNR Admin. Clean-up:

Current Situation: In the past management plans were hand written and required the signature of both the landowner and the DNR Forester. The signatures on the management plan acknowledged that both the landowner and DNR Foresters agreed with the proposed forest management prescriptions. Changes have occurred with the development of the WisFIRS computer generated management plan. At time of entry into the law, landowners submit their proposed management plan to DNR for approval as an attachment to their MFL application. The landowner signature is on the MFL application. When DNR approves the application the management plan is also approved by default. DNR approves the management plan as part of the process of approving the application. If the management plans is not acceptable the entire MFL application is not approved.

DNR encourages all management decisions to address current stand conditions, current science, current landowner goals and new MFL program requirements when implementing scheduled management activities. This requirement allows sound forestry to be practiced on all MFL lands, regardless of the specific wording of the management plan. DNR Foresters are required to adjust management plans based on new landowner goals, current forest conditions and current science, and program requirements.

Updates to management plans will be easier to do and facilitated with the WisFIRS automated computer system. As management practices are completed, new forest reconnaissance data is collected and any needed upcoming practices are entered into WisFIRS and a new plan will be printed for the landowner. In the past, some DNR Foresters have not wanted to update management plans since the process to obtain the landowners signature can be very time consuming.

Proposed Modifications: Allow landowners and the department to obtain landowner approval and acknowledgment of a revised management plan by electronic means using e-mail or other electronic formats.

Retroactive/Prospective: Updated management plans that are being written through WisFIRS currently do not have a space for landowner or DNR signature. The signatures are a part of the application process for new enrollees into the law. Updated management plans will need to be developed with a method to allow for electronic acknowledgment of the revised plan. This change will be for updates to existing plans and used moving forward.

Analysis:

POTENTIAL ADVANTAGES / DISADVANTAGES

ADVANTAGES	DISADVANTAGES
1. Removing hand written signature requirement allows for more current management plans developed through WisFIRS (computer system) or some other electronic format.	1. May be difficult for some landowner's who are not computer literate.
2. Allows both landowners and foresters to be informed of management practices.	2. May require the Department to take enforcement action against a very few landowners who refuse to acknowledge a revised plan. Will take additional follow up time if the landowner does not respond to repeated request to discuss the revised plan.

FISCAL ANALYSIS

The provision has a small impact on fiscal resources, since the management plan document in WisFIRS will need to be modified to include signature boxes or some other means to acknowledge agreement with the updated plan. Some additional staff time may be needed to follow up with landowners who fail to respond to requests.

Proposed Revision: Allow for electronic signature/approval by DNR and the landowners on revised management plan documents for existing participants. (continued)

CRITERIA EVALUATION

Reduce WDNR administration cost, conflict, and/or law complexity	Maintain public, non-MFL stakeholder understanding and support	Maintain municipality and local government support	Support core MFL purpose of sound forest management and commercial timber production (as ref Wis. Stat. § 77.80)	Encourage continued program enrollment and discourage non re-enrollment	Address concerns of MFL forest owner stakeholder groups	Address concerns of forest industry stakeholder groups
+	Ø	Ø	+	+	+	Ø

Favorably meets criteria = “+”, Does not meet criteria = “-”, Neither favorable nor unfavorable = “Ø”

Proposed Revision: Eliminate the application referral process

Consideration ID: E3
Council Member "Top 5" Count: 8
DNR Admin. Clean-up:

Current Situation: DNR is required to have a referral system and a process to determine if services from a Certified Plan Writer (CPW) are not available. The process requires landowners to have submitted a written request for plan writing services through the Forestry Assistance Locator. If by January 1 in the year an MFL application is due, landowners who have not been contacted by a CPW may request the DNR to prepare the MFL application. Area Forestry Supervisors will then contact each CPW in the county in which the lands lie and verify that CPWs received the request and have either denied or not offered services. CPWs may make an offer at this time. If CPWs do not respond to the Area Forestry Supervisor or have replied that they are not interested in providing service, the Area Forestry Supervisor may assign the development of that MFL application to a DNR Forester. DNR is required to prepare MFL applications for landowners if services from a Certified Plan Writer (CPW) are not available. As of 2013, there are 178 CPWs statewide. DNR has not developed an MFL application for 2 years, with DNR developing an annual average of 1 to 2 MFL applications over the past 4 years previously. The CPW program continues to grow, making it less likely that landowners will be unable to find services from a CPW.

Proposed Modifications:

- 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.
- Eliminate the contracting of MFL applications by the Department.
- Elimination of the referral system would mean that DNR Foresters would not develop any new MFL applications or charge landowners for MFL applications that it develops. DNR would continue to collect fees charged by CPWs as a way to determine cost-share rates for plan development under the Wisconsin Forest Landowner Grant Program (WFLGP).

Retroactive/Prospective: This provision would be prospective only.

Analysis:

POTENTIAL ADVANTAGES / DISADVANTAGES

ADVANTAGES	DISADVANTAGES
1. Eliminates a process that is seldom used.	1. Prevents DNR from developing MFL application in the event the CPW program declines to the point that services are not available in each county.
2. Requires all landowners to hire CPWs for initial MFL application development.	2.

FISCAL ANALYSIS

Impacts to MFL administration are minimal. Through WisFIRS, DNR has already built a system to cost MFL development fees from CPWs. The cost of DNR determining whether services are not available or for initial plan writing services are small, since DNR has not developed MFL applications the past 2 years.

Proposed Revision: Eliminate the application referral process (continued)

CRITERIA EVALUATION

Reduce WDNR administration cost, conflict, and/or law complexity	Maintain public, non-MFL stakeholder understanding and support	Maintain municipality and local government support	Support core MFL purpose of sound forest management and commercial timber production (as ref Wis. Stat. § 77.80)	Encourage continued program enrollment and discourage non re-enrollment	Address concerns of MFL forest owner stakeholder groups	Address concerns of forest industry stakeholder groups
+	∅	∅	∅	∅	∅	∅

Favorably meets criteria = “+”, Does not meet criteria = “-”, Neither favorable nor unfavorable = “∅”

Proposed Revision: Revise the current application process for renewal of MFL lands.

Consideration ID: R3A
 Council Member “Top 5” Count: 3
 DNR Admin. Clean-up:

Current Situation: Landowners may re-enroll lands back into the MFL program at the expiration of their current 25 or 50 year term. Landowners are required to hire a Certified Plan Writer (CPW) to develop a new application, with the creation of a new management plan. Through statute, special notification provisions to municipalities and counties have been removed for a renewal, since these lands had been enrolled in the program previously. Since there are fewer statutory requirements for a renewal than a new entry, it is reasonable that DNR treat renewals differently than new entries. Landowners and foresters have noted that if forest reconnaissance and land management plans are up-to-date, and there are no changes in land ownership, location, acreage, land use, or otherwise, a renewal could be done easily without developing a new MFL plan and application.

Proposed Modifications: Renewals would eliminate the need for landowners to develop new management plans, and ultimately the review of those plans by DNR staff. DNR would deny a renewal only if (1) the lands fail to meet eligibility requirements, (2) the landowner has failed to comply with the management plan that is in effect on the date that the application for renewal is filed, (3) there are no delinquent taxes on the land, (4) ownership and entry acreage has not changed, and (5) all forested acreage must have an inspection/update date in WisFIRS within the last 5 years and be updated to reflect any recently completed management. If these conditions are met, DNR could issue an order of renewal. Tax rates would be based on the 2005, or later rate schedule.

Retroactive/Prospective: This provision would be prospective since landowners who have already re-enrolled lands back into the MFL program would not benefit from this modification.

Analysis:

POTENTIAL ADVANTAGES / DISADVANTAGES

ADVANTAGES	DISADVANTAGES
1. Landowners would find it easier to re-enroll lands into the MFL program if no changes would be made to the acreage enrolled and other provisions are met.	1. This provision could take work from the private sector (CPWs) for enrollment of entire new plans.
2. DNR would have better understanding of the number of MFL renewals.	2. DNR would need to develop criteria and a system to allow faster renewals of lands.
3. Forest reconnaissance and management plans would need to be kept up-to-date.	3. It is thought that a lot of forest reconnaissance and management plans are not currently up-to-date.

FISCAL ANALYSIS

DNR would incur one-time costs in developing the criteria for renewals and to develop this system in WisFIRS. If renewals are denied, DNR would need to send letter to landowners stating why the lands cannot be renewed and provide the landowner an opportunity to develop a new MFL application through a CPW. Depending upon the amount of renewals, the amount of work completed by CPWs may be reduced.

CRITERIA EVALUATION

Reduce WDNR administration cost, conflict, and/or law complexity	Maintain public, non-MFL stakeholder understanding and support	Maintain municipality and local government support	Support core MFL purpose of sound forest management and commercial timber production (as ref Wis. Stat. § 77.80)	Encourage continued program enrollment and discourage non re-enrollment	Address concerns of MFL forest owner stakeholder groups	Address concerns of forest industry stakeholder groups
Ø	Ø	Ø	Ø	+	+	Ø

Favorably meets criteria = “+”, Does not meet criteria = “-”, Neither favorable nor unfavorable = “Ø”

Leasing and Open/Closed

Proposed Revision: Allow small landowners to close lands regardless of acreage

(NOTE: Removing the 160 acre cap is provided as an alternative to limiting the ability of owners to close land using the collection of personal identification data. See Exhibit 2, Consideration ID O3.)

Consideration ID: O1a
 Council Member "Top 5" Count: 5
 DNR Admin. Clean-up: ☐

Current Situation: Landowners are allowed to close 160 acres of lands to public recreation, of which only 80 acres or two legal descriptions per municipality may be lands enrolled in 2004 or earlier. This acreage limitation encourages landowners to subdivide property into different ownerships in order to close as much land as possible. In some situations, lands are subdivided and land-locked properties are created, in which the land-locked properties are taxed as open to public recreation; however there is no legal entry into the lands, making it inaccessible to the public for recreational purposes. The additional number of owners in entities, such as LLCs, Trusts, Partnerships, etc. also increases the number of MFL applications. Landowners whose intent is to close as much land to public recreation as possible have many legal means to create different ownerships in order to close 160 acres per ownership per municipality. The ability to create different ownerships means that most of the lands enrolled by NIPF landowners are enrolled as closed to public recreation.

Proposed Modifications: Eliminate the closed acreage limitation. The provision to remove the closed acreage limitation would allow landowners the ability to close lands to public recreation without having to create LLCs, trusts, other non-natural entities, or combinations of natural persons.

Retroactive/Prospective: This provision would apply to landowners who are entering or renewing lands into MFL. Landowners who are already in the MFL program and subdivided properties in order to close the maximum amount of lands would not benefit from this modification.

Analysis:

POTENTIAL ADVANTAGES / DISADVANTAGES

ADVANTAGES	DISADVANTAGES
1. Would reduce a landowner's desire to subdivide properties and reduce the total number of MFL applications received.	1. Changes some of the intent of the MFL program to provide public access to private lands for recreational purposes. Has the potential appearance that a large public purpose of MFL is being removed.
2. Reduces the number of MFL applications, however the average acreage per application would increase.	2. Has the potential appearance that there are fewer MFL applications, regardless if the acreage per application increases. (Temporary anomaly in tracking.)
3. Reduces the amount of paperwork for landowners, DNR Foresters, CPWs and others.	3.
4. Allow for lands to remain in larger working forests for management purposes.	4.
5. Landowners who purchase large tracts of land would be able to close their entire ownership, potentially preventing a new owner from becoming ineligible to remain in the MFL program due to productivity concerns as they further subdivide their properties in order to close lands to public recreation.	5.
6. May limit fragmentation.	6.

Proposed Revision: Allow small landowners to close lands regardless of acreage (continued)

FISCAL ANALYSIS

There is little to no fiscal impact on MFL administration. The number of applications will decrease, allowing for fewer hours spent in reviewing ownership documents in MFL applications. Additional time will be spent in reviewing acreage, productivity and other conditions of each MFL application, however. The net result will be a slight reduction in reviewing of MFL applications statewide.

CRITERIA EVALUATION

Reduce WDNR administration cost, conflict, and/or law complexity	Maintain public, non-MFL stakeholder understanding and support	Maintain municipality and local government support	Support core MFL purpose of sound forest management and commercial timber production (as ref Wis. Stat. § 77.80)	Encourage continued program enrollment and discourage non re-enrollment	Address concerns of MFL forest owner stakeholder groups	Address concerns of forest industry stakeholder groups
+	-	Ø	Ø	+	+	Ø

Favorably meets criteria = “+”, Does not meet criteria = “-”, Neither favorable nor unfavorable = “Ø”

Proposed Revision: Require landowners to identify legal access to lands open to the public or deny the ability to enroll (or keep) MFL lands as open. Require all large ownerships to be open.

(Small landowners who cannot provide access to open lands would lose their open tax status and only be allowed as MFL-Closed.)

Consideration ID: O1b
 Council Member “Top 5” Count: 5
 DNR Admin. Clean-up: □

Current Situation: Landowners may close up to 160 acres of land to public recreation with the intent that the remaining lands are open to public recreation. Many landowners have learned to create multiple ownerships in order to close the maximum amount of lands to public recreation, however; some of these ownerships are developed so that lands that are open to public recreation are surrounded by other ownerships that are closed to public recreation, even though the same landowner or groups of landowners may have interests in both ownerships. This situation allows for lands open to public recreation to be land-locked, making it difficult for the public to realize the benefits of recreating on MFL – Open lands.

Proposed Modifications: Create a provision to require a landowner to identify legal access to lands open to public recreation or deny them the ability to enroll or maintain lands as “open”. (Landowners who cannot provide evidence of legal access to open lands would lose their open tax status and be required to pay the closed MFL acreage rate.) This would apply to any land-locked MFL legal description. MFL ownerships categorized by the DNR as large landowners would not be allowed to have lands enrolled under the “closed” category and would also not be required to identify access to interior parcels.

Retroactive/Prospective: Retroactive for existing landowners in the MFL program and prospective for new enrollments.

Analysis:

POTENTIAL ADVANTAGES / DISADVANTAGES

ADVANTAGES	DISADVANTAGES
1. Public support of the MFL program in that lands that are open to public recreation may actually be accessible by the public.	1. Require some form of communication indicating access routes.
2. Allows MFL landowners to understand the public access requirement of open lands.	2. Will impact existing naturally land locked parcels for some owners.

FISCAL ANALYSIS

DNR would incur one-time costs to notify landowners of the change, and to establish time periods for landowners to document access. Annually, DNR Foresters would need to evaluate access as transfers occur for both transferred lands and lands remaining after a transfer. Access routes, if applicable, may need to be documented on the Private Lands web mapping tool, which was released in 2012.

CRITERIA EVALUATION

Reduce WDNR administration cost, conflict, and/or law complexity	Maintain public, non-MFL stakeholder understanding and support	Maintain municipality and local government support	Support core MFL purpose of sound forest management and commercial timber production (as ref Wis. Stat. § 77.80)	Encourage continued program enrollment and discourage non re-enrollment	Address concerns of MFL forest owner stakeholder groups	Address concerns of forest industry stakeholder groups
-	+	+	Ø	-	-	Ø

Favorably meets criteria = “+”, Does not meet criteria = “-”, Neither favorable nor unfavorable = “Ø”

Proposed Revision: Repeal prohibition on recreational leasing for small landowners only

Consideration ID: L1
 Council Member “Top 5” Count: 3
 DNR Admin. Clean-up: □

Current Situation: MFL landowners are not allowed to receive consideration for recreation activities on MFL lands. Consideration can be in the form of cash, goods or services. Recreational users, including hunters, may give MFL landowners gifts as a thank you for recreating on private lands. The leasing prohibition was effective on January 1, 2008 and removed the incentive for landowners to subdivide the properties into 160 acre ownerships and close lands to public recreation. Many MFL landowners who leased lands for recreation lost income with the January 1, 2008 leasing prohibition. Between 1986 and 1992, leasing of MFL lands for recreation was not allowed since leases were determined to be akin to having commercial recreation. In 1992, a change in Wis. Admin. Code allowed lands to be leased since most leases did not affect the development of the lands, but lands were left in a natural state that would continue to be management for forestry purposes.

Proposed Modifications: Permit leasing including other agreements for consideration (reimbursement) that permit persons to engage in a recreational activity. This provision would reverse the 2008 legislation, allowing small landowners the ability to lease lands again. This reinstatement would exclude DNR designated large ownerships where leasing would not be allowed consistent with the previous revision requiring large block ownerships to be open only.

Retroactive/Prospective: This provision would be retroactive.

Analysis:

POTENTIAL ADVANTAGES / DISADVANTAGES

ADVANTAGES	DISADVANTAGES
1. Allows some landowners to lease MFL lands and generate income.	1. May encourage landowners to subdivide lands into smaller ownerships for the purpose of closing lands to public recreation.
2. Leasing allows landowners to control who uses their property.	2. Public perception as being contrary to MFL public use intent.
3. Leasing may benefit deer herd control in areas with excessive deer browse or crop damage by encouraging hunter-landowner relationships.	3.

FISCAL ANALYSIS

Fiscal impacts to this provision is minimal. DNR would likely send letters to landowners announcing a change in MFL statutes. DNR Foresters would no longer need to investigate leasing violations, thus reducing costs in enforcing the leasing prohibition.

CRITERIA EVALUATION

Reduce WDNR administration cost, conflict, and/or law complexity	Maintain public, non-MFL stakeholder understanding and support	Maintain municipality and local government support	Support core MFL purpose of sound forest management and commercial timber production (as ref Wis. Stat. § 77.80)	Encourage continued program enrollment and discourage non re-enrollment	Address concerns of MFL forest owner stakeholder groups	Address concerns of forest industry stakeholder groups
+	-	Ø	Ø	+	+	Ø

Favorably meets criteria = “+”, Does not meet criteria = “-”, Neither favorable nor unfavorable = “Ø”

DNR Oversight

***Proposed Revision:* Reduce DNR oversight in on-the-ground-management for certified large owners.**

Consideration ID: S5
 Council Member "Top 5" Count: 4
 DNR Admin. Clean-up: ☐

Current Situation: MFL landowners are required to submit a cutting notice at least 30 days prior to cutting. DNR Foresters review the cutting notice and approve or deny the cutting within 30 days. Review of the cutting notice may, and often does, include a site visit to the property.

Proposed Modifications: The intent of the this modification is to clarify recognition that DNR designated large landowners with professional forest management staff and that are third party certified are not required to have each and every harvest approved via the current cutting notice process. As presented here it is contingent on establishing a credible audit procedure to assure that management occurring on MFL lands meets the program intent of sound forest management as defined in Wis. Stat. § 77.80. This provision would need statutory authority.

Retroactive-/Prospective: This provision would be retroactive and affect all large landowners who are 3rd party certified.

Analysis:

POTENTIAL ADVANTAGES / DISADVANTAGES

ADVANTAGES	DISADVANTAGES
1. Reduce the amount of on the ground inspections by DNR staff before and during management activities.	1. DNR is required to develop a credible audit procedure.
2. Builds relationships between DNR and private sector large landowner foresters.	2.
3. Allows DNR Foresters to audit additional processes while ensuring that land management practices meet sound forestry principles and MFL program requirements.	3.

FISCAL ANALYSIS

This provision would decrease MFL administrative costs by eliminating individual harvest approval by the DNR for 3rd party certified lands and MFL cutting notices submitted by landowner foresters. Audits of 3rd party certified lands would reduce the amount of savings.

CRITERIA EVALUATION

Reduce WDNR administration cost, conflict, and/or law complexity	Maintain public, non-MFL stakeholder understanding and support	Maintain municipality and local government support	Support core MFL purpose of sound forest management and commercial timber production (as ref Wis. Stat. § 77.80)	Encourage continued program enrollment and discourage non re-enrollment	Address concerns of MFL forest owner stakeholder groups	Address concerns of forest industry stakeholder groups
∅	∅	∅	+	∅	+	+

Favorably meets criteria = "+", Does not meet criteria = "-", Neither favorable nor unfavorable = "∅"

Administration

Proposed Revision: Eliminate the study requirement for the MFL program after 5 years of its existence

Consideration ID: S3A
 Council Member “Top 5” Count: 7
 DNR Admin. Clean-up:

Current Situation: The requirement for a program review after 5 years of the MFL program has been completed.

Proposed Modifications: Eliminate the study requirement for the MFL program after 5 years of its existence. This provision cleans up wording that is no longer pertinent.

Retroactive/Prospective:

Analysis:

POTENTIAL ADVANTAGES / DISADVANTAGES

ADVANTAGES	DISADVANTAGES
1. MFL statutes will eliminate criteria that have been met and are no longer pertinent.	1. None.

FISCAL ANALYSIS

There are no fiscal impacts to this provision.

CRITERIA EVALUATION

Reduce WDNR administration cost, conflict, and/or law complexity	Maintain public, non-MFL stakeholder understanding and support	Maintain municipality and local government support	Support core MFL purpose of sound forest management and commercial timber production (as ref Wis. Stat. § 77.80)	Encourage continued program enrollment and discourage non re-enrollment	Address concerns of MFL forest owner stakeholder groups	Address concerns of forest industry stakeholder groups
+	∅	∅	∅	∅	∅	∅

Favorably meets criteria = “+”, Does not meet criteria = “-”, Neither favorable nor unfavorable = “∅”

Proposed Revision: 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 for FCL lands.

Consideration ID: S3B
 Council Member “Top 5” Count: 7
 DNR Admin. Clean-up:

Current Situation: DNR is required to report to the legislature the amount of lands that are withdrawn from MFL, Forest Crop Law (FCL) and Woodland Tax Law (WTL) as an exempt withdrawal if the number of withdrawals exceeds 1% of the total acreage of lands in the programs.

Proposed Modifications: This provision needs updating to reflect the ending of the WTL program and the beginning of the exempt withdrawal for tribal lands for lands owned by the tribes in FCL, similar to the Wis. Stat. s. 77.885 MFL provisions.

Retroactive/Prospective:

Analysis:

POTENTIAL ADVANTAGES / DISADVANTAGES

ADVANTAGES	DISADVANTAGES
1. Statute will reflects program provisions that are in existence.	1. None.

FISCAL ANALYSIS

None.

CRITERIA EVALUATION

Reduce WDNR administration cost, conflict, and/or law complexity	Maintain public, non-MFL stakeholder understanding and support	Maintain municipality and local government support	Support core MFL purpose of sound forest management and commercial timber production (as ref Wis. Stat. § 77.80)	Encourage continued program enrollment and discourage non re-enrollment	Address concerns of MFL forest owner stakeholder groups	Address concerns of forest industry stakeholder groups
+	∅	∅	∅	∅	∅	∅

Favorably meets criteria = “+”, Does not meet criteria = “-”, Neither favorable nor unfavorable = “∅”

Proposed Revision: Eliminate statutory provisions related to Woodland Tax Law

Consideration ID: S3C
 Council Member “Top 5” Count: 7
 DNR Admin. Clean-up:

Current Situation: The Woodland Tax Law (WTL) has expired, with the last WTLs expiring on December 31, 2001. Statutes continue to reference WTL and could be removed.

Proposed Modifications: Eliminate statutory provisions related to WTL.

Retroactive/Prospective:

Analysis:

POTENTIAL ADVANTAGES / DISADVANTAGES

ADVANTAGES	DISADVANTAGES
1. Statutes would eliminate wording related to WTL, which is a forestry program that is closed to new enrollments and in which the last WTLs expired on December 31, 2001.	1. None.

FISCAL ANALYSIS

None.

CRITERIA EVALUATION

Reduce WDNR administration cost, conflict, and/or law complexity	Maintain public, non-MFL stakeholder understanding and support	Maintain municipality and local government support	Support core MFL purpose of sound forest management and commercial timber production (as ref Wis. Stat. § 77.80)	Encourage continued program enrollment and discourage non re-enrollment	Address concerns of MFL forest owner stakeholder groups	Address concerns of forest industry stakeholder groups
+	Ø	Ø	Ø	Ø	Ø	Ø

Favorably meets criteria = “+”, Does not meet criteria = “-”, Neither favorable nor unfavorable = “Ø”

Proposed Revision: Eliminate the wording that directs the department to order the land withdrawn at the expiration of an MFL order period

Consideration ID: R3B
 Council Member "Top 5" Count: 3
 DNR Admin. Clean-up:

Current Situation: DNR notifies local municipalities of lands that have expired from the MFL program similar to the expiration notices in FCL. DNR has not issued Orders of Expiration, however; DNR notifies local municipalities of lands expiring from MFL, similar to FCL expirations. Municipalities are accustomed to receiving these types of notices from DNR, so keeping the notifications similar for both programs is important. This provision allows DNR to continue using current processes.

Proposed Modifications: DNR would be required to provide a list of lands expiring from the MFL program similar to the notification provided for the FCL program

Retroactive/Prospective: This provision would be prospective.

Analysis:

POTENTIAL ADVANTAGES / DISADVANTAGES

ADVANTAGES	DISADVANTAGES
1. Allows DNR to keep using existing processes.	1. None.
2. Allows DNR to not develop or record Orders of Expiration.	2.

FISCAL ANALYSIS

None. Allows DNR to continue using current processes.

CRITERIA EVALUATION

Reduce WDNR administration cost, conflict, and/or law complexity	Maintain public, non-MFL stakeholder understanding and support	Maintain municipality and local government support	Support core MFL purpose of sound forest management and commercial timber production (as ref Wis. Stat. § 77.80)	Encourage continued program enrollment and discourage non re-enrollment	Address concerns of MFL forest owner stakeholder groups	Address concerns of forest industry stakeholder groups
+	∅	∅	∅	∅	∅	∅

Favorably meets criteria = "+", Does not meet criteria = "-", Neither favorable nor unfavorable = "∅"

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SUMMARY

The Criteria Evaluation Summary on the following pages provides an overview of the MFL Committee's perception as to how well each of the issues and modifications fits the seven criteria identified in the scope, including considerations for what may be indicative of the level of public, municipal, and landowner support for each proposed modification. The summary table is meant to provide an overview of all modifications as one package. It is the committee's belief that as a package there is a good balance of favorable, and perhaps less favorable outcomes, across the various groups and that the modification outcomes adequately and reasonably address all seven criteria. Attempts to segregate out individual modifications or otherwise significantly alter the proposed modifications could upset this balance. The MFL Committee's process and the issues brought forth by the Department have been guided by the desire to focus on efforts to modernize and streamline the program, and maintain overall program viability.

For the DNR, this package significantly addresses the streamlining and efficiencies goals through numerous efforts, some of which can be highlighted as follows:

- ✓ The re-design of the withdrawal and yield tax calculations and collections procedures
- ✓ Modifications to disallow structures and allow small acreage withdrawals
- ✓ Continued emphasis on using WisFIRS (digital plan signatures approval etc.)
- ✓ Streamlining MFL renewal and application referral procedures
- ✓ Numerous small administrative and law modifications

There are also several modifications that should facilitate continued forest landowner interest and support for the MFL, some of which are as follows:

- ✓ The adjustments made to withdrawal fees and allowance for small acreage withdrawals
- ✓ Modifications to minimize the risk of forced withdrawal due to forest productivity standards
- ✓ The allowance for additions to existing neighboring MFL entries
- ✓ Altering the MFL renewal procedures to make it easier to re-enroll
- ✓ Reinstatement of leasing (for small landowners)
- ✓ Removal of the limit on acreage for closed lands
- ✓ Minimized individual harvest approval process (for large landowners)

From the public and local government perspective it is anticipated that the following proposed MFL modifications will yield continued support for the program:

- ✓ The requirement that open lands are truly open and accessible and that all large ownerships remain open to public recreational use
- ✓ The elimination of provisions to allow structures on new MFL lands
- ✓ Streamlined collection process for yield and withdrawal taxes which should connect tax monies with government more directly, and quicker, and allow collection of processing fees
- ✓ Modifications to withdrawal procedures and MFL minimum acreage eligibility which may place more lands on the regular tax role

The Managed Forest Law, with an origin dating back to 1985 has evolved over the years as necessitated to adjust to changes in a wide range of areas including, for example, increasing property tax rates, digital technologies, forest certification, and an ever increasing list of desired program objectives and outcomes. Along with this came an expansion of the number, and diversity of direct and indirect stakeholders. The MFL has thus evolved into a "one size fits all" application which has the potential of not being a perfect fit for any one stakeholder. Yet to be a viable program going forward, there needs to be an acceptance of this general fit and the willingness by many to support the MFL for all of its combined benefits.

CRITERIA EVALUATION SUMMARY

ISSUE	PAGE	Reduce WDNR administration cost, conflict, and/or law complexity	Maintain public, non MFL stakeholder, understanding & support	Maintain municipality and local government support	Support core MFL purpose of sound forest management and commercial timber production (as ref Wis. Stat. § 77.80)	Encourage continued program enrollment and discourage non re- enrollment	Address concerns of MFL forest owner stakeholder groups	Address concerns of industry stakeholder groups
Change in rate for open/closed acreage (presented for a lowered closed rate)	5	∅	-	∅	+	+	+	∅
Reduce/restructure withdrawal taxes and fees	7	+	∅	-	∅	+	+	∅
Change the procedure for collection and payments to municipalities of MFL yield and withdrawal taxes	9	+	∅	+	∅	∅	∅	∅
Eliminate the 5% yield tax comparison requirement for determining withdrawal taxes	11	+	∅	∅	∅	∅	∅	∅
Allow small acreage withdrawals without full description withdrawal	12	∅	∅	∅	+	+	+	∅
Allow lands to remain in MFL, or allow exempt withdrawal if natural events cause lands to no longer meet productivity requirements	14	∅	-	∅	∅	+	+	+
Allow lands to remain in MFL, or allow exempt withdrawal if splits in ownership cause lands to no longer meet productivity requirements	15	+	-	-	∅	+	+	∅
Increase minimum acreage entry size allowed	17	+	∅	+	+	-	-	+
Allow additions to existing MFL entries regardless of entry year	18	+	∅	∅	+	+	+	∅
Eliminate lands with improvements with assessed values	19	+	+	+	+	-	-	∅
Shift the contents of s. NR 46.18 (4), Wis. Adm. Code, to the managed forest land subchapter of Ch. 77, Stats	21	∅	∅	∅	+	∅	∅	∅

CRITERIA EVALUATION SUMMARY

ISSUE	PAGE	Reduce WDNR administration cost, conflict, and/or law complexity	Maintain public, non MFL stakeholder, understanding & support	Maintain municipality and local government support	Support core MFL purpose of sound forest management and commercial timber production (as ref Wis. Stat. § 77.80)	Encourage continued program enrollment and discourage non re-enrollment	Address concerns of MFL forest owner stakeholder groups	Address concerns of industry stakeholder groups
Require modified management plans for ownerships that exceed 1,000 acres (large owners) to include the establishment of allowable harvest calculations	23	-	Ø	+	+	-	-	+
Allow for electronic signature/approval by DNR and the landowners on revised management plan documents for existing participants	24	+	Ø	Ø	+	+	+	Ø
Eliminate the application referral process	26	+	Ø	Ø	Ø	Ø	Ø	Ø
Create a new or revise the current application for renewal of MFL lands	28	Ø	Ø	Ø	Ø	+	+	Ø
Allow landowners to open or close lands regardless of acreage	29	+	-	Ø	Ø	+	+	Ø
Create a provision to require landowners to identify legal access to lands open to public recreation or deny them the ability to enroll lands as open	31	-	+	+	Ø	-	-	Ø
Repeal prohibition on recreational leasing	32	+	-	Ø	Ø	+	+	Ø
Reduce DNR oversight intensity in on-the-ground-management	33	Ø	Ø	Ø	+	Ø	+	+
Eliminate the study requirements for the MFL program after 5 years of existence	34	+	Ø	Ø	Ø	Ø	Ø	Ø
Update the provision for the DNR to report to the legislature on the number of exempt withdrawals	35	+	Ø	Ø	Ø	Ø	Ø	Ø
Eliminate statutory provisions related to WTL	36	+	Ø	Ø	Ø	Ø	Ø	Ø
Eliminate the wording that directs the department to order land withdrawn at expiration of MFL	37	+	Ø	Ø	Ø	Ø	Ø	Ø

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EXHIBITS

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Exhibit 1 - Initial Issues for Consideration and CoF Ranking

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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.

	Proposed Change	Origin	Key Components
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.

	Proposed Change	Origin	Key Components
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.

	Proposed Change	Origin	Key Components
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"> ○ acreage share applicable to MFL orders that take effect on or after April 28, 2004. ○ The 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.

	Proposed Change	Origin	Key Components
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.

	Proposed Change	Origin	Key Components
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.

Council Ranking Summary

ID	Proposed Change	Top "5" Count		Document Group
		General Issues	DNR Admin Issue	
T.2	Change in rate for open/closed acreage	7		Tax Rates/Fee Structures
R.2	Allow lands to remain in MFL if natural events or splits in ownership cause lands to no longer meet productivity requirements.	6		Eligibility (R2a, R2b)
N.2	Managed forest land management plans and timber harvests	5		Management and Mangement Plans (N2a, N2b, N2c, N2d)
O.1	Eliminate the closed acreage maximum and ensure that open lands can legally be accessed by the public	5		Leasing and Open/Closed (O1a, O1b)
S.4	Eliminate lands with improvements with assessed values except those improvements for land management purposes (culverts, fences, bridges)	5	1	Eligibility
W.1	Allow small acreage withdrawals without full description withdrawal	5		Tax Rates/Fee Structures
E.1	Increase minimum acreage entry size allowed	4		Eligibility
S.5	Reduce DNR oversight intensity in on-the-ground-management through use of third-party certification and forester qualifications (Cooperating Forester e.g.)	4		DNR Oversight
L.1	Repeal prohibition on recreational leasing	3		Leasing and Open/Closed
N.1	Designation of Forest Enterprise Areas	3		Management and Mangement Plans
O.3	Limit the ability of MFL landowners or MFL applicants to close lands to the public.	3		Leasing and Open/Closed
R.3	Determine a different process and criteria for MFL renewals.	3	2	R3a - Management and Management Plans R3b - Administration
W.5	Reduce/restructure withdrawal taxes and fees	3		Tax Rates/Fee Structures
M.1	Change MFL "Agreement" to a "Contract"	2		Not addressed
R.1	Allow additions to existing MFL entries regardless of entry year.	2	3	Eligibility
S.1	Allow large ownerships that are 3rd party certified to be managed under the MFL with less DNR oversight, & with periodic State audits	2		Not addressed
W.2	Allow lands to be withdrawn from MFL in any configuration if land is sold and remaining pieces meet eligibility requirements	2	1	Not addressed
E.3	Eliminate the application referral process	1	8	Management and Mangement Plans
M.2	Formally recognize economics in on-the-ground-management/silviculture	1		Not addressed
T.1	Change calculation for closed land acreage share and the distribution of the money collected	1		Not addressed
T.4	Increase acreage share tax and eliminate yield tax payments	1		Not addressed
W.4	Eliminate the need for an MOU with tribes who withdraw lands from MFL when entering trust status	1	4	Administration
W.6	Review of Sound Forestry Practices by Managed Forest Land Review Board	1		Not addressed
E.2	Increase minimum forest productivity level for MFL eligibility	0		Not addressed
E.4	Eliminate the signature of DNR foresters and landowners on the management plan		5	Management and Mangement Plans
O.2	Eliminate the open/closed acreage modification maximum		1	Not addressed
S.3	Clean up miscellaneous statutory provisions		7	Administration
T.3	Change the collection and payment to municipalities of MFL yield and withdrawal taxes		7	Tax Rates/Fee Structures
W.3	Eliminate the 5% yield tax comparison requirement for determining withdrawal taxes		5	Tax Rates/Fee Structures

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Exhibit 2 – Removed Issues Analysis

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Proposed Revision: Eliminate the need for an MOU with tribes who withdraw lands from MFL when entering trust status

Consideration ID: W4
 Council Member “Top 5” Count: 4
 DNR Admin. Clean-up:

Current Situation: Tribes with lands in MFL may withdraw them without paying a withdrawal tax and fee if lands are going to be entered into trust with the Bureau of Indian affairs. MFL provisions require that tribes have a memorandum of understanding to treat the withdrawn lands as if they continued to be enrolled in MFL until the date they naturally would have expired.

Proposed Modifications:

- 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 (memorandum of understanding)

Retroactive/Prospective: This provision should be retroactive, even though DNR currently does not have an MOU with any tribe.

Analysis:

POTENTIAL ADVANTAGES / DISADVANTAGES

ADVANTAGES	DISADVANTAGES
1. MFL administration would be improved if DNR did not have to develop an MOU or track lands as if they were MFL, including making payments on land that have been withdrawn from MFL.	1. Local municipalities would not receive payments from DNR for any period of time for tribal lands that are withdrawn from MFL.
2. Tribes may also find it easier to work with getting lands into trust status without the need to develop an MOU.	2.

FISCAL ANALYSIS

DNR would not need to expend money to develop a tracking system in WisFIRS to track tribal lands that have been withdrawn from MFL. DNR would also not need to expend time in developing or enforcing an MOU.

CRITERIA EVALUATION

Reduce WDNR administration cost, conflict, and/or law complexity	Maintain public, non-MFL stakeholder understanding and support	Maintain municipality and local government support	Support core MFL purpose of sound forest management and commercial timber production (as ref Wis. Stat. § 77.80)	Encourage continued program enrollment and discourage non re-enrollment	Address concerns of MFL forest owner stakeholder groups	Address concerns of forest industry stakeholder groups
+	∅	∅	∅	∅	∅	∅

Favorably meets criteria = “+”, Does not meet criteria = “-”, Neither favorable nor unfavorable = “∅”

Proposed Revision: Permit the management plans of groups of owners of managed forest land to be modified in the same manner as permitted for large ownerships.

Consideration ID: N2b
 Council Member "Top 5" Count: 5
 DNR Admin. Clean-up: ☐

Current Situation: Landowners need to meet entry criteria and have a site specific management plan. Since small landowners may have difficulty in completing management practices due to stand size, or management acres; developing a management group similar to a larger landowner would have multiple effects, including (1) reducing the cost to develop a site specific management plan, and (2) allowing a forester to establish similar practices within the group to facilitate completion of timber sales and other land management practices.

Proposed Modifications: Through administrative code, develop criteria that would allow for NIPF landowners to form a management group. The administrative code would create a system that allowed for group formation, which may include (1) an application system, (2) identification of landowners involved in the group, (3) identification of forester, (4) entry into and out of the group, (5) process for land management, (6) process for forest reconnaissance, (7) process for audits, (8) process for withdrawal or termination of the group, and (9) other associated management and process requirements.

Retroactive/Prospective: Development of small landowner groups would benefit landowners already in the MFL program. Could be either retroactive or prospective.

Analysis:

POTENTIAL ADVANTAGES / DISADVANTAGES

ADVANTAGES	DISADVANTAGES
1. Allows landowners to reduce costs on developing a management plan.	1. Adds complexity to the MFL program due to additional program requirements.
2. Allows foresters to group timber sales and other land management practices to provide efficiencies in marketing and attracting loggers or contractors.	2. Adds additional DNR administrative costs to develop and administer program requirements.
3. Landowners would have one forester to work with to management properties on a landscape scale.	3. Difficult to get management consensus amongst all owners.
4. Allows foresters to retain forest reconnaissance data (depending on NR 46 requirements).	4. Difficulties with changing ownership in the group.

FISCAL ANALYSIS

Initial one-time costs to develop the new MFL provisions will be high, including cost of meetings, development of WisFIRS database, and other program provisions. Additional tracking will be needed to identify landowners involved in a group.

CRITERIA EVALUATION

Reduce WDNR administration cost, conflict, and/or law complexity	Maintain public, non-MFL stakeholder understanding and support	Maintain municipality and local government support	Support core MFL purpose of sound forest management and commercial timber production (as ref Wis. Stat. § 77.80)	Encourage continued program enrollment and discourage non re-enrollment	Address concerns of MFL forest owner stakeholder groups	Address concerns of forest industry stakeholder groups
-	∅	∅	∅	∅	∅	∅

Favorably meets criteria = "+", Does not meet criteria = "-", Neither favorable nor unfavorable = "∅"

Proposed Revision: Allow all managed forest landowners a three-year period in which to harvest timber.

Consideration ID: N2d
 Council Member “Top 5” Count: 5
 DNR Admin. Clean-up: □

Current Situation: NIPF landowners are required to harvest timber according to a management schedule based on site specific conditions of the stand. It is DNR’s policy to notify NIPF landowners up to 2 years before the due date of the management practice (all due on December 31). Landowners are requested to work with cooperating foresters to establish their practices. Cutting notices need to be filed with DNR at least 30 days before cutting begins. Landowners who (1) complete their practice, (2) submit a cutting notice, (3) are in some stage of completion, or (4) have had the DNR Forester deferred the practice for market or silvicultural reasons by the due date are considered to be in compliance with their management plans. Timber harvesting may occur after the due date. DNR begins enforcement actions against a landowner if no progress is made to complete a management practice by the due date. Actual cutting may occur into the 3rd or 4th year after DNR mails the first reminder letter. If no response is received by the landowner by the end of the 3rd year, lands may be involuntarily withdrawn from the MFL program.

Large landowners are required to follow their management plans. Since large landowners are more apt to follow through with management practices and since DNR does not have forest reconnaissance data in Plan Trac, WisFIRS or otherwise, DNR does not contact larger landowners with reminders to implement management practices. DNR has denied permission to harvest early if management plans establish a harvest year and cutting is proposed to be done early, except in situations where site conditions show that lands are not capable of holding timber to the rotation age due to forest health conditions. Large landowners therefore have greater flexibility to determine harvest schedules than NIPF landowners.

Proposed Modifications: MFL statutes would require that landowners have a 3-year window in which to harvest timber and require DNR to develop rules to document the time period and the process.

This proposal would set a firm deadline in which landowners would need to complete a timber sale, thus ensuring that the sale is finished timely. By placing current policy in administrative code, greater expectations are created for landowner to comply with harvesting requirements. The current timeline would look like this:

Year Prior to Completion	Year of Completion	1 st Year Out of Compliance
DNR sends reminder letter to landowner informing of timber harvest practice. Letter is sent before March 31. Completion date is December 31 of the following year.	2 nd year, DNR send reminder letter and/or other follow-up to ensure that landowner is working on establishment of timber sale. Completion date is December 31.	3 rd year, DNR sends reminder letters to ensure that landowner is working on the timber sale. Withdrawal order would be issued if landowner does not respond or show willingness to implement management practices. MFL Withdrawal Orders need to be issued on December 14.

Since large landowners are not sent reminder letters, a new process would need to be developed to ensure the 3-year window. Using a similar analysis as for NIPF landowners this timeline may look like this.

Year Prior to Rotation Age	Rotation Age	One Year Past Rotation Age
Harvesting can occur to meet market conditions.	Rotation age as determined by large landowner management plan and commitment.	Harvesting can occur to meet market conditions.

Retroactive/Prospective: This proposal would need to be made retroactive to allow landowners to take advantage of new program provisions.

Analysis:

Proposed Revision: Allow all managed forest landowners a three-year period in which to harvest timber. (continued)

POTENTIAL ADVANTAGES / DISADVANTAGES

ADVANTAGES	DISADVANTAGES
1. Establishes standard operating procedures for NIPF landowners in administrative code.	1. Reduces the amount of time that landowner have to establish timber sales in some situations by allowing DNR to issue withdraw if landowner is out of compliance.
2. Establishes a standard operating procedure for large landowners.	2. Removes large landowner management flexibility.
3. Ensures that timber sales are established in a timely manner so that wood becomes available to timber industry.	3. Introduces additional landowner compliance requirements.

FISCAL ANALYSIS

DNR would require one-time cost to develop new processes and tracking for all landowners. Additional efforts may be required for ongoing tracking and communication with large landowners.

CRITERIA EVALUATION

Reduce WDNR administration cost, conflict, and/or law complexity	Maintain public, non-MFL stakeholder understanding and support	Maintain municipality and local government support	Support core MFL purpose of sound forest management and commercial timber production (as ref Wis. Stat. § 77.80)	Encourage continued program enrollment and discourage non re-enrollment	Address concerns of MFL forest owner stakeholder groups	Address concerns of forest industry stakeholder groups
-	Ø	Ø	+	-	-	+

Favorably meets criteria = “+”, Does not meet criteria = “-”, Neither favorable nor unfavorable = “Ø”

Proposed Revision: Designation of Forest Enterprise Areas

Consideration ID: N1
 Council Member “Top 5” Count: 3
 DNR Admin. Clean-up: □

Current Situation: There is no provision for Forest Enterprise Areas within the MFL program.

Proposed Modifications: This proposal allows counties and municipalities to determine areas where forestry practices will be promoted. Counties and municipalities receive money to promote forestry as an industry, and encourage landowners to actively manage properties for forest and other natural resource products and benefits.

- Direct DNR to designate forest enterprise areas (FEA) in administrative rule.
 - 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
 - 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.

Retroactive/Prospective: Allow all counties and municipalities the ability to develop Forest Enterprise Areas.

Analysis:

POTENTIAL ADVANTAGES / DISADVANTAGES

ADVANTAGES	DISADVANTAGES
1. Brings attention to the public that forestry is an important industry in Wisconsin.	1. Increases MFL administration costs through the creation of administrative code, tracking of lands enrolled in FEAs, and making payments to municipalities and counties.
2. Allows counties and municipalities to plan or zone for forestry land uses.	2.
3. The FEA areas may encourage additional landowners to enroll in MFL.	3.

FISCAL ANALYSIS

DNR will have one-time costs in (1) developing rules and program requirements for the FEA, (2) developing a tracking system in WisFIRS, (3) announcing the program to counties and municipalities, and (4) awarding FEA status under MFL. Recurring annual costs would be to (1) update databases as lands are enrolled or withdrawn, and (2) making annual payments. Payments are made from the forestry account. There are no funding sources associated with the proposed modification.

Proposed Revision: Designation of Forest Enterprise Areas (continued)

CRITERIA EVALUATION

Reduce WDNR administration cost, conflict, and/or law complexity	Maintain public, non-MFL stakeholder understanding and support	Maintain municipality and local government support	Support core MFL purpose of sound forest management and commercial timber production (as ref Wis. Stat. § 77.80)	Encourage continued program enrollment and discourage non re-enrollment	Address concerns of MFL forest owner stakeholder groups	Address concerns of forest industry stakeholder groups
-	∅	∅	∅	∅	∅	+

Favorably meets criteria = “+”, Does not meet criteria = “-”, Neither favorable nor unfavorable = “∅”

Proposed Revision: Limit the ability of MFL landowners or MFL applicants to close lands to the public.

Consideration ID: O3
 Council Member “Top 5” Count: 3
 DNR Admin. Clean-up: □

Current Situation: Landowners are allowed to close 160 acres of lands to public recreation, of which only 80 acres or two legal descriptions per municipality may be lands enrolled in 2004 or earlier. This acreage limitation encourages landowners to subdivide property into different ownerships in order to close as much land as possible. Many lands are subdivided into 160 acre ownerships, with different combinations of individuals (for example husband, wife, and husband and wife), or non-natural entities (for example LLCs, trusts, partnerships, etc.). The ability of landowners to create multiple ownerships has resulted in most NIPF lands being enrolled into MFL as closed to public recreation.

Proposed Modifications: Maintain a maximum number of acres a landowner can close to public access. 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. This provision would require that landowners submit their social security number with their MFL application so that the closed acreage limitation could be tracked. A landowner who has reached the acreage limitation in any ownership would limit any other ownership in which they are part owner from closing lands to public recreation. The request of the social security number would prevent landowners from creating multiple ownerships in order to close more than the 160 acre maximum. This may be acceptable to the public in that the purpose of the MFL program to allow public recreation on private MFL lands is more easily realized.

Retroactive/Prospective: This provision should be prospective, since DNR would likely be required to obtain social security numbers as the personally identifiable number.

Analysis:

POTENTIAL ADVANTAGES / DISADVANTAGES

ADVANTAGES	DISADVANTAGES
1. Addresses the issue of creating various entities for the purpose of closing MFL lands to the public.	1. Increases MFL administration costs in that social security numbers would need to be collected and tracked.
2. Supports MFL objective of public use.	2. May discourage entry into the MFL program, reducing the ability of foresters to affect forest management and in providing raw forest products to forest industries.
3.	3. Many landowners who choose not to enroll in MFL may change the land use of their properties in order to reduce property taxes on lands.
4.	4. The provision is likely to be controversial in that social security numbers are private and people do not like to give these numbers unnecessarily.
5.	5. May not be failsafe assurance that a new work around will not be found.

FISCAL ANALYSIS

DNR would incur one-time costs in developing a tracking system to ensure that landowners do not exceed the 160 acre closed acreage limitation. DNR Foresters would enforce the closed acreage limitation as part of the normal MFL administration duties.

Proposed Revision: Limit the ability of MFL landowners or MFL applicants to close lands to the public (continued)

CRITERIA EVALUATION

Reduce WDNR administration cost, conflict, and/or law complexity	Maintain public, non-MFL stakeholder understanding and support	Maintain municipality and local government support	Support core MFL purpose of sound forest management and commercial timber production (as ref Wis. Stat. § 77.80)	Encourage continued program enrollment and discourage non re-enrollment	Address concerns of MFL forest owner stakeholder groups	Address concerns of forest industry stakeholder groups
+	+	+	-	-	-	-

Favorably meets criteria = “+”, Does not meet criteria = “-”, Neither favorable nor unfavorable = “Ø”