

Reaction of Private Forest Landowners to A Recent Change in Law That Prohibits Leasing Land Enrolled In MFL

*A Report to the Wisconsin Council on Forestry
by the Wisconsin Council on Forestry MFL Task Group
March 18, 2008*

MFL Task Group Members
Troy Brown, Fred Clark, Bill Horvath, Bob Rogers

Outline of Presentation

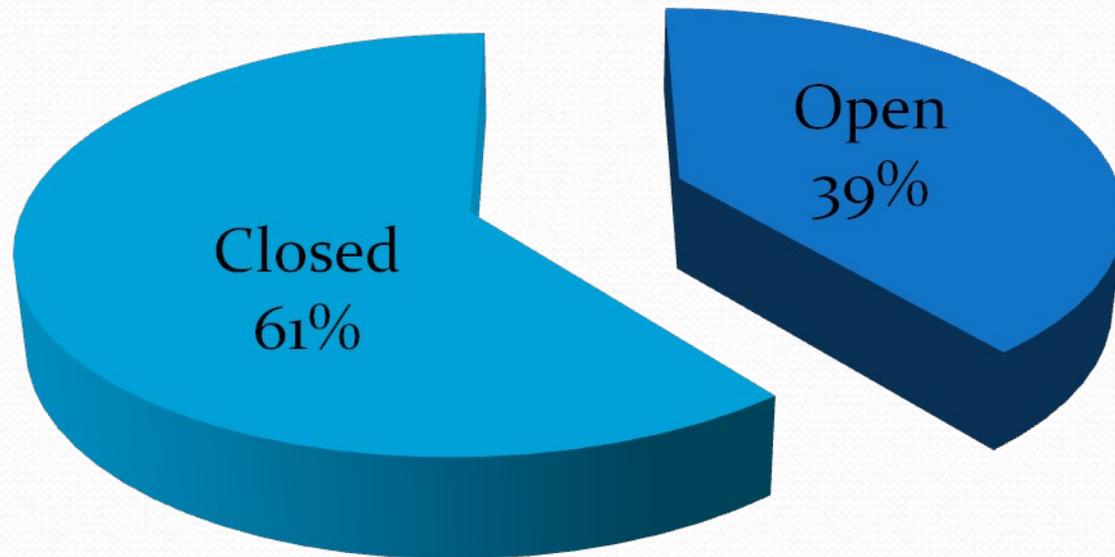
- Acknowledgements
- Acres Under MFL
- Background
- Timeline of Legislative Events
- Charge of Task Group
- Approach Taken to Satisfy Charge
- Summary of Information
- Task Group Recommendations

Acknowledgements

- **Rep. Don Friske**, Wisconsin Legislature
- **Paul DeLong**, Chief State Forester, Forestry Division, WDNR
- **John DuPlissis**, Forestry Outreach Specialist, University of Wisconsin-Stevens Point
- **Nancy Bozek**, Executive Director, Wisconsin Woodland Owners Association
- **Carol Nielson**, Private Forestry Specialist, Forest Lands Section, Bureau of Forest Management, WDNR
- **Kathy Mather**, Account Specialist, Forest Tax Section, Bureau of Forest Management, WDNR
- **Ken Symes**, Forest Tax Law Enforcement Specialist, Bureau of Land Management, Division of Forestry, WDNR
- **Jim Heerey**, Member Wisconsin Council on Forestry and President, Barron County Woodland Owners Association

Acres Under MFL

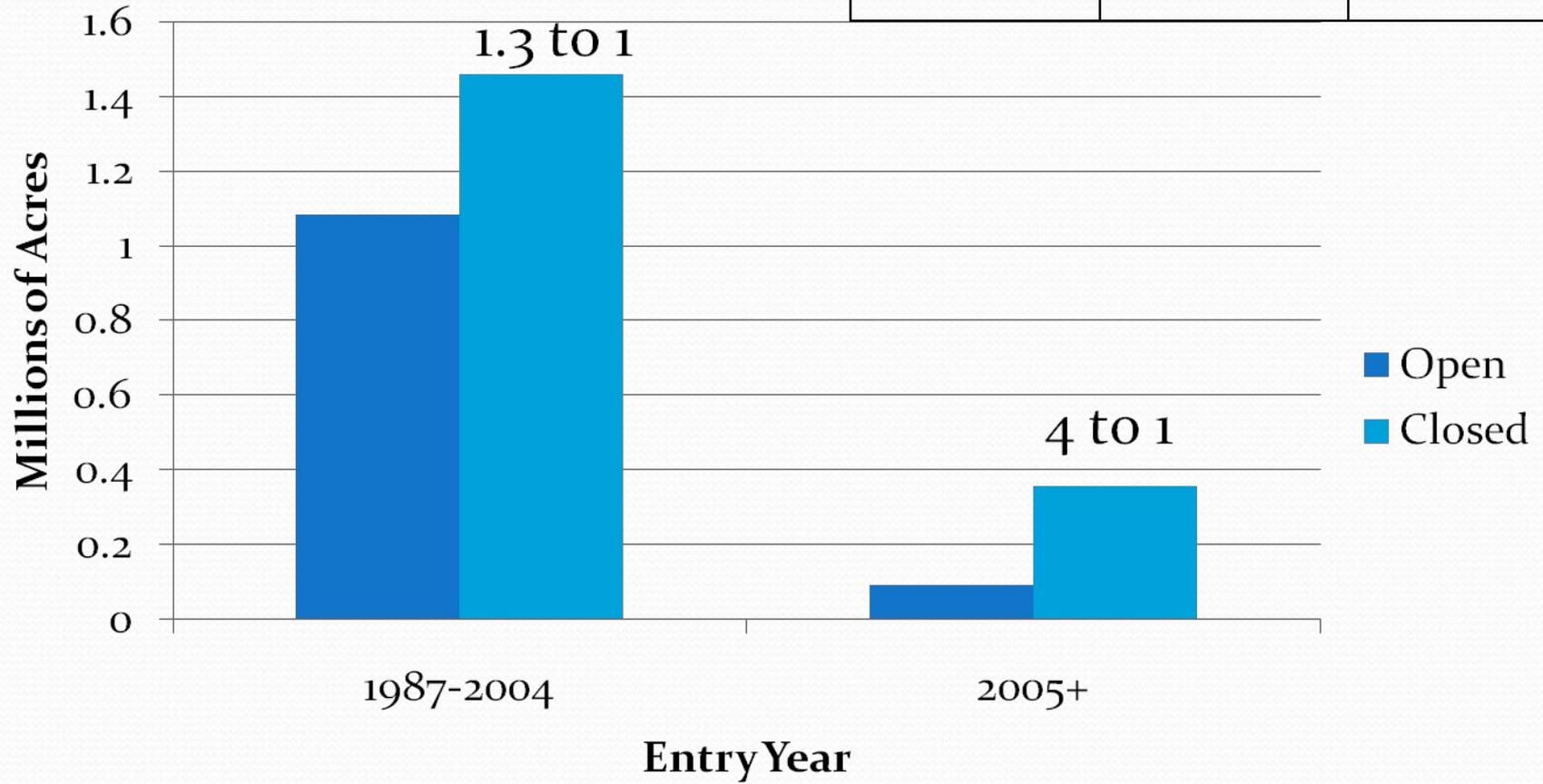
42,845 Entries - 2,990,994 Acres



Acres Under MFL

Tax Rate

Entry Year	Tax Rate	
	Open	Closed
1987 - 2004	\$0.67	\$1.57
2005 and later	\$1.67	\$8.34



Background

- MFL enacted in mid 1980's: replaced Forest Crop Law and Woodland Tax Law
- Provides a tax incentive to promote sustainable forestry while providing public benefits (eg. Recreation)
- Leasing prohibited on lands developed for recreation (included hunting leases)
- New rule enacted in 1992 redefining “developed for recreation” which allowed hunting leases

Background

- In 2006 one industrial land owner converted 10,000 acres of open MFL lands to closed to leased closed lands for hunting
- This closing of previously open land compromised public benefit in the eyes of the Legislature
- Legislature asked WDNR to draft alternative scenarios to help preserve public benefit
- Legislature modified one of the alternative resulting in banning hunting leases

Background – The Contract Issue

- FCL and WTL are/were contractual programs
 - State statutes use the word “contract” to describe the relationship
- MFL is considered non-contractual
 - Legislature purposely left out the word “contract” in the Law
 - The word “contract” is replaced with the word “order” in the statutes
 - This gives the Legislature the flexibility to enact laws that protect overall public benefit

Timeline of Legislative Events

1986	MFL, as originally implemented, forbids hunting leases on MFL lands
1992	DNR legalizes hunting leases on MFL lands, via administrative rule
1994-2004	Gerrymandering of MFL-closed-land enrollments become rampant and widespread
2004	Wisconsin creates a disincentive to gerrymander MFL-closed-land enrollments
2006	Tigerton Lumber makes massive conversion of previously “open” MFL land into “closed” land
2007	Senators Breske and Decker request DNR propose a list of options to prohibit hunting leases on MFL lands
2007	Senator Decker introduces one of the options, provided by DNR among other options, as a statutory change via a motion within the Joint Finance Committee rewrite of the biennial state budget

Timeline of Legislative Events

2007-2008	Reactions from landowners with hunting leases result in increased contact complaints lodged with legislators
January 2008	Representative Jeff Wood proposes a compromise between the outright legalization and the outright ban on hunting leases on MFL lands
February 2008	Assembly Committee on Forestry holds a public hearing on Representative Wood's proposed legislation; no action is taken by the Committee

Charge of Task Group

Gather information on potential impacts of the prohibition on recreational leasing of MFL lands and bring recommendations to the March Council meeting for discussion.

Our Approach

- Contact Legislature and Division of Forestry
 - Legislative background on the MFL leasing issue
 - Basic information about the MFL program and its basis in law
- Contact private landowners in MFL to find out their reaction to the change by posing three questions:
 1. Do you agree with the change?
 2. Did you lease MFL land for recreational purposes?
 3. Do you intend to withdraw from MFL because of the change?

Our Approach

Target Groups	Resource Person	Responsible Member
Legislative/DNR	Don Friske, Paul DeLong	Bob Rogers
Industrial Forest Landowners	Troy Brown	Troy Brown
Private Landowners-Organized	Nancy Bozak (WWOA)	Bob Rogers
	John DuPlissis (Family Forests)	Bob Rogers
Private Landowners-Individuals	Forest Consultants	Fred Clark

Summary

Industrial Forest Landowners

13 out of 19 industrial forest landowners responded to these statements

- I have forest land enrolled in the MFL Program
- I have land in MFL that is closed to public recreation
- I have leased or intended to lease some of this closed land
- I am angry with this latest change in the MFL Program
- Regardless of my emotional reaction, I think this change makes sense as a way to protect a good program from being dissolved

Summary

Industrial Forest Landowners

- Reaction depends on whether they were leasing or not
 - Leasing
 - Not happy with change
 - Prohibiting leasing not a sensible way to protect MFL
 - Not Leasing
 - Did not object to change
 - Prohibiting leasing did make sense to protect MFL
- Questioned how MFL can be changed without landowner input

Summary

Organized Private Landowners- WWOA

Nancy Bozek, Exec. Dir. WWOA was asked to respond to the following questions:

- ❓ *Do your members that participate in MFL agree with the change? (percentage, acres involved)*
- ❓ *What percentage of your members that participate in MFL were leasing lands for recreational purposes? Acres involved?*
- ❓ *How many of your members that participate in MFL have withdrawn/or intending to withdraw lands under MFL because of this change*
- ❓ *This may be a little hard to determine - how many members that were considering enrolling in MFL have decided against doing so because of the change*

Summary

Organized Private Landowners- WWOA

- Detailed data not obtainable
- WWOA does not agree with the change
- WWOA has testified against ban on leasing
 - MFL is a binding contract
 - Penalizes MFL landowners who exercise property rights
 - Lease for reasons other than income
 - Leasing pays for costs of management activities
- Views MFL as a contract

Summary

Family Forests/Cooperatives

Questions Asked:

1. Do you agree with the change
2. Do you have land enrolled in the MFL Program? How many acres
3. Do you lease your lands for recreational purposes?
4. Do you lease all of your property or just part of it?
5. Have you withdrawn/ or intend to withdraw lands from the program because of this change?
6. Have you decided against enrolling land in the MFL Program because of the change? How many acres were you considering enrolling?

Summary

Family Forests/Cooperatives

- Eight responses were received; 7 in MFL
- Represents 734 acres
- None had been leasing for recreational purposes
- Prevailing reaction negative to ban on leasing
 - Losing option of leasing in future
 - Loss of ability to lease hunting land from others who had been under MFL

Summary

Individual Private Landowners

Three questions were forwarded to 120 Cooperating Foresters. 20 Cooperating Foresters responded in free format.

2. Do your clients enrolled in MFL agree with the change prohibiting leasing MFL lands? (Roughly estimated percentages, or numbers would be fine)
3. What percentage of your clients who were MFL enrollees do you believe were leasing lands for recreational purposes under MFL?
4. How many of your clients who were MFL enrollees have withdrawn/or are intending to withdraw lands under MFL because of this change? What percentage of your MFL clients might that represent?

Summary

Individual Forest Landowners

- Reaction divided on change
 - Depends on market
 - Depends on desire to lease
- 25% or less leased land for recreation
- Few are considering withdrawing as result of change
- Some may not renew
- Concern about the ability of State to make unilateral changes

Task Group Recommendation

- Further consideration needed to ensure current changes do not create unintended consequences
- Need for a more thorough analysis of policy options for recreational access for MFL lands to protect public interest while providing incentives for private forest owners

Task Group Recommendation

The Task Group recommends the Council support the necessary action by the Legislature and the Department of Natural Resources to critically review the recent change to MFL prohibiting leasing for recreational purposes in light of the comments and opinions expressed in this report and consider modifications that would be consistent with the intent of MFL of encouraging good stewardship of forest resources while minimizing abuses and negative consequences to private forest landowners.

Other Recommendations Considered but Consensus not Reached

- Have the Attorney General offer an opinion on the leasing amendment. Many of us think the legislative action which is retroactive to the day of entry is illegal seizure.
- Seek to repeal the action since there were no hearings - just an amendment to a budget bill.
- Ask the Legislature to create a Legislative Council Study Committee to take a look at the whole issue of wood supply, recreation and MFL.