



FOREST TAX & STEWARDSHIP NEWS



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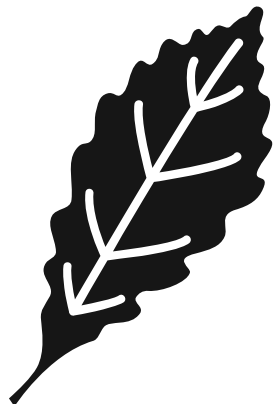
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American Tree Farm System Auditors to Evaluate MFL for Group Certification

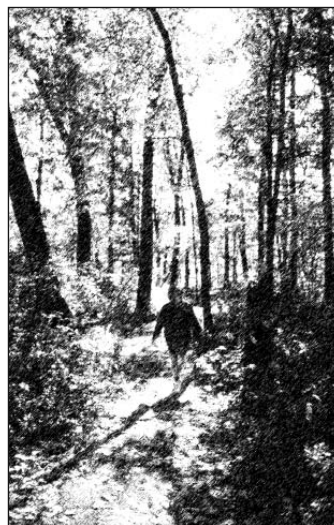
The Department of Natural Resources is seeking American Tree Farm System (ATFS) group certification for non-industrial forestland enrolled in the Managed Forest Law (MFL). ATFS accredited auditors will complete a full certification assessment of the Managed Forest Law program in March 2005. The review will be the second phase of a process started with a preliminary report in October 2003.

Governor Doyle directed the Department to evaluate certifying DNR's public and private forestry programs to meet a growing demand by the state's forest products industries for certified raw materials. Building a certified land base is also expected to yield other social, environmental and economic benefits.

ATFS recognition of MFL would create the largest sustainable forestry program for private landowners in North America. Potential membership includes 29,458 landowners with 37,110 MFL orders of designation on nearly 2 million acres.

The MFL Certified Group Program would be free and entirely voluntary for landowners with 10 to 10,000 total acres under MFL with site-specific forestry plans. Large industrial-owned tracts in MFL would not be included in the MFL Certified Group, but many will be certified under other company plans. Considering the MFL Certified Group together with State Forest and County Forest land, approximately five million acres (a third of Wisconsin's forested area) are poised to be certified by early summer.

This edition of the Forest Tax Law Newsletter provides background infor-



mation about the proposed MFL Certified Group program. All current MFL participants and 2006–2007 applicants will also receive a mailing in April. If you decide you would rather not participate after learning about the program, you will be able to return a form to the DNR opting out of the certified MFL-Certified Group. Membership in the free group will have no effect on statutory MFL benefits or obligations.

By having their lands certified, MFL landowners

would be able to:

- ✿ Sell to the certified marketplace
- ✿ Be proud that they are meeting recognized standards of sustainability
- ✿ Rest assured that their land management decisions will help leave the land better than they found it,
- ✿ Compete better for quality services by reminding foresters and loggers that they are working on certified lands
- ✿ Help guarantee the long-term productivity of Wisconsin's forests.

Through certification, the public gains the assurance that MFL enrolled lands are being managed to recognized standards of responsible forestry, the forest industry gains by protecting or expanding market share, and taxpayers gain by preserving a thriving forest-based economy.

Considering the potential benefits associated with Tree Farm certification, we hope that you will welcome the opportunity to participate in the MFL Certified Group.

MFL Group Certification Calendar

2003

October 2003 — Field audits for the initial certification scoping reports for MFL were completed.

2004

March 2004 — The Wisconsin Council on Forestry reviewed the scoping reports, which are available on the DNR Internet. (<http://dnr.wi.gov/org/land/forestry/certification/mfl.html>)

October 2004 — The Council recommended that the DNR seek American Tree Farm System group certification for MFL at this time.

2005

March 2005 — Tree Farm accredited auditors return to Wisconsin to visit additional MFL parcels for a full audit report and to review the DNR's plans for integrating Tree Farm considerations into MFL administration. The DNR will also launch an information campaign including the Tax Law Newsletter and an internet site to explain that we are seeking certification and what benefits are expected.

April 2005 — The DNR will mail each MFL landowner a letter about the DNR's intent to create an MFL Certified Group, along with an option for the landowner to send in a form should they prefer not to participate. The letter will explain that *being designated in the MFL Certified Group will be entirely voluntary, free and not have any effect on statutory MFL benefits or obligations*. An MFL landowner decision to depart from the group could also be made at any time.

May 2005 — An award of a Tree Farm Certificate for the MFL Group is anticipated, should the full audit conclude favorably.

June 2005 — MFL landowners in the Certified Group would be able to market timber from their land as meeting ATFS standards for sustainability.

An introduction to the MFL Group Certification idea

The DNR's MFL program has applied to the American Tree Farm System (ATFS) for an evaluation of its operations using the Tree Farm's sustainable forestry standards.

Certification of the MFL program would represent a first of its kind. It is the first time a statewide forestry program for private woodland owners has pursued forest certification.

Forest certification is a voluntary, marketplace approach to encourage responsible forestry. Products from certified forests can be tracked from the forest to the final product. They are labeled so customers know the product came from a forest that has been inspected and found to meet sustainable forestry standards.

The DNR has designed a unique approach for having the MFL program certified. The MFL Group Certification has been set up so that it is *free* to owners of 10 to 10,000 acres who have site-specific MFL forest stewardship plans. The MFL lands would be able to be certified as one large group of individually managed forests. This arrangement is called

"group certification." Group certification is a third-party auditing process for evaluating groups of landowners and certifying their well managed forests under a single certificate held by the group organization. If successful, the MFL Group Certification will be the largest group certificate in North America, with the potential of 29,000 members and 2 million acres.

Group membership would entitle MFL landowners to market their trees and forest products as "ATFS Certified." This type of certification can be an important marketing advantage. Even so, some forest owners might prefer not to participate. Anyone can opt out of being certified for whatever reason; all he or she needs to do is send in a "departure" form, which will have no effect on the statutory MFL benefits or requirements.

The DNR has completed a gap analysis of the MFL program and is in the process of preparing for a full assessment. A full certification assessment is required before the DNR can commit to forest certification for the MFL program.

MFL Group Certification Program Group Member Eligibility Requirements

Landowners who are *already enrolled* in MFL are automatically enrolled in MFL Group Certification.

Landowners wishing to get more information about MFL Group Certification can contact their local DNR office or by call-

ing: 608-266-7494 or emailing: forestry.webmail@dnr.state.wi.us

MFL participants wishing to *opt-out* of the certification program should return the form mailed to them in April 2005 or contact their local DNR office.

Participating in MFL Group Certification

Group Certification allows for the evaluation and certification of all MFL enrolled lands under a single certificate. This process provides benefits from the “economies of scale,” including reduced costs and more efficient auditing.

After evaluating the available options, the Wisconsin DNR decided to pursue a “group certification” structure for the MFL program through

the American Tree Farm System (ATFS).

After a preliminary audit by the certifiers in 2004, including a review of the MFL policies and operations and field visits to about 100 MFL forests across the state, the American Tree Farm System provided the DNR feedback on how the MFL program fits with their forest standards.

The DNR reviewed this feedback

and, with a great deal of input, the decision was made to apply to Tree Farm for a full assessment of the program in 2005. The outcome of this assessment will determine the MFL’s eligibility for recognition as an American Tree Farm Certified Group. Landowners already enrolled in the MFL are automatically eligible for group certification membership.

How Group Certification works

There are three components in the group certification process: the **Group Organization** which is responsible for overseeing all aspects of the group certification program; the **Group Manager** who administers the program, maintains the records, and is the contact person; and **Group Members** who are the eligible landowners enrolled in the program and who enjoy all the benefits and privileges of being certified.

MFL Group Certification represents a partnership between the American Tree Farm System (ATFS), the Wisconsin DNR, and Wisconsin’s woodland owners.

The ATFS is responsible for the forest management standards and audits to verify the standards are met. The Wisconsin DNR is the Group Organization and the Group Manager and is responsible for maintaining the resources and records that demonstrate the standards are being met. Wisconsin landowners participating in the MFL program are the Group Members and are responsible for meeting program requirements by maintaining a forest management plan and implementing the practices called for in their plan.



Movie celebrates 100 years of forestry in the U.S.

One hundred years of forestry in Wisconsin was showcased last year when Governor Doyle declared 2004 as the Year of Wisconsin Forestry. Following on the heels of the centennial celebration of our state’s forestry program is the centennial celebration of the federal forestry agency – the USDA Forest Service – in 2005. A new documentary called “The Greatest Good” is a highlight of the Forest Service centennial.

You are invited to a Madison screening of this movie on **Tuesday, April 12 at 7 p.m.** in the auditorium of the **Wisconsin Historical Society** located on the campus of UW–Madison at **816 State Street**. Park at the Lake Street ramp and walk a block over to the Historical Society.

William Cronon, UW–Madison

Professor of History, Geography and Environmental Studies, will lead a discussion session and answer questions following the show. Cronon is author or editor of more than 20 books and has pioneered interdisciplinary research in the study of environmental history. He focuses on past human interactions with the natural world: how people use the ecosystems they inhabit, how they modify the landscapes around them and how their ideas of nature shape the environment.

“The Greatest Good” uses rarely seen footage and photos, sweeping landscape aerial shots and dozens of interviews to tell a complex and compelling story of the American land. The film’s title comes from a utilitarian maxim popularized by

first Forest Chief Gifford Pinchot. In 1905, Pinchot urged for a reconciliation of “conflicting interests” through analysis of “the greatest good for the greatest number in the long run.”

The two-hour documentary uses this maxim as its starting point and as an organizing theme. It traces the Forest Service efforts to deliver the most benefits to the most people, while remaining good stewards of the land. It is along this axis, the exploitation and protection of nature, that the story turns.

The film features an original score and is narrated by Charles Osgood. Save the evening of April 12 on your calendar and plan to attend the free showing of this new documentary.

MFL Group Certification Roles & Responsibilities

American Tree Farm System: Administers the Certification system and sets the standards

Accredited Tree Farm Auditor:

The Certifier trained & approved by Tree Farm to conduct audits.

Wisconsin DNR: The Group Organization & Group Manager who holds the Certificate and is accountable to the Certifier, (pays the bills!).

Cooperating Foresters and other consultants or service providers: Provide services to landowners

What Certification Requires

Tree Farm Certification requires landowners to:

- ✿ comply with all relevant laws and regulations,
- ✿ have a written forest management plan,
- ✿ plan for reforestation (e.g., replanting or seeding) after a harvest,
- ✿ protect soil and water quality by following Best Management Practices (BMPs),
- ✿ conserve wildlife and biodiversity
- ✿ consider the visual and aesthetic impacts of their practices.

These requirements for Tree Farm certification fit very well with existing MFL requirements.

The complete Tree Farm Standards are available at:
http://65.109.144.60/cms/test/26_34.html

Or by calling: 202-463-2462

American Tree Farm System 9 Standards of Sustainability

1. Ensuring Sustainable Forests
2. Compliance With Laws
3. Commitment to Practicing Sustainable Forestry
4. Reforestation
5. Air, Water & Soil Protection
6. Fish, Wildlife, & Biodiversity
7. Forest Aesthetics
8. Protect Special Sites
9. Wood Fiber Harvest & Other Operations

The complete Standards, including Performance Measures & Indicators are available at:
http://65.109.144.60/cms/test/26_34.html

Or by calling: 202-463-2462

Landowner Responsibilities

Participating landowners, "group members," are responsible for implementing both the Tree Farm certification standards and the policies and procedures required by the MFL program.

In cooperation with the DNR, group members must work to ensure that forestry practices are properly implemented, an up-to-date management plan is maintained, and records are kept that demonstrate that the certification standards are addressed.

Compared with the MFL program and how it currently operates, the Tree Farm requirements fit well within the system. Landowners already enrolled in MFL should find that they have few if any changes to make to accommodate this new program.

The most significant certification-related changes in the MFL program occur within the DNR with

the record keeping and administrative work that is required of them to demonstrate compliance with the certification standard.

If you are a landowner interested in joining the MFL for the first time, you may find that the forms you have to complete are slightly different and ask a few extra questions than the forms your friends and neighbors filled out when they joined.

If you are already enrolled in MFL, you can become a member of Group Certification for *free*! As a member, it might be worthwhile to take another look at your management plan and make sure you understand what practices you are committed to.

MFL Group Certification & Your Management Plan

The ATFS has 9 Standards of Sustainability for Forest Certification and requires that certified forest management plans address the owner's goals, wildlife habitat, environmental quality, and any desired recreational opportunities.

As a Certified Group member, it is good practice to take another look at your management plan and make sure you understand what practices you are committed to.

You should take the time to periodically review your forest management plan. In reviewing your plan, check to make sure your management plan fits your goals, addresses your interests in wildlife and recreation, and provides protections for environmental quality.

If you have any questions about your plan or want to make some changes, contact your plan writer or the local DNR forester.

By knowing what is in your management plan and understanding the forest management practices you are implementing, you will be able to be both certified and assured that you are making progress toward the goals you have for your property.

Certification Monitoring & Audits

The monitoring and site visits required by certification are essentially the same as what is already needed for general MFL monitoring and the DNR's ongoing administration of mandatory MFL practices.

As always, to meet Tree Farm and MFL requirements, harvest activities will be monitored closely.

Landowners may want to remind foresters and loggers working on their property that they are participating in a certification program and the forest management will be monitored for compliance with the standards. This reminder might just be an incentive for operators to be a little more careful on your land.

Every 5 years about 100 MFL properties will be selected as part of the certification audit of the group system to assure compliance.

Landowners participating in certification may be selected during the audits for a review of their plan or a visit to their forest. Landowners will be notified beforehand if their property will be visited. Landowners can have a representative such as a forester, participate in the audit on their behalf.

Some landowners have found the auditing process to be one of the most interesting and beneficial aspects of certification.

A landowner participating in a Tree Farm Group Certification project in Maine said, "The interesting thing to me was the opportunity to have two inspectors walk on to my land with me and answer more questions in a different way than the forester that I work with... it was a wonderful opportunity to get another perspective on my land." Rachel Jordan, a Wisconsin Tree Farmer, has this to say, "Recertification, at 5 year intervals, is a time for landowners to re-examine their goals, and consider the appropriate next steps. Have the past practices achieved the results we expected? I found during recertification that I was amazed at what we had accomplished."

The group members may be asked to provide some information about the property as part of the audit. This information would include the number of acres, the forestry practices being applied, long-term goals for the property, and a copy of the management plan.

If MFL monitoring identifies a change that is necessary to meet the sustainable

forestry standards, the forester will provide the landowner with guidance to correct the problem.

Corrective action guidance would be given if a landowner has not implemented a management practice that is called for in the management plan or if a management practice has not achieved desired results.

If changes are needed to meet certification requirements, the landowner would be informed about the MFL regulation or Tree Farm certification standard that applies and the core performance measure and indicator that is of concern. The landowner would have an opportunity to respond or correct a problem within a reasonable time period. If the issue is related to a mandatory forestry practice established in the plan or other regulations in the law, the Department could issue a "Notice of Investigation," leading to penalty and/or withdrawal from MFL if the landowner does not attend to the problem.

For example, if a tree planting operation was unsuccessful, the landowner may be required to re-plant the site or develop a new plan to reforest the area. Another example might be if the management plan called for a harvest but the landowner has not harvested or made plans to harvest. Both of these examples would be issues that would need to be addressed under the current MFL system as well as to meet the new certification requirements. Any statutory requirements that could result in withdrawal from MFL still apply in the certification program, as do the appeal rights established under MFL.

It is possible that a landowner could be meeting the requirements of the MFL program, but still need to make changes to meet the certification requirements.

An example of a situation that would be unique to the Tree Farm certification requirements would be if the management plan meets the MFL program requirements but doesn't address the Tree Farm requirements for elements such as protecting environmental quality and managing for wildlife habitat. Any administrative decisions unique to Tree Farm standards would also have an appeal process that landowners could exercise if needed.

The DNR will work with MFL Group Certification members to identify and address the certification requirements.



Notice!

**Seek your
DNR Forester's
advice before
buying, selling
or transferring
your tax law
land to avoid
unwanted
withdrawals
and penalties.**

What Certification Offers Family Forest Owners

Landowners will have the opportunity to share in the new opportunities offered by the certification process. For example, group members can serve on Tree Farm committees, provide training to other landowners, host tours on their property, help with newsletters or other publications, recruit new members to the program, and actively participate in the monitoring and auditing aspects of certification. Certification is a powerful public awareness and landowner education tool.

The MFL Group Certification provides an opportunity for products from MFL lands to gain entrance into

the certified forest product marketplace, an important benefit for Wisconsin's woodland owners.

By participating in forest certification Wisconsin's woodland owners are able to gain recognition for their efforts and distinguish themselves in the marketplace.

Increasingly, markets are asking for certified products to help customers address the range of environmental and social concerns that are important to them. Forest certification and increased consumer confidence help build the value of the wood market, which benefits landowners and businesses.

The MFL program already offers the benefits of:

- ✿ a management plan,
- ✿ protection against over-cutting,
- ✿ protection against an annual tax hike,
- ✿ low property tax,
- ✿ deferred tax until harvest,
- ✿ a provision to allow landowners to close up to 80 to 160 acres to public use,
- ✿ technical assistance,
- ✿ predictable taxes,
- ✿ long-term investment,
- ✿ encouragement for woodland investment and expansion,
- ✿ reasonable program requirements that meet the needs of most Wisconsin family forest owners.

With MFL Group Certification the additional benefit and opportunities include:

- ✿ Landowners can participate in an independent, third party audit and gain insight into management alternatives and receive assurance that their stewardship practices are compatible with responsible forestry standards.
- ✿ Assuring that foresters and loggers working on certified lands follow the certification standards including requirements for Best Management Practices.
- ✿ Certified lands are visited and reviewed to make sure operations have been performed as planned.
- ✿ Group Members are able to participate in Tree Farm events and membership benefits.
- ✿ Raw materials and products from MFL enrolled lands can be sold as "certified" and will be able to gain access to the certified product marketplace.
- ✿ Wood from certified lands will help keep Wisconsin forest industry competitive. The Wisconsin paper industry is quickly evolving from a mostly domestic concern in the mid-1990s to more international interests that are establishing very definite targets for certified content.
- ✿ Green Building programs (e.g., Wisconsin GreenBuilt Home) provide incentives to architects and builders to use environmentally friendly products, including certified wood. These programs are growing dramatically with more than 2,000 green building projects completed in just the past few years and many more in the pipeline.
- ✿ Sawmills and other solid wood companies also play an important role in the certified wood market. By purchasing certified wood, they can sell certified products such as windows, doors, flooring, and furniture, and they can sell the scraps and wood residue as certified material to the paper companies.
- ✿ Certification can be very valuable for accessing international forest product markets. In Europe and even Canada, the demand for certified hardwoods and other products is growing fast. Major companies such as IKEA, the largest furniture manufacturer in the world, are working to steadily increase the proportion of certified wood they use.
- ✿ Government agencies and other organizations have implemented procurement and purchasing policies (e.g., following LEED program criteria) that show preference for certified wood and paper products. Wisconsin has one of the largest certified printing companies in the United States.

The MFL Program has always offered significant benefits, and the additional benefits of certification help make a great program even better.

ADMINISTRATIVE DECISIONS IN FOREST TAX LAW

By Edwina Kavanaugh

The Wisconsin Department of Administration Division of Hearings and Appeals ("DHA") issued the following decisions on forest tax law issues from January 1, 1995 through February 17, 2005. After posting by DHA, a decision can be read by searching for its case number at <http://dha.state.wi.us/home/>.

| Case No. | Issue |
|---------------|--|
| 1. IH-95-10: | WTL withdrawal — penalty assessed |
| 2. IH-95-11: | MFL withdrawal — failure to follow management plan |
| 3. IH-96-06: | FCL withdrawal — partition not allowed under FCL |
| 4. IH-96-08: | FCL withdrawal — partition not allowed under FCL |
| 5. IH-97-05: | WTL withdrawal — failure to follow management plan |
| 6. IH-99-02: | FTL withdrawal — failure to practice sound forestry |
| 7. IH-99-12: | FTL withdrawal — failure to practice sound forestry |
| 8. IH-99-13: | FTL withdrawal — failure to file cutting notices & reports & intentional cutting in excess of prescribed amounts |
| 9. IH-01-02: | MFL withdrawal — failure to follow management plan & using part of parcel in manner incompatible with sound forestry practices |
| 10. IH-01-03: | FCL withdrawal — partition not allowed under FCL |
| 11. IH-01-04: | FCL withdrawal — construction of permanent residence/domicile & land no longer held for production of forest products |

| Case No. | Issue |
|---------------------------------------|---|
| 12. IH-01-10 IH-01-10 (amended) | FCL withdrawal — partition not allowed under FCL |
| 13. IH-02-06: | FCL voluntary withdrawal to avoid withdrawal for partition not allowed under FCL |
| 14. IH-03-06: | FCL stipulation — complete overdue harvest by fixed date or voluntarily withdraw land without hearing |
| 15. IH-04-14: | FCL withdrawal — failure to follow sound forestry |
| 16. IH-04-15: | FCL withdrawal — failure to do mandatory harvest |
| 17. IH-04-16: | FCL dismissal — subsequent withdrawal per stipulation for posting land to deny public access for hunting & fishing |
| 18. IH-04-17: | FCL voluntary withdrawal to avoid involuntary withdrawal for failure to file transfer forms & partition not allowed under FCL |
| 19. IH-04-18: | FCL voluntary withdrawal to avoid involuntary withdrawal for failure to file transfer forms & partition not allowed under FCL |

Cumulative List Of Circuit Court Decisions In Forest Tax Law (2002–2005)

Circuit court decisions do not set precedent (i.e., do not create authority on which to decide other cases). We are summarizing cases with forest tax law issues for the convenience of FCL & MFL owners and to remind owners that failing to meet tax law requirements may result in land withdrawal and substantial tax liabilities.

1. **Case No. 2 CV 729 (Dane County Circuit Court)** (Dec. 11, 2002): DNR issued an Order withdrawing land from MFL because the owner recorded a plat for the land (a development or use of the land for a purpose incompatible with MFL). See s. 77.88(1)(b)4., Stats., and s. NR 46.15(18), Wis. Adm. Code. The Order contained appeal rights advising the owner he had 30 days to seek an administrative hearing to appeal the withdrawal. The owner asked for a hear-

ing 54 days after the Order was issued. DNR denied the request because it was not filed within 30 days. The owner sought judicial review and argued to the Court that he had 6 months from the decision date to seek a hearing. The Court held that the 30-day deadline applied and DNR properly denied the late hearing request.

2. **Case No. 02 CV 1578 Dane County Circuit Court** (Jan. 28, 2003) DNR issued an Order withdrawing land from MFL for repeated failures to comply with MFL law, including failing to file the new owner certification required when land is transferred. (Sec. 77.88(2)(e), Stats., requires a new owner of MFL land to file with DNR a certification of intent to comply with MFL law within 30 days after gaining ownership. S. 77.88(2)(f), Stats., states that

DNR must withdraw transferred land from MFL if the new owner doesn't file the certification, and that the owner is not entitled to a hearing on an order withdrawing land for this reason.)

The prior owner transferred ownership of MFL land via an unrecorded deed. Neither the prior or new owner notified DNR of the transfer until a year later. Despite repeated DNR requests, the new owner did not file a completed certification until 2 years after the transfer. By then, DNR had begun the withdrawal process and proceeded with withdrawal because of a long history of noncompliance with MFL law. DNR issued a Withdrawal Order and the owner timely requested an administrative hearing on the Order. DNR denied the request because s. 77.88(2)(f), Stats., says

an owner is not entitled to hearing on a withdrawal for failure to certify.

The owner sought judicial review and argued to the Court that she was entitled to hearing and that DNR, by continuing to set deadlines to file the certification, had waived the requirement to certify within 30 days of transfer. She argued that because she finally filed a completed certification 2 years after it was due, DNR abused its discretion by including that reason in the Order. She also argued that the Order, if valid, should take effect 2 years earlier (when the withdrawal tax would have been much lower). The Court rejected all arguments, held that DNR properly issued the Order, and the withdrawal stood as issued.

3. **Case No. 02-CV-3330 Dane County Circuit Court** (February 12, 2003): Owners sold 1.15 acres of MFL land to a city for fly-over land for a municipal airport. The sale was a land partition that rendered the remaining 25.95 acres ineligible to remain MFL land since the 1.15 acres were not sold for a public road, railroad, utility right of way, park, recreational trail, wildlife or fish habitat area, or public forest, as listed under s. 77.88(8), Stats., and the land sold did not meet the requirements of s. 77.88(2)(a) and (am) or the land retained meet the qualifications under s. 77.88(b), Stats. DNR issued a Withdrawal Order and the owner requested an administrative hearing on the Order. DNR denied the request because it was not filed within 30 days, and the owners sought judicial review. The case settled by stipulation wherein the city dedicated the 1.15 acres it bought as a park, an exempt purpose that allowed the other 25.95 acres to remain in MFL.

4. **Case No. 03 CV 173 Outagamie County Circuit Court** (Jan. 22, 2004): DNR advised the owners of MFL land that mandatory harvests were overdue, transfer forms were overdue, and 3 parcels of land that had fallen below the required 80% stocking level needed to be withdrawn. The owners filed a voluntary withdrawal form and DNR issued Orders withdrawing the land. When the owners received invoices for the withdrawal tax due, they asked for a hearing on the Orders and taxes. DNR denied the request because it was not filed properly within 30 days and raised no disputed issues of fact.

The owners sought judicial review. They argued to the Court that they signed and submitted withdrawal forms without having been informed or knowing they pay taxes as a result; that the withdrawn land was still eligible to remain in MFL; and that the withdrawal taxes were based on improper assessments. The Court held that these arguments were not before it, that DNR

properly denied the request for hearing, and that DNR properly issued withdrawal orders and withdrawal tax invoices based on the owners' voluntary withdrawal forms.

5. **Case No. 04 CV 1487 Dane County Circuit Court** (Jan. 11, 2005): A county parks department purchased large tracts of land that had been entered in to MFL. DNR advised the county that the land had to be withdrawn because it was no longer private forest land, and that parcels not used or transferred for the exempt purposes listed in s. 77.88(8), Stats., were subject to withdrawal tax. The county requested an administrative hearing to appeal the withdrawal Orders and taxes. DNR denied the request because it did not meet the standards under s. 227.42, Stats., to obtain a hearing. The county sought judicial review and the case was settled by the County stipulating to pay withdrawal tax on all lands that it did not retain for the exempt purposes listed in s. 77.88(8), Stats.

Wisconsin Woodland Owners Association and Wisconsin Tree Farm Committee Announce Partnership

The Wisconsin Woodland Owners Association (WWOA) and the Wisconsin Tree Farm Committee (WTFC) are pleased to announce that they have formed a partnership designed to increase their efforts towards educating Wisconsin's private woodland owners about sustainable forest management and the benefits of belonging to WWOA and the American Tree Farm System (ATFS). Providing a wonderful example of this are Jim and Marlene Zdanovec, the 2004 National Tree Farmers of the Year, who are active in both WWOA and Tree Farm. Their story is highlighted in the winter 2004 issue of WWOA's quarterly magazine, *Woodland Management*.

WWOA has hired Randy Sthokal as the new Tree Farm Administra-

tor for the WTFC. Randy graduated from UW-Stevens Point in 1997 with a degree in forest management. He currently lives in Iola and is available to answer questions relating to Tree Farm certification, inspector training, and requests for general information concerning Tree Farm programs and activities.

The new contact information for the Wisconsin Tree Farm Committee office is WTFC, PO Box 285, Stevens Point, WI 54481, telephone 715/445-5991 and email wtfc@athenet.net

To learn more about WWOA visit our website at www.wisconsinwoodlands.org or call the WWOA office at 715/346-4798. To learn more about ATFS visit their website at www.treefarmssystem.org or contact Randy.

Print

Reset

<http://www.dnr.state.wi.us/org/land/forestry/ftax/forms/2450140.pdf>

Please return completed form to:

State of Wisconsin
Department of Natural Resources
PO Box 7963, Madison, WI 53707

Declaration of Withdrawal Managed Forest Law

Form 2450-140 (R 4/04)

Page 1 of 2

Notice: This form is required for withdrawal of land from the Managed Forest Law (MFL) program under s. 77.88(3), Wis. Stats. Personally identifiable information will be used in the administration of the MFL Program and for educational efforts.

Filing Deadline: December 1 each year. Any Managed Forest Law Declaration of Withdrawal received by the Forest Tax Section **on or before December 1** will be processed to be effective the following January 1. Declarations of withdrawal received after December 1 will be processed to be effective the second January 1 following the date received.

Date _____

I/We _____ (print or type landowner name) hereby file a
declaration withdrawing the following described lands in _____ County,

Town of _____, from the provisions of the Managed Forest Law as
provided under subsection (3) of section 77.88, Wis. Stats.

Managed Forest Law Order of Designation number: _____
(Example 1 2 --- 0 9 9 --- 1 9 8 7)

| Town Number | Range Number | Section Number | Legal Descriptions | Acres |
|----------------|-----------------|-------------------|--------------------|-------|
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |

EXAMPLE: (Legal description information appears on deeds, tax receipts, or in platbooks)

| | | | | |
|----|-----|----|-----------------------|-------|
| 47 | 9 W | 34 | SESW, SWSE | 80.00 |
| 47 | 9 W | 26 | Gov't. Lot 1, part of | 27.60 |

ATTACH a copy of the deed or land contract giving you ownership or interest in the land.

Important! Do not submit this declaration of withdrawal unless you are certain that you want to remove the land from Managed Forest designation. A withdrawal order will be issued by the Department upon receipt of this declaration. An invoice for a \$300 withdrawal fee and the withdrawal tax will be sent after the tax is calculated by the Department of Revenue in four to six weeks. If the invoice is not paid by the due date, the County Treasurer will begin steps to collect the delinquent amount by taking a tax deed to the property.

Declaration of Withdrawal to be signed by the president and secretary of a corporation, by the partners of a partnership, or by individual owners:

Signature_____
Signature_____
Signature_____
Street or Route Address_____
City, State, ZIP Code_____
Daytime Telephone Number (please include area code)

Declaration of Withdrawal Managed Forest Law

Form 2450-140 (R 4/04)

Page 2 of 2

Land may be withdrawn from designation as Managed Forest Land if:

- The landowner voluntarily declares to withdraw all of the Managed Forest Land within a quarter-quarter section, fractional lot, or government lot. (The Department is not able to withdraw just part of the Managed Forest Land in a legal description. For example, an owner with twenty acres of Managed Forest Land in one quarter-quarter section wants to build a house on one acre. All twenty acres must be withdrawn.)

The Department may also declassify Managed Forest Land under the following circumstances:

- Land no longer meets minimum eligibility standards for the program.
- A landowner fails to comply with the Managed Forest Law or the forest management plan for the parcel.
- Timber is intentionally cut in violation of an approved cutting notice.
- The landowner develops the land for a purpose not compatible with the purposes of the Managed Forest Law.
- The landowner posts signs or otherwise denies access to Managed Forest Land enrolled as open to public access.

Upon withdrawal for any of the preceding reasons, a \$300 withdrawal fee and a withdrawal tax must be assessed. The withdrawal tax for Managed Forest Land is calculated as the higher of the two following formulas (a landowner may use these formulas to estimate their withdrawal tax prior to submitting a declaration of withdrawal):

- a. (Previous year's assessed value) x (previous year's net town tax rate) x (the number of years the land has been enrolled under the MFL, including all of the current year). All acreage share and yield tax payments are subtracted. No credit, however, is given for the MFL closed area fees that might have been paid.
- b. 5% of the value of merchantable timber stumpage (based on values in the table found in s. NR 46.30, Wis. Adm. Rules) less any acreage share and yield tax payments made.

The 5% stumpage value method generally comes into play in only the first two or three years of an MFL agreement. Otherwise, the property tax method almost always comes out higher. The Department will estimate the 5% stumpage value at no charge unless the landowner requests a court appointed appraiser. The entire cost of a private appraisal must be paid by the landowner. **(You must notify the Department in writing if you prefer a court appointed appraiser instead of the free DNR timber evaluation.)**

From 1996 to 2001 special legislation provided for the conversion of some Forest Crop Law lands to Managed Forest Law designation without first withdrawing from Forest Crop Law. These MFL orders are identified by sequence number 200 - 499, i.e., 04 213 1997. If these contracts are withdrawn from MFL during the first 10 years of the order the withdrawal tax will be the higher of:

- a. (described above)
- b. (described above)
- c. The Forest Crop Law withdrawal tax at the time of conversion to MFL (property taxes saved while under FCL plus 5% or 12% simple interest)

Landowners have until the last day of January following the issuance of the withdrawal order to pay the withdrawal tax. If not paid then, it becomes a delinquent property tax. In that event, the County Treasurer will begin steps to collect the delinquent tax through a tax deed to the property.

Copies of the state statute and administrative rules regarding withdrawal of Managed Forest Land designation are available from the Department of Natural Resources at the address on the front of this form.



Withdrawing Land From The Managed Forest Law Program

By Carol Nielsen

Once land is in the Managed Forest Law (MFL) it is possible to withdraw some or all of it. But it is **important** to understand the rules to avoid unwanted withdrawals and to be prepared for the withdrawal penalty that goes with a withdrawal

Legal Withdrawals

Managed Forest Law withdrawals may be voluntary (initiated by the landowner) or involuntary (initiated by the department as a result of a violation of the MFL).

Withdrawals of land must be in one of the following manners

1. all the MFL land designated under the order. (Figure 1)
2. an entire contiguous parcel of MFL land. (Figure 2)
3. all the MFL land in a quarter quarter of a section, or a government lot. (Figure 3)

A quarter quarter of a section is often called a "40" because it is 1/16 of a section and normally 40 acres in size. Government lots were established when the original surveying of Wisconsin was done along some lakes and rivers. A lot on a certified survey map is not the same as a government lot.

The last two options are referred to as PARTIAL WITHDRAWALS because not all the land entered in an order is withdrawn. These are the only kind of partial withdrawals that are allowed. The land remaining after a partial withdrawal must be

- at least 10 contiguous acres and
- at least 80% productive forest land (8 out of 10 acres)

If the land remaining does not meet either of these two requirements it too must be withdrawn.

A landowner cannot withdraw or sell a part of the MFL land in a quarter quarter or government lot, (Figure 4). An action such as this would be cause to involuntarily withdraw all the MFL land in the quarter quarter or government lot.

Processing Steps And Withdrawal Tax

1. **Landowner submits Declaration of Withdrawal form.** Although the landowner can submit the form directly to the Forest Tax Section of the DNR in Madison, it is recommended that they submit it to the local DNR Forester, who may be able to advise the landowner of a possible problem or complication of the withdrawal. A declaration of withdrawal can be submitted any time of year but must be received by December 1st to insure that the withdrawal will be done in the current year.

Involuntary withdrawals are started by an investigation by the DNR forester or the Forest Tax Section staff. The landowner will receive a letter in regards to the problem or violation and if it cannot be resolved the land will be withdrawn.

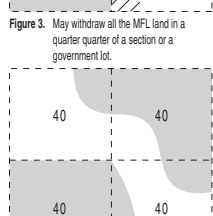
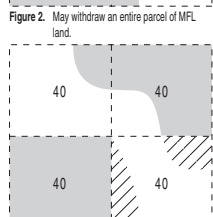
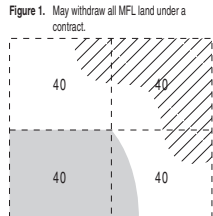
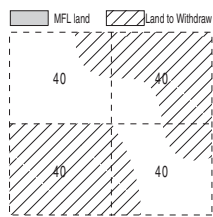
2. **Forest Tax Section issues Order of Withdrawal.** Warning: once the order or withdrawal has been issued the process cannot be stopped/reversed. Make sure this is what you want to do.

A copy of the order of withdrawal is sent to the landowner as well as town and county officials. The effective date of the withdrawal is January 1 following the date of the order. For example if the withdrawal order is written

April 4, 2005 it will be effective January 1, 2006. The current years tax bill will still be at the MFL rates.

3. **Withdrawal Penalty is calculated.** The withdrawal penalty (set by statute) is composed of a \$300 fee plus a withdrawal tax. The tax is the higher of the following calculations (A or B) minus the acreage share payments made in place of regular property and minus any yield taxes paid when timber was harvested. There is no interest added to the tax.
 - A. What last years taxes would have been, had the land not been in MFL, times the number of years the land has been in MFL. The Department of Revenue supplies this information.
 1. determined using the assessed value of the land times the average tax rate for the taxing district (town, village, or city).
 2. includes the current year because the current years taxes will be at the MFL rate since the withdrawal is not effective until the following January 1.
 - B. 5% of the value of the timber on the land. If initial estimates show the need the DNR Forester will do an appraisal of the timber on the land being withdrawn.

4. **Withdrawal Penalty Billed and Due.** Once the calculations have been made and the appropriate withdrawal tax has been determined the Forest Tax Section will send the bill to the landowner. The landowner has until the following January 31 to pay the bill. If the bill is sent in January as often happens with withdrawals issued in December we will give the landowner 60 days and indicate the date due in the letter with the bill.





Books about Wisconsin forests available

One Hundred Years of Forestry in Wisconsin – a coffee table book that tells the story of how sustainable forestry has evolved in Wisconsin over the past 100 years – is available from Wisconsin Woodland Owners Association for \$24.95 plus \$2.20 shipping and handling (\$20 + \$2.20 shipping and handling for members of Wisconsin Woodland Owners Association). Contact them at: WWOA, PO Box 285, Stevens Point, WI 54481; Phone: 715-346-4798 or email: nbozek@uwsp.edu

In Grandpa's Woods – a picture book for 4 to 7 year old children – is the story of two young children visiting their grandparents and learning about the many ways the forest is beneficial as they walk with their grandfather through his woodlands. This beautifully illustrated, hardcover book sells for \$14.95 plus shipping through Trees For Tomorrow, PO Box 609, Eagle River, WI 545521; phone 1-800-838-9472. You can order this one online at: <http://www.treesfortomorrow.com/books.htm> An online version of the book is at: http://www.wisconsinforestry.org/activities_content_grandpa.html

A third book produced during the 2004 Year of Wisconsin Forestry is ***Wisconsin Forest Tales*** – a collection of historical fiction stories for 9–12 year old children. While the primary audience is 4th-grade classrooms in Wisconsin for use in their study of our state's history, this book is available to everyone at local libraries throughout Wisconsin.

