

# MANAGED FOREST LAW AND TOWNSHIP INVOLVEMENT

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What is managed  
forest law?

**A BRIEF REVIEW OF THE  
MFL PROGRAM.**

# A FOREST MANAGEMENT PROGRAM

- Encourages sustainable forestry on private lands for:
  - Timber products
  - Wildlife habitat
  - Watershed protection
  - Other resources
- Property taxes are reduced 75% to 95%

# ENROLLMENT FOR PRIVATE LANDOWNERS

- **Small family landowners**
  - Individuals
  - Trusts
  - LLCs
  - Partnerships
  - Corporations
- **Large industrial landowners**
  - Forest industries
  - TIMOs (Timber Investment Management Organizations)
  - Reits (Real Estate Investment Trusts)

# LAND QUALIFICATIONS

- 10 or more acres
- 80% productive forest
- No more than 20% unsuitable
- Not developed for other uses:
  - Commercial recreation
  - Industry
  - Human residence
  - Incompatible uses with the practice of forestry

# LONG TERM COMMITMENT

- 25 or 50 year terms
- Management practices established
- Practices include:
  - Harvesting
  - Planting
  - Timber stand improvement
  - Erosion control
  - Other

**HOW ARE TOWNS AND  
COUNTIES AFFECTED?**

# DNR ORDERS LAND TO BE TAXED AS MFL

- If lands meet MFL requirements
- Landowners commits to practicing forestry
- **MFL Orders of Designation are:**
  - Legal documents that show lands to be taxed as MFL
  - Recorded at register of deeds



# MFL LANDS REMOVED FROM REGULAR PROPERTY TAX ROLL

- MFL lands no longer taxed as regular property
- MFL acreage share tax replaces ad valorem tax
- Yield taxes are collected when timber is harvested
- Combination of acreage share tax and yield tax may not always equal ad valorem taxes
- Additional payments help recover costs
- Note: Loggers' abilities to access private lands generates income for individuals and Wisconsin's economy

# REVENUE SHARING

## Municipality and County Payments

Municipality collects acreage share taxes. Muni splits with county on 80-20 split.

Municipality collects closed acreage fees, sends 100% to county, county sends 100% to DNR. Money shall be reserved for land acquisition, resource management activities, and grants under s. 77.895.

Municipality issues and collects \$250 non-compliance assessments when certified by DNR. Municipality splits with county on 80-20 split.

## DNR Payments

Pays municipalities 20¢ per acre for all lands enrolled. Muni splits with county on 80-20 split.

Counties with 40,000 or more acres of MFL and FCL lands split resource aid payments (\$1,237,500)

Collects and pays municipalities for yield and withdrawal taxes. Municipality splits with county on 80-20 split.

# WHY THE LEGAL RECORDING?

# DOCUMENTS MFL ENTRY

- Lands enrolled in program
  - Maps are included in the MFL Order of Designation
- Areas of land open and closed to public access
  - Lands open to public recreation also found on DNR public web site at <http://dnr.wi.gov/topic/ForestLandowners/openToPublicApp.html>

# ALLOWS DISCOVERY

- **MFL is Found During Title Searches**
  - MFL becomes a lien/encumbrance on the land
  - MFL passes to new owners upon transfer
  - New owner signs MFL transfer form
- **DNR ensures that lands are registered at county courthouse**
  - DNR pays the recording fee

# MFL Administration

**WHO'S ALL INVOLVED?**

# STATE AGENCIES

Agency	Role	Reason
DNR	Determines lands eligible for enrollment.	Only lands that meet criteria can be enrolled.
	Ensures that management practices are completed.	Lands must provide timber products on 80% of acreage.
	Collects yield tax payments.	Landowners pay deferred taxes based on yield of their harvest.
	Sends payments to municipalities.	Reimburses municipalities for taxes that were deferred.
DOR	Provides withdrawal tax values (estimates and actual).	Have ability to collect information used in the withdrawal tax formula.
	Determines tax rates for open and closed.	Tax rates change every 5 years in MFL and every 10 years in FCL.

# COUNTY AGENCIES

Department	Role	Reason
Treasurer	Reports delinquent property taxes	Property taxes must be paid in full before enrollment is granted
Register of Deeds	Records all MFL and FCL Orders	Allows public notice of liens/encumbrances placed on property
Property Lister, Register of Deeds	Reports land transactions to DNR that affect MFL or FCL lands	County offices are the first to learn of land transactions that affect tax law lands. After reporting, DNR can determine if lands continue to meet program requirements.



# TOWNSHIP OFFICIALS

Official	Role	Reason
Chair, Clerk	Request denial of MFL lands	If lands fail to meet the eligibility requirements
	Assess \$250 non-compliance assessment for failure to complete management practice	Encourages compliance. Last step before landowner withdrawal.
Clerk, Assessor	Report errors to DNR	Master lists are developed annually. If errors are found (land transactions, ex.) DNR can evaluate whether lands continue to meet eligibility requirements

# **NON-COMPLIANCE ASSESSMENT**

# NEW TOWNSHIP INVOLVEMENT

- Began April 28, 2004 (2003 Act 228)
- Gives landowners another chance to stay in MFL.
  - Without this step we'd go to withdrawal from the program.
- Allows townships to receive some income for landowner's failure to comply with management practice.

# WHAT'S INVOLVED?

**DNR**

- Certifies owner's failure to complete a forestry practice.

**Town**

- Assess \$250 for each failure to the landowner.

**Owner**

- Pays on the last day of the month following the date the certificate is mailed.

- Town collects interest at a rate of 12% per year on any assessment that is paid later than the due date.

# HOW DOES DNR CERTIFY NON-COMPLIANCE?

- Through Notice of Investigation (NOI) to owner
  - Usually 3<sup>rd</sup> letter to owner
- Town is copied as a CC
- Owner is notified of the non-compliance fee

**A NOTICE OF INVESTIGATION is the last attempt for DNR to gain compliance with MFL landowners to complete management practices. NOIs set strict deadlines for landowners to comply.**

# EXAMPLE

## NOTICE OF INVESTIGATION

In a matter regarding lands entered under the Wisconsin Managed Forest Law, more particularly described as:

Kewaunee County, Franklin Township  
Township 22N Range 23E Section 4, NESE  
Order # 31-044-2006

You are hereby notified that, under the provisions of the Managed Forest Law, Chapter 77, Wis. Stats., the Department of Natural Resources is investigating the following alleged violation:

**Failure to comply with the mandatory practice, scheduled for the year 2008, as stated in the Managed Forest Law management plan, violation of s.77.88.**

This notice of investigation is being sent to the clerk and town chairman of Franklin as the certification required under s.77.876, Stats., of the failure to complete the mandatory practice(s) listed above by the time required in the MFL Forest Management Plan or subsequent written correspondences. The municipality is directed to bill you for a noncompliance penalty of \$250 (\$250 per practice not completed). Unpaid noncompliance penalties will be added to the property tax bill as a special charge. If the mandatory practices or appropriate actions described in this letter are not completed by the dates given, your file will be sent to the Forest Tax Section in Madison with a recommendation for withdrawal. When land is withdrawn from MFL, a withdrawal tax and fee are assessed.

# TOWNSHIP BILLING

- Use your standard billing procedures
- Township shall impose the fee
  - Does not give town option to not bill

## REASONS FOR TOWN BILLING

Towns are hurt by a landowner's inaction to harvest timber, since yield tax will not be collected until timber is harvested.

Helps landowners understand the role that towns have in supporting MFL and ensuring sound forestry practices within the township.

# OWNER'S LIABILITY

- Owner or other person is personally liable for unpaid assessment
  - While timber is in their possession, and
  - If timber is cut when non-compliance fee is unpaid
- Becomes a lien against merchantable timber cut

## OTHER CONDITIONS

If MFL wood is co-mingled with other non-MFL wood, lien is against all timber cut

Exception is if “other person” is logger, timber buyer or other person who purchases the wood for value without notice in the usual course of business.



# WHAT DOES “WITHOUT NOTICE” MEAN?

- “Notice” means that someone knows that a lien exists on the timber.
- Once notice is given to logger, timber buyer, etc. that person may be liable for the fee.

## WAYS TO “NOTICE” OTHERS

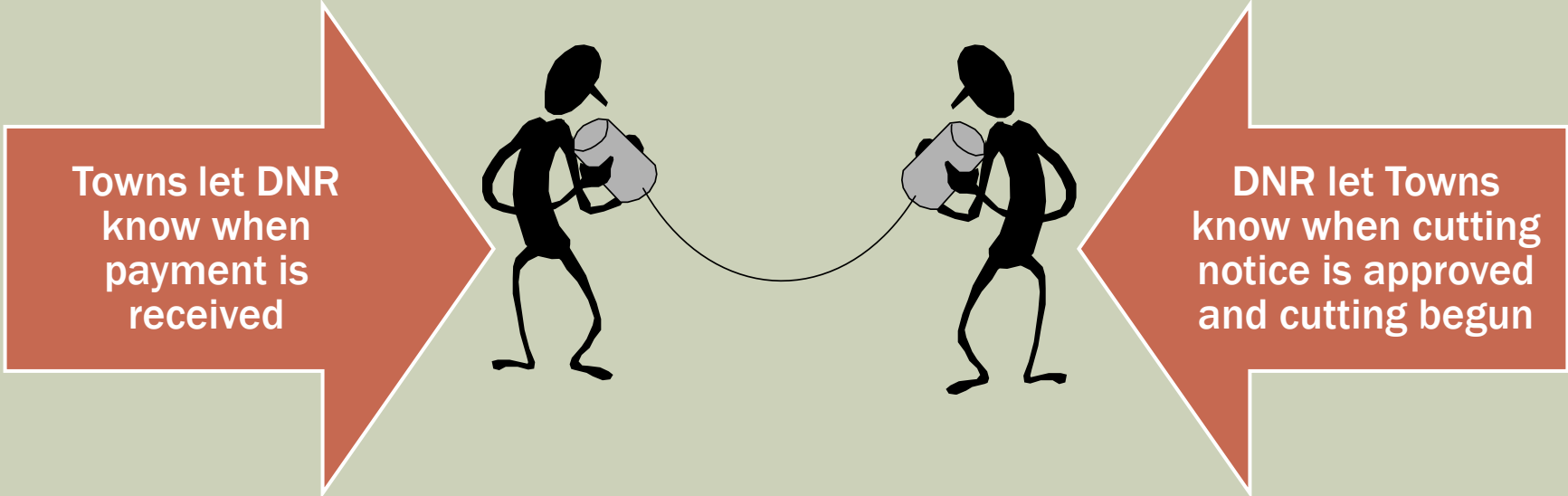
**Class 1, 2 or 3 public notice**

**Red seizure tag on cut products**

**Notice from county when approving county cutting notice**

# HOW COULD THIS WORK?

- Towns and DNR need to keep in touch



Towns let DNR know when payment is received

DNR let Towns know when cutting notice is approved and cutting begun

# NEXT STEP

- Town takes the next step in foreclosing the lien, or
- Waits until the fee becomes delinquent before taking the next step

## CONSIDERATIONS

Ease in collecting lien

Value of lien

Need for immediate cash

Potential land sale

# CERTIFICATION AS SPECIAL CHARGE

- Non-compliance fee becomes delinquent if not paid on or before the last day in August
- Amount is added to the property tax roll as a special charge

**Town**

- Certifies to taxation district clerk that fee is delinquent.

**Clerk**

- Adds fee to upcoming property tax bill as special charge.

**Owner**

- Pays fee when paying property taxes.
- Must be paid in full on or before January 31.

# PROPOSED LEGISLATION

# COUNCIL ON FORESTRY REVIEW

- Reduce DNR 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 forest management
- Encourage continued program enrollment
- Address concerns of MFL forest landowners
- Address concerns of industry

# POTENTIAL MFL REVISION ISSUES

- Change the procedure to have Counties take over the MFL yield and billing collection.
- Changes to withdrawal fees/procedures
- Removes allowance for structures (future only)
- Allows small acreage withdraws
- Eligibility
  - Productivity
  - Minimum Acreage
- Public recreational use/access
- Additional issues related to administration and forest management



## QUESTIONS

Contact your  
local DNR  
Forester or

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