

Clearinghouse Rule 18-086

The statement of scope for this rule, SS-028-17, was approved by the Governor on March 7, 2017, published in Register 735 A2 on March 13, 2017 and approved by the Natural Resources Board on June 28, 2017.

The Wisconsin Department of Natural Resources proposes an order **to repeal** NR 46.08, 46.16 (1) (cm), 46.17 (3) (Note) (1), 46.18 (4) (a) 2., 46.19 (1) (Note) and (2), 46.21 (2) (b), 46.23 (2), 46.26, 46.30 (1) (a), (e), (f); **to renumber and amend** NR 46.18 (4)(a) 3. and 46.23 (2m); **to amend** NR 46.01, 46.02 (25), 46.09 (Note), 46.15 (2), (16), and (33), 46.16 (1) (intro.), (a), (d), and (e), (2) (h), (2) (Note), (5), and (7), 46.165 (3) (c), 46.17 (1) (b), 46.18 (2) (intro.) and (d), (3) (b) 1. and 2. a., and 4., (5) (bm), (6) (Note) (1), 46.19 (1), 46.21 (2) (a) and (3) (c), 46.22 (2) and (2) (Note), 46.23 (3), 46.24 (3) (c) and 46.25; **to repeal and recreate** NR 46.03, 46.15 (1m), 46.17 (3), 46.18 (4) (b), 46.19 (3), 46.20 (1) and (2), 46.21 (1), 46.22 (1), and 46.23 (1); **to create** NR 46.10, 46.15 (15m), (17g), (17r), (20s), (21m), (26r), (30m), and (32m), 46.16 (7m) and (10), 46.17 (1) (c), (4), and (5), 46.18 (2) (g), (4) (a) 3. a. and b. and (4) (a) 6. and (Note), (c), (5) (dm), (9), and (10), 46.185, 46.21 (2) (c), 46.215, 46.22 (3) and (4), 46.23 (2m) (b) and (c), 46.27, and 46.28, relating to the managed forest law and forest crop law programs.

FR-23-16

Analysis Prepared by the Department of Natural Resources

1. Statutes interpreted:

Subch. I and VI Ch. 77, Stats.

2. Statutory authority:

Sections 227.11 (2) (a) and Ch. 77 Wis. Stats.

3. Explanation of agency authority:

The Department is granted general authority to interpret statutory authority by s. 227.11 (2) (a), Wis. Stats. Additional authority is granted to implement and administer the Forest Tax programs in ch. 77, Wis. Stats.

4. Related statutes or rules:

None

5. Plain language analysis:

Minimum Acres and Renewals

2015 Wisconsin Act 358 increases the minimum MFL forest parcel size requirement for entry into the managed forest law (MFL) program from 10 to 20 acres. With this change, a provision was added to allow parcels that are currently enrolled but do not meet the new acreage requirement to be renewed in the program once if certain requirements are met, including all other eligibility criteria. Section NR 46.18(8) provides landowners the flexibility needed for reenrolling in the program, allowing all existing management plans to be updated by a certified plan writer in order to facilitate and streamline the renewal process.

For one time renewals of parcels less than 20 acres, those parcels must be identical, as required in s. 77.82 (12) (a) 2., Stats. If such parcels contain an ineligible building or improvement, the landowner may withdraw the building or improvement site using a voluntary withdrawal under s. 77.88 (3j), Stats. To be considered identical, and eligible for renewal, the withdrawal application must be submitted before the department can approve the application for renewal.

Buildings and Improvements

2015 Wisconsin Act 358 prohibits the enrollment of a parcel if it contains a building or improvement associated with a building. The definition of "building" in s. NR 46.15 (1m) was clarified to administer this provision, and provides an exception for recreational vehicles (e.g., campers and RVs). For purposes of administration, what it means to be an improvement associated with a building has also been defined in s. NR 46.15

(17r), using guidelines developed to assess improvements for purposes of taxation. With the passage of Act 358, certain exemptions from improvements were outlined, including exemptions for hunting blinds and structures and fixtures needed for sound forestry. Hunting blinds has been defined in s. NR 46.15 (17) (g). Structures and fixtures needed for sound forestry has been defined in s. NR 46.15 (30m). Clarification regarding which building rules apply to which orders, since the change affecting building rules was prospective only, was created in s. NR 46.15 (3) (b).

Accessibility

2015 Wisconsin Act 358 provides that the public must be able to access any land designated as open-MFL on foot. Section NR 46.20 states that this requirement can be satisfied if the land designated as open-MFL is (1) contiguous to other public land, (2) contiguous to other land under the same ownership as the open-MFL parcel, or (3) if the landowner secures an easement or agreement that allows the public to cross neighboring lands. Additionally, to be designated as open-MFL landowners must certify that they will inform the department if their access changes and that they are aware their land may need to be closed or withdrawn if they cannot provide public access. Posting standards and map requirements in s. NR 46.21 were also updated to reflect this requirement.

Additions

2015 Wisconsin Act 358 allows all MFL entries to have land added to them if certain criteria are met. Section NR 46.16 (7), interprets and clarifies the requirements for additions in s. 77.82 (4), Stats., including that the additional parcel must be at least 3 contiguous acres, must be contiguous to the existing entry, and all eligibility requirements must be met. For eligibility purposes, productivity is evaluated on the parcel as a whole (existing MFL land plus added MFL land), not just the portion being added. Furthermore, in s. NR 46.16 (5), this rule removes the requirement that qualifying contiguous land in a separate municipality to be on a separate order, now all lands eligible to be an addition can be added to an existing order.

Yield and Severance Tax

2015 Wisconsin Act 358 eliminated severance and yield taxes. As a result of this repeal, references to the assessment and collection of these taxes have been repealed from this chapter of administrative code.

This rule also repeals s. NR 46.16 (1) (cm) as a result of the statutory repeal of the mechanism to calculate Forest Crop Law termination tax in Wisconsin Act 358. Now that there is no termination tax, there is no reason to provide FLC landowners additional time to apply to the MFL program after a land conveyance occurs.

Contracts

2015 Wisconsin Act 358 provides that department orders designating land as MFL are contracts. When a material change occurs in statute or administrative code, the department will contact landowners impacted by the change. Section NR 46.27 (2) provides the process that the department will use to contact landowners and establishes a timeline for landowner response to be eligible for withdrawal from the program without assessment of a withdrawal tax and fee following a material change. To implement the process for contacting landowners after a material change, s. NR 46.31 provides that landowners are responsible for supplying the department with updated contact information if it has changed since the time of entry, and that the department's attempt to notify the landowner at a supplied address is considered to meet the requirement of contacting a landowner.

As a result of all orders designating land as MFL being contracts, s. NR 46.18 (9) was created to clarify amendments to management plans that may need to occur during an order period for the management plan to remain in compliance with the program

Department orders

To codify long-standing policy, s. NR 46.27 (1) was added to clarify when the department may issue orders to correct or alter existing MFL entries. Additionally, a long-standing policy whereby orders may be rescinded if a land sale occurs prior to the effective date was clarified in s. NR 46.16 (1) (d).

Large Ownerships

2015 Wisconsin Act 358 changed a number of aspects related to MFL entries. Now that orders are considered contracts and land is eligible for withdrawals without tax and fee when certain criteria are met, it is increasingly important that more information is obtained and the program is implemented more consistently across order types. Section NR 46.16 (4) requires large ownerships to have available for department audit, information that more closely aligns to what is required for other entry types. This will allow the department to evaluate when large

ownerships are eligible for certain withdrawal types. In addition, now that landowners can sell any description of land, productivity must be evaluated at the time of transfer to determine if land eligible to remain in the program.

Opportunities to Withdraw Land

2015 Wisconsin Act 358 provides new voluntary withdrawal options for landowners enrolled in MFL. Section NR 46.22 (3) provides requirements for landowners who choose to voluntarily withdraw land using the construction and small land sale withdrawal type. In using this withdrawal type, landowners are responsible for following zoning requirements and providing the department with information on where the withdrawal will occur. Additionally, this provision allows landowners to use this small acreage withdrawal to rectify enforcement situations.

As a result of Act 358, landowners can request to withdraw land with no penalty if the withdrawal is needed for a parcel of managed forest land to resume compliance with the MFL productivity requirements. Section NR 46.22 (4) establishes the requirements that need to be met for a landowner to use this withdrawal type.

Productivity Eligibility Criteria

Changes in how productivity is evaluated as an eligibility requirement were made to address potential administrative issues that could arise as a result of the new productivity withdrawals. Specifically, s. NR 46.17 was amended to clarify that if land is part of the 80% productive portion of the entry and the land is capable of producing at the level required, but is not currently meeting the density requirements established in s. NR 46.18 (2) (d) at the time of entry, mandatory practice to address density requirements must be included in the management plan. Such practices are not eligible for a withdrawal without tax or fee based on productivity issues until restoration measures have been sufficiently attempted. The density requirement table, previously called the minimum medium density table was moved and renamed to clarify density requirements of land entered in the program.

In addition to clarifications regarding what it means to be capable of producing merchantable timber at the required level, clarification was also made to the method of evaluating productive and non-productive areas within an entry. This change was made s. NR 46.18(3) (b)1., wherein non-productive areas comprising of ½ or more contiguous acres will be used in the calculation of productivity levels.

Restoration

As a result of Act 358, landowners may have a period of time in which their land does not meet productivity requirements if they have a restoration plan in place. Section NR 46.215 was added to outline when restoration may be required or offered as a solution when a parcel no longer meets productivity requirements defined in s. 77.82 (1) (a) 2., before land is withdrawn from the program, without tax and fee. If it is possible for the parcel to resume productivity through restoration within a reasonable timeframe and it is an economically feasible solution, restoration practices will be required and the management plan will be amended.

Additional requirements were added in s. NR 46.17 (4) for land that has been withdrawn for a failure to meet productivity requirements. This change makes land withdrawn for productivity or sustainability reasons ineligible for re-entry unless the department determines there has been a change that would allow the land to meet productivity requirements in s. NR 46.18 (2) (d) since the time of withdrawal. This change reduces the amount of land that can be re-entered in the program if the landowner is unable or unwilling to restore the land to meet density requirements needed to establish merchantable timber. This reduces the burden on the local units of government who would otherwise receive back taxes for land that is removed from the program.

Cutting Notices

2015 Wisconsin Act 358 added categories of individuals who can submit a cutting notice without department approval. Sections NR 46.10 and 46.185 clarify requirements for individuals to be able to submit a cutting notice without department approval. Such individuals will have to certify on the cutting notice form that they meet the requirements of submitting a cutting notice without department approval, and if the cutting notice is complete and adheres to sound forestry and the management plan and the landowner does not request department approval, then department approval is not required. For all other situations department approval is required.

In addition to changes relating to who can submit a cutting notice without approval, long-standing policy was also incorporated allow cutting notices to be renewed if no significant change has occurred, the cutting will occur within a reasonable timeframe and the submitter is in contact with the department. This alleviates burden on an industry where harvesting contracts are often more than one year long.

Closed Land

2015 Act 358 increases the amount of acreage a landowner can close to public access to 320 acres per landowner, per municipality. Changes were made in s. NR 46.19 to allow for this and remove differences between lands enrolled before or after 2004 as those were also removed with Act 358. A long-standing policy regarding the signing of closed or unenrolled lands was also incorporated into rule under s. NR 46.21 (2) (c). It provides that if a landowner has open-MFL surrounded by other land they own that is not open to public access and decides to use “no trespassing” or similar signs on their lands that are not open to public access, that landowner is required to include information on the signs to show how to access the open-MFL lands.

Leasing

Clarification on eligible leases and agreements was added in s. NR 46.17. Landowners may enter into any lease or agreement if it does not conflict with the program.

Transfer of Ownership

2015 Act 358 allows landowners to sell or otherwise convey any amount of MFL land. After being notified of a land sale, the department will evaluate land retained and land conveyed to determine MFL eligibility. If the conveyed land does not meet eligibility requirements because it exceeds the non-productive requirement, the landowner can use the productivity/sustainability withdrawal, without tax and fee, to resume compliance with the productivity standards if the land sold/conveyed meets parcel size requirements after the withdrawal. If after the withdrawal, the rest of the parcel does not meet parcel size requirements, the remaining land will be withdrawn with a tax and fee. This same evaluation will be used for land retained after a land conveyance, if any. If land conveyed or retained does not meet size requirements that land will be withdrawn with a tax and fee.

For land that is conveyed from a large ownership, the department will transfer the land if it meets parcel size requirements established in s. 77.82 (1) (a) 2., Stats., and the new owner will have one year to develop a management plan and determine if any land needs to be withdrawn due to productivity issues.

6. Summary and comparison of federal regulations:

There are no known federal rules which apply to stumpage rates or Managed Forest Law petitions.

7. Comparison of Adjacent States:

Checks with the surrounding states of Minnesota, Michigan, Iowa and Illinois indicate that while they offer some type of incentive program to forest landowners, none of the states have similar forestry practice requirements.

8. Summary of factual data and analytical methodologies

9. Analysis and supporting documentation used to determine effect on small business or in preparation of an economic impact analysis:

10. Effect on small business:

11. Agency Contact Person:

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SECTION 1. NR 46.01 is amended to read:

NR 46.01 Purpose. It is the purpose of this chapter to interpret, enforce and administer the provisions of the Wisconsin statutes pertaining to the forest croplands program, ~~the woodland tax law program the managed forest land program~~, and any other tax programs concerning private forest lands.

SECTION 2. NR 46.02 (25) is amended to read:

NR46.02 (25) “Wood products” or “forest products” means those items listed on the current forest crop law stumpage values ~~for severance tax~~.

SECTION 3. NR 46.03 is repealed and recreated to read:

NR46.03 Petitions or applications. The forest cropland program is no longer open for enrollment or renewal.

**** NOTE TO LRB: Start of Subch. I****

SECTION 4. NR 46.08 is repealed.

SECTION 5. NR 46.09 (Note) is amended to read:

NR 46.09 Note: Forms for withdrawal must be filed by the deadline ~~at: Bureau of Forestry, Forest Tax Section, PO Box 7963, Madison, WI 53707~~. Forms may be obtained ~~at no charge by writing the same address online at dnr.wi.gov, search keyword “FCL”~~.

SECTION 6. NR 46.10 is created to read:

NR 46.10 Forestry practices. (1) INCOMPLETE CUTTINGNOTICES. Incomplete cutting notices shall be returned.

(2) CUTTINGNOTICES THAT REQUIRE DEPARTMENT APPROVAL. Department approval of a submitted complete cutting notice is required prior to harvest if any of the following apply:

- (a) The cutting notice is not consistent with sound forestry.
- (b) The owner requests on the form that the department review the cutting notice.
- (c) The person who submits the cutting notice does not certify on the form that they meet one of the requirements provided in s. 77.06 (1) (b) 2. Stats.

**** NOTE TO LRB: Start of Subch. III****

SECTION 7. NR 46.15 (1m) is repealed and recreated to read:

NR 46.15 (1m) “Building” means any structure that is used for or able to be used for sheltering people, machinery, animals, or plants, for storing property, or for gathering, working, office, parking, or display space. Camping trailers and recreational vehicles that are not connected to utilities or set upon a foundation, in whole or in part, for more than a temporary time and that are used as temporary living quarters for recreation, camping, or seasonal purposes are not considered buildings for the purpose of the managed forest law program.

SECTION 8. NR 46.15 (2) is amended to read:

NR 46.15 (2) “Capable of producing 20 cubic feet of merchantable timber per acre per year” means land determined by the department to be capable of such production ~~according to normal yield tables published by the North Central Forestry Experiment Station and the Lake States Forest Experiment Station and meeting one of the following size and minimum density classifications based on site conditions and other guidelines specific to Wisconsin cover types~~.

Stand Size	Tree Diameter	Minimum Density
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Classes	Ranges at 4.5 Feet From Ground Level	
Seedlings	0-1	200 trees per acre
Saplings	1-5	100 trees per acre
Saplings	1-5	100 trees per acre
Sawtimber	9-*, 11-**	1,300 board feet per acre

*For conifer species

**For other species

SECTION 9. NR 46.15 (15m) is created to read:

NR 46.15 (15m) “Full-time profession,” as provided in s. 77.86 (1)(b)2., Stats., and as applicable in this subchapter, means full-time employment by a business or company in a position requiring specialized knowledge or training.

SECTION 10. NR 46.15 (16) is amended to read:

NR 46.15 (16) “Grazing” means the feeding on living plants by domestic animals except by animals used during timber cutting operations as a silvicultural tool to accomplish a sound forestry practice, as approved by the department.

SECTION 11. NR 46.15 (17g), (17r), (20s), (21m), (26r), (30m), and (32m) are created to read:

NR 46.15 (17g) “Hunting blind” means a structure that is used exclusively for hunting.

NR 46.15 (17r) “Improvements associated with a building” means any of the following:

- (a) A structure or fixture that is attached to a building or that is appurtenant to a building.
- (b) A structure or fixture that provides a specific purpose or use related to the use of a building.
- (c) A structure or fixture for which the intent is that it becomes a permanent addition to a building.

NR 46.15 (20s) “Material change” means a change in statute or administrative code that has a significant negative impact on an existing managed forest law order, as determined by the department when not explicitly stated by the legislature.

NR 46.15 (21m) “Non-productive area” or “non-productive land” means land incapable of producing wood products or land designated by the landowner as part of their 20% allowance of land not producing merchantable timber.

NR 46.15 (26r) “Restoration” means the management of land to resume compliance with productivity requirements as established in s. 77.82 (1) (a) 2., Stats., and density requirements established in s. NR 46.17 (1) (c) 2.

NR 46.15 (30m) “Structures and fixtures needed for sound forestry” means a structure or fixture that is placed on the land for the sole purpose of conducting a forest management practice that is either in the management plan, or agreed upon by the department and the owner.

NR 46.15 (32m) “Utilities” means any of the following:

- (a) Indoor plumbing including water and sewer, piped to either a municipal or septic system.
- (b) Electrical service by connection to the lines of a power company.
- (c) Telephone service based locally.

SECTION 12. NR 46.15 (33) is amended to read:

NR 46.15 (33) “Wood products” or “forest products” means those items listed on the current schedule of stumpage values ~~for severance or yield tax~~ in s. NR 46.30.

SECTION 13. NR 46.16 (1) (intro.) and (a) are amended to read:

NR 46.16 (1) APPLICATION DEADLINES. An application for a new designation or a renewal of land as managed forest land shall be signed by all owners on forms provided by the department and filed as follows:

NR 46.16 (1) (a) Applications shall be ~~postmarked or~~ received by the department no later than June 1 to be considered for designation effective the following January 1.

SECTION 14. NR 46.16 (1) (cm) is repealed.

SECTION 15. NR 46.16 (1) (d) and (1) (e) and (2) (h) and (2) (Note) and (5) and (7) are amended to read:

NR 46.16 (1) (d) Lands subject to an ownership change after the application deadline, but before the order of designation has been issued, may not be designated as managed forest land for the year for which the original application was submitted. ~~Ownership changes taking place after the issuance of an order of designation shall be processed as a normal transfer after January 1.~~ The new owner shall may submit a new and complete application by the next applicable deadline. The department may designate land included on the application that remains under the original ownership effective January 1 of the year for which the original application was submitted providing the remaining land qualifies for entry. Ownership changes taking place after the issuance of an order of designation, but before January 1, shall be processed as a normal transfer after January 1, or the order shall be rescinded.

NR 46.16 (1) (e) Each application submitted to the department for a new designation or a conversion of forest cropland to managed forest land shall include a nonrefundable application fee of \$30.00 per county in which the land that is the subject of the application is located. This fee shall be submitted to the department within 14 days of the submission of the application along with a printed remittance form provided by the department.

NR 46.16 (2) (h) Reconnaissance data and scheduled practices on electronic forms provided by the department.

NR 46.16 (2) Note: Forms can be obtained by ~~contacting the Division of Forestry, Bureau of Forest Management, PO Box 7921, Madison, WI 53707~~ electronically through the Wisconsin Forest Inventory and Reporting System (WisFIRS).

NR 46.16 (5) SAME OWNERSHIP. All eligible land under the same ownership and located in the same municipality when applied for designation or renewal in the same year, shall be designated under the same order of designation. All eligible land under the same ownership that crosses any municipal boundary where land designated for entry in any one municipality is less than 40 acres in the minimum parcel size or less than 80% productive, when applied for designation in the same year, shall be designated under the same order of designation. This subsection does not apply to land added to an existing MFL entry under sub. (7).

NR 46.16 (7) ADDITIONS. An owner may apply to the department to ~~designate 10 or more acres of land as managed forest land which is add land to a current MFL order.~~ To be eligible, the addition shall be a parcel that is at least 3 acres in size and that is contiguous to land that was is designated as managed forest land on or after April 28, 2004 as an addition to the previously designated and contiguous managed forest land ~~the date the application for addition is submitted.~~ If the application for an addition is for land which is contiguous to land that was designated as managed forest land on or after April 28, 2004 in an adjacent municipality, the land must be designated under a separate order if it meets the eligibility requirements under s. NR 46.17 and s. 77.82 (1) (a), Stats. Land contained in an application for addition shall meet all current eligibility requirements under s. NR 46.17 and s. 77.82 (1) (a), Stats., except for minimum acreage and productivity requirements, which shall be met at the time land is designated as managed forest land. Land contained in an application for addition shall have the same ownership as the existing entry.

SECTION 16. NR 46.16 (7m) and (10) are created to read:

NR 46.16 (7m) RENEWALS. (a) All land designated as managed forest land may be eligible for renewal. The department shall approve applications for an additional 25- or 50-year period at the end of an existing order period if all of the following are met:

1. The land meets all eligibility requirements outlined in s. NR 46.17 and s. 77.82 (1), Stats.,
 2. Items listed in s. 77.82 (3) (c), Stats., have been updated within the 5 years prior to the date of the application for renewal and practices in s. NR 46.18 (2) and (3) have been scheduled during the renewal order period; or a new management plan is submitted with the renewal application that meets all management plan requirements for new entries.
 3. The owner is in compliance with all aspects of the management plan that is in effect on the date that the application for renewal is filed.
- (b) 1. If there is a parcel within the order that is less than 20 acres but greater than or equal to 10 acres, the land may be renewed once.

2. If the current entry contains a parcel of MFL land that is less than 20 acres and that parcel will remain less than 20 acres in the renewal period, then the parcel on the renewal application shall be identical to the current enrollment without any changes to acreage other than those provided for in s. NR 46.27 (1). If such a parcel includes an ineligible building or improvement, a withdrawal under s. 77.88 (3j), Stats., may be used to rectify the situation and allow the existing and renewed lands to be identical on the renewal application, subject to constraints provided for in s. 77.88 (3j) (b), Stats. To be considered identical, the withdrawal form shall be submitted before the department can approve the renewal application.

NR 46.16 (10) APPLICATION SUBMISSION AND DATA COLLECTION. All applications submitted to the department shall be completed and submitted electronically through the Wisconsin Forest Inventory and Reporting System (WisFIRS) by a certified plan writer, unless a certified plan writer is unavailable, as provided for in s. 77.82 (3) (am), Stats.

SECTION 17. NR 46.165 (3) (c) is amended to read:

NR 46.165 (3) (c) Completes ~~the~~ a basic training session sponsored by the department.

SECTION 18. NR 46.17 (1) (b) is amended to read:

NR 46.17 (1) (b) No more than 20% of a managed forest land parcel may consist of land unsuitable for producing merchantable timber as provided in s. 77.82 (1) (b) 1., Stats., or ~~non-stocked non-productive~~ land as defined in s. NR 46.15 (21m) or a combination of those types of land.

SECTION 19. NR 46.17 (1) (c) is created to read:

NR 46.17 (1) (c) 1. If the portion of land considered capable of producing merchantable timber in par. (a) does not currently meet density requirements established in subd. 2., it may be designated as managed forest land if the department determines that stocking levels can be increased to be consistent with density requirements and mandatory practices needed to achieve density requirements are established in the management plan, to be completed within a reasonable timeframe.

2. Density requirements established in the table below do not address other stand-level regeneration guidelines, such as adequate levels of pre-harvest and post-harvest advanced regeneration or percent stocking to ensure continued stand productivity. On a site-by-site basis, site conditions, species, and other regeneration guidelines specific to Wisconsin cover types may be evaluated to determine an alternative density requirement.

Stand Size Classes	Tree Diameter Ranges at 4.5 Feet From Ground Level	Minimum Medium Density
Seedlings	0”–1”	800 trees per acre for natural stands. 400 trees per acre for planted stands.
Saplings	1”–5”	400 trees per acre for natural stands. 300 trees per acre for planted stands.
Pole timber		
For conifer species	5”–9”	7 cords per acre
For other species	5”–11”	

Sawtimber		
For conifer species	9”+	3,000 board feet per acre.
For other species	11”	

SECTION 20. NR 46.17 (3) is repealed and recreated to read:

NR 46.17 (3) BUILDINGS ON MANAGED FOREST LAND. (a) *Buildings or improvements associated with buildings.*

1. For lands designated or renewed as managed forest land in 2017 and later, a building or an improvement associated with a building that is placed or constructed on land renders the land not eligible for designation.

2. For lands designated as managed forest land prior to 2017, a building is allowed if it is not considered developed for human residence as defined in s. NR 46.15 (9).

(b) *Hunting blinds.* Tree stands and hunting blinds are permitted on lands enrolled in the managed forest law program if they meet all of the following criteria:

1. Are not connected to utilities;
2. Are not used as a human residence;
3. Do not interfere with forestry practices; and
4. Are either:
 - i. Tree stands and hunting blinds owned by, or constructed with permission of, the landowner; or
 - ii. Portable tree stands and hunting blinds placed on land designated as open to public access by a member of the public, and completely removed each day at the close of shooting hours.

(c) *Structures and fixtures needed for sound forestry.* Structures and fixtures placed on land enrolled in managed forest law for this purpose shall be removed following the completion of the practice. Structures and fixtures needed for sound forestry cannot include those that meet the definition of a building.

SECTION 21. NR 46.17 (3) Note 1 is repealed.

SECTION 22. NR 46.17 (4) and (5) are created to read:

NR 46.17 (4) WITHDRAWN LAND. Land withdrawn under s. 77.88 (1), (3k), or (3L), Stats., for failure to meet productivity requirements provided for in s. NR 46.17(1)(c)2., may not be eligible for reentry in the program unless the department determines that there has been an environmental, ecological, or economic change that would allow the land to meet density requirements as provided for in s. NR 46.17 (1) (c) 2., and productivity requirements as provided for in s. 77.82 (1), Stats.

NR 46.17 (5) LEASES OR AGREEMENTS. An owner of managed forest land may enter into a lease or agreement on such lands so long as the terms of the lease or agreement do not conflict or interfere with any aspect of this chapter or subch. VI of ch 77, Stats.

SECTION 23. NR 46.18 (2) (intro.) and (d) are amended to read:

NR 46.18 (2) MANDATORY PRACTICES. The management plan shall be prepared on forms provided by the department through the Wisconsin Forest Inventory and Reporting System (WisFIRS), signed by all owners and shall include a list of stands subject to mandatory practices, a schedule of completion dates and a description of the mandatory practices to be undertaken during the term of the order. Practices included in the management plan and any additional practices needed to complete a scheduled practice or establish regeneration after a scheduled practice may not be eligible for an analysis under s. NR 46.215 until such practices have been sufficiently attempted, as determined by the department, even if the additional practices are not overtly identified in the management plan. Practices projected beyond the term of the order may be added as appropriate. The following practices, if determined applicable by the department, shall be addressed in the management plan:

NR 46.18 (2) (d) Reforestation or afforestation of land to meet one of the following size and ~~minimum~~ medium density requirements established in s. NR 46.17 (1).

Stand Size Classes	Tree Diameter Ranges at 4.5 Feet From Ground Level	Minimum Medium Density
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Seedlings	0"–1"	800 trees per acre for natural stands. 400 trees per acre for planted stands.
Saplings	1"–5"	400 trees per acre for natural stands. 300 trees per acre for planted stands.
Pole timber		
For conifer species	5"–9"	7 cords per acre
For other species	5"–11"	
Sawtimber		
For conifer species	9"±	3,000 board feet per acre.
For other species	11"	

SECTION 24. NR 46.18 (2) (g) is created to read:

NR 46.18 (2) (g) Restoration of land, if required under s. NR 46.215.

SECTION 25. NR 46.18 (3) (b) 1. and (3) (b) 2. a. are amended to read:

NR 46.18 (3) (b) 1. a. For lands designated as managed forest law lands prior to January 1, [LRB inserts second year after rule publication], no more than 20% of an owner's total contiguous designated managed forest land acreage may be non-stocked non-productive land, land unsuitable for producing merchantable timber, or a combination of both. For purposes of this determination, the department shall consider only cover types comprising 2 or more acres.

b. For lands designated as managed forest law lands after January 1, [LRB inserts second year after rule publication], no more than 20% of an owner's total contiguous designated managed forest land acreage may be non-productive land, land unsuitable for producing merchantable timber, or a combination of both. For purposes of this determination, the department shall consider all contiguous areas comprising 1/2 or more acres.

NR 46.18 (3) (b) 2. a. The creation of openings and other vegetative cover not producing forest products at the level meeting density requirements under s. 77.82 (1) (a) 2., Stats., may be approved so long as the total area of created openings or other vegetative cover, combined with land unsuitable for producing merchantable timber and non-stocked non-productive land, does not exceed 20% of the managed forest land parcel.

SECTION 26. NR 46.18 (4) (a) 2. is repealed.

SECTION 27. NR 46.18 (4) (a) 3. is renumbered (4) (a) 3. (intro.) and amended to read:

NR 46.18 (4) (a) 3. The existence ~~and availability for review~~ of a management plan prepared by or for the owner and acceptable to the department. The management plan shall be readily available to the department upon written request or audit. A management plan under this section shall include the all of the following:

SECTION 28. NR 46.18 (4) (a) 3. a. and b. are created to read:

NR 46.18 (4) (a) 3. a. Maps or a GIS database at a scale usable for forest management and showing land eligible for designation. The maps or database shall represent current conditions, and include the requirements provided for in s. 77.82 (3) (c) 4. and 5., Stats. Maps on department forms that show any land designated as open to public recreation and meeting the requirements in s. NR 46.21 (3) (c) shall be provided.

b. Reconnaissance data and scheduled practices using the procedure defined in subd. 4.

SECTION 29. NR 46.18 (4) (a) 4. is amended to read:

NR 46.18 (4) (a) 4. ~~Submission of~~ At the time of application to become a large ownership, submission of legal descriptions and maps or aerial photographs that meet the requirements established in s. 77.82 (3) (c) 4. and 5., Stats., for the land being entered, and a written commitment from an owner to provide, upon department request, information from the management plan for review or audit. The commitment shall that describes the management plan that is required in subd. 3. and outline outlines the procedure used to update and amend the management plan,

or that fulfills requirements established in subd. 6, if applicable. The information provided in this subdivision shall be updated when land is added to, transferred from, or renewed under the ownership.

SECTION 30. NR 46.18 (4) (a) 6. and (Note) are created to read:

NR 46.18 (4) (a) 6. If the land considered for large ownership is under a nationally recognized third-party forest certification standard with a valid certificate held by the MFL owner, the land may qualify as a large ownership without fulfilling requirements under subd. 3 if the owner maintains the third-party certification and provides maps on department forms that show lands designated as open to public recreation and meeting the requirements in s. NR 46.21 (3) (c).

NR 46.18 (4) (a) 6. Note: Examples of nationally recognized third-party forest certification standards include American Tree Farm System®, the Forest Stewardship Council®, and the Sustainable Forestry Initiative®.

SECTION 31. NR 46.18 (4) (b) is repealed and recreated to read:

NR 46.18 (4) (b) The department may revoke large ownership status for large ownerships failing to meet requirements established in sub. (a). Large ownerships shall be notified of the cause for revocation in writing, and shall be given one year to develop a management plan under s. 77.82 (3), Stats., that contains all items listed in s. NR 46.16 (2) (f), (g), and (h).

SECTION 32. NR 46.18 (4) (c) is created to read:

NR 46.18 (4) (c) Large ownerships shall supply the department, upon written request, any additional information required to determine owner compliance with s. 77.82 (1), Stats., and this section.

SECTION 33. NR 46.18 (5) (bm) is amended to read:

NR 46.18 (5) (bm) Management plans for applications under s. NR 46.16 (1) (a) received on or before June 1 ~~or under s. NR 46.16 (1) (cm) received on or before July 1~~ shall be prepared by a certified plan writer or the department itself.

SECTION 34. NR 46.18 (5) (dm) is created to read:

NR 46.18 (5) (dm) Management plans submitted by June 1 that are returned to a certified plan writer by the department for revisions shall be resubmitted by September 15. Plans resubmitted after September 15 that are not approvable may be denied. Extensions may be granted with department approval.

SECTION 35. NR 46.18 (6) Note (1) is amended to read:

Note: Requests to change the open/closed status shall be filed by the deadline ~~at: Division of Forestry, Bureau of Forest Management, Forest Tax Section, PO Box 7963, Madison, WI 53707.~~ Forms may be obtained online at dnr.wi.gov, search keyword "MFL".

SECTION 36. NR 46.18 (9) and (10) are created to read:

NR 46.18 (9) IDENTIFIED RISK. Forest regeneration or health concerns that have foreseeable repercussions on stand productivity shall be identified in the management plan. These identified risks to lands enrolled that are identified in the management plan may not be the cause for an analysis under s. NR 46.215.

NR 46.18 (10) AMENDING A MANAGEMENT PLAN. Owners may be required to amend their management plan under s. 77.82 (3) (f), Stats., to maintain compliance with the provisions of this chapter and subch. IV of ch. 77, Stats., when taking actions in accordance with an existing management plan may conflict with sound forestry or program requirements. The land may be withdrawn under s. 77.88 (1), Stats., if the owner does not agree to amend the plan.

SECTION 37. NR 46.185 is created to read:

NR 46.185 Forestry practices. (1) INCOMPLETE NOTICE OF INTENT TO CUT. In accordance with s. 77.86(1)(b), landowners shall file a notice of intent to cut on department forms prior to cutting on managed forest law lands. Incomplete notices shall be returned to the submitter to be completed. The complete notice shall be submitted 30 days before cutting takes place.

(2) NOTICES OF INTENT TO CUT THAT REQUIRE DEPARTMENT APPROVAL. Department approval of a submitted complete notice is required prior to harvest if any of the following apply:

- (a) The notice does not conform to the approved management plan in place for the managed forest law land subject to the notice.
- (b) The notice is not consistent with sound forestry.
- (c) The owner requests on the form that the department review the notice.
- (d) The person who submits the notice does not certify on the form that they meet one of the requirements provided in s. 77.86 (1) (b) 2., Stats.

(3) EXPIRATION OF NOTICES OF INTENT TO CUT. If the cutting has not commenced within 1 year of cutting notice submission or approval, as provided in s. 77.86 (3), Stats., the department may renew the cutting notice if all of the following apply:

- (a) The owner or filer are in communication with the department and have adequately shown that a plan for the cutting within a reasonable timeframe is in place.
- (b) A new notice would not be significantly different from the cutting notice on file, as determined by the department.

SECTION 38. NR 46.19 (1) is amended to read:

NR 46.19 (1) CLOSED ACREAGE LIMIT. An owner of land designated as managed forest land ~~effective on or after April 28, 2004~~ may designate a maximum of ~~460~~ 320 acres in the municipality as closed to public access in accordance with sub. (3). ~~Not more than 80 acres or 2 legal descriptions may be land designated as managed forest land prior to April 28, 2004.~~

SECTION 39. NR 46.19 (1) (Note) and (2) are repealed.

SECTION 40. NR 46.19 (3) is repealed and recreated to read:

NR 46.19 (3) CLOSED AREA CONFIGURATION. A closed area may consist of any combination of the following:

- (a) A parcel or parcels of managed forest land.
- (b) All of an owner's managed forest land within quarter quarter sections, government lots, or fractional lots.
- (c) An additional block of acreage within a quarter quarter section, government lot or fractional lot, if the additional block is contiguous to existing closed acreage, if applicable, and does not exceed a length to width ratio of 4 to 1, unless limited by the size of the entry.

SECTION 41. NR 46.20 (1) and (2) are repealed and recreated to read:

NR 46.20 (1) PUBLIC ACCESS REQUIREMENTS. The owner of managed forest land shall provide public access on foot to land designated as open to public access for activities authorized in s. 77.83 (2) (a), Stats., unless it has been designated closed under s. 77.83 (1) (a), Stats. Public access on foot to open managed forest land shall satisfy one of the following conditions:

- (a) *Contiguous to public land.* The land designated as open managed forest land is contiguous to other land or public roads that are open to public access on foot. Lands contiguous to other land open to public access at a single point are not considered to have met this requirement.

(b) *Easement or agreement.* By easement or otherwise, the owner has obtained a reasonable route or location at which the public can access the open managed forest land on foot by crossing land that is not generally considered open to public access, which shall be designated in accordance with s. NR 46.21 (3).

(c) *Other land under same ownership.* The land designated as open managed forest land is accessible from other land or public roads that are open to public access on foot by crossing contiguous land of the owner which is not entered as managed forest land or contiguous managed forest land of the owner which has been designated closed under s. 77.83 (2) (a), Stats. The owner may not restrict public access for activities authorized in s. 77.83 (2) (a), Stats., through or across such land except the access across such land may be limited to a reasonable corridor or location, which shall be designated in accordance with s. NR 46.21 (3).

(2) OPENLAND AGREEMENT. An owner who chooses to designate any of their managed forest land as open shall certify on department prepared forms that there is public access on foot to the land designated as open and that if the access changes or is removed during the order period the owner shall notify the department and change the designation of the land to closed under s. 77.83 (1) (a), Stats., if access meeting the requirements in this section can no longer be achieved.

SECTION 42. NR 46.21 (1) is repealed and recreated to read:

NR 46.21 (1) SIGN STANDARDS. Signs designating open and closed managed forest lands shall meet all of the following requirements:

- (a) Are a minimum size of 11 inches by 11 inches.
- (b) Are in conspicuous view.
- (c) Are a minimum of 4 feet above the ground.
- (d) Are at an interval of at least 2 per one quarter mile on the boundary of the designated area or as otherwise approved by the department.
- (e) All print is of equal size to other print on the sign, if sign standards are required under sub.(2) (c) or (3).

SECTION 43. NR 46.21 (2) (a) is amended to read:

NR 46.21 (2) (a) Closed areas may be posted with commonly used no trespass signs or signs indicating the land is closed to public access or trespass, in conformance with ~~par. (b)~~ this section and s. 943.13, Stats.

SECTION 44. NR 46.21 (2) (b) is repealed:

SECTION 45. NR 46.21 (2) (c) is created to read:

NR 46.21 (2) (c) When land that is posted with signs indicating that the land is closed to public access, and the land is under the same ownership as land designated as open to public recreation, the owner shall include information on those signs that indicate the presence of the land designated as open to public recreation and that inform the public on how to obtain access to those lands if that posted land surrounds the land designated as open to public recreation.

SECTION 46. NR 46.21 (3) (c) is amended to read:

NR 46.21 (3) (c) ~~If~~ The method of public access to the land designated as open shall be clearly explained on the map as a comment. In addition to the explanation, if access to open managed forest land is ~~limited across lands not open to public access,~~ as provided in s. NR 46.20 ~~(1) (b) or (c),~~ the location of the access shall be reasonably identified on signs meeting the requirements of this section ~~in print of equal size to other print on the sign.~~ Signs shall be at locations and in sufficient number to provide reasonable notice to those attempting access. The location of the sign or signs that show the access route or location and that are closest to the access point from a public road or other land open to public access shall be indicated on the managed forest law map. If the location of the sign indicating the access route or location changes during the order period, the owner shall notify the department.

SECTION 47. NR 46.215 is created to read:

NR 46.215 Productivity. (1) The department may require that an owner of managed forest land attempt to restore non-productive lands if it determines that all of the following conditions are met

(a) The MFL parcel is not 80% productive as provided for in s. 77.88 (1) (a) 2., Stats., or land that is part of the 80% productive portion of the parcel does not meet density standards established in s. NR 46.17 (1) (c) 1.

(b) It is reasonably possible for the land to be restored so the parcel resumes compliance within a reasonable timeframe, based on guidelines specific to Wisconsin cover types.

(c) The estimated cost of restoration is less than the estimated withdrawal tax for the withdrawal of the minimum number of acres under s. NR 46.22 (1). To determine the estimated cost of restoration the department shall use data obtained through the administration of subch. VII of ch. NR 47 and may take into consideration any pertinent state grants available. Owners may dispute restoration cost estimates determined in this subdivision by obtaining and submitting to the department 3 quotes for the practices. Owners may be required to obtain quotes if the department has insufficient data from the administration of subch. VII of ch. NR 47.

(2) If restoration is required under sub.(1), the management plan on file with the department shall be amended to include restoration practices that are agreed upon by the owner and the department.

(a) The department may order a withdrawal under s. 77.88 (1), Stats., if an owner chooses not to adopt adequate restoration practices or if the department determines that the owner has not sufficiently attempted the restoration practices adopted in the management plan.

(b) The department may order a withdrawal under s. 77.88 (3k) and (3L), Stats., of the minimum number of whole acres needed to be withdrawn for the parcel to resume compliance with productivity requirements if restoration practices are adopted into the management plan and the restoration is sufficiently attempted, as determined by the department, but is not successful within the timeframe established in the management plan. If determined appropriate, the department and the owner may agree to extend the timeframe of the restoration.

SECTION 48. NR 46.22 (1) is repealed and recreated to read:

NR 46.22 (1) WITHDRAWAL BY DEPARTMENT ORDER. (a) The department may conduct any investigation necessary on managed forest land for purposes of ensuring compliance with program provisions provided in this chapter and subch. VI of ch. 77, Stats.

(b) The department may order withdrawal of land under s. 77.88 (1), Stats., if the land comprises any of the following:

1. An entire quarter quarter section, government lot or fractional lot of managed forest under the same order.
2. An entire parcel of managed forest land.
3. All managed forest land under the same order owned by the owner in a quarter quarter section, government lot or fractional lot.

(c) Land remaining after a withdrawal under this section shall meet eligibility requirements established in s. 77.82 (1), Stats., or the entire parcel of managed forest land may need to be withdrawn as provided for in s. 77.88 (1), Stats.

SECTION 49. NR 46.22 (2) and (Note) are amended to read:

NR 46.22 (2) VOLUNTARY WITHDRAWAL DEADLINES. Voluntary withdrawals submitted for processing under s. 77.88 (3), (3j), (3k) and (3L), Stats., shall be filed with the department on forms provided by the department. ~~Requests Eligible requests~~ received by the department no later than December 1 ~~on department forms~~ will be eligible to be effective by the following January 1. ~~Requests Eligible requests~~ for withdrawal received by the department after December 1 and before the end of the year, shall be effective January 1 of the second year beginning after the year in which the form is received.

NR 46.22 (2) Note (1): Forms for withdrawal must be filed by the deadline ~~at: Bureau of Forestry, Forest Tax Section, PO Box 7963, Madison, WI 53707.~~ Forms for withdrawal may be obtained ~~at no charge by writing the same address online at dnr.wi.gov, search keyword "MFL".~~

SECTION 50. NR 46.22 (3) and (4) are created to read:

NR 46.22 (3) VOLUNTARY WITHDRAWAL; OTHER CONSTRUCTION; SMALL LAND SALES. (a) Owners of managed forest land requesting to voluntarily withdraw land under s. 77.88 (3j), Stats., are responsible for all of the following:

1. Following any local ordinances that may apply to construction or land sales.
2. Providing sufficient documentation, as determined by the department, to locate the area proposed for withdrawal. If sufficient information is not provided, the department may deny the request for withdrawal.

(b) A withdrawal under this subsection may be used to rectify violations related to eligibility requirements established in s. 77.82 (1) (b), Stats., subject to the constraints established in s. 77.88 (3j) (b), Stats.

NR 46.22 (4) VOLUNTARY WITHDRAWAL; PRODUCTIVITY; SUSTAINABILITY. Upon the request of an owner of managed forest land to withdraw part of a parcel under ss. 77.88 (3k) or (3L), Stats., the department shall order withdrawal of the minimum number of whole acres that is necessary for the parcel to resume productivity requirements established in s. 77.82 (1), Stats., if all of the following apply:

(a) The department determines that the likely cause of the inability to meet productivity standards was a significant change in environmental or ecological condition that has occurred since the time of enrollment and the owner is not required to attempt restoration due to economic or other conditions as provided for in s. NR 46.215; or the department determines that the parcel does not meet productivity standards as a result of a land conveyance as described in s. NR 46.23.

(b) The anticipated cause of the change in suitability of the parcel is not due to owner noncompliance with the program as established in this chapter and subch. VI of ch. 77, Stats., or noncompliance with management guidance to address forest regeneration or health concerns that have foreseeable repercussions on stand productivity. For the purposes of this provision, areas cleared under an easement for a public road or railroad or utility right-of-way are considered outside of owner control and not an issue of compliance.

Note: Commonly accepted forest health guidelines can be found in Chapter 8 of the Department's Forest Management Guidelines PUB-FR-226. Forest regeneration concerns may include high deer population, invasive species, and other characteristics evaluated on a site-specific basis.

SECTION 51. NR 46.23 (1) is repealed and recreated to read:

NR 46.23 (1) DEPARTMENT ORDERED TRANSFERS. Upon conveyance of managed forest land, the new owner of managed forest land shall file a transfer form or voluntarily withdraw all of the land conveyed within 30 days of the change in ownership. Failure to file a transfer form may render the managed forest land ineligible for continued designation. The department shall only issue an order transferring eligible conveyed land, except as provided in sub. (2m) (b). After the land conveyance, the department shall investigate both the land conveyed and the land retained, if any, to determine if eligibility requirements established in s. 77.82 (1), Stats., are met and may transfer or withdraw land subject to all of the following:

(a) If after a land conveyance the department determines a parcel meets all eligibility requirements other than that provided for in s. 77.82 (1) (a) 2., Stats., a partial withdrawal may occur under s. 77.88 (3k) and (3L), Stats., to allow the parcel to resume compliance with s. 77.82 (1) (a) 2., Stats. If after a withdrawal under s. 77.88 (3k) and (3L) the land no longer meets eligibility requirements due to parcel size, the land may be withdrawn as provided for in sub. (b).

(b) If the department determines that the land-conveyed does not meet the eligibility requirements under subch. VI of ch. 77, Stats., except as provided for in sub. (a), or a transfer form is not filed with the department, the department shall issue an order withdrawing the ineligible land. The withdrawal tax and fee under s. 77.88 (5) and (5m), Stats., shall be assessed on the land ineligible for continuation. If eligible land remains after such a withdrawal, the department shall issue an order transferring those lands if a transfer form for the eligible lands is filed with the department.

(c) If the department determines that the land retained after the conveyance, if any, does not meet the eligibility requirements under subch. VI of ch. 77, Stats., except as provided for in sub. (a), the department shall issue an order withdrawing the ineligible land. The withdrawal tax and fee under s. 77.88 (5) and (5m), Stats., shall be assessed on the land ineligible for continuation.

SECTION 52. NR 46.23 (2) is repealed.

SECTION 53. NR 46.23 (2m) is renumbered NR 46.23 (2m) (a) and amended to read:

NR 46.23 (2m) (a) A management commitment under s. NR 46.18 (4) (a) 4. does not qualify as a management plan under s. 77.88 (2) (ac), Stats., unless ~~the transferred land qualifies as a large ownership considerations~~ under s. NR 46.18 (4) (a) are met. The transferee shall provide a management plan under s. 77.82 (3), Stats., with all items listed under s. NR 46.16 (2) (f), (g), and (h) and shall submit the management plan to the department for approval within one year of transfer.

SECTION 54. NR 46.23 (2m) (b) and (c) are created to read:

NR 46.23 (2m) (b) If parcel size requirements are met, land conveyed from a large ownership may be transferred even if eligibility criteria established in s. 77.82 (1) (a) 2., Stats., are not met, provided that upon the submission of the management plan required in par. (a), the owner voluntarily withdraws any ineligible acres following the procedure in sub. (1) (a).

(c) Land conveyed from large ownership that does not meet requirements in pars. (a) and (b) within one year of the transfer shall be withdrawn under s. 77.88 (1), Stats. The withdrawal tax and fee under s. 77.88 (5) and (5m), Stats., shall be calculated on the transferred land and issued to the owners of record.

SECTION 55. NR 46.23 (3) is amended to read:

NR 46.23 (3) PUBLIC ACCESS DESIGNATION. Transfers-Eligible transfers requesting a change in the "open/closed" designation shall be in writing on department forms filed with and received by the department by December 1 for the change in the "open/closed" status to be eligible to be effective the following January 1. Requests for transfers, which change the "open/closed" designation, received by the department after December 1 but before the end of the year shall be effective January 1 of the second year beginning after the year in which the form is received.

SECTION 56. NR 46.24 (3) (c) is amended to read:

NR 46.24 (3) (c) Located in terrain which can be commercially logged with equipment and logging methods commonly used by the timber producers operating within the department's ~~severance and yield schedule stumpage value~~ zones identified pursuant to s. 77.91 (1), Stats., in which the subject land is located, and

SECTION 57. NR 46.25 is amended to read:

NR 46.25 Information on location of managed forest land. Information listing the location of open and closed managed forest law land shall be in the form of annually updated ~~computer-generated printouts showing acreage of open land by legal description, county and town and shall be offered for sale at the cost of copying and average mailing cost reports and an online map that describes the location of land designated as open managed forest land.~~

SECTION 58. NR 46.26 is repealed:

SECTION 59. NR 46.27 is created to read:

NR 46.27 Department orders. (1) CHANGING ORDERS. In addition to orders established in subch. IV of ch. 77, Stats., the department may issue any of the following orders altering existing managed forest land orders

(a) *Correction and amendment orders.* Correction and amendment orders may be issued to correct factual errors. These orders correct issued orders to coincide with facts that are determined to have been in place at the time of the issuance of the order, including a change in acreage based on surveys including certified surveys, assessors' plats, county GIS, or monument reestablishment projects that more clearly calculate acreage of lands enrolled. Amendment orders are also used when a landowner changes public access designation.

(b) *Rescinding orders.* Rescinding orders may be issued to cancel or adjust orders issued by the department. Rescinding orders may be issued in the following situations:

1. The department determines that the land, or part of the land, was entered into the program by department error. Errors in the application by the owner or the certified plan writer do not constitute department error.

2. The owner chooses to not be enrolled in the program after an order of designation is issued but prior to the effective date of that order.
3. The department determines that an order other than an order of designation was issued in error.

(2) ORDERS OF DESIGNATION ASA CONTRACT. (a) *Timeline for exempt withdrawals due to material change.* If a statute is enacted or a rule is promulgated that materially changes the terms of an existing order, as determined by the department, the department shall notify owners potentially impacted by the change. Owners shall send their request to withdraw their lands without withdrawal tax and fee due to the material change to the department in writing by the December 1 immediately following the effective date of the material change. If the material change is effective within 90 days preceding December 1, the owners have until the second December 1 following the effective date of the material change to request to withdraw their lands due to the material change.

(b) *Effective dates for exempt withdrawals due to material change.* Upon receipt of a written request for withdrawal, if the department determines that the order was materially changed, the department shall order the withdrawal of the entry without the withdrawal tax and fee established in s. 77.88 (5) and (5m), Stats. Requests for withdrawal provided to the department within the timelines established in par. (a) will be effective the following January 1 if received no later than December 1.

(c) *Land staying in the program after a material change.* Owners who do not declare their request to withdraw their land within the timeline established in par. (a) or who do not declare their request in writing, shall have elected to accept the modifications to the contract or shall follow normal withdrawal procedures established in s. 77.88 (3), Stats., including assessment of a withdrawal tax and fee as provided for in ss. 77.88 (5) and (5m), Stats.

SECTION 60. NR 46.28 is created to read:

NR 46.28 Landowner contact information. (1) Owners of land designated as managed forest land shall notify the department of a change in mailing address and other contact information.

(2) Mail returned to the department because it is undeliverable due to an incorrect address or otherwise shall be determined to have met the department's obligation of notifying the landowner for all aspects of this chapter and ch. 77, Stats.

**** NOTE TO LRB: Start of Subch. IV****

SECTION 61. NR 46.30 (1) (a), (e), and (1) (f) are repealed.

SECTION 62. Effective Date This rule takes effect on the first day of the month following publication in the Wisconsin Administrative Register as provided in s. 227.22 (2) (intro.), Stats. OR This rule shall take effect on [DATE].

SECTION 63. Board Adoption. This rule was approved and adopted by the State of Wisconsin Natural Resources Board on [DATE].