

2015 Wisconsin Act 358 FAQs

Will the June 1 application deadline be extended?

No, the June 1 deadline is written in Administrative Code, s. NR 46.16 (1) (a).

How quickly will the DNR modify WisFIRS to accept the new standards contained within the new law?

WisFIRS will be modified to allow the new closed acre maximum, and the new addition and renewals provisions a few days after the bill becomes law.

Are cutting reports for MFL and FCL still required?

Yes, the Cutting Notice and Report form (Form 2450-032) is still required per s. 77.86(4), Wis. Stats., for MFL and s. 77.06(4), Wis. Stats., for FCL.

Are there changes in the withdrawal tax calculations?

For small account MFLs the withdrawal tax is based on past tax liability times 10 or by the number of years the land was designated as MFL, whichever number is lower. Timber value is no longer used.

For large account MFLs and conversions from FCL to MFL, there are no changes.

What is a structure and fixture needed for sound forestry practices?

A fence that was built exclusively for the purpose of excluding deer to protect tree regeneration would be an example of a structure or fixture needed for sound forestry practices.

Is a camper considered a building or improvement?

If the camper is temporary and not permanent, then it may be allowed.

- Note: Campers, hunting blinds and other structures and improvements will be looked at on a case by case basis. As the program guidance and rule making processes continue, which includes opportunity for public review and comment, terms like these will be defined.

What about land entered prior to January 1, 2017 that included a building or an improvement?

Existing buildings and improvements associated with the building will be allowed to continue until the expiration of the current MFL term / order period **if** the land stays under the current ownership. Any lands enrolled or transferred in the future will need to meet the current eligibility requirements.

If the MFL-Open lands are not on or near a public road, how do I access the property?

The open land must be accessible by public roads or other lands open to public access. Otherwise, the landowner with the MFL-Open lands must be able to provide access to reach their MFL-Open land. In these instances, the access shall be marked (signed)

according to s. NR 46.21 (3) (c). The public should contact landowners to ask where the access is if it is not readily apparent.

What if an owner of MFL-Open lands cannot provide access to the public?

If a landowner cannot provide public access by foot either by public road or from other land open to public access, they can withdraw or designate their land as MFL-Closed.

How do we handle 2017 applications that do not meet the 20 acre minimum?

If the 2017 application has the status of approved in WisFIRS the DNR Forester will need to contact the landowner to see if there are options to make the application eligible with the new requirements. The DNR Forester would also be responsible to update the information in WisFIRS. An example would be to see if the landowner has other eligible lands that could be enrolled. If the 2017 application has the status of draft, submitted or returned, then the CPW is responsible to contact the landowner, provide options for the landowner if possible and update the information in WisFIRS. All changes similar to the above situation would require the landowner to initial and date the application and that form will need to be uploaded into WisFIRS.

If there is no other eligible land for the landowner to add to the 2017 application to reach or exceed the 20 acre minimum, then the landowner will need to cancel their application or the DNR will deny the application.

How do we handle 2017 applications that have buildings or improvements located on a parcel to be enrolled?

If the 2017 application has been approved by the DNR Forester that forester will need to contact the landowner to update all the information in WisFIRS, as needed. An example would be to see how much land the landowner would like to remove from the application. Whole acres may be removed from the application and the map and acreage would need to be updated. If the 2017 application has the status of draft, submitted or returned, then the CPW is responsible to contact the landowner and update the information in WisFIRS, as needed. All changes similar to the above situation would require the landowner to initial and date the application and that form will need to be uploaded into WisFIRS.

Will existing (2016 and older) MFL orders that are less than 20 acres be allowed to transfer?

Yes. These transfers will be allowed because the pre-2017 eligibility requirements will be applied when evaluating these transfers.

Will partial transfers be allowed for existing (2016 and older) MFL orders?

Yes – conditionally: Remaining MFL lands that are created by the division of an MFL parcel will be allowed to continue in MFL under the following conditions:

- 1.) The land must meet the productivity and land use eligibility criteria (80% productive and not developed for a use incompatible with forestry).

2.) The lands must remain under the original ownership (A subsequent transfer of ownership will render the land ineligible to remain under MFL designation).

For partial transfers, will there be a requirement for transferees to submit information – other than the deed (e.g. CSM, map of survey, scaled diagram, etc.) - that describes the MFL lands that are subject to the transfer?

There is no provision in the new laws that enable us to require this information. But, we will request it from the transferee if such information will help us more accurately delineate and map the MFL parcels that will be created by the transfer.

Will the 30 day time requirement for filing/notification of transfers be affected by the new statutes?

No

Does the new 320 acre closed acreage limit apply retroactively to all existing orders?

Yes, this applies to all current and future entries. This change may prompt some land owners to request a change in the open vs. closed acreage status for their MFL land. All changes to the open/closed designation are effective the following January 1st.

Can owners of MFL land change their open vs. closed designation once an order is established?

Landowners need to file a MFL Public Access Modification Request form (form 2450-193) and follow the rules established under s. NR 46.18 (6) which remains unchanged by Act 358. Reminder: changes to the open/closed designation must be received by the Madison office prior to December 1, and the designation change will be effective on January 1.

Is there a scenario in which a landowner can designate more the 320 acres closed?

Only if that landowner owns land in more than one municipality. The new law stipulates that the 320 acre maximum is per owner, per municipality.

Note: The previous MFL provision that allowed owners to exceed the closed acreage limit if their land included government lots or fractional legal descriptions that were larger than 40 acres in size has been repealed.

If a landowner is voluntarily withdrawing land for a small land sale or construction, can they apply to withdraw less than one acre of land? What about “partial” acreages?

Act 358 specifically states that the withdrawn land must be at least one acre in size, so a withdrawal request for lands less than one acre cannot be processed. It also specifically indicates that “partial” acreages cannot be withdrawn. In other words, only whole number acreages can be withdrawn; no “decimal” acreages (e.g. 1.5 acres cannot be withdrawn).