



WISCONSIN LEGISLATIVE COUNCIL
PROPOSED REPORT TO THE LEGISLATURE

SPECIAL COMMITTEE ON
REVIEW OF THE MANAGED
FOREST LAND PROGRAM

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Special Committee on Review of the Managed Forest Land Program

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PART I

KEY PROVISIONS

OF COMMITTEE RECOMMENDATIONS

The Special Committee on Review of the Managed Forest Land Program recommends the following bill drafts to the Joint Legislative Council for introduction in the 2011-12 Session of the Legislature.

WLC: 0044/1, Relating to Leasing of Managed Forest Land

WLC: 0044/1 repeals the current prohibition on leasing of managed forest land and, instead, permits the leasing of managed forest land, including leases and other agreements for consideration that permit persons to engage in a recreational activity. The managed forest law defines recreational activities to include hunting, fishing, hiking, sight-seeing, cross-country skiing, horseback riding, and staying in cabins.

WLC: 0050/1, Relating to Designation of Additional Managed Forest Land

WLC: 0050/1 revises the process for designation of additional managed forest land for owners of land that is designated as managed forest land under an order that takes effect before April 28, 2004. For those owners, current law requires the withdrawal of the land from the existing order and the filing of a new application for the entry of the land from the original order and the additional land in the managed forest land program. This process has the effect of applying current (post-2004) taxes, rates, and fees to the land from both the original order and the additional land.

WLC: 0050/1 revises the process for pre-2004 managed forest land orders to permit the designation of additional managed forest land in a manner such that only the additional parcel of land designated as managed forest land would be subject to the requirements of subch. VI of ch. 77, Stats., including any taxes, rates, or fees, in effect when the application for addition of the parcel is filed.

WLC: 0054/2, Relating to the Taxation of Managed Forest Land

WLC: 0054/2 specifies new calculations for the closed land acreage shares for managed forest land orders that take effect on or after the effective date of the draft. Under the draft, owners of closed land under new managed forest land orders would pay the greater of the closed acreage share under current law or a total of 25% of the full value of the closed managed forest land times the full value effective rate of taxation applicable to general property in the same taxation district as the closed managed forest land.

Additionally, WLC: 0054/2 modifies the distribution of certain moneys received by local units of government in connection with the MFL program and, generally, requires 5/6ths of restricts of certain moneys received by counties in connection with the MFL program to be spent on land acquisition for public recreational use.

WLC: 0056/1, Relating to Modification of Management Plans for Large Ownerships of Managed Forest Land and Group Enrollments, and Requiring the Exercise of Rule-Making Authority

WLC: 0056/1 shifts the contents of s. NR 46.18 (4), Wis. Adm. Code, relating to modifications of management plans for managed forest land ownerships exceeding 1,000 acres to the managed forest land subchapter of ch. 77, Stats. Additionally, the draft directs the Department of Natural Resources (DNR) to promulgate rules to permit the management plans of groups of owners of managed forest land to be modified in the same manner as permitted for large ownerships.

WLC: 0061/1, Relating to Creating Forest Enterprise Areas, Requiring the Exercise of Rule-Making Authority, and Making an Appropriation

WLC: 0061/1 directs DNR to designate forest enterprise areas in administrative rule. In order to create a forest enterprise area, a town or county must apply to the DNR for designation, and the proposed forest enterprise area must be consistent with the town or county forest preservation or development plan if one exists. The draft places requirements on the size of individual forest enterprise areas, as well as the size of forest enterprise areas state-wide. In designating forest enterprise areas, the DNR must give preference to areas that include at least 1,000 acres of land enrolled in the MFL program.

A town within a forest enterprise area will receive, from the forestry account of the conservation fund, an annual payment of \$1 for each acre of the town enrolled in the MFL program that is included in a forest enterprise area. A county within a forest enterprise area will receive, from the forestry account of the conservation fund, an annual payment of \$.50 for each acre of the county enrolled in the MFL program that is included in a forest enterprise area.

A town or county must use these funds for forest preservation and development within the town or county, including educating landowners about the benefits of participating in a forest enterprise area, and contracting with a private forestry consultant to assist forest owners in preparing MFL applications or MFL owners in preparing management plans.

WLC: 0062/1, Relating to Annual Allowable Timber Harvests, Modification of Management Plans for Large Ownerships of Managed Forest Land and Group Enrollments, and Requiring the Exercise of Rule-Making Authority

WLC: 0062/1 shifts the contents of s. NR 46.18 (4), Wis. Adm. Code, relating to modifications of management plans for managed forest land ownerships exceeding 1,000 acres to the managed forest land subchapter of ch. 77, Stats. Additionally, the draft directs DNR to promulgate rules to permit the management plans of groups of owners of managed forest land to be modified in the same manner as permitted for large ownerships.

Generally, WLC: 0062/1 requires modified management plans to include the establishment of an annual allowable harvest and directs the DNR to promulgate rules to establish an annual allowable timber harvests in modified management plans. The draft also directs DNR to write rules to allow all managed forest landowners a three-year period in which to harvest timber.

WLC: 0067/1, Relating to the Creation of a Managed Forest Land Board of Review and Requiring the Exercise of Rule-Making Authority

WLC: 0067/1 creates an optional procedure under which a managed forest landowner who is dissatisfied with a DNR decision regarding the practice of sound forestry may request review of the decision by the Managed Forest Land Review Board. The board must hear and decide the issues included in the managed forest landowner's request within a reasonable time. Upon conclusion of the review process, the board must issue a recommendation to the chief state forester, who must then determine whether to accept the recommendation of the board.

A managed forest landowner who receives a decision of the chief state forester retains the right to a contested case hearing under s. 227.42, Stats., on the issues decided by the chief state forester.

PART II

COMMITTEE ACTIVITY

Assignment

The Joint Legislative Council established the Special Committee on Review of the Managed Forest Land Program and appointed the chairperson by a May 7, 2010 mail ballot. The committee was directed to review the MFL program in order to ensure the long-term management and sustainability of private forest lands and to increase participation in the program. The committee shall review the following issues: (a) the scope and statutory purposes of the MFL program; (b) ways to increase public access on MFL lands; (c) the relationship between local zoning and the entry of parcels in the MFL program; (d) the impact of MFL enrollment on local and county revenues; and (e) trends in forest ownership and trends in forest product markets including biofuels.

Membership of the Special Committee was appointed by June 30, October 20, 2010, and January 6, 2011 mail ballots. The final committee membership consisted of three Senators, one Representative, and 14 public members. A list of committee members is included as **Appendix 3** to this report.

Summary of Meetings

The Special Committee held four meetings on the following dates:

August 18, 2010
September 9, 2010
October 6, 2010
January 13, 2011

In addition, the following subcommittees were established and met on the following dates:

Subcommittee on Revenue and Local Planning: October 27 and November 11, 2010

Subcommittee on Public Access: November 4 and 11, 2010

At the August 18, 2010 meeting, the Special Committee heard invited testimony from several speakers.

Paul DeLong, Administrator, Division of Forestry, and Chief State Forester, DNR, described the history of forest tax programs in Wisconsin, provided data on the number of enrollees and acreage in the current MFL program, and described certain challenges to the program, including issues related to tax rate optimization, public access, forest management standards, and acknowledgement of intangible benefits provided by the MFL program.

Kathy Nelson, Forest Tax Program and Policy Chief, Division of Forestry, DNR, provided additional information on the purposes of the MFL program, as well as changes to the program since its inception. She also described the efforts of the program to encourage management of private forests, provide for the production of forest crops, address ecological issues such as water quality and habitat for threatened species, provide tax deferral, and provide recreational activities to landowners and the public.

Terry Mace, Forest Product Specialist, Division of Forestry, DNR, presented the committee with statistical information on Wisconsin's forest industry. He described the challenges faced by the

industry in recent years, and described the effect of the MFL program on timber harvests during the same time period.

Kathryn Fernholz, Executive Director, Dovetail Partners, Inc., presented information to the committee on carbon credits and ecosystem markets, described the potential for forest management practices to change based on the consideration of carbon credits, and described the methodology for measuring the effects of carbon storage.

Andrew Lisak, County Administrator, Douglas County, discussed the effect that the MFL program has on Douglas County's property taxes and presented ideas for consideration by the committee, including limits on MFL enrollment, methods to address personal property tax avoidance, and the treatment of the "corporate veil" with regard to closure of lands under the MFL program.

George Meyer, Executive Director, Wisconsin Wildlife Federation (WWF), identified the issue of public access as the primary concern for the WWF. He described the historical context of public access in the Wisconsin's forest tax programs and suggested that the committee address the use of grant money for recreational activities, as described by statute.

Committee members then identified their primary interests and concerns relating to the MFL program.

At the September 9, 2010 meeting, the Special Committee heard invited testimony from several speakers.

Kathy Nelson, DNR, provided additional information on topics and questions asked after the August 18, 2010 committee meeting, including the definitions of large and small landowners in the MFL program and the differences between the two regarding management plans, maintaining inventory, and harvesting requirements.

Mark Rickenbach, Associate Professor and Extension Specialist, University of Wisconsin (UW)-Madison, described certain results of his completed and on-going research projects related to the impact of private forestry in Wisconsin and focused his presentation on comparing landowners enrolled in MFL with those not enrolled, and the impact of MFL enrollments on property tax revenues. He noted that since shared revenue rates were capped at 2003 levels, increased MFL enrollments have resulted in a small, but unevenly distributed, increase in town property tax mill rates.

Paul Pingrey, Pingrey Forestry Consulting, presented information on the evolution of sustainable forestry in the MFL program. He described the steps involved in creating an MFL certified group through Tree Farm and Forest Stewardship Council (FSC) and explained that MFL certification combined with MFL best management practices and MFL program accountability have created access to the certified wood marketplace, better logging jobs, and access to environmental services markets. Mr. Pingrey stated that from the perspective of FSC certification, both the definition of "sustainable forestry" and the purposes and benefits statement from ch. 28, Stats., are ideal.

John Hess, Town Chair, Town of Wyoming, Iowa County, described the Town of Wyoming's involvement and experiences with the MFL program.

Richard Wedepohl, Wisconsin Woodland Owners Association (WWOA), described his experiences as an MFL landowner and provided a summary of issues and recommendations from WWOA.

Following the testimony by invited speakers, the committee discussed the scope and purpose of the MFL program and public access under the MFL program.

First, the committee discussed whether to amend the MFL purpose statement in s. 77.80, Stats., to include ecosystem services and biomass and whether to expand the allowable products that can be

included in the 80% category under s. 77.82, Stats. After this discussion, Representative Clark stated that he would convene a working group on the issue of ecosystem services which will report back to the entire committee.

The committee then discussed whether the MFL program enrollment periods and/or minimum size of ownerships should be changed. Committee members discussed whether to increase the 10-acre minimum acreage requirement and noted that working on a 10-acre parcel, especially under the 80/20 requirement, is very difficult and expensive. Some members explained that the trend is toward smaller parcels and that more flexibility in the management plans of these parcels could be helpful. The committee then discussed ways to incentivize smaller landowners to join as a group and to cluster their management practices together. The committee then asked for more information about the Working Lands Initiative agricultural enterprise areas in order to determine whether this model could be used to create "forest enterprise areas" for small parcels.

Representative Clark then directed the committee to the discussion questions he distributed regarding public access on MFL land. It was the consensus of the committee that recreational access should remain a statutory requirement for the MFL program.

The committee then discussed whether funds collected for "closed" enrollments should be used to secure public recreation access. Committee members expressed interest in creating a mechanism to ensure that the closed acreage fees are used to secure public access either through purchasing or leasing land. The committee discussed whether closed acreage fees should be placed in a segregated account or trust fund administered by either a state or local entity or whether the closed acreage fees should be returned directly to the towns and counties to purchase public access.

The committee also discussed whether large ownerships that are subsequently subdivided should be enrolled as closed land. Committee members discussed several options regarding this issue, including requiring parcels over a certain size to dedicate a portion of acreage to public access, clarifying the legislative intent of the MFL program and creating a lower tax rate for larger parcels as a disincentive to break parcels into smaller pieces. Several committee members noted that if enough money is secured to create more public access and the leasing prohibition is removed, then this may become a less pressing issue.

At the October 6, 2010 meeting, the Special Committee heard testimony from invited speakers.

Kathy Nelson, DNR, provided additional information on topics and questions asked during the September 9, 2010 committee meeting. She also provided more information on the managed forest land revenues paid to local government in 2009 and the collection and remission of closed acreage fees.

Jeff Barkley, County Forests Specialist and Public Lands Specialist, DNR, presented information to the committee on the topic of goals and scheduling of harvests in state and county forests.

Scott Henker, Senior Resource Manager-Lake States Region, Plum Creek Timber Company, described Plum Creek Timber Company, its timber ownership throughout Wisconsin and the United States, and the role of the timber industry in Wisconsin.

Lowell Klessig and Clyde Samsel provided the committee with testimony on their experiences as MFL program enrollees and their difficulties with DNR foresters with regard to evaluation of management plans and resolution of disputes. Mr. Klessig suggested a new model for the review and appeal of decisions related to the MFL program.

John Walasek, Price County Board, provided the committee with a description of the forested land in Price County, followed by statistics on the other tax-exempt and tax-preferenced acreage in the county, noting that the majority of the tax burden in Price County falls on a small portion of the county's total land. Mark Luoma, former District Administrator, Chequamegon School District,

described the history and demographics of the Chequamegon School District, including its significant geographic area, declining enrollment, poverty level, and high transportation costs. David Schmidt, Chequamegon School Board, discussed the school district's ability to retain and replace programs if more taxable property were included in the district.

Richard Stadelman, Wisconsin Towns Association, presented the committee with information on working lands initiative (incorporated in 2009 Wisconsin Act 28, the 2009-11 Biennial Budget Bill), comprehensive planning, and forest zoning and planning. He outlined the concept of a "forest enterprise area" as a model for development and administration of forest land that the committee may wish to pursue.

Legislative Council staff described Memo No. 2, Public Access Options, and the committee took up discussion of issues relating to closed acreage fees, public access, and leasing. Representative Clark suggested that the committee move ahead with a proposal that would leave closed acreage fees at the local level with 20% to 25% of the fees to be spent by the local unit of government on public access.

The committee began discussing the issue of public access but decided to table options discussed in Memo No. 2. Representative Clark then suggested the formation of two workgroups; the first to focus on tax rates and incentives and distribution of MFL program fees and payments, and the second to focus on the MFL program's public access requirements.

On the topic of leasing, there was general consensus to repeal the prohibition on leasing of closed managed forest land and, additionally, to continue to consider issues of closure abuse by large landowners and related parties, as well as modification of the MFL program fee structure to consider MFL fees in the context of local property values.

Legislative Council staff described Memo No. 3, which outlines several potential components of a proposal for the sale of carbon and other ecosystems services credits under the MFL program.

Representative Clark then created two subcommittees to address issues identified by committee members and others relating to: (1) public access; and (2) revenue and local planning. These subcommittees were able to reach consensus on the issues before them.

At the January 13, 2011 meeting, the Special Committee reviewed seven bill drafts reflecting the committee's and subcommittees' review and discussion of issues at previous meetings. After an extensive discussion, the committee approved all of the drafts, including recommended changes in five of the drafts.

The committee also discussed whether to change the MFL purpose statement in order to equate timber production with the other items listed in the statutes (the objectives of individual property owners, compatible recreational uses, watershed protection, development of wildlife habitat and accessibility of private property to the public for recreational purposes), instead of timber production being the primary purpose of the MFL program.

The committee voted against drafting a bill to accomplish this change.

This was the final meeting of the Special Committee.

PART III

RECOMMENDATIONS INTRODUCED BY THE JOINT LEGISLATIVE COUNCIL

This part of the report provides background information on, and a description of, the drafts as recommended by the Special Committee on Review of the Managed Forest Land Program.

WLC: 0044/1

Background

Under current law, for land designated as managed forest land under an order that takes effect on or after October 27, 2007, no person may enter into a lease or other agreement for consideration if the purpose of the lease or agreement is to permit persons to engage in a recreational activity. Any lease or other agreement for consideration that permits persons to engage in a recreational activity was voided effective January 1, 2008.

The managed forest law defines recreational activities to include hunting, fishing, hiking, sight-seeing, cross-country skiing, horseback riding, and staying in cabins.

Description

WLC: 0044/1 repeals the prohibition on leasing of managed forest land and, instead, permits the leasing of managed forest land, including leases and other agreements for consideration that permit persons to engage in a recreational activity.

WLC: 0050/1

Background

Under the MFL program, an owner of land designated as managed forest land under an order that takes effect on or after April 28, 2004, may apply to DNR to designate an additional parcel of land as managed forest land if the additional parcel is at least three acres and is contiguous to any of the owner's designated land. The application must include a nonrefundable \$20 application recording fee unless a different amount is established by the DNR by rule at an amount equal to the average expense to the DNR of recording a managed forest land order. The fee must be deposited in the conservation fund. An application must be submitted on a DNR form and must contain any additional information required by DNR. [s. 77.82 (4), Stats.]

If an owner of land that is designated as managed forest land under an order that takes effect before April 28, 2004, wishes to have designated as managed forest land an additional parcel of land that is at least three acres in size, that does not satisfy the MFL program eligibility requirements, but is contiguous to any of the owner's designated land, the owner may withdraw the designated land from the original order and may file an application with the DNR for a new order covering both the withdrawn land and the additional land. The withdrawal tax and the withdrawal fee do not apply under these circumstances. [s. 77.82 (4g), Stats.] However, the filing of the new order has the effect of applying the current requirements of the MFL program, including taxes, rates, and fees, to both the additional parcel and the designated land from the original order.

Description

WLC: 0050/1 repeals current law as it applies to owners of land designated as managed forest land under orders that take effect before April 28, 2004. Instead, under the draft, the landowner would be able to designate an additional parcel of land as managed forest land in, generally, the same manner as an owner of land designated as managed forest land under an order that takes effect on or after April 28, 2004.

Under the draft, only the additional parcel of land designated as managed forest land would be subject to the requirements of subch. VI of ch. 77, Stats., including any taxes, rates, or fees, in effect when the application for addition of the parcel is filed.

WLC: 0054/2

Background

Taxation of Managed Forest Land

Except as provided under the MFL program, no tax may be levied on managed forest land, except that any building on the land is subject to taxation as personal property under ch. 70, Stats.

MFL Orders Effective Prior to April 28, 2004

Each owner of managed forest land must pay to the municipal treasurer an acreage share on or before January 31. Originally, this acreage share was \$.74 per acre. In addition to this amount, each owner was required to pay \$1 for each acre that is designated as closed under s. 77.83, Stats.

Beginning in 1992 and in each fifth year thereafter, DOR adjusts the amounts of tax by multiplying the original acreage shares specified by a ratio using as the denominator the DOR's estimate of the average statewide tax per acre of property classes under s. 70.32 (2) (b) 4., 5., and 6., 1993 Stats. (agricultural, swamp, or waste and productive forest land), for 1986 and, as the numerator, the DOR estimate of the average tax per acre for the same classes of property for the year in which the adjustment is made. Based on this adjustment, the current acreage share is \$.67 per acre of open land and \$1.57 per acre of closed land. [s. 77.84 (2) (c), Stats.]

MFL Orders Effective on or After April 28, 2004

For managed forest land orders that take effect on or after April 28, 2004, each owner of managed forest land must pay to each municipal treasurer, on or before January 31, an amount equal to 5% of the average statewide property tax per acre of property classified as productive forest land under s. 70.32 (2) (a) 6., Stats., for each acre of managed forest land.

In addition to this amount, each owner must pay to each municipal treasurer, on or before January 31, an amount equal to 20% of the average statewide property tax per acre of property classified as productive forest land under s. 70.32 (2) (a) 6., Stats., for each closed acre of managed forest land.

In 2004, 2007, and each fifth year thereafter, DOR is required to determine the average statewide tax per acre of productive forest land by multiplying the average equalized value of productive forest land by the average tax rate determined under s. 76.126, Stats. Based on this determination, the current acreage share is \$1.67 per acre of open land and \$8.34 per acre of closed land. [s. 77.84 (2) (cm), Stats.]

Distribution of Moneys Received

No later than June 30 of each year, DNR must pay 100% of each payment received under s. 77.84 (3) (b) (delinquency payments), 77.87 (3) (yield tax), or 77.88 (7), Stats. (withdrawal tax), to the treasurer of the municipality in which the land is located. [s. 77.89 (1), Stats.]

Additionally, the DNR must pay before June 30 annually the municipal treasurer, from the appropriation under s. 20.370 (5) (bv), Stats., \$.20 for each acre of land in the municipality that is designated as managed forest land and for each acre of tribal land in the municipality that has been withdrawn from the MFL program under s. 77.885, Stats., but for which payments under s. 77.84 (2), Stats., are being made. [s. 77.85, Stats.]

Each municipal treasurer must pay 20% of each payment received from the DNR or directly under ss. 77.84 (2) (a) and (am) (payment for closed land), 77.85 (state contribution for managed forest land acreage), and 77.876, Stats. (noncompliance assessments), to the county treasurer and must deposit the remainder in the municipal treasury. The payment to the county treasurer for money received before November 1 of any year must be made on or before November 15 after its receipt. For money received on or after November 1 of any year, the payment to the county treasurer must be made on or before November 15 of the following year. [s. 77.89 (2) (a), Stats.]

The municipal treasurer also must pay to the county treasurer all amounts received under s. 77.84 (2) (b) and (bm), Stats. (payment for closed land). The county treasurer must, by June 30 of each year, pay all amounts received under this provision to the DNR. All amounts received from the DNR must be credited to the conservation fund and reserved for land acquisition, resource management activities, and grants for land acquisition for outdoor activities. [s. 77.89 (2) (b), Stats.]

Description

Taxation of Managed Forest Land

This draft specifies new calculations for the closed land acreage shares for managed forest land orders that take effect on or after the effective date of the draft. Under the draft, owners of closed land under new managed forest land orders would pay the greater of the following:

- The acreage share applicable to MFL orders that take effect on or after April 28, 2004.
- A total of 25% of the full value of the closed managed forest land times the full value effective rate of taxation applicable to general property in the same taxation district as the closed managed forest land.

Distribution of Moneys Received

This draft modifies the distribution of certain moneys received by local units of government in connection with the MFL program. Under the draft, 20% of MFL payments for closed acreage received by a municipal treasurer would be paid to the DNR. Forty-eight percent of the closed acreage managed forest land payments received by a municipal treasurer (equivalent to 60% of the amount remaining after payment to the DNR) would be paid to the county. From the closed acreage payments received by a county, the county must spend 5/6ths of the amount received to acquire by purchase, lease, easement, or other agreement land that is open to public recreational use, as defined in s. 77.895, Stats., except that a county with 40% or more of its total area consisting of public access lands may elect to expend the reserved amount on activities to improve resource management, including forest growth, forest health, fish habitat, wildlife habitat, and watershed protection.

WLC: 0056/1

Background

Under current law, s. NR 46.18 (4), Wis. Adm. Code, permits DNR to modify the requirements of management plans under the managed forest land program for ownerships exceeding 1,000 acres. Management plans may be modified after consideration of the following:

- Other land of the owner entered as managed forest land, forest crop land, and woodland tax law land.
- The number of counties in which lands proposed for entry or renewal or the owner's existing managed forest land, forest crop land, and woodland tax law lands lie.
- The existence and availability for review of a management plan prepared by or for the owner and acceptable to the department.
- Submission of a written commitment from an owner to provide, upon department request, information from the management plan for review or audit. The commitment shall describe the management plan and outline the procedure used to update and amend the management plan.
- An owner's demonstrated consistent accessibility to competent technical forest management assistance through staff or consultant services.

Description

WLC: 0056/1 shifts the contents of s. NR 46.18 (4), Wis. Adm. Code, to the managed forest land subchapter of ch. 77, Stats. Additionally, the draft directs the DNR to promulgate rules to permit the management plans of groups of owners of managed forest land to be modified in the same manner as permitted for large ownerships. The draft directs the department to submit its proposed rules on this topic to the administrative rules clearinghouse no later than the first day of the 12th month after the effective date of the draft.

WLC: 0061/1

Background

The Wisconsin Council on Forestry, in its February, 2010 Report to the Legislature, recommended a number of issues the Special Committee should consider in its review of the MFL program, including parcelization - the subdivision of a single forest ownership into two or more ownerships - and fragmentation of forest land. During committee discussions, committee members noted that the trend is toward smaller parcels and that more flexibility in the management plans of these parcels could be helpful. The committee also discussed ways to incentivize smaller landowners to join as a group and to cluster their management practices together. During this discussion, committee members commented that it is typically more expensive to harvest timber on a smaller parcel, so those owners have less incentive to cut timber, which may adversely affect the forest-based economy.

At the October 6, 2010 committee meeting, Public Member Richard Stadelman outlined the concept of a "forest enterprise area" as a model for development and administration of forest land. This concept is based on recent legislation authorizing the creation of "agricultural enterprise areas" (AEA). An AEA is a contiguous land area, devoted primarily to agricultural use, which the Department of Agriculture, Trade and Consumer Protection may designate by administrative rule in response to a joint petition filed by each political subdivision in which any part of the proposed AEA is located and owners

of at least five eligible farms located in the area. Farmers within designated AEAs are eligible to enter into voluntary farmland preservation agreements and to collect the farmland preservation tax credits.

Description

WLC: 0061/1 directs DNR to designate forest enterprise areas in administrative rule. The DNR may designate forest enterprise areas with a combined area of no more than 200,000 acres. However, before January 1, 2013, the department may only designate up to 10 forest enterprise areas with a combined area of not more than 75,000 acres of land. The minimum size of a forest enterprise area must be 5,000 acres. In designating forest enterprise areas, the DNR must give preference to areas that include at least 1,000 acres of land enrolled in the MFL program.

In order to create a forest enterprise area, a town or county must apply to the DNR for designation of a forest enterprise area. The proposed forest enterprise area must be consistent with the town or county forest preservation or development plan if one exists. The DNR is required to write rules to specify additional application requirements.

A town within a forest enterprise area will receive, from the forestry account of the conservation fund, an annual payment of \$1 for each acre of the town enrolled in the MFL program that is included in a forest enterprise area. A county within a forest enterprise area will receive, from the forestry account of the conservation fund, an annual payment of 50 cents for each acre of the county enrolled in the MFL program that is included in a forest enterprise area.

A town or county must use these funds for sustainable forestry and forest-based economic development within the town or county, including educating landowners about the benefits of participating in a forest enterprise area, and contracting with a private forestry consultant to assist forest owners in preparing MFL applications or MFL owners in preparing management plans.

WLC: 0062/1

Background

Under current law, s. NR 46.18 (4), Wis. Adm. Code, permits DNR to modify the requirements of management plans under the MFL program for ownerships exceeding 1,000 acres. Management plans may be modified after consideration of the following:

- Other land of the owner entered as managed forest land, forest crop land, and woodland tax law land.
- The number of counties in which lands proposed for entry or renewal or the owner's existing managed forest land, forest crop land, and woodland tax law lands lie.
- The existence and availability for review of a management plan prepared by or for the owner and acceptable to the department.
- Submission of a written commitment from an owner to provide, upon department request, information from the management plan for review or audit. The commitment shall describe the management plan and outline the procedure used to update and amend the management plan.
- An owner's demonstrated consistent accessibility to competent technical forest management assistance through staff or consultant services.

Additionally, under current law, s. 28.025, Stats., directs the DNR to establish annual allowable timber harvests for forested property owned by this state and forest property under the jurisdiction of the DNR from which timber is harvested.

Description

WLC: 0062/1 shifts the contents of s. NR 46.18 (4), Wis. Adm. Code, to the managed forest land subchapter of ch. 77, Stats. Additionally, the draft directs the DNR to promulgate rules to permit the management plans of groups of owners of managed forest land to be modified in the same manner as permitted for large ownerships. The draft directs the department to submit its proposed rules on this topic to the administrative rules clearinghouse no later than the first day of the 12th month after the effective date of the draft.

The draft requires modified management plans for ownerships that exceed 1,000 acres to include the establishment of an annual allowable harvest. This requirement would not apply to ownerships exceeding 1,000 acres whose lands are certified by an independent third party. The draft directs the DNR to promulgate rules to establish an annual allowable timber harvests in modified management plans.

Additionally, WLC: 0062/1 directs DNR to write rules to allow all managed forest landowners a three-year period in which to harvest timber.

WLC: 0067/1

Background

Under current law, an applicant for participation in the MFL program or an owner of managed forest land who is adversely affected by a decision of DNR is entitled to a contested case hearing under ch. 227, Stats.

Description

WLC: 0067/1 creates an optional procedure for MFL owners who are dissatisfied with a DNR decision regarding the practice of sound forestry. Under this procedure, a managed forest landowner who is dissatisfied with a DNR decision regarding the practice of sound forestry may request review of the decision by the Managed Forest Land Review Board. The board members are appointed by the DNR secretary for three-year terms. The board consists of seven members: one DNR regional forester; one private consulting forester, one forester who represents the Society of American Foresters; one forestry academic; one county forest administrator; one member of a nonprofit conservation organization; and one private nonindustrial owner of a woodland enrolled in the MFL program.

The board must review and decide the issues included in the managed forest landowner's request within a reasonable time. Upon conclusion of the review process, the board must issue a recommendation to the chief state forester, who must then determine whether to accept the recommendation of the board. All decisions of the chief state forester must be in writing and include sufficient facts in order to substantiate the decision.

The department must write rules establishing the procedures and timeline for submission, review, and consideration of the issues that come before the board for its review and action.

A managed forest landowner who receives a decision of the chief state forester retains the right to a contested case hearing under s. 227.42 on the issues decided by the chief state forester.

Appendix 1

Committee and Joint Legislative Council Votes

The following drafts were recommended by the Special Committee on Review of the Managed Forest Land Program to the Joint Legislative Council for introduction in the 2011-12 Session of the Legislature.

Special Committee Vote

The Special Committee voted to recommend the following seven drafts to the Joint Legislative Council for introduction in the 2011-12 Session of the Legislature. The votes on the drafts are as follows:

- WLC: 0044/1, relating to leasing of managed forest land, passed by a vote of Ayes, 15 (Sens. Schultz, Holperin, and Kedzie; Rep. Clark; and Public Members Friske, Haney, Henker, Horvath, Hubler, Nadeau, Pelkey, Ray, Rickenbach, Roark, and Souba, Jr.); Noes, 0; and Absent, 3 (Public Members Abeles-Alison, Carlson, and Stadelman). Mr. Abeles-Alison indicated had he been present he would have voted “Aye.”
- WLC: 0050/1, relating to designation of additional managed forest land, passed by a vote of Ayes, 15 (Sens. Schultz, Holperin, and Kedzie; Rep. Clark; and Public Members Friske, Haney, Henker, Horvath, Hubler, Nadeau, Pelkey, Ray, Rickenbach, Roark, and Souba, Jr.); Noes, 0; and Absent, 3 (Public Members Abeles-Alison, Carlson, and Stadelman). Mr. Abeles-Alison indicated that had he been present he would have voted “Aye.”
- WLC: 0054/1, relating to the taxation of managed forest land, passed by a vote of Ayes, 13 (Sens. Schultz, Holperin, and Kedzie; Rep. Clark; and Public Members Haney, Henker, Horvath, Hubler, Nadeau, Ray, Rickenbach, Roark, and Souba, Jr.); Noes, 2 (Public Members Friske and Pelkey); and Absent, 3 (Public Members Abeles-Alison, Carlson, and Stadelman). Mr. Abeles-Alison indicated that had he been present he would have voted “Aye.”
- WLC: 0056/1, relating to modification of management plans for large ownerships of managed forest land and group enrollments, and requiring the exercise of rule-making authority, passed by a vote of Ayes, 15 (Sens. Schultz, Holperin, and Kedzie; Rep. Clark; and Public Members Friske, Haney, Henker, Horvath, Hubler, Nadeau, Pelkey, Ray, Rickenbach, Roark, and Souba, Jr.); Noes, 0; and Absent, 3 (Public Members Abeles-Alison, Carlson, and Stadelman). Mr. Abeles-Alison indicated that had he been present he would have voted “Aye.”
- WLC: 0061/1, relating to creating forest enterprise areas, requiring the exercise of rule-making authority and making an appropriation, passed by a vote of Ayes, 15 (Sens. Schultz, Holperin, and Kedzie; Rep. Clark; and Public Members Friske, Haney, Henker, Horvath, Hubler, Nadeau, Pelkey, Ray, Rickenbach, Roark, and Souba, Jr.); Noes, 0; and Absent, 3 (Public Members Abeles-Alison, Carlson, and Stadelman). Mr. Abeles-Alison indicated that had he been present he would have voted “Aye.”
- WLC: 0062/1, relating to annual allowable timber harvests, modification of management plans for large ownerships of managed forest land and group enrollments, and requiring the exercise of rule-making authority, passed by a vote of Ayes, 9 (Sens. Schultz, Holperin, and Kedzie; Rep. Clark; and Public Members Horvath, Hubler, Nadeau, Pelkey, and Roark); Noes, 6 (Public Members Friske, Haney, Henker, Ray, Rickenbach, and Souba, Jr.); and

Absent, 3 (Public Members Abeles-Alison, Carlson, and Stadelman). Mr. Abeles-Alison indicated that had he been present he would have voted “Aye.”

- WLC: 0067/1, relating to the creation of a managed forest land board of review and requiring the exercise of rule-making authority, passed by a vote of Ayes, 14 (Sens. Schultz, Holperin, and Kedzie; Rep. Clark; and Public Members Friske, Haney, Henker, Horvath, Hubler, Pelkey, Ray, Rickenbach, Roark, and Souba, Jr.); Noes, 1 (Public Member Nadeau); and Absent, 3 (Public Members Abeles-Alison, Carlson, and Stadelman). Mr. Abeles-Alison indicated that had he been present he would have voted “Aye.”

Appendix 2

Joint Legislative Council

[Joint Legislative Council Members Who Selected and Appointed Committee and Its Membership]

Co-Chair

FRED A. RISSER

Senate President

100 Wisconsin Avenue, Unit 501
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Co-Chair

MARLIN D. SCHNEIDER

Representative

3820 Southbrook Lane
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Neenah, WI 54956

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TERESE BERCEAU

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MARK POCAN

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Madison, WI 53703

ROBIN VOS

4710 Eastwood Ridge
Racine, WI 53406

JEFF FITZGERALD

Minority Leader
910 Sunset
Horicon, WI 53032

This 22-member committee consists of the majority and minority party leadership of both houses of the Legislature, the co-chairs and ranking minority members of the Joint Committee on Finance, and 5 Senators and 5 Representatives appointed as are members of standing committees.

Joint Legislative Council

[Current Joint Legislative Council Members Receiving Committee Report]

SENATE MEMBERS

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Burlington, WI 53105

This 22-member committee consists of the majority and minority party leadership of both houses of the Legislature, the co-chairs and ranking minority members of the Joint Committee on Finance, and 5 Senators and 5 Representatives appointed as are members of standing committees.

*Terry C. Anderson, Director, Legislative Council Staff
1 East Main Street, Suite 401, P.O. Box 2536, Madison, Wisconsin 53701-2536*

Appendix 3

REVIEW OF THE MANAGED FOREST LAND PROGRAM

Representative Fred Clark, **Vice Chair**
(Chair 6/10 to 1/11)
E12367 County Hwy W
Baraboo, WI 53913

Senator Neal Kedzie
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Fred Souba, Jr.
NewPage Corporation
P.O. Box 8050
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Senator Dale Schultz, **Chair**
(Chair 1/11 to present)
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Senator Jim Holperin
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Bill Horvath
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WI Forest Owner Coop. Project
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Charly Ray
General Manager
Living Forest Cooperative
422 Third Street West, #103
Ashland, WI 54806

Eugene Roark
16 Grand Avenue
Madison, WI 53705

Richard J. Stadelman
Ex. Dir., WI Towns Association
W76686 County Road MMM
Shawano, WI 54166

STUDY ASSIGNMENT: The Special Committee is directed to review the Managed Forest Land (MFL) Program in order to ensure the long-term management and sustainability of private forest lands and to increase participation in the program. The committee shall review the following issues: (a) the scope and statutory purposes of the MFL program; (b) ways to increase public access on MFL lands; (c) the relationship between local zoning and the entry of parcels in the MFL program; (d) The impact of MFL enrollment on local and county revenues; and (e) trends in forest ownership and trends in forest product markets including biofuels.

18 MEMBERS: 3 Senators; 1 Representative; and 14 Public Members.

LEGISLATIVE COUNCIL STAFF: Rachel Letzing, Senior Staff Attorney; Scott Grosz, Staff Attorney; and Kelly Mautz, Support Staff.

REVIEW OF THE MANAGED FOREST LAND PROGRAM

Subcommittee on Revenue and Local Planning

Representative Fred Clark, **Chair**
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Senator Jim Holperin
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Conover, WI 54516

Mike Carlson
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Richard J. Stadelman
Executive Director, WI Towns
Association
W76686 County Road MMM
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STUDY ASSIGNMENT: The Subcommittee on Revenue and Local Planning is directed to make recommendations to the Special Committee on Review of the Managed Forest Land Program on issues of revenue and local planning related to the Managed Forest Land Program, including managed forest land tax rates and incentives and the distribution of Managed Forest Land Program fees and payments.

10 MEMBERS: 1 Senator; 2 Representatives; and 7 Public Members.

LEGISLATIVE COUNCIL STAFF: Rachel Letzing, Senior Staff Attorney; Scott Grosz, Staff Attorney; and Kelly Mautz, Support Staff.

REVIEW OF THE MANAGED FOREST LAND PROGRAM

Subcommittee on Public Access

Representative Fred Clark, **Chair**
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Shawano, WI 54166

STUDY ASSIGNMENT: The Subcommittee on Public Access is directed to make recommendations to the Special Committee on Review of the Managed Forest Land Program on the public access requirements of the Managed Forest Land Program.

9 MEMBERS: 2 Representative; and 7 Public Members.

LEGISLATIVE COUNCIL STAFF: Rachel Letzing, Senior Staff Attorney; Scott Grosz, Staff Attorney; and Kelly Mautz, Support Staff.

Appendix 4

Committee Materials List (Copies of documents are available at www.legis.state.wi.us/lc)

January 13, 2011 Meeting

- [WLC: 0044/1](#), relating to leasing of managed forest land.
- [WLC: 0050/1](#), relating to designation of additional managed forest land.
- [WLC: 0054/1](#), relating to the taxation of managed forest land.
- [WLC: 0056/1](#), relating to modification of management plans for large ownerships of managed forest land and group enrollments, and requiring the exercise of rule-making authority.
- [WLC: 0061/1](#), relating to creating forest enterprise areas, requiring the exercise of rule-making authority and making an appropriation.
- [WLC: 0062/1](#), relating to annual allowable timber harvests, modification of management plans for large ownerships of managed forest land and group enrollments, and requiring the exercise of rule-making authority.
- [WLC: 0067/1](#), relating to the creation of a managed forest land board of review and requiring the exercise of rule-making authority.
- [Letter](#) from Public Member Eugene Roark to Members of the Special Committee on Review of the Managed Forest Land Program (November 19, 2010).
- [Memorandum](#), *Proposed Bills to the Managed Forest Law*, from Kathy Nelson, Forest Tax Program and Policy Chief, Department of Natural Resources (January 11, 2011).
- [Handout](#), *Property Tax Comparisons Summarized* distributed at the request of Richard Wedepohl, Wisconsin Woodland Owners Association.

December 15, 2010 (Canceled)

- [Letter](#) from Public Member Eugene Roark to Members of the Special Committee on Review of the Managed Forest Land Program (November 19, 2010).

November 11, 2010 Meeting of the Subcommittee on Public Access

- [Handout](#) distributed by Chair Clark.
- [Memo No. 4](#), *Options for Subcommittee Discussion* (November 10, 2010).

November 11, 2010 Meeting of the Subcommittee on Revenue and Local Planning

- [Handout](#) distributed by Public Member Mark Rickenbach.
- [Memo No. 4](#), *Options for Subcommittee Discussion* (November 10, 2010).

November 4, 2010 Meeting of the Subcommittee on Public Access

- [Handout](#), *Forest Enterprise Areas with MFL*, distributed by Rick Stadelman.

October 27, 2010 Meeting of the Subcommittee on Revenue and Local Planning

October 6, 2010

- [Memo No. 2](#), *Public Access Options* (September 29, 2010).
- [Memo No. 3](#), *Proposal Regarding the Sale of Carbon and Other Ecosystem Services Credits Under the MFL Program* (October 5, 2010).
- [Presentation](#), *Chequamegon School District Presentation*, by Mark Luoma, former District Administrator, Chequamegon School District.
 - [Handout 1.](#)
 - [Handout 2.](#)
 - [Handout 3.](#)
- [Handout](#), distributed by John Walasek, Price County Board.
- [Testimony](#), *My Long and Rocky MFL Marriage*, by Lowell Klessig.
 - [Addendum](#) to testimony by Lowell Klessig.
- [Handout](#), *A Fundamental Principle of Democracy - A Government Official Can Not sit in Judgment of His Own Judgments*, by Lowell Klessig.
- [Presentation](#), *Forest Management and Economics*, by Steve Henker, Senior Resource Manager – Lake States Region, Plum Creek Timber Company, Inc.
- [Memorandum](#), *Public Access Fees on managed Forest Law Acreage*, from George Meyer, Executive Director, Wisconsin Wildlife Federation (October 6, 2010).
- [Presentation](#), *WDNR Harvest Goals and Scheduling*, by Jeff Barkley, WDNR County Forest/Public Lands Specialist (October 6, 2010).
- [Presentation](#), *Additional Information*, by Kathy Nelson, Forest Tax Law Program and Policy Chief (October 6, 2010).
- [Handout](#), *Estimated Wisconsin Local Government Comprehensive Planning Status*, distributed by Richard Stadelman, Wisconsin Towns Association (March 6, 2010).
- [Testimony](#) by Clyde Samsel.

September 9, 2010

- [2000 Managed Forest Land Tax Comparisons](#), distributed by Lynn Neek, Price County Treasurer.
- [Resolution No. 37-10](#), distributed by Lynn Neek, Price County Treasurer.
- [Handout](#), *A Brief History of Sustainable Forestry*, prepared by Paul Pingrey (September 9, 2010).
- [Presentation](#), *Evolution of Sustainable Forestry in Wisconsin's MFL*, by Paul E. Pingrey (September 9, 2010).
- [Presentation](#), *Wisconsin Woodland Owners Association*, by Richard Wedepohl, Wisconsin Woodland Owners Association.
- [Testimony](#), *Wisconsin Landowners and the Managed Forest Law*, Mark Rickenbach, Associate Professor and Extension Specialist, UW-Madison.
- [Presentation](#), *Wisconsin Landowners and the Managed Forest Law*, Mark Rickenbach, Associate Professor and Extension Specialist, UW-Madison.
- [Discussion](#) questions distributed by Chair Clark (September 9, 2010).
- [Testimony](#) by Kathy Nelson, Forest Tax Program and Policy Chief, Division of Forestry, Department of Natural Resources (September 9, 2010).
- [Sample](#) forestry plan submitted by DNR.

August 18, 2010

- [Memo No. 1](#), *The Managed Forest Land Program* (August 11, 2010).
- [Presentation](#), *An Overview of the Wisconsin Council on Forestry, Report to the Legislature*, by Fred Souba, Jr.
- [Report](#) *to the Legislature Regarding a Legislative Study on the Managed Forest Law*, Fred Souba, Jr.
- [Presentation](#), *Carbon Credits & Ecosystem Markets for Private Landowners*, Katie Fernholz, Dovetail Partners, Inc. (August 17, 2010).
- [Presentation](#), *Wisconsin's Largest Private Forest Management Incentive Program*, by Kathy Nelson, Forest Tax Law Program and Policy Chief, Department of Natural Resources (DNR) (August 18, 2010).
- [Presentation](#), *Wisconsin's Forest Industry*, by Terry Mace, Forest Product Specialist, Wisconsin DNR Division of Forestry (August 18, 2010).
- [Testimony](#) by Pau DeLong, Administrator, Division of Forestry, DNR (August 18, 2010).
- [Wisconsin's Managed Forest Law, A Program Primer](#), prepared by DNR, Division of Forestry, Primary Authority Kathryn J. Nelson, Forest Tax Program and Policy Chief (August 18, 2010).