



State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

RESEARCH APPENDIX - PLEASE DO NOT REMOVE FROM DRAFTING FILE

Date Transfer Requested: 11/04/2013 (Per: MGG)

Compile Draft – Appendix B

Appendix A  The 2013 drafting file for LRB-3187

Appendix B  The 2013 drafting file for LRB-3195

Appendix C  The 2013 drafting file for LRB-3199

Appendix D  The 2013 drafting file for LRB-3273

(all Rep. Mursau drafts)

have been copied/added to the drafting file for

2013 LRB-3547

2013 DRAFTING REQUEST

Bill

Received: **9/19/2013** Received By: **mglass**
Wanted: **As time permits** Same as LRB:
For: **Jeffrey Mursau (608) 266-3780** By/Representing: **Himself**
May Contact: Drafter: **mglass**
Subject: **Nat. Res. - parks and forestry** Addl. Drafters:
Extra Copies: **RNK**

Submit via email: **YES**
Requester's email: **Rep.Mursau@legis.wisconsin.gov**
Carbon copy (CC) to:

Pre Topic:

No specific pre topic given

Topic:

Managed forest law revisions by the council on forestry; management plans

Instructions:

See attached Items# 12, 14, 15, and 16

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	mglass 9/25/2013			_____			
/P1		csicilia 10/9/2013	jmurphy 10/9/2013	_____	sbasford 10/9/2013		

FE Sent For:

<END>

2013 DRAFTING REQUEST

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See attached Items# 12, 14, 15, and 16

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1?	mglass	10/3/13 10/1/13	Jim 10/9				

FE Sent For:

<END>

Gibson-Glass, Mary

From: Mather, Robert J - DNR <Robert.Mather@wisconsin.gov>
Sent: Tuesday, September 24, 2013 1:30 PM
To: Gibson-Glass, Mary
Cc: Nelson, Kathryn J - DNR; Potvin, Nicole R - DNR
Subject: Follow up question on certified 3rd parties

Hi Mary:

Yes. The Council on Forestry's intent is to have all landowners still be required to pay the yield tax on any timber that is harvested.

Thanks, Bob

From: Gibson-Glass, Mary [mailto:Mary.Gibson-Glass@legis.wisconsin.gov]
Sent: Tuesday, September 24, 2013 1:05 PM
To: Mather, Robert J - DNR
Subject: Follow up question on certified 3rd parties

Bob-

Will the reporting requirement under s. 77.86 (4) continue to apply to large ownerships?

Thanks,

Mary

From: Mather, Robert J - DNR [mailto:Robert.Mather@wisconsin.gov]
Sent: Tuesday, September 24, 2013 9:13 AM
To: Gibson-Glass, Mary
Cc: Nelson, Kathryn J - DNR; Potvin, Nicole R - DNR
Subject: FW: Drafting the recommendations of the council of forestry

Hi Mary,

Regarding MFL, 3rd party certification means that a forest has received a label of approval from someone other than the landowner, supplier or consumer that the business practices or management, or the product has been sustainably grown and meets certain criteria of environmental and social responsibility. The 3rd party is someone who has nothing to gain from the growing, buying or selling of the product, and whose only role is to evaluate whether the business practices or management or the product meet the certification criteria.

There are several kinds of certifications, each with their own certification criteria. The certifications that the MFL program currently has are Tree Farm and Forest Stewardship Council. You can find more information about forest certification at <http://dnr.wi.gov/topic/TimberSales/certification.html>.

There are no references to 3rd party certification in statute or administrative code since forest certification is a voluntary program not tied to enrollment or continued eligibility of the MFL program. You'll likely need to develop a definition of 3rd party certification under s.77.81, Stats. and to make it

loose enough so that it would encompass other certification systems if new ones are developed in the future. Please feel free to bounce some draft definitions off me.

I hope that this helps. If not, please let me know.

Thanks,
Bob

Robert J. Mather

Director, Bureau of Forest Management
Wisconsin Department of Natural Resources
101 S Webster St., PO Box 7921
Madison, WI 53707-7921
Office: 608-266-1727
Fax: 608-266-8576
E-Mail: Robert.Mather@Wisconsin.gov
Find us on Facebook: www.facebook.com/WIDNR

We are committed to service excellence.
Visit our survey at <http://dnr.wi.gov/u/?q=33>
to evaluate how I did.

From: Gibson-Glass, Mary [<mailto:Mary.Gibson-Glass@legis.wisconsin.gov>]
Sent: Friday, September 20, 2013 11:42 AM
To: Nelson, Kathryn J - DNR
Subject: Drafting the recommendations of the council of forestry

Hi Kathy-

Robin Kite and I will be the 2 main drafters on this draft. We will be doing it in various packages, each package will have a different LRB # and each will contain for the most part the items under a particular subheading in the report (eg. Eligibility; Management and Management Plans).

I am sure both of us will have numerous questions.

Here is my first one:

In Proposed Revision #20: What is does being "3rd party certified" mean? Is there a reference to this in the statutes or the administrative code?

Thanks,

Mary

Mary Gibson-Glass
Senior Legislative Attorney
Legislative Reference Bureau

MGB

Management and Management Plans

Proposed Revision 12: Shift the contents of s. NR 46.18 (4), Wis. Adm. Code (large owners), to the managed forest land subchapter of Ch. 77, Stats.

Current Situation: DNR allows landowners meeting the criteria of a large landowner to keep management plans and forest reconnaissance data for their properties in their own ownership or office, and provide DNR with a commitment to follow their management plan. DNR has the authority to audit the large landowner's management plan and reconnaissance data. DNR has given consideration to large landowners in the management of their properties in that a large landowner is not required to have site specific management plans, but rather a general plan on the management of their overall property. Large landowners have a forester on staff or retained, have reconnaissance data for their property and management criteria on when to harvest and update forest reconnaissance data. DNR may audit management plans and systems to determine continued eligibility under the MFL program.

Proposed Modifications: Copy the wording for large ownership requirements from NR 46, Wis. Admin. Code and place it into ch. 77, Wis. Stats. While the proposed change has little effect on large or small landowners, moving the NR 46 wording to statute allows for the statute to reflect different changes for large landowners. (See below for the specific text of NR 46.18 (4).)

Retroactive/Prospective: This proposal has no effect on large or small landowners, either retroactively or prospectively.

Conclusion: The CoF agreed to move this issue forward for legislative consideration.

s. NR 46.18 (4), Wis. Adm. Code:

(4) LARGE OWNERSHIPS.

(a) The requirements of this section for management plans may be modified by the department for ownerships exceeding 1,000 acres after consideration of the following:

1. Other land of the owner entered as managed forest land, forest crop land or other forest tax law programs administered by the department.
2. The number of counties in which lands proposed for entry or renewal or the owner's existing managed forest land and forest crop land and woodland tax law lands lie.
3. The existence and availability for review of a management plan prepared by or for the owner and acceptable to the department.
4. 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.
5. An owner's demonstrated consistent accessibility to competent technical forest management assistance through staff or consultant services.

(b) A management plan under s. 77.82 (3), Stats., shall be developed by owners who no longer qualify as a large ownership in sub. (4) (a). All items listed in s. NR 46.16 (2) (f), (g), and (h) must be submitted to the department for approval within one year after being notified by the department of no longer meeting the requirements in sub. (4) (a).

Proposed Revision 13: Require modified management plans for DNR designated large ownerships to include the establishment of allowable harvest calculations.

do
not
draft

Current Situation: Landowners who qualify as a large landowner are expected to follow their own written management plans. DNR can audit those plans and other program criteria to ensure lands enrolled continue to meet conditions of the MFL program. Harvesting occurs according to the landowner's management plan.

Proposed Modifications: Require a calculated allowable harvest be established for large landowner properties. This modification would provide for multiple accepted approaches to calculating allowable harvests and allow harvest levels that can vary to some definable degree over time. The calculated allowable harvest would require DNR approval to ensure compliance with statutory requirements. Administrative code would be developed to identify what is required in allowable harvest analysis.

Retroactive/Prospective: The CoF remains silent as to whether or not requirements to address this topic be retroactive or prospective.

Conclusion: The CoF reached a consensus on the recognition that the continued production of timber on large ownerships be addressed within the parameters, requirements, and intent of the MFL to include considerations for timber volume and the time component of timber being on the market. The CoF consensus included awareness that this issue may warrant further analysis.

Proposed Revision 14: Allow for electronic signature/approval by DNR and landowners on revised management plan documents for existing participants.

D-Note

Current Situation: In the past, forest management plans for MFL properties were hand written and required the signature of both landowner and DNR forester. The signatures on the management plan acknowledged that both the landowner and DNR forester agreed with forest management prescriptions. Changes have occurred with the development of WisFIRS and computer generated management plans. Currently landowners submit their proposed management plan to DNR for approval as an attachment to their MFL application. The MFL application includes a landowner signature. DNR approves the management plan along with approving the application.

DNR requires all management decisions to consider current stand conditions, current science, current landowner goals and new MFL program requirements when implementing scheduled forest practices. This requirement allows sound forestry to be practiced on all MFL lands, regardless of specific wording contained in management plans. DNR foresters are required to adjust management plans based on new landowner goals, current forest conditions and current science, and program requirements.

Future updates to management plans will be facilitated with WisFIRS. As forest practices are completed, new forest reconnaissance data is collected and practices are entered into WisFIRS generating a new plan for the landowner. DNR foresters on occasion have struggled in the past to complete updated management plans since the current process to obtain a landowner's signature can be very time consuming.

Proposed Modifications: Allow DNR personnel to obtain landowner approval and acknowledgment of a revised management plan by electronic means using e-mail or other electronic formats.

Retroactive: Updated management plans currently being written through WisFIRS do not have a space for landowner or DNR signature. (The signatures are a part of the application process for new enrollees into MFL.) Updated management plans will need to be developed with a method to allow for electronic approval of the revised plan. This change will be for updates to existing plans.

Conclusion: The CoF agreed to move this issue forward for legislative consideration.

Proposed Revision 15: Eliminate the application referral process.

done
Current Situation: DNR is required to have a referral system and a process to determine if services from a Certified Plan Writer (CPW) are not available. The process requires landowners to have submitted a written request for plan writing services through the Forestry Assistance Locator. If by January 1 in the year an MFL application is due, landowners who have not been contacted by a CPW may request the DNR prepare the MFL application. Area DNR forestry supervisors will then contact each CPW in the county in which the lands lie and verify that CPWs received the request and have either denied or not offered services. CPWs may make an offer at this time. If CPWs do not respond to the area forestry supervisor or have replied that they are not interested in providing service, the area forestry supervisor may assign the development of that MFL application to a DNR forester. DNR is required to prepare MFL applications for landowners if services from a Certified Plan Writer (CPW) are not available. As of 2013, there are 178 CPWs statewide. DNR has not developed an MFL application for 2 years, with DNR developing an annual average of 1 to 2 MFL applications over the past 4 years. The CPW program continues to grow, making it less likely that landowners will be unable to find services from a CPW.

Proposed Modifications:

- Eliminate the need to develop and manage a referral list.
- Eliminate the collection of a management plan fee.
- Eliminate the need to determine when services from a CPW are not available.
- Eliminate the contracting of MFL applications by the Department.
- Elimination of the referral system would mean that DNR Foresters would not develop any new MFL applications or charge landowners for MFL applications that it develops. DNR would continue to collect information on fees charged by CPWs as a way to determine cost-share rates for plan development under the Wisconsin Forest Landowner Grant Program (WFLGP).

Prospective: This provision would be prospective.

Conclusion: The CoF agreed to move this issue forward for legislative consideration.

Proposed Revision 16: Revise the current application process for renewal of MFL lands.

Current Situation: Landowners may re-enroll lands in the MFL program at the expiration of their current 25 or 50 year term. Landowners are required to hire a Certified Plan Writer (CPW) to develop a new application, and create a new forest management plan. Through statute, special notification provisions to municipalities and counties have been removed for a renewal. Because there are fewer statutory requirements for a renewal than a new entry, it is reasonable for DNR to treat renewals differently than new entries. Landowners and foresters have noted that if forest reconnaissance and land management plans are current, and there have been no changes in land ownership, location, acreage, land use, etc., a renewal can be done without developing a new MFL plan and application.

don **Proposed Modifications:** Renewals of MFL agreements would eliminate the need for landowners to develop new management plans, and ultimately the review of those plans by DNR staff. DNR would deny a renewal only if (1) the lands fail to meet eligibility requirements, (2) the landowner has failed to comply with the management plan in effect on the date the application for renewal is filed, (3) there are delinquent taxes on the land, (4) ownership and entry acreage has changed, (5) forested acreage has not had an inspection/update date in WisFIRS within the last 5 years or has not been updated to reflect any recently completed management activities, and (6) the management plan does not contain scheduled mandatory practices for the duration of the new entry period. Tax rates for renewals would be based on the 2005, or later rate schedule.

Prospective: This provision would be prospective since landowners who have already re-enrolled lands into the MFL program would not benefit from this modification.

Conclusion: The CoF agreed to move this issue forward for legislative consideration.

Gibson-Glass, Mary

From: Mather, Robert J - DNR <Robert.Mather@wisconsin.gov>
Sent: Tuesday, September 24, 2013 1:23 PM
To: Gibson-Glass, Mary
Cc: Nelson, Kathryn J - DNR; Potvin, Nicole R - DNR
Subject: FW: Managed forest land drafts; question #2 (WisFIRS)

Hi Mary,

There is no language in statutes or administrative code related to inventories of MFL or reports related to forest inventories. We do not want any either. DNR has always had a database to track forest data and management practices; however we do not have this data for large landowners. Large landowners have been required to maintain their own database, with the requirement that DNR has the ability to audit their management plan (and therefore their database).

Bob

Robert J. Mather
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Wisconsin Department of Natural Resources
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Find us on Facebook: www.facebook.com/WIDNR

We are committed to service excellence.
Visit our survey at <http://dnr.wi.gov/u/?q=33>
to evaluate how I did.

From: Gibson-Glass, Mary [<mailto:Mary.Gibson-Glass@legis.wisconsin.gov>]
Sent: Friday, September 20, 2013 2:29 PM
To: Nelson, Kathryn J - DNR
Subject: Managed forest land drafts; question #2 (WisFIRS)

Is there any specific language in the statutes or the administrative code relating to inventories of managed forest land or reports relating to managed forest land that are a basis for WisFIRS? If not, do you want any

Mary Gibson-Glass
Senior Legislative Attorney
Legislative Reference Bureau
608 267 3215



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-3195

MGG:.....

P1
Leev

sent in
Today if possible 9/25

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

SAJ
xref J

gen cat

1 **AN ACT** *gen cat*; relating to: management plans for managed forest lands.

Analysis by the Legislative Reference Bureau

✓ This is a preliminary draft. An analysis will be provided in a subsequent version of this draft.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

2 **SECTION 1.** 20.370 (1) (cx) of the statutes is repealed.

3 **SECTION 2.** 26.38 (4) of the statutes is created to read:

4 26.38 (4) The department shall determine on an annual basis the average
5 commercial market rate that is charged by certified plan writers for the preparation
6 of management plans under s. 77.82 (3). The department shall use this rate in
7 determining the amount of a matching contribution under sub. (2m) (b).

8 **SECTION 3.** 77.81 (1) of the statutes is renumbered 77.81 (1p).

9 **SECTION 4.** 77.81 (2m) of the statutes is renumbered 77.81 (1m) and amended
10 to read:

1 77.81 (1m) ~~Independent certified~~ Certified plan writer” means a plan writer
2 certified by the department ~~but who is not acting under contract with the department~~
3 under s. 77.82 (3) (g).

4 **SECTION 5.** 77.81 (2r) of the statutes is created to read:

5 77.81 (2r) “Large parcel” means a parcel that is designated as managed forest
6 land and that exceeds 1,000 acres in size.

7 **SECTION 6.** 77.82 (2m) (title) of the statutes is amended to read:

8 77.82 (2m) (title) FEES FOR APPLICATIONS ~~AND MANAGEMENT PLANS.~~

9 **SECTION 7.** 77.82 (2m) (ac) of the statutes is repealed.

10 **SECTION 8.** 77.82 (2m) (ag) of the statutes is repealed.

11 **SECTION 9.** 77.82 (2m) (am) of the statutes is repealed.

12 **SECTION 10.** 77.82 (2m) (c) of the statutes is repealed.

13 **SECTION 11.** 77.82 (2m) (dm) 1. of the statutes is repealed.

14 **SECTION 12.** 77.82 (2m) (dm) 2. of the statutes is repealed.

15 **SECTION 13.** 77.82 (3) (title) of the statutes is amended to read:

16 77.82 (3) (title) ~~MANAGEMENT PLAN~~ PLANS.

17 **SECTION 14.** 77.82 (3) (ag) of the statutes is amended to read:

18 77.82 (3) (ag) A proposed management plan shall cover the entire acreage of
19 each parcel subject to the application and shall be prepared by ~~an independent a~~
20 certified plan writer ~~or by the department if par. (am) applies~~ on a form provided by
21 the department.

22 **SECTION 15.** 77.82 (3) (am) of the statutes is repealed.

23 **SECTION 16.** 77.82 (3) (ar) of the statutes is amended to read:

24 77.82 (3) (ar) ~~For a each~~ proposed management plan prepared by an
25 ~~independent certified plan writer prepared under par. (a),~~ the department, after

g

1 considering the owner's forest management objectives as stated under sub. (2) (e),
2 shall review and either approve or disapprove the proposed management plan. If the
3 department disapproves the proposed plan, it shall inform the applicant of the
4 changes necessary to qualify the plan for approval upon subsequent review. ~~At the~~
5 ~~request of the applicant, the department may agree to complete the proposed~~
6 ~~management plan.~~

7 ^x
SECTION 17. 77.82 (3) (c) (intro.) of the statutes is amended to read:

8 77.82 (3) (c) (intro.) To qualify for approval, a management plan shall include
9 all of the following items:

10 ^x
SECTION 18. 77.82 (3) (g) of the statutes is amended to read:

11 77.82 (3) (g) The department shall certify plan writers and shall promulgate
12 rules specifying the qualifications that a person must satisfy to become a certified
13 plan writer. ~~For management plans prepared or completed by the department under~~
14 ~~this subsection, the department may contract with plan writers certified by the~~
15 ~~department to prepare and complete these plans.~~

16 [✓]
SECTION 19. 77.82 (3m) of the statutes is created to read:

17 77.82 (3m) MANAGEMENT PLANS; LARGE PARCELS. (a) Notwithstanding sub. (3)
18 (c), the department may modify any item that is required in a management plan
19 for a large parcel. In determining whether to make a modification, the department
20 shall consider all of the following:

21 1. Whether the owner of the parcel owns other land that is designated as
22 managed forest [△]land or that is forest cropland subject to a contract under s. 77.03. [✓]

23 2. The number of counties in which the parcel of land is located.

24 3. Whether a certified plan writer is available to prepare the management plan.

1 4. Whether the owner submits a written commitment that the owner will
 2 provide all of the following any information relating to the management plan that
 3 is requested by the department. The written commitment shall include a description
 4 of the proposed management plan and a proposed procedure for amending the
 5 management plan.

6 5. Whether the owner demonstrates that this owner is able, on a consistent
 7 basis, to receive competent technical forest management assistance from the
 8 department or from an organization which provides such assistance and is approved
 9 by the department for this purpose. *that*

10 *the* (b) If the withdrawal of land or transfer of ownership of part of a large parcel
 11 results in the parcel no longer exceeding 1,000 acres, the owner shall submit to the
 12 department for approval proposed amendments to the the management plan to
 13 include the items specified in sub. (3) (c) 4., 5., 6., and 7. if these items were not
 14 included in the original plan. Any amendments shall be submitted within one year
 15 after *of* the date of the withdrawal or transfer of ownership.

16 SECTION 20. 77.82 (4m) (d) of the statutes is amended to read:

17 77.82 (4m) (d) An owner of land who has filed a conversion application under
 18 this subsection and for whom the department is preparing or completing a
 19 management plan may withdraw the request and have it prepared by an
 20 independent a certified plan writer if the owner determines that the department is
 21 not preparing or completing the management plan in a timely manner.

22 SECTION 21. 77.82 (12) of the statutes *Exception 22 (a) (b) (c) (d) (e) (f) (g) (h) (i) (j) (k) (l) (m) (n) (o) (p) (q) (r) (s) (t) (u) (v) (w) (x) (y) (z)* is renumbered 77.82 (12) (a) and
 23 amended to read:

24 77.82 (12) (a) An owner of managed forest land may file an application with the
 25 department under sub. (2) for renewal of the order. An application for renewal shall

1 be filed no later than the June 1 before the expiration date of the order. The
2 application shall specify whether the owner wants the order renewed for 25 or 50
3 years. The provisions under subs. (3), (5), (6), and (7) do not apply to an application
4 under this subsection. The department may deny the application only if the any of
5 the following apply:

- 6 1. The land fails to meet the eligibility requirements under sub. (1), if the
- 7 3. The owner has failed to comply with the management plan that is in effect
8 on the date that the application for renewal is filed, or if there,
- 9 7. There are delinquent taxes on the land.

10 (b) If the application is denied, the department shall state the reason for the
11 denial in writing.

12 SECTION 22. 77.82 (12) (a) 4. of the statutes is created to read:

13 77.82 (12) (a) 2. There has been an addition of acres under sub. (4) or (4g), a
14 withdrawal of acres under s. 77.84 (3) (b) or 77.88, or sale or transfer of ownership
15 under s. 77.88 (2).

16 SECTION 23. 77.82 (12) (a) 4. of the statutes is created to read:

17 77.82 (12) (a) 4. The management plan contains mandatory forestry or soil
18 conservation practices, as described in sub. (3) (c) 6. and 7. mandatory
19 management activities, as described in sub. (3) (d), that the department determines
20 are required to be continued during the term of the renewed order.

21 SECTION 24. 77.82 (12) (a) 5. of the statutes is created to read:

22 77.82 (12) (a) 5. No review of the mandatory forestry or soil conservation
23 practices or the mandatory management activities contained in the management
24 plan has been conducted within the 5 years immediately preceding the date of the
25 application for renewal.

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are

****NOTE: This is my attempt to incorporate the concept of the Wisconsin Forest Inventory and Reporting System.

1 SECTION 25. 77.82 (12) (a) 6. of the statutes is created to read:

2 77.82 (12) (a) 6. Within the 5 years immediately preceding the date of the

3 application for renewal, the management plan has not been updated to reflect the

4 completion of ~~an~~ forestry or soil conservation practices or management activities

5 contained in the plan. *any*

6 (END)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3195 Adn
MGG:.....

P1
leeu

date

1. This draft contains proposed revisions 12, 14, 15, and 16.

2. Regarding proposed revision 12: The language in NR 46.18 (4), Wis. adm. code, uses different wording than what is used in s. 77.82 (3) (c). I tried to reconcile the provisions in the code and the provisions in the statutes as best as possible.

Also, NR 46.18 (4) the use of the verb "modify" could mean that DNR may make impose more stringent requirements for the items that are required in a management plan. If the intent is only to allow DNR to exempt or to impose less stringent requirements on owners of large parcels, this language needs rewriting. Also, the provision is not clear as to how DNR is to treat the factors to be considered under NR 46.18 (4) (a). For example, does having more land in forest tax programs or have land in more than one county weigh towards less requirements or more requirements? Please let me know if you want any changes.

2. Regarding proposed revision 14: This may well be covered by ch. 137, which defines and recognizes electronic signatures. See ss. 137.15 (4) and 137.25 (1). I recommend that you consult with DNR's legal staff to determine if any drafting is necessary.

3. Regarding the last sentence in the "proposed modification" paragraph in proposed revision 16: Do you want language included in the draft that specifically states that the payment amounts under 77.84 (2) (am) and (bm) apply to renewals or are you satisfied that the language in s. 77.82 (8) under current law clearly addresses this issue?

Mary Gibson-Glass
Senior Legislative Attorney
Phone: (608) 267-3215
E-mail: mary.gibson-glass@legis.wisconsin.gov

S.

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-3195/P1dn
MGG:eev:jm

October 9, 2013

1. This draft contains proposed revisions 12, 14, 15, and 16.
2. Regarding proposed revision 12: the language in NR 46.18 (4), Wis. Adm. Code, uses different wording than what is used in s. 77.82 (3) (c). I tried to reconcile the provisions in the code and the provisions in the statutes as best as possible.

Also, in NR 46.18 (4), the use of the phrase "may be modified" could mean that DNR may impose more stringent requirements for the items that are required in a management plan. If the intent is only to allow DNR to exempt or to impose less stringent requirements on owners of large parcels, this language needs rewriting. Also, the provision is not clear as to how DNR is to treat the factors to be considered under NR 46.18 (4) (a). For example, does having more land in forest tax programs or having land in more than one county weigh towards fewer requirements or more requirements? Please let me know if you want any changes.

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3. Regarding the last sentence in the "proposed modification" paragraph in proposed revision 16: Do you want language included in the draft that specifically states that the payment amounts under s. 77.84 (2) (am) and (bm) apply to renewals or are you satisfied that the language in s. 77.82 (8) under current law clearly addresses this issue?

Mary Gibson-Glass
Senior Legislative Attorney
Phone: (608) 267-3215
E-mail: mary.gibson-glass@legis.wisconsin.gov



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-3195/P1
MGG:eev:jm

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1 **AN ACT to repeal** 20.370 (1) (cx), 77.82 (2m) (ac), 77.82 (2m) (ag), 77.82 (2m) (am),
2 77.82 (2m) (c), 77.82 (2m) (dm) 1., 77.82 (2m) (dm) 2. and 77.82 (3) (am); **to**
3 **renumber** 77.81 (1); **to renumber and amend** 77.81 (2m) and 77.82 (12); **to**
4 **amend** 77.82 (2m) (title), 77.82 (3) (title), 77.82 (3) (ag), 77.82 (3) (ar), 77.82 (3)
5 (c) (intro.), 77.82 (3) (g) and 77.82 (4m) (d); and **to create** 26.38 (4), 77.81 (2r),
6 77.82 (3m), 77.82 (12) (a) 2., 77.82 (12) (a) 4., 77.82 (12) (a) 5. and 77.82 (12) (a)
7 6. of the statutes; **relating to:** management plans for managed forest lands.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a subsequent version of this draft.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

8 **SECTION 1.** 20.370 (1) (cx) of the statutes is repealed.

9 **SECTION 2.** 26.38 (4) of the statutes is created to read:

1 26.38 (4) The department shall determine on an annual basis the average
2 commercial market rate that is charged by certified plan writers for the preparation
3 of management plans under s. 77.82 (3). The department shall use this rate in
4 determining the amount of a matching contribution under sub. (2m) (b).

5 **SECTION 3.** 77.81 (1) of the statutes is renumbered 77.81 (1p).

6 **SECTION 4.** 77.81 (2m) of the statutes is renumbered 77.81 (1m) and amended
7 to read:

8 77.81 (1m) "~~Independent certified~~ Certified plan writer" means a plan writer
9 certified by the department ~~but who is not acting under contract with the department~~
10 under s. 77.82 (3) (g).

11 **SECTION 5.** 77.81 (2r) of the statutes is created to read:

12 77.81 (2r) "Large parcel" means a parcel that is designated as managed forest
13 land and that exceeds 1,000 acres in size.

14 **SECTION 6.** 77.82 (2m) (title) of the statutes is amended to read:

15 77.82 (2m) (title) ~~FEEES FOR APPLICATIONS AND MANAGEMENT PLANS.~~

16 **SECTION 7.** 77.82 (2m) (ac) of the statutes is repealed.

17 **SECTION 8.** 77.82 (2m) (ag) of the statutes is repealed.

18 **SECTION 9.** 77.82 (2m) (am) of the statutes is repealed.

19 **SECTION 10.** 77.82 (2m) (c) of the statutes is repealed.

20 **SECTION 11.** 77.82 (2m) (dm) 1. of the statutes is repealed.

21 **SECTION 12.** 77.82 (2m) (dm) 2. of the statutes is repealed.

22 **SECTION 13.** 77.82 (3) (title) of the statutes is amended to read:

23 77.82 (3) (title) ~~MANAGEMENT PLAN PLANS.~~

24 **SECTION 14.** 77.82 (3) (ag) of the statutes is amended to read:

1 77.82 (3) (ag) A proposed management plan shall cover the entire acreage of
2 each parcel subject to the application and shall be prepared by ~~an independent a~~
3 certified plan writer ~~or by the department if par. (am) applies on a form provided by~~
4 the department.

5 **SECTION 15.** 77.82 (3) (am) of the statutes is repealed.

6 **SECTION 16.** 77.82 (3) (ar) of the statutes is amended to read:

7 77.82 (3) (ar) For ~~a~~ each proposed management plan ~~prepared by an~~
8 ~~independent certified plan writer prepared under par. (ag),~~ the department, after
9 considering the owner's forest management objectives as stated under sub. (2) (e),
10 shall review and either approve or disapprove the proposed management plan. If the
11 department disapproves the proposed plan, it shall inform the applicant of the
12 changes necessary to qualify the plan for approval upon subsequent review. ~~At the~~
13 ~~request of the applicant, the department may agree to complete the proposed~~
14 ~~management plan.~~

15 **SECTION 17.** 77.82 (3) (c) (intro.) of the statutes is amended to read:

16 77.82 (3) (c) (intro.) To qualify for approval, a management plan shall include
17 all of the following items:

18 **SECTION 18.** 77.82 (3) (g) of the statutes is amended to read:

19 77.82 (3) (g) The department shall certify plan writers and shall promulgate
20 rules specifying the qualifications that a person must satisfy to become a certified
21 plan writer. ~~For management plans prepared or completed by the department under~~
22 ~~this subsection, the department may contract with plan writers certified by the~~
23 ~~department to prepare and complete these plans.~~

24 **SECTION 19.** 77.82 (3m) of the statutes is created to read:

1 **77.82 (3m) MANAGEMENT PLANS; LARGE PARCELS.** (a) Notwithstanding sub. (3)
2 (c), the department may modify any item that is required in a management plan for
3 a large parcel. In determining whether to make a modification, the department shall
4 consider all of the following:

5 1. Whether the owner of the parcel owns other land that is designated as
6 managed forest land or that is forest cropland subject to a contract under s. 77.03.

7 2. The number of counties in which the parcel of land is located.

8 3. Whether a certified plan writer is available to prepare the management plan.

9 4. Whether the owner submits a written commitment that the owner will
10 provide any information relating to the management plan that is requested by the
11 department. The written commitment shall include a description of the proposed
12 management plan and a proposed procedure for amending the management plan.

13 5. Whether the owner demonstrates that this owner is able, on a consistent
14 basis, to receive competent technical forest management assistance from the
15 department or from an organization that provides such assistance and is approved
16 by the department for this purpose.

17 (b) If the withdrawal of land or transfer of ownership of part of a large parcel
18 results in the parcel no longer exceeding 1,000 acres, the owner shall submit to the
19 department for approval proposed amendments to the the management plan to
20 include the items specified in sub. (3) (c) 4., 5., 6., and 7. if these items were not
21 included in the original plan. Any amendments shall be submitted within one year
22 after the date of the withdrawal or transfer of ownership.

23 **SECTION 20.** 77.82 (4m) (d) of the statutes is amended to read:

24 **77.82 (4m) (d)** An owner of land who has filed a conversion application under
25 this subsection and for whom the department is preparing or completing a

1 management plan may withdraw the request and have it prepared by an
2 independent a certified plan writer if the owner determines that the department is
3 not preparing or completing the management plan in a timely manner.

4 SECTION 21. 77.82 (12) of the statutes is renumbered 77.82 (12) (a) and
5 amended to read:

6 77.82 (12) (a) An owner of managed forest land may file an application with the
7 department under sub. (2) for renewal of the order. An application for renewal shall
8 be filed no later than the June 1 before the expiration date of the order. The
9 application shall specify whether the owner wants the order renewed for 25 or 50
10 years. The provisions under subs. (3), (5), (6), and (7) do not apply to an application
11 under this subsection paragraph. The department may deny the application only if
12 the any of the following apply:

13 1. The land fails to meet the eligibility requirements under sub. (1), if the.

14 3. The owner has failed to comply with the management plan that is in effect
15 on the date that the application for renewal is filed, or if there.

16 7. There are delinquent taxes on the land.

17 (b) If the application is denied, the department shall state the reason for the
18 denial in writing.

19 SECTION 22. 77.82 (12) (a) 2. of the statutes is created to read:

20 77.82 (12) (a) 2. There has been an addition of acres under sub. (4) or (4g), a
21 withdrawal of acres under s. 77.84 (3) (b) or 77.88, or sale or transfer of ownership
22 under s. 77.88 (2).

23 SECTION 23. 77.82 (12) (a) 4. of the statutes is created to read:

24 77.82 (12) (a) 4. The management plan does not contain any mandatory
25 forestry or soil conservation practice, as described in sub. (3) (c) 6. and 7. or any

1 mandatory management activity, as described in sub. (3) (d), that the department
2 determines are required to be continued during the term of the renewed order.

3 **SECTION 24.** 77.82 (12) (a) 5. of the statutes is created to read:

4 77.82 (12) (a) 5. No review of the mandatory forestry or soil conservation
5 practices or the mandatory management activities contained in the management
6 plan has been conducted within the 5 years immediately preceding the date of the
7 application for renewal.

****NOTE: This is my attempt to incorporate the concept of the Wisconsin Forest
Inventory and Reporting System.

8 **SECTION 25.** 77.82 (12) (a) 6. of the statutes is created to read:

9 77.82 (12) (a) 6. Within the 5 years immediately preceding the date of the
10 application for renewal, the management plan has not been updated to reflect the
11 completion of any forestry or soil conservation practices or management activities
12 contained in the plan.

13

(END)