MANAGED FOREST LAW "CLEAN-UP" RECOMMENDATIONS

Allow structures that are necessary to store equipment used to carry out forestry activities to be located on land enrolled in the MFL.

Current Law: ***77.82(1)(bp) 1.*** *For purposes of par. (b) 3., and except as provided in subd. 2., an improvement is any of the following:*

a. *Any accessory building, structure, or fixture that is built or placed on the parcel for its benefit.*

b. *Landscaping that is done on the parcel.*

2. *An improvement does not include any of the following:*

a. *A public or private road.*

b. *A railroad or utility right-of-way.*

c. *A fence, except as provided in subd. 3.*

d. *Culverts.*

e. *Bridges.*

f. *Hunting blinds, as specified by rules promulgated by the department.*

g. Structures and fixtures that are needed for sound forestry practices.

Discussion: Current law does allow for structures and fixtures that are needed for sound forestry practices. However, in its most recent Tax Law Handbook, the DNR has expanded upon this exception by saying *"Structures and fixtures needed for sound forestry practices. Examples of structures and fixtures needed for sound forestry practices may include skid trails, landings, deer exclosures and clear-span bridges."* This expanded interpretation does not include a shelter, shed or garage that landowners may use to store equipment such as saws, tractors or other tools and equipment they need to actively manage their woodlands.

Taxable structures located on MFL land have in the past been problematic, requiring detailed definitions of what could or could not be placed on the property. The most recent changes to the law allowed for small parcels to be withdrawn for construction or sale. With this change it was believed that landowners who had garages or other shelters could withdraw an acre of land upon which a structure was located, in part to address concerns expressed by local governments about the difficulty of having to tax structures as personal property.

However, if the requirement that structures located on MFL be taxed as personal property is rescinded, then local units of government would be able to simply assess sheds and garages as an improvement, eliminating the concern they've had with these structures.

Recommendation: Expand by adding:

h. Structures used to store equipment necessary for conducting sound forestry practices.

Remove the requirement for municipalities that they tax structures located on land enrolled in the MFL as personal property.

CURRENT LAW*: 77.84(1) TAX ROLL. Each clerk of a municipality in which the land is located shall enter in a special column or other appropriate place on the tax roll the description of each parcel of land designated as managed forest land, and shall specify, by the designation "MFL-O" or "MFL-C", the acreage of each parcel that is designated open or closed under s. 77.83. The land shall be assessed and is subject to review under ch. 70. Except as provided in this subchapter, no tax may be levied on managed forest land,* ***except that any building on managed forest land is subject to taxation as personal property under ch. 70.***

Discussion: It is unclear what the rationale was for a requirement that structures located on lands enrolled in the MFL be taxed as personal property, as opposed to being shown on the tax bill as an improvement. There does not appear to be any references in ch.70 that specifies that taxes on improvements located on MFL land should be taxed as personal property. As a matter of practice, some municipalities currently ignore this statutory requirement and tax structures as improvements because of the added expense associated with separate billings plus the more difficult collection process required to collect defaults as described in s.77.88(3m) Withdrawal For Failure to Pay Personal Property Taxes.

By allowing structures located on MFL land to be taxed as an improvement, local governments could then more easily also assess "deer stands or deer blinds" if they reached such dimensions as to be taxable.

Recommendation: Delete the reference requiring structures be taxed as personal property and delete s.77.88(3m) *Withdrawal For Failure to Pay Personal Property Taxes*, the section which describes the process for the DNR to issue orders and assess penalties.

Expand the eligibility requirement to meet the 20 acre minimum requirement by allowing landowners to enroll separate, discrete, parcels that are all located on contiguously owned land as long as they total more than 20 acres.

Current Law: *77.82 Managed forest land; application.* ***(1)*** *ELIGIBILITY REQUIREMENTS.*
(a) A parcel of land is eligible for designation as managed forest land only if it fulfills the following requirements: ***1.*** *It consists of at least 20 contiguous acres, except as provided in this subdivision. The fact that a lake, river, stream or flowage, a public or private road or a railroad or utility right-of-way separates any part of the land from any other part does not render a parcel of land noncontiguous. If a part of a parcel of at least 20 contiguous acres is separated from another part of that parcel by a public road, that part of the parcel may be enrolled in the program, even if that part is less than 20 acres, if that part meets the requirement under subd. 2. and is not ineligible under par. (b). The owner of a parcel of less than 20 acres that is subject to a managed forest land order before April 16, 2016, may apply one time for a renewal of the order under sub. (12) without meeting the 20-acre requirement.* ***2.*** *At least 80 percent of the parcel must be producing or capable of producing a minimum of 20 cubic feet of merchantable timber per acre per year.*

Discussion: The rationale to increase the minimum acreage requirement for entry into the MFL was related to the difficulty to grow and market timber on smaller parcels. However, many landowners have woodlands separated by wetlands or agricultural land that are not contiguous with each other but are managed as a whole. Current law requires each discreet woodland area be enrolled as a separate parcel, many of which may no longer qualify because they are less than 20 acres.

Recommendation: Add language that says *"The fact that parcels are separated by different land uses does not render a parcel of land noncontiguous if they are located on a contiguous property under the same ownership."*

Allow withdrawals of fractional acres.

Current Law: *77.88* (3j) *VOLUNTARY WITHDRAWAL; OTHER CONSTRUCTION; SMALL LAND SALES.* ***(a)*** *Except as provided in par. (b), upon the request of an owner of managed forest land to withdraw part of a parcel of the owner's land, the department shall issue an order withdrawing the land subject to the request if all of the following apply:* ***1.*** *The purpose for which the owner requests that the department withdraw the land is for the sale of the land or for a construction site.* ***2.*** *The land to be withdrawn is not less than one acre and not more than 5 acres. Partial acres may not be withdrawn.*

Discussion: The requirement that prohibits withdrawal of partial acres for construction or sale is not consistent with transfer rules that allow fractional acres to be withdrawn. This difference causes confusion to landowners along with difficulty to survey parcels with an exact acreage size.

Recommendation: Eliminate the requirement that prohibits partial acres to be withdrawn.

Limit landowner liability for errors discovered after an order has been issued and land was enrolled in the MFL.

Discussion: Current law does not address situations where errors are discovered after land has been enrolled in the MFL. A common situation occurs when new surveys show that boundaries and acreage of lands of the enrolled parcel no longer meets basic eligibility requirements. For example, the initial enrollment of 10 acres of land was later found to be only 9.5 acres following a certified survey.

Although there are processes to either Rescind or Amend existing orders there is no guidance on how to manage parcels that would not be eligible for enrollment under current law if errors are later discovered. Currently the DNR could issue an involuntary withdrawal order, consider an order rescinding the enrollment, or possibly simply allow the parcel to remain in the MFL until the order expired without potential for re-enrollment.

Recommendation: If the DNR believes it cannot address these situations administratively, add a new section to *s.77.88 Withdrawal; transfer of ownership; nonrenewal* that would offer landowners the following options if errors are discovered after enrollment, errors for which the landowner was at no fault, that resulted in the entered lands no longer being able to meet minimum entry requirements.

1) Allow the order to be rescinded by the DNR, with no penalties, if newly discovered information, such as a new survey, shows that the land to no longer meets the minimum criteria that was necessary at the time of enrollment or,
2) Allow the land to remain in the program until the end of the order without potential for reenrollment.

Expand allowance of additional lands

Current Law: *77.82(4) ADDITIONS TO MANAGED FOREST LAND. An owner of land that is designated as managed forest land may file an application with the department to designate as managed forest land an additional parcel of land if the additional parcel is at least 3 acres in size and is contiguous to any of that designated land.*

Discussion: In many situations a landowner had kept an acre or two out of the enrollment to allow for a future building site. With the current law now allowing landowners to remove land for sale or construction landowners would like to include that land with their enrollment. To meet the 3 acre minimum landowners could include additional areas but are limited by the requirement that the parcel be 3 acres in size AND CONTIGUOUS to the designated land.

Recommendation: Change language to: *ADDITIONS TO MANAGED FOREST LAND. An owner of land that is designated as managed forest land may file an application with the department to designate as managed forest land additional parcels of land if the additions total at least 3 acres in size and are contiguous to any of that designated land.*

Require that landowners be provided information with their tax bills on how their land is classified.

Current Law: *77.09(3)(b) Property tax bills shall show all of the following: **1.** For real property, the estimated fair market value of the land, except agricultural land, as defined in s. 70.32 (2) (c) 1g., and the assessed value of the land and the estimated fair market value and assessed value of the improvements*

Discussion: Landowners have no way of knowing how their lands are classified unless they call their assessor. Tax rates differ significantly based upon how their lands are classified. Without having this information landowners cannot know whether or not their assessor has properly "classified" and then taxed their lands.

Recommendation: Revise language to: *Property tax bills shall show all of the following: **1.** For real property, the estimated fair market value of the land, except agricultural land, as defined in s. 70.32 (2) (c) 1g., **the classifications of the land**, and the assessed value of the land and the estimated fair market value and assessed value of the improvements.*