



Department of
Environmental
Conservation

Modernizing Forest Tax Law

March, 2019

Private Forestry and Utilization Programs
Bureau of Forest Resource Management

- Introduction and Welcome
- DEC is holding these stakeholder meeting to gather suggestions and feedback on how to improve the program before we begin to write regulations.
- We have already received some feedback from our field staff and from some of our stakeholders, namely New York Society of Foresters (SAF).
- I present some these suggestions at the end of this presentation, but what we really want is feedback from forest landowners that are currently enrolled in program.
- There will be also public comment period after the regulations are written.

Benefits of Private Forests to New Yorkers



- Aesthetics
- Wildlife
- Forest Products
- Recreation
- Clean Air
- Clean Water
- Carbon Sequestration



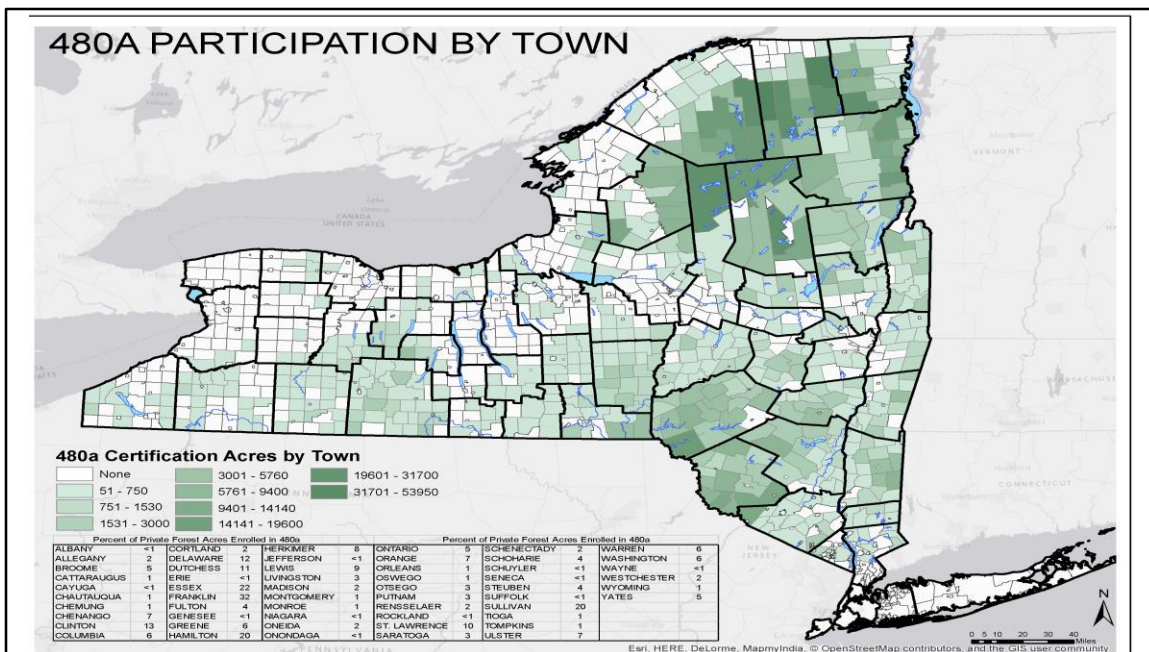
- 63% of New York State is forested.
- 75% of that forest is privately owned or 14 million acres.
- The majority of these benefits are provided by private forest landowners to society.

Forest Tax Law

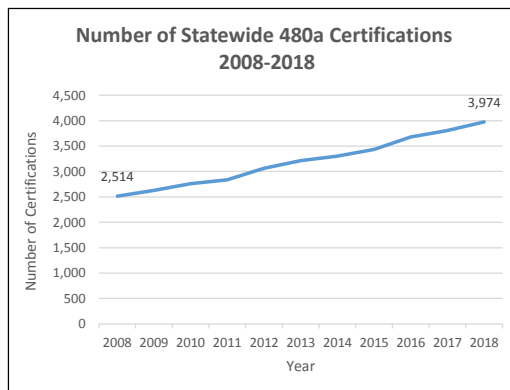
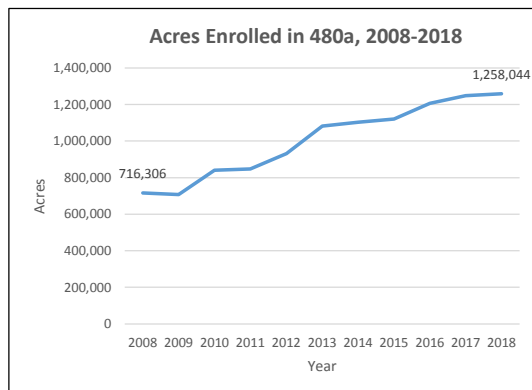
- Enacted in 1974 and has never been substantially updated
- Landowners with fifty acres of qualifying forest land
- Rolling 10 year commitment
- Lien on deed
- Up to 80% reduction of assessment on committed acres
- Continuous production of a merchantable forest crop



- The law and regulation have not been updated since 1974.
- These are the basic tenets of the law and cannot be changed through regulation reform.

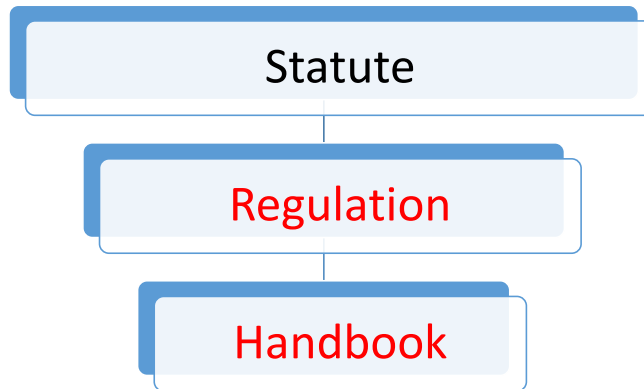


- This map shows distribution of 480a participation by town statewide circa 2015.
- 3,400 landowners with 1.2 million acres enrolled.
- Large north county acres indicates timber investment management organization (TIMO) participants with large acreages. Catskill participation is represented by smaller acres but many landowners
- Enrollment % per year is higher in western regions.



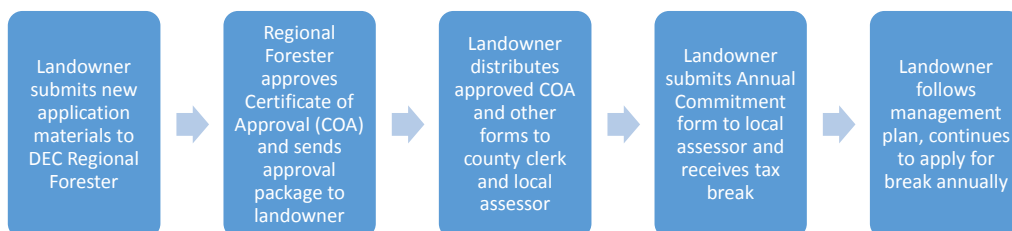
- These charts show increase in acreage and certifications on forest tax law over the last 10 years.
- Staffing assigned to forest tax law has not increased during this time period.
- This is just one reason to re-examine how we administer this law.

Framework of Forest Tax Law



- This is how tax law is structured.
- This effort is not a change in statute, but a change in the regulation and handbook.
- Most of the forestry and forest management plan requirements are contained in the regulation and the handbook.

How landowners apply for Forest Tax Law



Elements of a Forest Management Plan

- Landowner information
- Forest type map with committed acres
- Forest inventory
- Stand narratives with goals
- Prescriptions
- Work schedule



- Each of these elements or requirements are part of the regulations and handbook.
- Landowner information, correct contact info, tax parcel data are all part of basic information gathered.
- DEC needs to certify the committed acres through an accurate forest type map with acres committed to the program.
- The private forester needs to provide DEC with an accurate forest inventory in order to make sound forest management decisions.
- Stand narratives are detailed descriptions of current stand conditions with “continuous production of forest crop” as the main goal.
- The prescription provides data for type of treatments needed.
- The work schedule outlines what treatments are scheduled when to fulfill forest management plan.

2018 To 2019	Commercial Harvest of 54 Acres in Stand(s) 1; Non-commercial TSI of 9 Acres in Stand(s) 2;	Commercial Harvest
2019 To 2020	Commercial Harvest of 94 Acres in Stand(s) 3,4,5,6,7,8,9; Non-commercial TSI of 10 Acres in Stand(s) 3;	Non-Commercial TSI
2020 To 2021	Non-commercial TSI of 10 Acres in Stand(s) 3;	
2021 To 2022	Non-commercial TSI of 10 Acres in Stand(s) 3; Re-mark Property & Committed Acreage Boundary Lines as Necessary.	Boundary Line Maintenance
2022 To 2023	Non-commercial TSI of 4 Acres in Stand(s) 3; Five-Year Update of Management Plan as required.	5 Year Update
2023 To 2024	No Treatments Necessary	
2024 To 2025	No Treatments Necessary	
2025 To 2026	No Treatments Necessary	
2026 To 2027	Re-mark Property & Committed Acreage Boundary Lines as Necessary.	Boundary Line Maintenance
2027 To 2028	Five-Year Update of Management Plan as required.	5 Year Update
2028 To 2029	No Treatments Necessary	
2029 To 2030	No Treatments Necessary	
2030 To 2031	No Treatments Necessary	
2031 To 2032	Re-mark Property & Committed Acreage Boundary Lines as Necessary.	Boundary Line Maintenance
2032 To 2033	Five-Year Update of Management Plan as required.	5 Year Update

ACCEPTED FOR REGIONAL FORESTER: _____ 12-Sep-18
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- Emphasis on year by year scheduling.
- Commercial harvest has two years to be completed, must give DEC a Notice of Commercial Cutting (NOCC) 30 days before harvest. Must submit 6% stumpage tax to county. Opportunity to review.
- Non-Commercial TSI allows for one year to complete. Landowner will need to pay for this treatment.
- Boundary line marking and 5 year update on schedule
- The work schedule is how DEC checks for compliance with the program.

Violations

- Partial or full conversion to non-forestry use.
- Owner doesn't give proper notice of a proposed cutting
- Owner fails to pay 6% stumpage owed to county.
- Owner fails to comply with the approved management plan during commitment period.



- Four examples of violations of the program:
 - Conversion to non forestry use. Building a barn is a partial conversion. Dropping below 50 acre minimum is a full conversion
 - Owner doesn't submit NOCC to Regional Forester and therefore there is no opportunity for review by DEC.
 - Owner fails to pay stumpage tax to county.
 - Failure to follow the approved forest management plan by not doing the work on the work schedule.
- These are spelled out in the law and cannot be change with regulation reform.
- DEC determines if a violation has occurred on a tax law.

Penalties



- 5 times back taxes with compounding interest going back 10 years for partial conversion (portion of committed acres revoked)
- 2 ½ times back taxes with compounding interest going back 10 years for full conversion (all committed acres revoked)



- Penalties are steep but avoidable if a landowner takes the time to contact DEC before something bad happens.
- Penalties are also spelled in the law and not the regulations.
- The main overall purpose of this regulation reform is to reduce violations for forest landowners.

It's a little outdated



- Types of forest landowners
- Changes in New York's forest industry
- Changes in DEC staffing vs. enrollment
- Changes in New York's forests and the type of forestry needed



- However, we realize the program needs to be updated to improve it.
- Types of landowners have changed, including more second home owners. Larger timber investment management organization (TIMO) enrolled large acreages into tax law in the Adirondacks.
- Changes in industry in New York have resulted in little or no market for low grade wood in most of the state, making it harder to sell timber.
- DEC staffing changes. Less one-on-one interactions with landowners has hurt our relationship with our main constituency.
- Pressures on forests and forest regeneration have made management more complicated and more expensive. Invasive species, deer and attitudes towards heavy cutting have contributed to failure of regeneration and the sustainability of our forests is at risk.

Main Goals of Forest Tax Law Reform

- Improve landowner and consulting forester education
- Clearer requirements and consistent enforcement statewide
- Reduce administrative burdens
- Improve forestry outcomes



- Improving landowner and private forester knowledge of the tax law program through web, trainings etc. can help reduce violations.
- In many way the DEC regions have developed their own program as they saw fit based on staff levels and forest tax law enrollment. This has caused issues with some of the regulations that call for discretion. We seek to better define some of the regulations to help clear up some of these regional issues.
- We hope to reduce administrative burdens by revising reporting requirements such as modifying or removing the five years update requirement and revising the requirements of the forest management plans. Annual reporting attached to the annual commitment forms could be a way to go to a 10 year update but still have contact with landowners (not hard data driven like current update).
- There is a need for changes in plan requirements to reflect modern forestry tools and techniques. Allow for broader silvicultural techniques to deal with the challenges of regeneration, species composition and invasive species.

Forest Tax Law Reform



- While some main components of the law cannot be changed easily, there are several things we can do to improve efficiency such as:
 - develop staff training and guidance materials for forest tax law;
 - develop new education materials for landowners and consultants;
 - conduct more formalized assessor outreach and education;
 - develop a statewide database and move some administrative burdens to free up regional staff to do forestry.

Improving Education

- Develop an Approved Plan Writers List
- Develop an “Introduction to New York’s Forest Tax Law Course” for landowners
- Change forms to be more explicit about program
- Landowner contact with DEC staff before enrollment



The remaining slides are some of the main suggestions we have gotten so far, broken up into categories.

- Approved Plan Writers list: Develop a consultant forester training for tax law. Forester would receive a certification. This is similar to other states requirements.
- Develop a course in forest tax law for forest landowners to explain the law. Ohio has this as a requirement to get into their tax law program.
- Update the forms. Place an explicit statement about what the landowner is signing up for, including better explanation of these requirements on the form.
- Landowner must contact DEC staff to learn about program.

Reducing Administrative Burdens

- Notification of DEC of sale of 480a properties
- Modifying update and reporting requirements
- Allowing a more flexible work schedule
- Allowing electronic submissions
- Removing notarization requirements
- Changing application deadlines



- Many violations could be avoided if we knew when a forest tax law property changed hands.
- There are many different ways other states require updates and reports on forest management activities in their tax law programs, such as:
 - giving a work window for completing required work to reflect a changing forest industry; or
 - allowing electronic submissions of forms, plans, maps and updates in tax law.
- Could the notarization requirements be outdated and unnecessary?
- An application deadline in the fall could give staff more time and better weather to walk new properties coming into the program, and could give more time to fix things before taxable status date.

Clear Requirements and Statewide Enforcement

- Developing a forest management plan template
- Clear data requirements
- Develop a mapping standard
- Revising boundary line standards
- Revising unclear standards



- A forest management template would provide clearer guidance on what a passing grade is for a forest management plan.
- Develop materials on data requirements for treatments and make them available to private foresters
- DEC needs more accurate maps to correctly certify the acreage enrolled in the program.
- Boundary line standards and marking are different in each region, making it difficult for a private forester to know what the correct method is from region to region.
- Looking at the language and clearing up ambiguous regulations that could be misinterpreted.

Improving Forestry Outcomes



- Adjusting standards to allow for broader silviculture treatments
- Developing an interfering vegetation standard
- Developing inventory standards
- Designating(marking)a stand for treatment
- Requiring all tax law management plans to be federal stewardship quality



- There has been a hesitation to drop stands below the minimum stocking requirements, but some type of restoration forestry requires this to help get stands on a healthier road.
- Development of a standard to require landowners to treat interfering vegetation (such as invasive plants) to ensure a healthy future forest.
- Developing minimum inventory standards would affect how a consultant conducts a forest inventory.
- Provide a clearer standard on marking a stand for treatment and when it might be appropriate not to have to mark.
- Requiring all tax law management plans to be Forest Service stewardship quality would help qualify forest tax law properties for cost share money.

Thank You

For more information on Forest Tax Law and current regulations, please see our website at <http://www.dec.ny.gov/lands/5236.html>.

Please submit comments to:

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