The 480-a Forest Taxation Program; Utilization, Administration, and Fiscal Impact

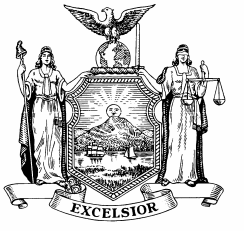

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TABLE OF CONTENTS

List of Tables

List of Figures

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Executive Summary

Section 480–a of the Real Property Tax Law (RPTL), which provides partial real property tax exemptions on privately owned forest lands in New York, was enacted in 1974. The program is available to owners of 50 or more contiguous acres of forest land capable of producing timber, and provides a reduction in assessed value, in the lesser of 80 percent of assessed value or any assessed value in excess of $40 per acre (equalized). Unlike the earlier Fisher forest tax program (RPTL Section 480), the 480–a program requires applicants to first place their lands under a management plan, subject to approval by the Department of Environmental Conservation (DEC), and to maintain forest management practices under a ten–year moving commitment. Commercial cuttings authorized under these management plans are subject to a six percent stumpage tax, and violation of the management plan results in penalties equal to two and one–half times the tax savings (for violations on a full tract of forest land) or five times these savings (for violations on a partial tract).

Enrollment in the 480–a program currently comprises over 1,400 parcels, having a combined exempt value of over $88 million in 1990 and affecting 199 towns in 37 counties in that same year. Over four-fifths of the exempt value is located in the Catskill–Lower Hudson counties although a secondary core of enrollment has developed in the Adirondack region since 1985. Despite continued growth, less than four percent of all eligible New York forest land is enrolled in the program. Nevertheless, certain towns, especially those in rural areas with extensive enrolled acreage, have been strongly affected by tax base erosion resulting from this program. Two towns each experienced tax shifts of over $100 per non–exempt parcel, with one town losing over nine percent of its tax base from this program alone.

The program is closely administered by DEC, which monitors and values authorized timber harvests. Such supervision minimizes the issuance of actual violations, and most infractions are resolved through informal notices. Although a few large penalties have been paid, the magnitude of these penalties generally deter owners from casually abrogating the commitment. Assessors are primarily responsible for calculating exempt values and insuring that exemptions are granted only to owners of tracts certified by DEC. Although stumpage taxes are being collected by county treasurers, lack of explicit instructions in the law has occasionally resulted in improper apportionment of monies to the local taxing units affected.

The program has drawn mixed support from forest land owners. At present, the greatest support comes from small non–industrial forest owners, who do not depend on forestry as a primary source of income but who nevertheless wish to practice sound forest management on their lands. However, less than four percent of all eligible forest land in New York is enrolled in this program. Owners of small and large tracts alike may be weighing tax savings against adherence to the management plan and loss of future opportunities for alternative uses on at least a portion of their tracts, as well as substantial startup costs. Moreover, some owner–enrollees apparently underestimated the requirements of maintaining their forest management plans, and have been somewhat neglectful of their work schedules. Such lack of motivation may stem from the propensity of small owners to view forests from a non–timber standpoint, as suggested in one study.

Industrial forest land owners have been signing up large tracts in the last five years, especially in the Adirondack region, but with some reluctance. Although recent revaluation activity has encouraged these large landowners to enroll in the program, they nevertheless perceive the required DEC management plans as redundant and intrusive. These owners also express concern about the resultant local tax shifts caused by their enrolling and the potential ill will directed toward them by non–exempt owners.

The main emphasis of the 480–a program is currently timber production. Developments that have occurred since the beginning of the program raise questions about this original emphasis. One important development has been a growing concern in the state about protection of forests from fragmentation, especially in areas of high recreational demand. Given this concern and doubts about shortages of wood fiber in general, property tax exemptions might be focused more on providing tax relief for purposes of open space protection.

The program provides a mandatory statewide exemption, the social benefits of which are expected to accrue on a statewide basis. However the fiscal impact of the exemption is purely local. Localities, some of which are strongly affected, have no option in granting, denying, or limiting the level of the exemption, nor do they receive any form of statewide reimbursement for the loss in the local tax base. The stumpage taxes received by local municipalities have been very small compared to the losses in their local tax bases.

The 480–a program needs to be revisited in terms of both its premises and the consequences of the exemptions granted. Restructuring the program should involve at least:

(1) increased technical assistance to small nonindustrial private forest owners to help overcome high transactional costs, and to meet the ongoing obligations of program participation; (2) relaxation of the requirement for a state–approved management plan for forest land owners, possibly in exchange for some reduction in the amount of exemptions; (3) inserting provisions that will accommodate open space protection as well as timber production; and (4) instituting some level of state reimbursement or, alternatively, granting municipalities the option of somehow limiting its fiscal impact on their tax bases.

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The 480–a Forest Taxation Program: Utilization, Administration, and Fiscal Impact

Introduction

This report examines the development of the forest land exemption program authorized under Real Property Tax Law (RPTL) §480–a and its role in New York's tax policy. The report first discusses the origin of this exemption, and examines in detail its purposes and administration. Next, the growth of the program since the early 1980's is reviewed. Program growth is examined at both the county and the town level, especially in regard to the value of exemptions and the resulting reduction of tax bases. The nature of the ownership of lands benefiting under 480–a is also discussed. In the last section of the report, the 480–a program is evaluated from the point of view of administration and enforcement, the tax shifts that have resulted from this program, participation in the program taken by forest land owners, whether the program has met its desired objectives, and whether alternative incentives might complement, if not substitute for, the program as it presently exists.

When the 480–a program was created in 1974 (Ch. 814, L. 1974), it was in response to pressures to replace a forest land exemption program that was over 60 years old at that time.[1] This program, often known as the Fisher program (named for the sponsor of amendments to the original legislation), began in 1912 (Ch. 249, L. 1912), and was later codified as RPTL §480. It was enacted in response to concerns about past deforestation in the state, especially in the Adirondacks, and a desire to enhance the long–term prospects of conservation and commercial silviculture. The program provided property tax exemptions to owners of 15 acres or more of forest land that could yield a merchantable forest crop within 30 years. Exemption could be granted by local assessors upon timely submission of the classification issued by the New York State Departmental of Environmental Conservation (DEC), which was responsible for defining tracts of eligible forest land. Lands under the Fisher exemption would be taxed on the basis of their "bare land" value only, i.e., exclusive of any timber value. Furthermore, the taxable assessed values could not be increased after enrollment unless and until the municipality underwent a reassessment. In such circumstances, assessments on enrolled land could only be raised in the same proportion as the overall level of assessment.

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[1] This historical review of forest tax exemptions is largely drawn from *A New York State Forest Tax Policy Proposal*, Office of Policy Analysis and Development, New York State Board of Equalization and Assessment, January 1982.

Timber cuttings on parcels exempt under the provisions of RPTL §480 were subject to a stumpage tax, at six percent of the stumpage value. This tax was normally collected by the town supervisor prior to removal of the timber from the premises and apportioned; two–thirds to the town, and one–third to the school district. The stumpage tax would also be imposed if DEC determined that an uncut tract contained 40,000 or more board feet per acre of saleable softwood or 20,000 or more board feet of saleable hardwood per acre. Such levels, however, were rather unlikely to be reached, especially on tracts where extensive deforestation had occurred prior to Fisher enrollment.

The stumpage tax would be levied on the timber value of the entire tract if the owner decided to withdraw from the program and convert the land to other uses. This sanction, however, was relatively mild for the land owner, since conversions would most likely occur when the actual market value of the forest land would greatly exceed the value of the standing timber. Furthermore, at six percent, the conversion penalty is now equal to about two or three years worth of taxes saved, and participating landowners already have saved much more than this.

The attractiveness of the Fisher program generated high enrollment by the late 1960's, and it began to strain the tax bases of several municipalities. Enrollment was particularly heavy in the Adirondack region, and also in portions of southeastern New York, especially in Dutchess and Sullivan Counties. Local officials were concerned that increasing enrollments were reducing local tax bases, and thus shifting the local property tax burden onto other property owners. Some of the beneficiaries were regarded more as land speculators than as silviculturalists, those who would be concerned about the use and management of forests. There was considerable concern that too much forest land was being "parked" at low taxable assessed values under Fisher, waiting for eventual development, and without any requirement for systematic production of a crop of merchantable timber. For example, it is possible for an owner of Fisher–exempt land in the Adirondack Park to subdivide it into lot sizes in conformity with the overall density requirements of Resource Management class zoning (42.7 acres minimum), and still retain Fisher eligibility for each of the lots, even though they were destined for residential use (only the homesites themselves would be excluded from the program).

Furthermore, administering the Fisher program was becoming burdensome to local assessors. It was rather difficult for the assessor to distinguish eligible from ineligible acres, and to

monitor Fisher lands for timber harvests and timber taxes owed. These difficulties, combined with major tax shifting in some municipalities, provided an impetus for legislation that closed enrollment in the Fisher program after September 1, 1974, and created the §480–a program for forest land owners not already in the Fisher program. Acreage enrolled under Fisher prior to this date (which more than doubled in the final effective year of this law) could remain in it or be switched to 480–a. The 480–a program was scheduled to take effect in 1975, but was delayed until 1977, and after several amendments were made to the law that emphasized the silvicultural responsibilities of the owner and which dropped use value provisions in calculating exempt values (Ch. 526, L. 1976).

The 480–a Program

The following description of the 480–a program reflects the program as it is currently structured, including numerous clarifying amendments made in 1987 (Ch. 428, L. 1987). A summary of major amendments to to this law since 1976 is found in the Appendix. The 480–a program is similar to the Fisher program in that eligible tracts must be capable of producing a merchantable forest crop within 30 years, and that severance taxes are levied on timber harvested on those tracts. Both programs are available statewide, and municipalities may not opt out of providing these specific exemptions.

However, 480–a also has provisions which make it markedly different from Fisher. The minimum size of forest tracts eligible for exemption under the 480–a program is larger than under the Fisher program: 50 acres of contiguous forest land is required, exclusive of land that is under water, wetland, rock ledge or outcrop, protection forest (privately owned forest not capable of producing merchantable timber), and homesite, versus 15 acres in the Fisher program. Forest land that has undergone cuts or removals of merchantable timber within three years prior to applying for certification is excluded unless such harvest was carried out in a manner consistent with a subsequently approved management plan. The higher minimum size requirements for eligibility in the 480–a program lessens the amount of forest fragmentation that can occur under lesser minimum acreage requirements.

The feature which most distinguishes the 480–a program from the Fisher program is that the 480–a program requires submission of a forest management plan which must be approved by DEC. This approval is a prerequisite for having a tract certified under 480–a. Normally, the

management plan would be drawn up by a consulting forester hired by the owner. After inspecting the property in question as well as reviewing the plan that is submitted, DEC draws up a work schedule, which may include scheduled timber harvests, depending on the condition of the tract when application is made. If the management plan is found to be acceptable, DEC will issue a certificate of approval, which will contain a fifteen–year work schedule that requires updates every five years. This updating ensures that the schedule will continuously cover the ten–year period for which the owner must annually commit the land to forest production. As described below, violation of the terms of commitment or the management plan may subject the landowner to penalty taxes, and such taxes are considerably more punitive than the six percent tax on timber value which must be paid under Fisher when land is converted to non–forest use.

The imposition of a management plan was seen as a way to prevent what DEC regarded as unwise forest practices, such as high grading ("take the best and leave the rest"), which could result in low–grade commercial forests for decades to come, especially on smaller–sized forest lands owned by those who could not practice forestry as a full–time endeavor. Moreover, this plan would eventually result in periodic commercial harvests that would be subject to timber taxation. In comparison to Fisher, the 480–a program placed more emphasis on sound forest stewardship practices, in exchange for lessened property tax burdens.

Receiving a certificate of approval on a tract of forest land from DEC under provisions of the 480–a program does not in itself grant the local property tax exemption. In order to receive this exemption, the owner must first file the certificate of approval with the clerk of each county in which the certified tract is located, along with two copies of a statement of commitment of land to forest crop production for ten years, also issued by DEC. The clerk records one copy of the commitment against the name of the owner of record in the deedbook, and certifies the other copy. At that point the commitment becomes an encumbrance on the property, and the DEC–approved management plan goes into effect, for an initial period of ten years. The granting of the exemption is contingent on the assessor's approval (as with all exemptions) of the application, and it takes effect on the first assessment roll based on a taxable status date (usually March 1) following approval of the application. The application must include a copy of the annual commitment, certified by the county clerk.

For each subsequent assessment roll on which the owner receives the exemption, the owner is in effect renewing the ten–year commitment with DEC. The commitment remains with the

land, and cannot be terminated by the sale of the property alone. An owner can elect not to file for subsequent annual exemptions, in which case the land would be taxed on the basis of its market value. However, the management plan is still binding for a ten–year period beyond the filing of the last commitment with DEC. Subsequent commitments do not require filing with the county clerk, unless there has been a change of acreage in the tract, or unless more than five years have elapsed since the owner last filed an annual commitment. In such instances, a new certificate must be issued, and this revised certificate, along with an annual commitment, must be filed with the county clerk before the owner can again be granted an exemption.

Prior to 1987, owners renewing their 480–a commitments were required to file copies of the annual commitment with the county clerk, one copy of which would be forwarded to the assessor. Left unclear was the responsibility of timely filing of the annual commitment with the assessor. In one court case it was ruled that a taxpayer could not be denied an exemption under RPTL §480–a because a county clerk had failed to forward a certified copy of an annual commitment to the town assessor.[2] Amendments to RPTL §480–a in 1987, while removing the requirement to file renewed commitments with the county clerk, do clearly indicate that the timely filing of both initial and subsequent commitments with the assessor is the owner's responsibility.

The exemption granted under 480–a is determined as the lesser of: (a) 80 percent of the parcels' assessed value, or (b) any assessed value per acre in excess of $40 (equalized). The $40 per acre figure is applicable only where land values are at or below $200 per acre (20 percent taxable would always be higher above this value). An owner in this program would thus pay $1.20 per acre in taxes (assuming a three percent local tax rate) under method (b). Although this formula may reflect an attempt to separate the portion of parcel value attributable to timber (to be tax exempt) from the bare land value (to remain taxable), the ratio of true bare land value to timber value varies dramatically throughout the state, and the formula thus cannot be said to accomplish this purpose. Moreover, the exemption applies only to the land value of the parcel. The exemption applies to general municipal taxes (county, city, town, village, and school district), but not to special assessments or special ad valorem levies.

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[2] Hartwood Club, Inc. v. Kent, 1986, 116 A.D. 2nd 698, 497 N.Y.S. 2d 933.

As with the Fisher program, the owner of 480–a exempt property is required to pay a stumpage tax, at six percent of the stumpage value of commercially harvested timber. However, unlike the Fisher program, harvests under 480–a are scheduled and monitored by DEC. Owners of committed forest land must give DEC a 30–day notice of intent to harvest timber in accordance with the timber management plan. (Non–commercial timber slated to be cut under the management plan and private individual cuttings of up to ten standard cords are exempt from this tax). DEC will determine the stumpage value of commercially cut timber, based on bids submitted to the owner and checked against DEC's own timber market schedules. Stumpage values are sometimes determined in reference to scaled sales (common with large industrial owners) which occur during the actual cuttings, spread out over a period not to exceed one year. For all harvests on lands under 480–a certification, DEC notifies the treasurer of the county or counties involved of the stumpage value of the harvested timber. The treasurer will then bill the owner at six percent of the stumpage value, with payment due within 30 days. Upon receipt of payment, the treasurer apportions the paid tax to respective municipal corporations.

The advantage of the stumpage tax system under 480–a over that of Fisher is that an agency directly involved in timber valuation, DEC, administers these harvests. The assessor is not burdened with determining timber values or with collecting the stumpage tax, especially difficult when some tracts have not renewed their annual commitments (and thus are no longer exempt), but the owners are nevertheless required to adhere to the timber harvest schedule for nine years following the last year an annual commitment was filed. DEC also has the right to determine stumpage value on commercial timber which was scheduled for cutting but which was not cut within two years of the original notification. These timber values are also sent to the county treasurer, who subsequently bills the owner at six percent of stumpage value.

The 480–a program also differs from Fisher in that more severe sanctions are imposed when DEC finds violations on certified tracts. DEC may issue violations following notice and hearings, upon determination that the owner of the certified tract: (1) converts all or a portion of the tract to nonforest use without DEC authorization within ten years of last filing an annual commitment to continued forest use, (2) fails to carry out the approved management plan, including scheduled harvests, (3) makes unauthorized cuttings on the tract, or (4) fails to pay the required tax on commercially cut timber. Violations include unauthorized cuttings on tracts that are not currently

exempt from taxation but still bound to a management plan. The right to issue violations in such instances was upheld in one DEC administrative hearing.[3] DEC sends the owner a notice which requires him or her to reply regarding the nature of the infraction within 30 days of receipt. DEC will allow for such mitigating circumstances as owner illness, or other circumstances beyond the control of the owner. The issue is often resolved with issuance of a memorandum of understanding, which states what the owner must do to rectify the situation.

If DEC and the owner in question are unable to resolve the issue that prompted the notice of intent to issue a violation, a hearing must be held before DEC issues a notice of violation to both the owner and to the treasurer of the county wherein the tract is located, subjecting the tract to a penalty tax. The treasurer calculates this penalty by multiplying the value of the exemptions granted in the current roll year and prior years (up to ten years) by 2.5. However, if the violation has occurred on only a portion of the certified tract, the multiplier is twice as large as that used for a penalty on an entire tract (i.e., a multiplier of 5.0). Both types of penalties are also subject to interest charges, according to the year to which the penalty is attributed. Thus, a penalty resulting from a violation imposed on an entire tract can be more than 25 times a single year's tax savings (ten years savings times 2.5, with interest) and more than 50 times the tax savings if the violation is declared on only a portion of the tract. This higher multiplier on penalties involving portions of certified tracts was inserted in the law to deter periodic sale of lots from the original tract for development while retaining a tract large enough to remain in the program. The severity of both penalties warns enrollees in the 480–a program that participation is a long–term endeavor, and that an owner cannot promptly convert the forest land to other uses without expensive consequences.

Once the penalty is paid by the owner, the treasurer allocates the payment for general municipal purposes, and DEC is notified of receipt of payment. DEC then issues a notice of revocation on all or a portion of the certified tract, which is sent to both the owner and to the county clerk. The county clerk then removes the notice of commitment from the property deed, and thus also removes the encumbrance placed on the property. This notice of revocation may occur without penalty on a tract where nine years have passed since the owner last applied for an exemption and

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[3] Report of administrative hearing concerning a revocation of a parcel of land owned by Tamarack Associates in the Towns of Delaware and Cochecton, Sullivan County, issued January 31, 1984.

filed a commitment with the local assessor. A revocation can also be served without penalty if the owner of a certified tract filed the initial commitment with the county clerk but never filed it with the assessor in application for an exemption, and now wishes to terminate participation in the program.

Program Participation

This section discusses participation in the 480–a program since 1981, the earliest year for which data are available from two sources, DEC and the State Board of Equalization and Assessment (SBEA). The two data series are independently constructed, for different purposes, and together they provide the best picture available of the current utilization of the 480–a program.

DEC compiles data on the acreage of tracts certified under 480–a by county and by town. In many instances, certified tracts include more than one parcel, and exclude any acreage in a tract that is ineligible for the program and therefore not a part of the management plan. Furthermore, the certifications include a small number of tracts that, although certified, are not annually committed to continued forest crop production in the particular year in question (and are therefore not exempt under provisions of RPTL §480–a). Fortunately, the DEC data are compiled annually, shortly after the taxable status date (usually March 1), and thus include certifications that occur in the two to three months prior to taxable status date, the busiest time of the year for new enrollment. This periodicity makes the annual DEC information compatible with that compiled by SBEA, which reflects the assessment calendar.

Data available from SBEA consist of compilations from files of exempt parcels (all exemption programs) that are provided by local assessing units. However, acreage information is sometimes not complete or reliable, and it can include parts of parcels outside DEC–approved certifications. Nevertheless, the parcel counts and exempt values available from the data provide important measures of participation in the program. The exempt values, when equalized to a market value basis, provide an indication of the extent to which the local real property tax bases are reduced, with resultant shifting of the tax burden to property not exempt under this program. However, due to reporting lags, the SBEA data does not become available until one or two years after the DEC data.

According to both data sources, enrollment in the 480–a program has increased over three-fold between 1981 and 1992 (Table 1). Although data are unavailable for some of the years, making it impossible to determine annual growth rates, in all cases it appears that the certified

acreage enrolled in the program has been increasing at an average annual rate of about 11 percent in the past decade, with growth approaching 18 percent in one year. The strong growth in acreage committed to the program is also reflected in the increasing number of parcels enrolled and the growth of exempt value. The value exempt under the program has grown over fourfold in a nine–year period (1982–90), to over $88 million. Moreover, participation in the program has become more widespread during this period, with exempt parcels now present in over half of the state's counties, and with the number of towns affected nearly doubling between 1982 and 1990.

TABLE 1. STATEWIDE PARTICIPATION IN 480–a PROGRAM

A. 480–a Program Certifications:

Year	Certified Acres	No. of Certified Tracts	Average Tract Size (Acres)	Pct. Change in Certified Acreage	Pct. Change in Certified Tracts	Certified Acreage as a Percent of State Commercial Forest
1981	92,481	238	388.6	n/a	n/a	1.00%
1982	n/a	n/a	n/a	n/a	n/a	n/a
1983	n/a	n/a	n/a	n/a	n/a	n/a
1984	138,312	374	369.8	n/a	n/a	0.90%
1985	145,110	412	352.2	4.9	10.2	0.94%
1986	154,114	460	335.0	6.2	11.7	1.00%
1987	172,761	486	355.5	12.1	5.7	1.20%
1988	203,651	532	382.8	17.9	9.5	1.37%
1989	n/a	n/a	n/a	n/a	n/a	n/a
1990	232,036	665	348.9	n/a	n/a	1.51%
1991	265,882	729	364.7	14.6	9.6	1.73%
1992	306,577	849	361.1	15.3	16.5	1.99%

n/a = Not available.
Source: NYS Department of Environmental Conservation

B. 480–a Parcel Count and Equalized Exempt Value:

Year	No. of Parcels	Equalized Exempt Value ($000)	Pct. Change in Equalized Exempt Value	Pct. Change in Number of Parcels	No. of Counties	No. of Towns
1982	540	19,781	n/a	n/a	25	106
1983	625	23,753	20.1	15.7	29	121
1984	814	27,968	17.7	30.2	30	131
1985	941	33,128	18.4	15.6	31	141
1986	1,005	37,293	12.6	6.8	33	152
1987	1,080	44,079	18.2	7.5	34	164
1988	1,112	64,331	45.9	3.0	36	173
1989	1,252	76,431	18.8	12.6	38	189
1990	1,401	88,479	15.8	11.9	37	199

n/a = Not available.
Source: State Board of Equalization and Assessment

The current enrollment, however, comprises less than two percent of all commercial forest acreage (four percent of all estimated eligible private forest land) in the state. Furthermore, the acreage enrolled in the 480–a program is less than two–fifths of the acreage enrolled in the Fisher Program when it was closed in 1974 (estimated to be over 815,000 acres). To be sure, many private forest tracts are under the 50–acre threshold required for 480–a enrollment. Nevertheless, extensive areas have yet to enroll in the program (as indicated in acreage enrollment data in Table 2), and possible reasons for this relatively low rate of participation in the 480–a program will be discussed later in this report.

Enrollment and equalized exempt value by county is shown in Table 3. In 1982, all counties where the equalized exempt values exceeded $1 million were located in the Catskill–Lower Hudson area (Figure 1). This area, on the northern edge of the metropolitan New York City area, has traditionally had higher land values. Forest lands in this region, especially in sections traversed by heavily used roads, generally have highest and best uses for other, more intensive purposes. Consequently, ordinary market–based assessments on these lands are typically higher than on forest lands elsewhere in New York. Under these circumstances, enrollment of forest land in the 480–a program can generate substantial savings to landowners in this region.

TABLE 2. FOREST ACREAGE SUMMARY BY COUNTY, ESTIMATED ENROLLED ACREAGE IN FOREST TAXATION PROGRAMS, 1992

County	Total Land Area (Acres)[1]	Commercial Forest (Acres)[2]	Percent in Commercial Forest	Acreage in Fisher[3]	Acreage in 480-a[4]
Albany	335,360	162,000	48.3	0	0
Allegany	659,200	421,500	63.9	1,546	650
Broome	452,480	279,400	61.7	630	588
Cattaraugus	838,400	470,000	56.1	2,852	130
Cayuga*	443,520	n/a	n/a	200	0
Chautauqua	679,680	362,600	53.3	306	1,105
Chemung	261,120	158,000	60.5	199	57
Chenango	572,160	340,300	59.5	14,084	14,242
Clinton	664,960	465,100	69.9	23,874	4,399
Columbia	407,040	216,900	53.3	480	7,196
Cortland	320,000	158,100	49.4	0	1,532
Delaware	925,440	624,300	67.5	4,047	26,351
Dutchess	513,280	298,600	58.2	7,292	11,725
Erie	668,800	229,600	34.3	289	280
Essex	1,150,080	557,900	48.5	297,869	95,542
Franklin	1,044,480	655,100	62.7	114,623	13,151
Fulton	317,440	179,400	56.5	7,291	3,721
Genesee	316,160	94,100	29.8	0	0
Greene	414,720	252,300	60.8	0	153
Hamilton	1,101,440	373,800	33.9	160,577	18,254
Herkimer	903,680	388,100	42.9	6,446	0
Jefferson	814,080	359,600	44.2	127	0
Lewis	816,640	574,100	70.3	6,858	5,772
Livingston	404,480	120,100	29.7	0	567
Madison	419,840	196,200	46.7	597	3,154
Monroe	421,760	96,100	22.8	0	0
Montgomery	258,560	81,900	31.7	0	0
Nassau	183,680	0	0.0	0	0
Niagara	334,720	65,100	19.4	0	0
Oneida	776,320	413,200	53.2	60	846
Onondaga	499,200	199,900	40.0	0	0
Ontario	412,160	142,700	34.6	152	443
Orange	522,240	259,000	49.6	0	15,362
Orleans	250,240	74,600	29.8	0	0
Oswego	609,920	417,000	68.4	0	1,801
Otsego	641,920	369,500	57.6	9,449	1,367
Putnam	148,480	89,900	60.5	41	1,622
Rensselaer	418,560	253,900	60.7	0	1,295
Rockland*	111,360	n/a	n/a	0	90
St. Lawrence	1,719,040	1,118,600	65.1	73,015	2,490
Saratoga	519,680	356,200	68.5	31,307	512
Schenectady	131,840	66,700	50.6	0	466
Schoharie	398,080	256,700	64.5	273	682
Schuyler	210,560	122,200	58.0	0	67
Seneca*	208,000	n/a	n/a	0	0
Steuben	891,520	478,100	53.6	181	1,440
Suffolk	583,040	101,000	17.3	0	0
Sullivan	620,800	463,900	74.7	2,593	50,600
Tioga	332,160	193,600	58.3	0	499
Tompkins	304,640	171,500	56.3	0	815
Ulster	721,280	428,900	59.5	2,984	8,992
Warren	556,800	336,300	60.4	37,079	7,491
Washington	535,040	257,000	48.0	8,000	712
Wayne	514,560	101,900	19.8	0	144
Westchester*	277,120	n/a	n/a	57	273
Wyoming	379,520	145,000	38.2	0	0
Yates	216,320	84,000	38.8	125	0
New York City	197,760	0	0.0	0	0
TOTAL	30,351,360	15,405,800	50.8	815,503	306,578

1 Source: 1991 New York State Statistical Yearbook
2 As reported by DEC; excludes all State Forest Preserve lands
3 Source: A New York State Forest Policy Proposal, p. 28, NYSBEA, January 1982.
4. As reported by DEC; New York Forest Tax Law Status (480–a), June 1992
* Commercial forest acreage not separately available for county (Cayuga & Senaca = 198,600; Rockland & Westchester = 125,700).

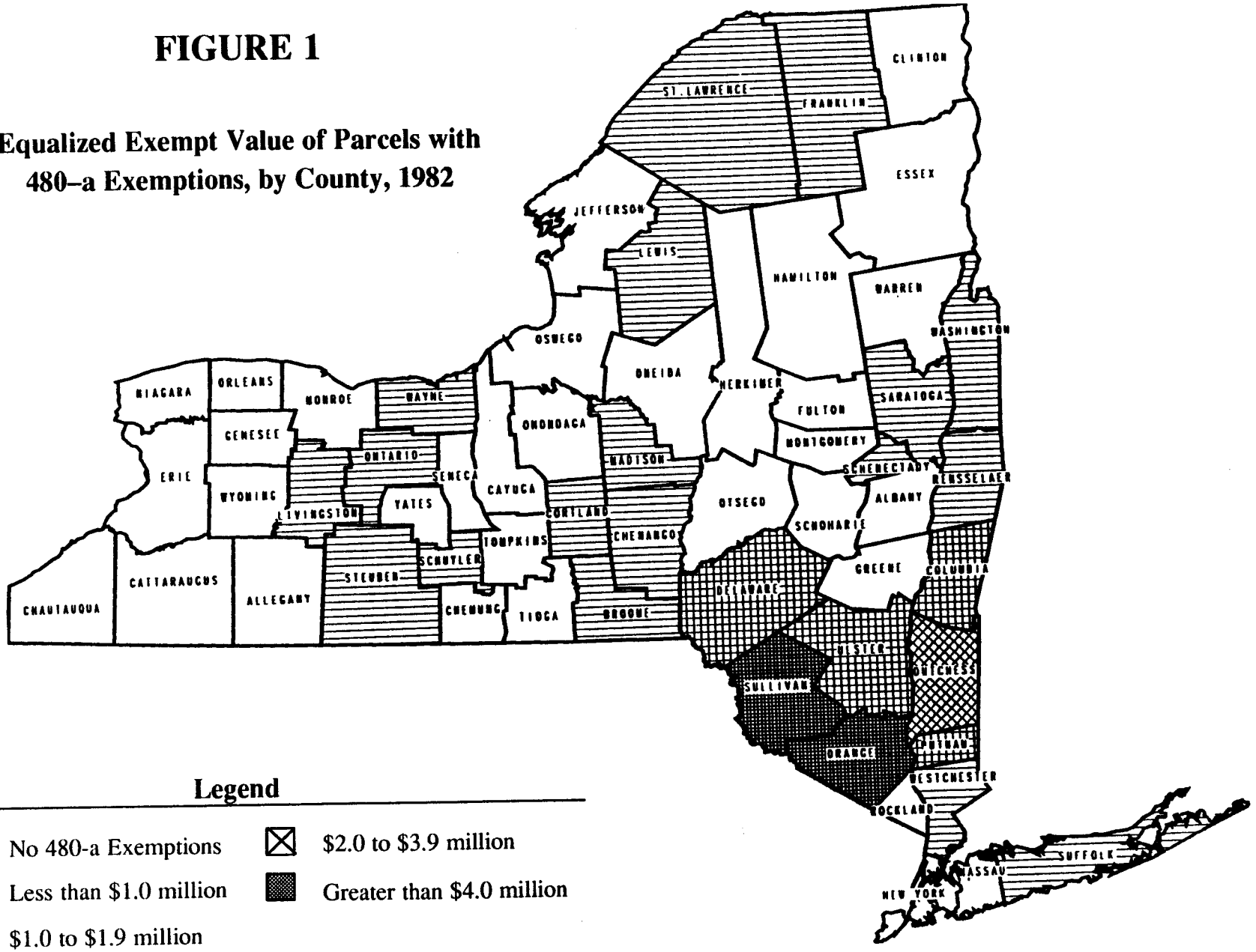
TABLE 3. NUMBER OF PARCELS EXEMPT UNDER RPTL §480–a AND EQUALIZED EXEMPT VALUE, BY COUNTY, 1982–90.

	1982		1983		1984		1985		1986		1987		1988		1989		1990	
County	No. of Parcels	Eq. Ex. Value ($000)	No. of Parcels	Eq. Ex. Value ($000)	No. of Parcels	Eq. Ex. Value ($000)	No. of Parcels	Eq. Ex. Value ($000)	No. of Parcels	Eq. Ex. Value ($000)	No. of Parcels	Eq. Ex. Value ($000)	No. of Parcels	Eq. Ex. Value ($000)	No. of Parcels	Eq. Ex. Value ($000)	No. of Parcels	Eq. Ex. Value ($000)
Albany	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Allegany	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Broome	1	7	1	7	1	7	1	7	1	8	1	6	5	26	7	37	7	39
Cattaraugus	0	0	0	0	0	0	0	0	0	0	0	0	1	11	1	2	1	2
Cayuga	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Chautauqua	0	0	0	0	1	32	1	33	1	34	1	35	1	38	1	41	1	43
Chemung	0	0	0	0	0	0	0	0	1	6	1	6	1	7	1	7	1	7
Chenango	34	567	36	606	42	694	35	686	58	1,089	58	1,109	67	1,222	75	1,274	93	2,156
Clinton	0	0	0	0	1	32	1	33	3	399	3	402	3	385	3	419	3	435
Columbia	37	1,498	53	2,539	53	2,702	64	3,187	65	3,319	60	3,490	58	3,180	51	3,174	49	4,152
Cortland	5	58	5	81	5	87	6	103	6	107	8	120	9	150	9	154	11	163
Delaware	63	1,692	63	1,595	74	1,930	91	2,219	100	2,900	112	3,143	131	3,908	156	4,725	185	6,290
Dutchess	104	3,485	109	4,158	110	4,334	112	4,546	120	5,107	100	6,257	98	8,041	103	10,467	108	13,049
Erie	0	0	1	7	1	7	1	7	1	7	4	79	4	84	3	32	3	84
Essex	0	0	0	0	158	1,601	166	1,710	166	1,901	175	2,177	141	2,718	197	3,971	248	5,925
Franklin	4	461	4	492	8	1,116	12	1,183	10	1,119	11	1,177	11	1,240	11	1,170	11	1,401
Fulton	0	0	0	0	0	0	0	0	0	0	2	67	2	72	12	138	39	598
Genesee	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Greene	0	0	1	6	1	7	1	7	1	7	1	8	1	9	1	10	1	11
Hamilton	0	0	0	0	0	0	0	0	0	0	26	1,462	30	2,286	37	3,301	37	1,353
Herkimer	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Jefferson	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Lewis	3	139	3	142	3	150	3	156	11	260	11	272	11	282	14	378	14	389
Livingston	1	12	2	25	2	26	2	26	2	27	2	28	3	53	3	57	4	65
Madison	7	85	7	89	7	103	7	104	8	137	8	145	10	190	17	304	17	333
Monroe	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Montgomery	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Nassau	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Niagara	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Oneida	0	0	3	203	0	0	0	0	0	0	0	0	1	20	3	185	3	201
Onondaga	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Ontario	1	31	1	21	1	22	0	0	1	27	1	51	1	63	1	64	1	69
Orange	87	4,479	93	4,617	97	5,252	104	5,340	97	5,392	103	6,208	98	6,773	105	8,262	114	12,286
Orleans	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Oswego	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Otsego	0	0	0	0	0	0	0	0	0	0	0	0	0	0	7	183	8	238
Putnam	21	1,222	22	1,394	21	1,432	23	1,585	20	1,634	18	1,786	15	2,115	15	2,510	13	2,775
Rensselaer	2	25	3	27	2	27	2	28	2	31	2	20	2	21	2	22	2	25
Rockland	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
St. Lawrence	2	65	2	67	2	70	2	74	2	78	2	82	2	85	12	243	13	259
Saratoga	10	28	13	64	12	66	13	94	13	98	4	69	4	78	4	85	3	88
Schenectady	1	40	1	40	1	41	2	83	2	89	2	58	2	69	2	79	2	89
Schoharie	0	0	1	16	1	16	1	16	1	17	1	18	3	52	2	34	5	75
Schuyler	2	122	2	127	0	0	0	0	0	0	0	0	0	0	1	17	0	0
Seneca	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Steuben	5	27	5	29	6	43	6	54	6	54	7	78	7	81	8	140	9	133
Suffolk	1	33	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Sullivan	115	4,385	149	5,527	151	5,902	170	7,826	188	9,138	218	10,884	247	25,360	236	28,173	246	27,766
Tioga	0	0	0	0	0	0	2	10	2	11	0	0	0	0	0	0	0	0
Tompkins	0	0	0	0	0	0	3	60	3	57	3	74	3	78	3	84	3	117
Ulster	28	1,065	36	1,565	43	1,916	46	2,789	46	2,799	48	3,060	49	3,634	57	4,414	56	4,316
Warren	0	0	1	9	1	6	54	767	57	913	75	1,115	79	1,288	80	1,438	77	1,510
Washington	1	42	3	57	4	80	4	91	5	118	6	138	6	145	6	152	5	145
Wayne	2	17	2	24	2	26	3	40	2	20	2	23	2	29	2	32	2	37
Westchester	3	196	3	219	3	241	3	264	4	380	4	432	4	538	4	653	6	1,855
Wyoming	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Yates	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
TOTAL	540	$19,781	625	$23,753	814	$27,968	941	$33,128	1,005	$37,293	1,080	$44,079	1,112	$64,331	1,252	$76,431	1,401	$88,479

Source: SBEA. Parcel counts and equalized exempt values have been adjusted for occasional reporting errors.

FIGURE 1

Equalized Exempt Value of Parcels with 480–a Exemptions, by County, 1982



Legend

- No 480-a Exemptions
- Less than $1.0 million
- $1.0 to $1.9 million
- $2.0 to $3.9 million
- Greater than $4.0 million

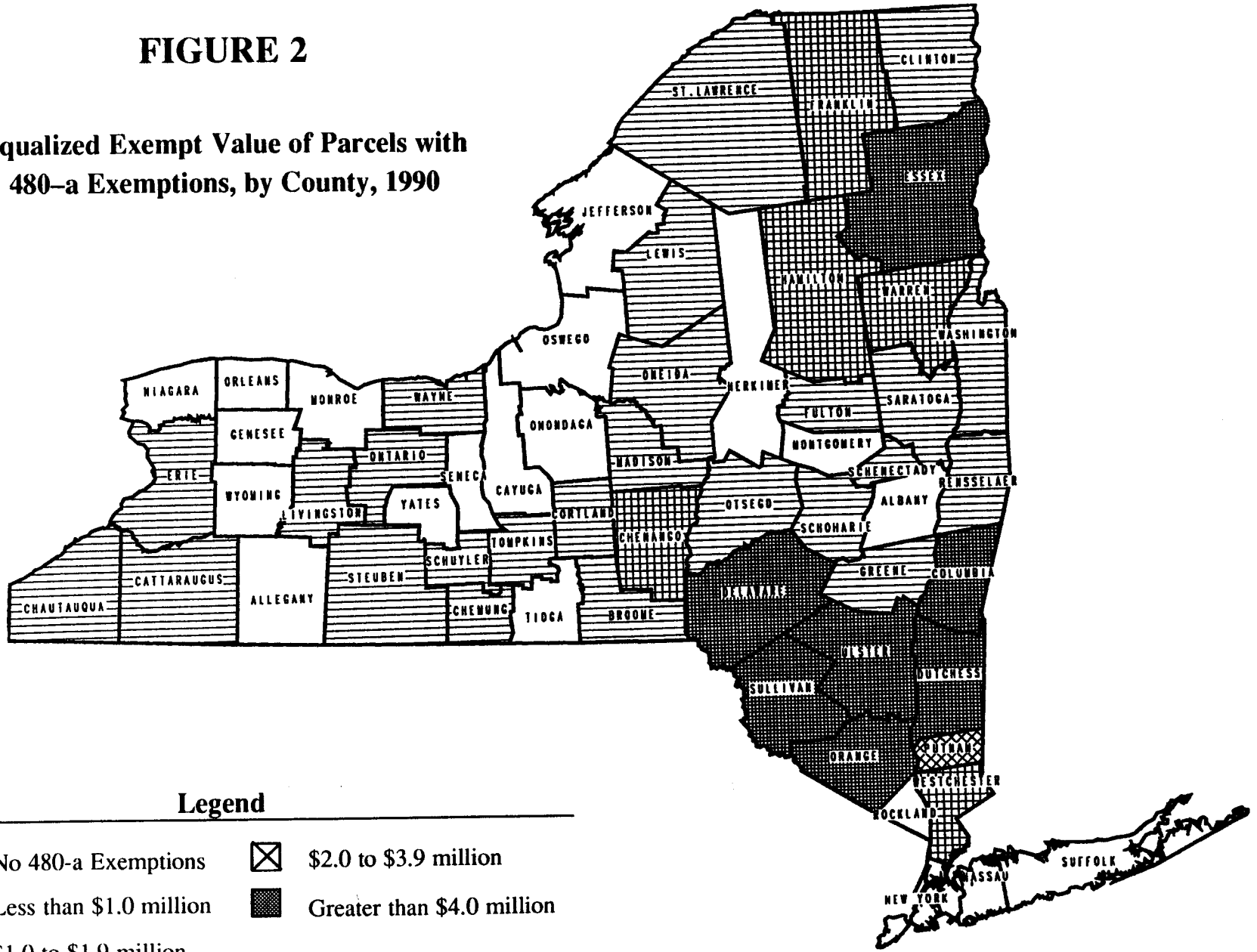
Even by 1990, enrollment was still concentrated in a few counties, with the Catskill–Lower Hudson region still the primary area affected (Figure 2). Sharp increases in exempt values under 480–a occurred in Sullivan County between 1987 and 1988, where the exempt value leaped from $10 million to over $25 million. This is largely attributable to the enrollment of over 9,000 additional acres, located in a single town (Lumberland). A similar change occurred in Orange County, where enrollment in the Town of Warwick increased by over 1,600 acres in 1988 and by over 500 acres in 1990, primarily due to extensive enrollment by a single owner. Just as remarkable is the growth in exempt value in Dutchess County, where, despite only minor increases in enrollment between 1986 and 1989, the exempt value in the program still doubled, from $5 million to over $13 million. This no doubt reflects the strong growth in land values during this period in the state as a whole and in the southeastern New York area in particular.

During the 1980's, a secondary core of 480–a activity had also developed in the Adirondack Region. By the middle of the decade, Essex, Franklin, Hamilton, and Warren Counties each had equalized exempt values exceeding $1 million. Growth of the program in Essex County has definitely accelerated, and based on DEC's 1992 certification data, over 95,000 acres are currently enrolled, with an estimated exempt value of over $7 million. (Over 70 percent of land classified as commercial forest in Essex County is currently enrolled in either the Fisher or the 480-a program, as indicated in Table 2 -- a proportion unmatched by any other county in the State.) Tracts enrolled in this region are generally large, often including thousands of acres owned primarily by forest industry corporations.

The primary reason for rapidly increasing Adirondack area enrollments has been the series of revaluations which occurred during recent years, including Essex County (1990), Warren County (1987), and Hamilton County (1989). Prior to revaluation, forest lands tended to be comparatively underassessed, and forest products companies thus had little incentive to enroll their lands under 480–a. Moreover, there was a perception held by some in the forest industry, that it would be to laborious to amend a DEC approved management plan that would reschedule harvests to a timetable more reflective of favorable price trends. The higher assessed values generated through revaluation, however, have encouraged industrial forest owners to enroll increasing amounts of their acreage in the 480–a program, even if it means submitting to what many of them consider undesirable restrictions in the form of forest management plans.

FIGURE 2

Equalized Exempt Value of Parcels with 480–a Exemptions, by County, 1990



Legend

- No 480-a Exemptions
- Less than $1.0 million
- $1.0 to $1.9 million
- $2.0 to $3.9 million
- Greater than $4.0 million

Figures 3 and 4 show the towns having 480–a enrollment in 1982 and 1990, respectively. Growth in the number of affected towns is clearly evident, particularly in the Catskill–Lower Hudson region but increasingly in other areas of the state also. Significant increases are evident in the Adirondack Region and, to a lesser extent, in the Susquehanna Region. The towns first experiencing exemptions after 1982 were also more widely scattered. Certain areas are expectedly absent in the program: Long Island, New York City, and the metropolitan areas in upstate New York, which have little or no commercial forest land. Furthermore, one would not expect to find significant enrollment in areas primarily devoted to agriculture, such as the Mohawk Valley, the Finger Lakes, and much of western New York. Figures 3 and 4 show that this is indeed the case.

Nevertheless, there are areas with extensive forest land that have little or no enrollment: the Northern Catskills, much of the Southern Tier, Tug Hill, and the Western Adirondacks (as indicated in Table 2). However, the extensive forest lands of the Northern Catskills and Western Adirondacks include major acreages which are under state ownership and are thus not eligible for the 480–a exemption (this factor is also evidenced by the relative paucity of 480–a certified tracts in Greene and Herkimer Counties, both of which contain a lot of forest preserve land). In addition, land values in the Northern Catskills have appreciated significantly in the past decade, and owners of potentially eligible tracts may be reluctant to relinquish their development options. The low enrollment in the Tug Hill and Southern Tier regions is attributable to a number of factors: commercial acreage in the state wildlife, and reforestation areas; lands already enrolled in the Fisher program; and relatively lower land values in these areas (thus reducing the incentive to enroll in the 480–a program). However, the incentive to enroll may increase as assessments become more current in these areas over time.

FIGURE 3

480–a Enrollment, by Town, 1982

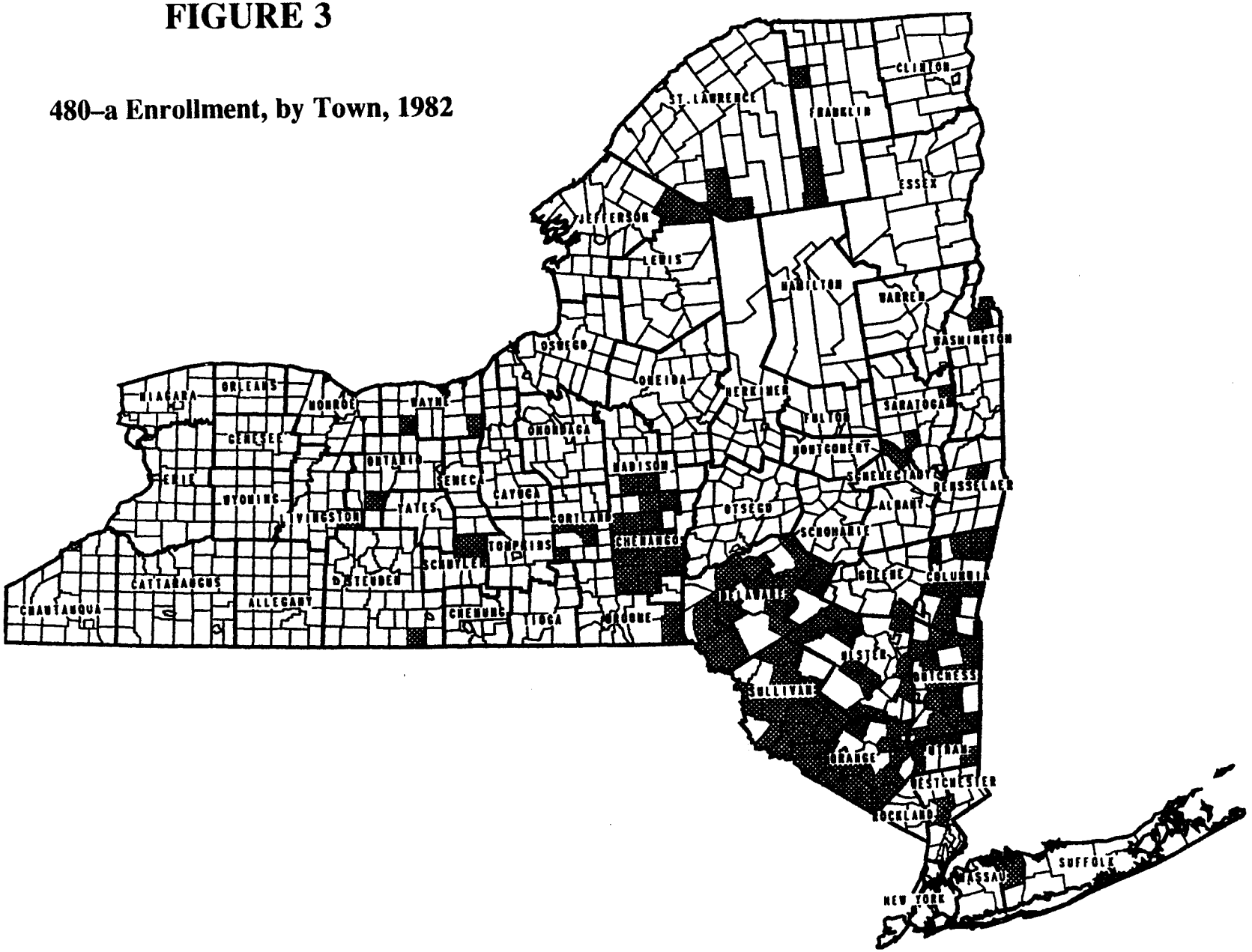


FIGURE 4

480–a Enrollment, by Town, 1990

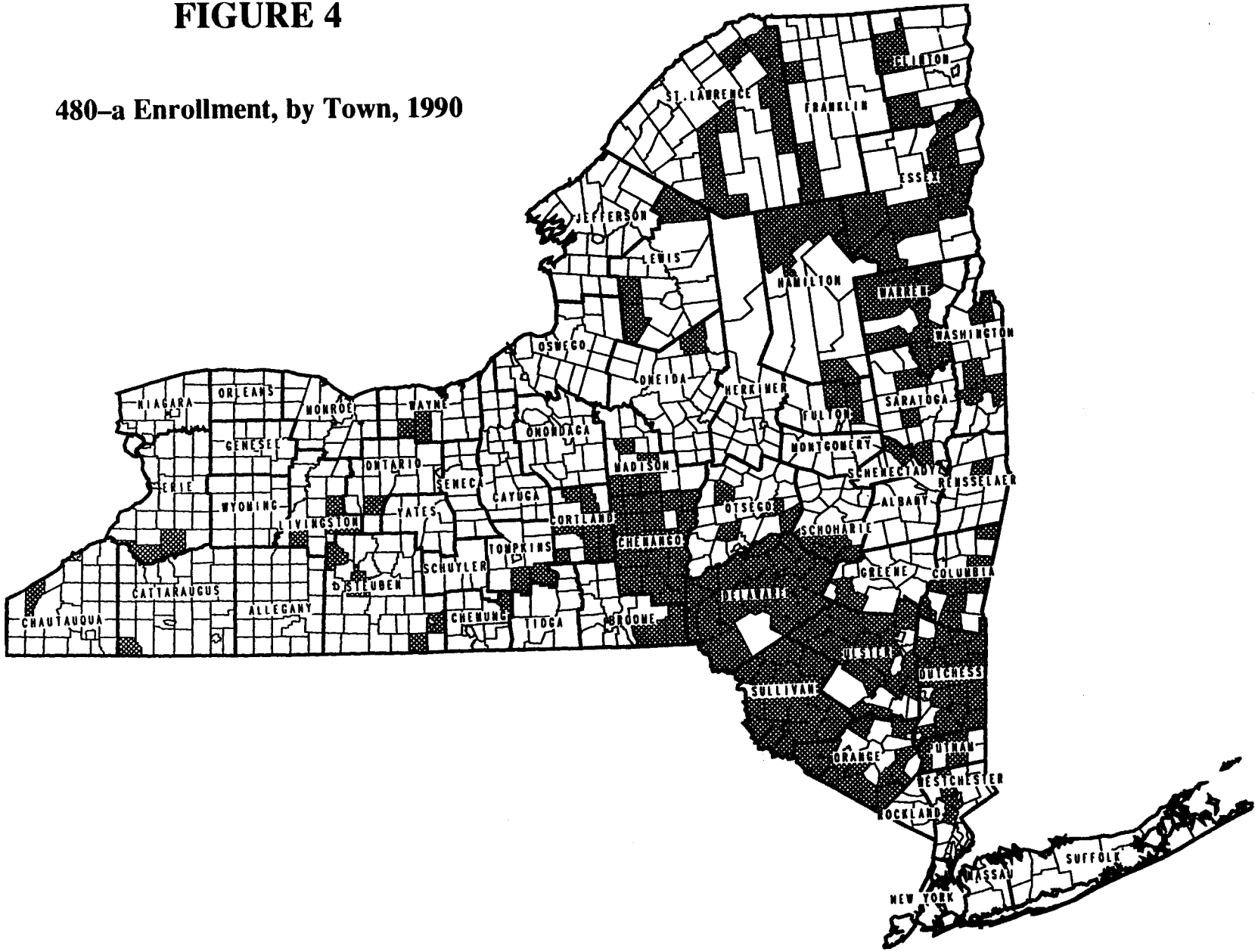


Table 4 shows the concentration of 480–a in the top five counties in terms of both parcel count and exempt value. The most dramatic change in parcel count has occurred in Essex County, where extensive acreage of industrial forest land was enrolled in this program during the 1980's. No parcels at all were enrolled under 480–a in this county in 1982, but by 1986 the count of 480–a enrolled parcels in this county was the second highest in the state, and by 1990 the county ranked first in this category. Nevertheless, nearly half of all parcels enrolled in the 480–a program in 1990 are from four counties in the Catskill–Hudson Valley region. Because participation in the program has more recently spread to other regions, the share of parcels comprised by the top five counties has dropped significantly since 1982.

TABLE 4. PARTICIPATION UNDER RPTL §480–a: TOP FIVE COUNTIES

A. By Number of Parcels:

	1982			*1986*			*1990*		
Rank	County	No. of Parcels	Percent of Total	County	No. of Parcels	Share of Program Enrollment	County	No. of Parcels	Share of Program Enrollment
1	Sullivan	115	21.30%	Sullivan	188	18.71%	Essex	248	17.71%
2	Dutchess	104	19.26%	Essex	166	16.52%	Sullivan	246	17.57%
3	Orange	87	16.11%	Dutchess	120	11.94%	Delaware	185	13.21%
4	Delaware	63	11.67%	Delaware	100	9.95%	Orange	114	8.14%
5	Columbia	37	6.85%	Orange	97	9.65%	Dutchess	108	7.71%
Total, Top 5		**406**	**75.19%**		**671**	**66.77%**		**901**	**64.36%**

B. By Exempt Value:

	1982			*1986*			*1990*		
Rank	County	Equalized Exempt Value ($000)	Share of Program Exempt Value	County	Equalized Exempt Value ($000)	Share of Program Exempt Value	County	Equalized Exempt Value ($000)	Share of Program Exempt Value
1	Orange	4,479	22.64%	Sullivan	9,138	24.50%	Sullivan	27,766	31.38%
2	Sullivan	4,385	22.17%	Orange	5,392	14.46%	Dutchess	13,049	14.75%
3	Dutchess	3,485	17.62%	Dutchess	5,107	13.69%	Orange	12,286	13.89%
4	Delaware	1,692	8.55%	Columbia	3,317	8.90%	Delaware	6,290	7.11%
5	Columbia	1,498	7.57%	Delaware	2,900	7.78%	Essex	5,925	6.70%
Total, Top 5		**$15,539**	**78.56%**		**$25,856**	**69.33%**		**$65,316**	**73.82%**

Source: State Board of Equalization and Assessment

Despite increasing enrollment in some towns in the Adirondack region, the highest equalized exempt values are still found among towns in the Catskill–Lower Hudson region. According to Table 4, four counties in this region (Dutchess, Delaware, Orange, Sullivan) accounted for over 67 percent of the statewide exempt value in 1990. When exempt values from four other counties in this region (Columbia, Putnam, Ulster, Westchester) are added, the proportion rises to nearly 82 percent. These large exemptions are reflective of the high land values prevalent in this region as compared to other parts of the state that are farther removed from metropolitan growth.

The true impact of the program, as with other exemptions, is experienced at the municipal level. Table 5 indicates that 1990 exempt values were very concentrated. The top ten towns in terms of equalized exempt value comprised over 45 percent of the statewide total, with the Town of Lumberland, Sullivan County, alone accounting for over 15 percent of the statewide exempt value. This table clearly shows that the reduction in assessed value through 480–a enrollment is greatest in the Catskill–Lower Hudson region and concentrated in rural towns with relatively small tax bases.

TABLE 5. TOWNS WITH HIGHEST EQUALIZED VALUE EXEMPTED UNDER 480–a PROGRAM, 1990.

Rank	Town	County	Number of Parcels	Equalized Exempt Value ($000)
1	Lumberland	Sullivan	39	$13,689
2	Forestburgh	Sullivan	46	4,752
3	Highland	Sullivan	43	3,324
4	Deerpark	Orange	34	3,114
5	Warwick	Orange	25	2,855
6	Unionvale	Dutchess	22	2,836
7	Tuxedo	Orange	16	2,511
8	Washington	Dutchess	9	2,476
9	Kent	Putnam	9	2,355
10	Bethel	Sullivan	49	2,161

Although the exempt values may be high in some towns, the tax base may be broad enough to absorb the reduction from 480–a with minimal impact, especially in towns having considerable amounts of taxable residential and commercial parcels. To cite one example, the Town of Kent in Putnam County has nine parcels whose combined exempt value totals over $2.3 million. Kent is located in an area having comparatively high land values. Despite this high exempt value, the effect of these exemptions on the town tax base is relatively minor, because the municipality has a

broad tax base, with a large residential base and some commercial clusters. The result is that the municipality's tax base is reduced by only 0.32 percent as a result of the 480–a program, and Kent ranks 53rd by this measure of the program's relative fiscal impact.

Table 6 indicates the degree to which local town tax bases are reduced by the exemptions granted under RPTL §480–a in those towns where the relative impact of the program is greatest. The ten towns listed have small populations and few settlement clusters, and are heavily forested. Lumberland, in Sullivan County, saw its tax base reduced by the largest proportion, at 9.3 percent. Although the tax base reductions in the other towns are generally half this or less, they still entail significant tax shifts in very rural areas.

TABLE 6. TOWNS WITH HIGHEST 480–a EXEMPT VALUE AS A PERCENT OF TOTAL VALUE OF TAXABLE PROPERTY, 1990.

Rank	Town	County	1990 Percent of Tax Base Reduced by 480–a Program
1	Lumberland	Sullivan	9.30%
2	Forestburgh	Sullivan	6.45%
3	North Hudson	Essex	3.41%
4	Tusten	Sullivan	2.99%
5	Elizabethtown	Essex	2.68%
6	Highland	Sullivan	2.40%
7	Westport	Essex	1.91%
8	Minerva	Essex	1.47%
9	Deerpark	Orange	1.27%
10	Hancock	Delaware	1.27%

Nevertheless, the impact of the 480–a program on local tax bases is still considerably less than that of the agricultural assessment program discussed earlier. Only two towns lost more than five percent of their tax bases as a result of the 480–a program in 1990, but utilization of agricultural assessment resulted in the tax bases of 37 towns being reduced by over five percent in the same year. Whereas only 16 towns experienced tax base reductions of over one percent from the 480–a program, some 233 towns experienced relative reductions of this size as a result of agricultural assessments.

In most instances, parcels receiving 480–a exemptions did not have other exemptions. In the 1990 roll year, only 61 of the 1,401 parcels enrolled under 480–a also carried other exemptions. Thirty–seven of these parcels also benefited from agricultural assessment, and one additional parcel had an exemption on agricultural buildings. Veteran's exemptions of various types existed on 32 parcels, and improvements on two were also partially exempt under a solar/wind energy program. Ten parcels had more than one exemption other than 480–a.

The ownership of the parcels benefiting from 480–a can be classified, as shown in Table 7. The classification scheme distinguishes between individually owned parcels and those owned by organizations or corporations for various purposes.[4] Individuals own more acreage than any other ownership class, with over one–third of the total. The forest products industry comprises an additional 28 percent, and various recreational clubs comprise a slightly lesser proportion. A small proportion of the certified acreage is held by miscellaneous enterprises, such as farms and corporations whose principal business could not be discerned.

TABLE 7. CHARACTERISTICS OF OWNERSHIP OF PARCELS COMMITTED TO 480–a PROGRAM (as a Percentage of Total Enrollment by Political Unit).

Ownership Type	New York State	Dutchess County	Essex County	Sullivan County
Individual	35.7%	56.6%	1.1%	21.8%
Club	24.1%	32.1%	9.2%	47.5%
Forest Products	27.6%	—	89.2%	—
Real Estate Business	9.2%	—	—	24.1%
Religious/Nonprofit	0.1%	1.5%	—	0.5%
Other	3.2%	9.8%	0.5%	6.0%

Note: Totals may not add to 100% because of rounding.

These proportions vary markedly at the county level, as indicated in Table 7 for three counties where enrollment is large. In Dutchess and Sullivan Counties, for example, none of the exempt parcels is owned by a forest products company. Although there are some local sawmills in

[4] Assistance for classifying several parcels was provided by local assessors, DEC Regional Foresters, and other SBEA staff.

those counties, they own little or no local forest land. This is in marked contrast to the ownership characteristics in Essex County, where nearly 90 percent of the enrolled acreage is owned by forest products companies. Clubs, which are predominantly devoted to hunting and fishing, are better represented downstate than in the Adirondacks, mainly because of proximity to populated areas. Clubs do operate in the Adirondack Region, but primarily as lessees on lands owned predominately by forest products companies. Although leases vary by tenant, a 1990 rate of up to $5.00/acre/year is not uncommon, with the clubs paying road maintenance and liability insurance, but not the property taxes. Real estate companies are well represented in Sullivan County but, except for Orange County, are insignificant elsewhere. Like any other owner, such enterprises must adhere to the ten–year commitment and DEC–approved forest management plans, but the ownership indicates that the lands in question are likely to be held primarily for future development or sale rather than for long–term timber production purposes. Religious and nonprofit organizations hold only small amounts of the certified acreage, although such acreage was more substantial in the earlier years of the 480–a program, especially in Sullivan County. Both types of organizations are often eligible for other exemptions, thus obviating the need for the partial reductions provided by 480–a.

Property Tax Impact

Table 8 shows the total estimated amount of real property tax savings for those owners who have received exemptions under RPTL §480–a from 1982 to 1990. These savings are calculated using the average overall tax rate imposed statewide (outside of New York City) in each year. The tax rate has been multiplied by the total exempt value for each year. These tax savings are shifted to non–exempt property owners within each taxing unit affected. The amount shifted has grown nearly threefold in less than ten years, to over $2.3 million, and the growth in the amount of taxes shifted since 1987 has outstripped the increase in the number of parcels enrolled. However, the amount shifted is still small compared to the statewide property tax levy of $19 billion (1990), and it pales in comparison to the estimated $36.2 million in taxes shifted by the exemptions granted under agricultural assessment in 1990. Nevertheless, the average tax savings per parcel under 480–a ($1,661) is nearly 80 percent greater than that of the estimated savings per parcel enrolled under agricultural assessment, in part due to the larger average size of 480–a parcels.

TABLE 8. FISCAL IMPACT OF 480–a PROGRAM, 1982–1990

Year	Estimated Tax Shifted*	Parcels Exempt	Taxes Shifted Per Exempt Parcel
1982	$ 828,428	540	$ 1,534
1983	1,030,880	625	1,649
1984	1,213,811	814	1,491
1985	1,441,068	941	1,531
1986	1,495,449	1,005	1,488
1987	1,617,609	1,080	1,498
1988	2,116,490	1,112	1,903
1989	2,010,135	1,252	1,606
1990	2,326,998	1,401	1,661

* Using the average overall upstate full value tax rate in each year.
Source: NYS Division of Equalization and Assessment.

Table 9 indicates the current tax shifts that have occurred in each of the 37 counties affected by the 480–a program in 1990, and the counties are ranked by the extent of tax impact. The three counties whose tax impact each exceeds $200,000 are all located in the Catskill–Hudson Region, and comprise over 60 percent of the entire amount of taxes shifted along with the counties having the highest tax shifts per parcel. Furthermore, high tax shifts per parcel also occur where the number of parcels are very few, as in Franklin, Clinton, Oneida, and Ontario counties. Chenango and Essex Counties rank fifth and ninth respectively, on the total estimated taxes shifted, but rank twenty–third and twenty–second respectively in taxes shifted per parcel. This suggests that despite pockets of development in such counties, the predominant market value of the land already reflects forest use, and the exempt value granted per parcel is thus relatively small.

TABLE 9. 480–a EXEMPT VALUE AND ESTIMATED TAX SHIFT, BY COUNTY, 1990.

Rank	County	Equalized Exempt Value	Estimated Tax Shift*	Number of Parcels Enrolled	Average Tax Shift Per Parcel	Percent of Total Tax Shift
1	Sullivan	$27,766,000	$ 730,246	246	$ 2,968	31.4
2	Dutchess	13,049,000	343,189	108	3,178	14.7
3	Orange	12,286,000	323,122	114	2,834	13.9
4	Delaware	6,290,000	165,427	185	894	7.1
5	Essex	5,925,000	155,828	248	628	6.7
6	Ulster	4,316,000	113,511	56	2,027	4.9
7	Columbia	4,152,000	109,198	49	2,229	4.7
8	Putnam	2,775,000	72,983	13	5,614	3.1
9	Chenango	2,156,000	56,703	93	610	2.4
10	Westchester	1,855,000	48,787	6	8,131	2.1
11	Warren	1,510,000	39,713	77	516	1.7
12	Franklin	1,401,000	36,846	11	3,350	1.6
13	Hamilton	1,353,000	35,584	37	962	1.5
14	Fulton	598,000	15,727	39	403	0.7
15	Clinton	435,000	11,441	3	3,814	0.5
16	Lewis	389,000	10,231	14	731	0.4
17	Madison	333,000	8,758	17	515	0.4
18	St. Lawrence	259,000	6,812	13	524	0.3
19	Otsego	238,000	6,259	8	782	0.3
20	Oneida	201,000	5,286	3	1,762	0.2
21	Cortland	153,000	4,287	11	390	0.2
22	Washington	145,000	3,814	5	763	0.2
23	Steuben	133,000	3,498	9	389	0.2
24	Tompkins	117,000	3,077	3	1,026	0.1
25	Schenectady	89,000	2,341	2	1,170	0.1
26	Saratoga	88,000	2,314	3	771	0.1
27	Erie	84,000	2,209	3	736	0.1
28	Schoharie	75,000	1,973	5	395	0.1
29	Ontario	69,000	1,815	1	1,815	0.1
30	Livingston	54,000	1,710	4	427	0.1
31	Chautauqua	43,000	1,131	1	1,131	0.0 **
32	Broome	39,000	1,026	7	147	0.0 **
33	Wayne	37,000	973	2	487	0.0 **
34	Rensselaer	25,000	658	2	329	0.0 **
35	Greene	11,000	289	1	289	0.0 **
36	Chemung	7,000	184	1	184	0.0 **
37	Cattaraugus	2,000	53	1	53	0.0 **
TOTAL		**$88,479,000**	**2,326,998**	**1,401**	**$1,661**	**100.0 %**

* Using the average overall upstate full value tax rate.

** Less than 0.1 percent.

The actual impact is not felt countywide, but within specific towns in each county. Based on the total number of parcels in the 199 towns affected, the taxes shifted amounted to only $5.50 per non–exempt parcel within these towns in 1990, but this amount, as suggested in Table 10 below, ignores much larger tax shifts that occur in certain individual towns. The towns having the greatest tax impact are not necessarily those having the highest exempt values but rather those also having large tax shifts per exempt parcel onto relatively few non–exempt parcels. The Towns of Warwick (Orange County) and Unionvale (Dutchess County), for example, had approximately the same amount of taxes shifted in 1990. Warwick, however had nearly 13,000 non–exempt parcels compared to less than 1,500 parcels in Unionvale. Consequently each non–exempt parcel in Unionvale absorbs on average more than eight times the amount of taxes absorbed by each non–exempt parcel in Warwick. The towns of Lumberland and Forestburgh have relatively few non–exempt parcels, and large tax shifts; the non–exempt parcels must therefore absorb greater tax shifts as a result of the program.

TABLE 10. 480–a EXEMPT VALUE AND ESTIMATED TAX SHIFT, TOP TEN TOWNS, 1990.

Rank	Town	County	Equalized Exempt Value ($000)	Estimated Tax Shift*	No. of Parcels Enrolled	Average Tax Shift Per Parcel	Tax Absorption Per non–480a Tax Parcel
1	Lumberland	Sullivan	$13,689	$360,021	39	$9,231	$142
2	Forestburgh	Sullivan	4,752	124,978	46	2,717	142
3	Highland	Sullivan	3,324	87,421	43	2,033	41
4	Deerpark	Orange	3,114	81,898	34	2,409	22
5	Warwick	Orange	2,855	75,087	25	3,003	6
6	Unionvale	Dutchess	2,836	74,587	22	3,390	51
7	Tuxedo	Orange	2,511	66,039	16	4,127	43
8	Washington	Dutchess	2,476	65,119	9	7,235	34
9	Kent	Putnam	2,355	61,937	9	6,882	9
10	Bethel	Sullivan	2,161	56,834	51	1,114	9

* Using the average overall upstate full value tax rate.

Administration and Enforcement

This section of the report will examine the administration of this program, as it is conducted, from the time an eligible tract becomes certified to the time that revocation of its certification should

ever occur. The information contained below was obtained from DEC field offices, local assessors, real property tax directors, and county treasurers through personal and telephone contacts.

The administration of the 480–a program is vested primarily with the DEC Regional Forester,who operates from a regional field office and forest resource staff located in regional suboffices, which each have jurisdiction over two or three counties. Certifications are kept on file in these regional suboffices, and are coded by the county in which they are located. DEC's main office in Albany compiles regional 480–a data, interprets and implements administrative policies, provides legal counsel, and also handles various inquiries from the field offices.

When a forest land owner first files for a forest land certification, a prerequisite for receiving an exemption under provisions of RPTL §480–a, the regional forester will first verify that the applicant is the actual owner of the land on which certification is being sought. (Normally, DEC will not process applications on lands for which a sale is known to be in progress). Next, the forester will examine the management plan submitted by the owner. Not only must the plan be scrutinized for sound silvicultural practices, but the tract to be certified must be inspected. Quite often these inspections will occur in December through much of February, often in conditions of snow cover. Inspecting tends to be concentrated at this time because new applicants tend to file late in the year, just in time to meet DEC deadlines that require at least 60 days for processing the application, and in time to allow for filing an exemption with the assessor. Therefore, a new applicant expecting to receive an exemption for the next assessment roll year must file for certification with DEC no later than the preceding January 1 (assuming that the local taxable status date is March 1).

If the assessor is satisfied that all documentation is in order and that copies of the certification and initial commitment are filed with the county clerk, the exemption will then be granted. The value of the exemption is calculated in the manner described earlier. For each parcel on which the exemption is granted the exempt value is entered onto the assessment roll, along with a brief description of this exemption (plus a specific exemption code).

The assessor's role in administering this program is limited to reviewing applications for exemption, and to determining exempt value on parcels for which exemptions are granted. In a 1984 case, it was ruled that DEC, not the assessor, determines whether property qualifies as an

"eligible tract."[5] In this case, one assessor unsuccessfully claimed that the land in question was not used exclusively for forest production, and that the owner's primary business lay outside of this endeavor. This ruling was applied to a related case heard later that year, where the court ruled that the assessor could not reverse a determination (made by DEC) that classified certain lands as forested and certified them as eligible for exemption under the Fisher program.[6] The court cited as grounds for the decision the fact that DEC possessed a knowledge of forestry that was likely to be greater than that possessed by an assessor. Both rulings effectively legitimize DEC's exclusive authority to determine eligibility for certification under 480–a. The only recourse an assessor currently has in challenging DEC's determination of eligibility in this program is to initiate a proceeding pursuant to Article 78 of the Civil Service Law Rules. Such a proceeding would be limited to considering whether DEC acted arbitrarily or capriciously in determining eligibility on a given tract of land.

Although DEC has primary oversight of the 480–a program, the assessor may also provide an important monitoring function. Because the local assessors are closer to the properties during the year, changes may come to their attention first. The assessor may also assist in monitoring parcels that are no longer exempt under 480–a, but which are still certified under a DEC forest management plan for nine successive years following the year an exemption was last granted on the parcel(s). In many DEC suboffices there are ongoing informal contacts between DEC foresters and assessors regarding the administration of the 480–a program.

Some problems have occurred when tracts transfer to new owners. Unless informed by the assessor or by the county clerk, DEC may not be aware of the transfer, and in some instances correspondence regarding work schedules may not reach the actual new owner on time. In most cases the assessor will inform DEC of the sale of the property, since that office will receive a copy of a transfer report (EA–5217), but in some instances this has not been done.

The regional forester also insures that the management plan is adhered to and monitors all harvests on the certified tracts, for which stumpage taxes are levied. The forester is responsible for valuing the commercial timber to be cut, and sends notice of the value to the county treasurer for

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5 Clove Development Corporation v. Frey, 1984, 63 N.Y.2d 181, 481 N.Y.S.2d 50, 470 N.E.2d 849.

6 Luther Forest Corp. v. McGuiness (1984) 126 Misc.2d 556, 483 N.Y.S.2d 633, (1987) 131 A.D. 2d 233, 520 N.Y.S.2d 968, appeal denied (1988) 72 N.Y.S.2d 802, 530 N.Y.S.2d 554.

imposition of the stumpage tax. The forester keeps abreast of the current market prices of various types and grades of timber, and with that knowledge, can reject a value submitted by the owner that the forester believes is too low. The forester will also make sure that values on scaled sales (which are ongoing) are provided to the county treasurer so that billing of this tax can be made annually.

The owner in question has up to 30 days of receipt of notice by the treasurer to pay this tax. Failure to do so is grounds for issuance of a violation by DEC. The law, however, currently does not specifically direct the treasurer to inform DEC of payment or failure to make payment, nor does the law require any involvement of local officials on this matter. Field research indicates that many treasurers do inform DEC of these payments, and that owners are not delinquent in their payments.

The amount of stumpage taxes collected in a given county is not necessarily associated with the extent of certified acreage, but rather reflects the overall maturity of tree stands and the type of ownership.[7] In general, areas having stands that are premature will receive little stumpage taxes for several years until the trees are large enough for harvesting. Stumpage taxes in Dutchess County, for example, amounted to less than $900 in 1990, and to less than $500 in Chenango County for the same year, despite the fact that these counties had a total of nearly 22,000 certified acres. However, tracts in these two counties, among others, comprise areas that had been cut over extensively earlier this century, and also areas which were formerly used for pasture. By contrast, stumpage taxes have been more significant in Essex County, where certified tracts are mostly owned by forest product companies. Stumpage taxes there amounted to over $13,000 in 1991. In general stumpage taxes have fluctuated annually, since many management plans do not schedule harvests in the early years of the certification. For example, stumpage taxes amounted to over $5,300 in Delaware County for 1989, but the amount fell to just over $2,300 in 1991. Overall, the annual stumpage taxes collected amount to a very small percentage of the annual taxes shifted to non–exempt property.

Once the stumpage tax is paid to the county treasurer's office, it then becomes the legal responsibility of the treasurer to apportion payments to each jurisdiction encompassing the tract on which the stumpage tax was collected. Although this has generally occurred, at least one assessor has complained that none of the stumpage taxes imposed in his jurisdiction have ever reached the

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[7] There are no available statewide data on stumpage taxes collected. The figures cited herein were obtained from interviews with local officials in the major 480–a counties.

town treasury, and that the payments have been retained in the county treasury. This assessor expressed concern that "out of the way" towns that are affected by the 480–a program fare poorly under a system that directs payment of stumpage taxes by the owner to a treasurer located at a county seat far from the municipalities affected. An obvious shortcoming of the statute is that it does not give explicit instructions to the treasurer as to how the tax should be apportioned between the taxing units involved.

As indicated earlier in this report, whenever the regional forester discovers that the management plan is not being complied with, or if unauthorized activity is occurring on a tract, a notice of violation can be issued. Such an action, which may trigger imposition of potentially stiff penalty taxes, does not occur very often. DEC foresters are generally reluctant to proceed with issuing a notice of violation before first making contact with the owner through a notice of intent to issue a violation (unless the tract has already been converted to non–forest uses). Issuance of this notice serves as a "wake up call" to those owners who have neglected their respective management plans, and the owner has 30 days within which to reply. A cover letter is often attached, reminding the owner of the amount of the penalty should a violation be issued. The forester will generally attempt to contact such an owner either by telephone or in person. In most instances a memorandum of understanding is sent to the owner, with a copy of this statement placed in the owner's file, rather than going through the formal "notice of violation" procedure that entails the holding of an administrative hearing.

In general only one of every five notices of intent to issue a violation remains unresolved, with a resulting issuance of a violation and consequent imposition of penalties. Violations tend to occur in areas having several smaller–sized tracts, belonging to nonresident non–industrial owners. In the Catskill–Lower Hudson region, where such owners of 480–a tracts are prevalent, an average of six to eight violations have been issued annually, based on trends since 1985. The majority of these violations involve conversions of less than five acres, where improvements, roads, and road quarries have been constructed. The penalties on such violations generally amount to less than $1,000 each. Violations that have been issued on whole tracts do, however, involve substantial penalty amounts. For example, the owner of one tract that comprised 220 acres in Sullivan County decided to convert the tract to other uses, and paid a penalty of over $89,000. In Dutchess County, subdivision of a 77-acre tract produced a violation with a penalty of nearly $125,000. By contrast,

very few violations have occurred in the Adirondack Region as the tracts are owned by forest products companies which, despite objections to DEC management plans, are nevertheless more likely to adhere to them.

Regional foresters have mentioned that some owners do not realize that filing an annual commitment will bind them to the management plan for the next succeeding ten years, and in failing to understand this the owners either fail to maintain the work schedule or commit an unauthorized act. Moreover, some owners have assumed that all is in order because their privately hired forestry consultant handled the original paperwork, and may not have emphasized their future responsibilities under the management plan. In one instance, a family member subdivided a certified tract following the death of the owner, apparently unaware of the management plan and the penalties that could result from a violation. In a few instances violations have been served on whole tracts owned by an enterprise that has several adjacent tracts. This could suggest that large forest land owners might be escaping payment of partial penalties by establishing separate tracts for portions of their holdings. This technique, however, has its limitations, since tracts must each comprise at least 50 acres, be accessible to a road, and have separate management plans, which involve additional costs.

Once the notice of violation is issued, the county treasurer is notified as well as the specific property owner, and the penalty taxes are calculated. If the violation involves only a portion of a parcel, the treasurer will contact the local assessor to obtain both exempt and assessed values for that portion. Unlike the billing procedure on stumpage taxes, billing on penalties is entered against the parcel or parcels involved on the tax roll, and is sent out with regular county property taxes due annually. Once paid, the treasurer allocates the payment between applicable taxing units, and informs DEC of this payment. Once DEC is satisfied that all penalties and stumpage taxes have been paid, it will issue a notice of revocation to the county clerk. Unlike the situation with stumpage taxes, no problems have been reported regarding municipalities receiving their fair shares of penalties.

The major increases in enrollment in the 480–a program during the 1980s have not come about from efforts by DEC foresters to "recruit" new applicants. Whatever recruiting that has been occurring has come primarily from forest consultants, who are hired to draw up management plans. To be sure, regional foresters will point out the positive effects of participating in the program to

prospective owners. However, this encouragement is balanced by caveats issued by foresters which point out the responsibilities that must be undertaken by the owner. One field office, for example, provides prospective applicants with a sheet that asks if they are prepared to perform certain tasks regarding the 480–a program. The bulletin states that if the applicant is hesitant about assuming these responsibilities, then participation in the program should be reconsidered. Without question, administration of the 480–a program is more exacting than administration of the Fisher program.

Assessment administration for the 480–a program has generally functioned well, but exemptions have been unlawfully granted in a few municipalities. In at least one municipality, exemptions have been granted on parcels that were not certified, according to DEC records.[8] In at least seven towns, exemptions have been granted on parcels under 50 acres that are not adjacent to parcels in other towns that would comprise the minimum required acreage in a tract. Another unlawful procedure, detected in exemption files supplied to SBEA, is the granting of this exemption in an amount greater than that authorized in the formula used for calculating the exempt value. In 1990, at least ten parcels had exempt values whose amounts exceeded 80 percent of the parcel's assessed value. The exempt value on one parcel exceeded 95 percent of the assessed value.

Forest Land Owners' Perspectives

Analysis of the 480–a program would not be complete without providing perspectives on this program by forest land owners themselves, as obtained from interviews, statements made at hearings, and other such sources. Their perspectives may help to explain why, despite the significant tax benefits available, only a small portion of the commercial forest land in New York State is exempt under this program.

The most positive evaluation of this program generally comes from individual forest land owners, especially those resident on or near their certified tracts. They generally believe that without the 480–a program they could not continue ownership of their tracts, which otherwise might be assessed based on more highly valued potential uses. The value of the timber on their lands has not appreciated to the extent the value of the bare land has, and timber income has typically been insufficient to cover the taxes on these lands. Without the 480–a program, these owners would

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[8] This may no longer be the case, since a new assessor is in office.

face greatly increased carrying costs for land ownership. Some would undoubtedly sell the land or convert it to other uses.

Many small non–industrial forest owners appear to view the management plan as both a necessary and useful planning tool, in that it helps them to engage in silvicultural practices that will produce high volumes of commercial–grade timber over the long run. The income from timber harvests is also cited as a reward for committing to a management plan. At the same time, some non–industrial owners believe that the program is more complex than meets the eye, especially in terms of their responsibilities in subsequent years. As indicated earlier, consultant foresters have usually handled the initial paperwork and filings for management plans and commitments, but they generally do not assume ongoing responsibility. According to DEC foresters administering certified tracts in Columbia and Dutchess counties, some owners in these areas, particularly non–resident owners, are beginning to realize the long–term commitment to management that enrollment entails, and have decided not to file subsequent commitments.

One major concern about the program, expressed by non–industrial and industrial forest land owners alike, is the narrowing of the tax base, and the resultant shifting of taxes onto other parcels in the assessing jurisdiction.[9] On the one hand, these owners believe that the current use of their lands makes rather few demands on local services, and that ordinary *ad valorem* taxation affects them harshly. On the other hand, they are concerned about non–exempt property owners, especially those of moderate to low incomes, shouldering an increased tax burden. Many of these owners believe that if the program has been created by the state, with no allowance for local option, the state should provide reimbursement to the affected municipalities.

Of particular concern to industrial forest land owners is what some believe is a false view of the income obtained from the leasing of land exempt under 480–a for hunting or other recreational purposes. Such leases are especially common in the Adirondacks. Owners argue that the leases in question often apply to only a portion of the land, and that local assessors may wrongfully attribute leasehold income to the entire tract. They view the income obtained from leases as simply one way of recovering costs involved in their vertically integrated operations, i.e., from tree planting to manufacturing.

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9 Empire State Forest Products Association, *New York Forest Policy Summary*, Albany, NY: March 1991, pp. 16–18.

The strongest objection to the 480–a program comes from industrial forest land owners, who cite the required management plan as both intrusive and inflexible.[10] Industrial owners maintain that, because their business is forest products, they are keenly interested in developing and executing forest management policies that will take a long run approach, longer, in fact, than the ten–year period of a commitment. These owners stress that their management plans must be flexible enough to adjust to sudden market changes, a feature industrial foresters claim is absent in DEC plans. However, DEC maintains that landowner amendments to the management plans are often accommodated.

Overall, it appears that support for the 480–a program as it is currently structured is greatest among non–industrial owners, especially resident owners. Non–resident owners who are happy with the program appear to be those who are active in the early stages of participation, and have not yet faced major management responsibilities or decisions regarding conversion to another use. Forest products companies generally view the program as one of last resort for avoiding what they consider to be excessive levels of real property taxation.

The 480–a Program -- Public Policy Perspectives

The statement of intent and purpose that amended the Real Property Tax Law in 1974, creating the 480–a program, included a concern that forest land was increasingly assessed based on its value in more intensive potential uses. The statement declared that "... lands devoted to growth of forest products should be assessed at a level which recognizes this use rather than at a level reflecting devotion of land to another purpose." Furthermore, it declared that tax provisions should be designed to "... provide a means by which present and future forest lands may be protected and enhanced as a whole segment of the state's economy and as an economic and environmental resource of major importance."[11] The final portion of this report will evaluate the extent to which the 480–a program has satisfied this expression of intent and purpose.

Ever since enrollment opened in 1977, the great majority of participants in the 480–a program have been non–industrial forest land owners. By receiving the exemption, these owners, whose primary business is other than forestry but whose lands comprise 88 percent of all

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[10] Ibid.

[11] Statement of Legislative Intent and Purpose, Laws of 1974, Chapter 814, Section 1.

commercial forest acreage in New York State, face less economic pressure to put their lands in more intensive uses.[12] However, despite these obvious benefits, the program has not attracted widespread appeal.

According to DEC estimates, approximately nine million acres of commercial forest lands in New York State are privately owned and meet the minimum acreage requirement (50) for enrollment in the 480–a program. However, less than four percent of this land (exclusive of land enrolled in the Fisher program) is currently enrolled in the 480–a program. The low enrollment in the 480–a program reflects a judgment made by many owners, that the tax savings achieved through enrolling in the program are not worth the efforts necessary to meet the requirements of the DEC management plans, at least on their particular tracts. Furthermore, such owners may be reluctant to forego future options to convert at least a portion of their lands to alternative uses. This option is just as important to non–industrial forest owners as it is to industrial forest owners; and it is not readily relinquished, regardless of the level of the exemption.

One disincentive to participation is that an owner who decides to put land in the program faces early costs. The major portion of these costs involves the hiring a of consultant forester, a necessary step for most non–industrial forest owners seeking the exemption. At present, it costs about $7.00 per acre in the Catskill region on tracts up to 100 acres for hiring forest consultants, with costs per acre declining for larger tracts. The owner or a financial advisor will need to determine future income obtained from projected timber yields, along with future tax savings from receiving the exemption, and must weigh these benefits against the opportunity costs of not using the land for non–forest purposes, transactional costs for forest management consulting and legal assistance, and the eventual stumpage taxes.[13]

The Stewardship Incentive Program (included in the federally enacted Forest Stewardship Act of 1990) is now providing cost sharing available to owners of 1,000 acres or less for developing

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[12] Nichols, Rosemary, and McGough, Daniel P. , Governor's Task Force on the Forest Industry, *New York Forest Land Ownership and Use.* (Appendix to Capturing the Potential of New York's Forests. Report of the Task Force on Forest Industry, 1989), p. 52.

[13] A thorough analysis of cost–benefit analysis using various scenarios is provided by Fox, Roy, and Cynthia McGaw in *Section 480a: New York State's Approach to Forest Taxation. A Public Policy Review.* Department of Agricultural Economics, New York State College of Agriculture and Life Sciences, Cornell University. Ithaca, N.Y.: A.E. Ext. 79–32, October 1979.

and implementing resource management plans. This may result in increased enrollments in the 480–a program as owners become aware of these cost sharing funds.

The concept of the management plan implicitly assumes that all non–industrial owners, as with industrial owners, ascribe timber production values to their lands. However, according to results of one survey of forest land owners in the Adirondack Park, significant differences exist between resident and nonresident non–industrial owners in evaluating the desirability of timber production on their lands. Nonresident owners placed lower priority on timber production, and tended to value their lands mainly for recreational purposes.[14] This may well be true of some non–industrial forest owners who enrolled in the 480–a program but who later found adherence to the management plan to be more difficult than they first realized. The owners have fallen behind schedule in their management of the exempt parcels, and consequently DEC has devoted considerable staff time to reminding these owners of their work schedule. Such difficulties are reflected in one Adirondack Park Agency report when it stated that "... it is probably unrealistic to expect that, as a class, the smaller individual ownerships will maintain management plans over the long term."[15]

Such findings cast doubt on whether non–industrial private owners, especially non–resident owners, are motivated enough to produce timber for extended periods of time on their lands, even with tax incentives. Apparently not all forest land is viewed commercially by non–industrial owners outside the program, and some inside the program may have enrolled only because they are focused primarily on the immediate tax benefits.

The emphasis on continued fiber production in the management plan begs the question about whether there is likely to be a shortage of timber in the future. Concerns have been voiced in the past about a fuelwood shortage,[16] and as recently as 1990 comments were made about forest products becoming important in the post fossil–fuel and nuclear age.[17] However, such concerns do

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[14] Alden, Valerie L., *A Characterization of Resident and Non–Resident Non–Industrial Private Forest Owners in the Adirondack Park*, Commission of the Adirondacks in the Twenty–First Century.

[15] Binkley, Clark S., Balter, Keith, and Currie, Robert. *The Adirondack Region Forest Products Economy*, Adirondack Park Agency Technical Report, (September 30, 1980), pp. 140–141.

[16] Op. Cit., *A New York State Forest Tax Policy Proposal*, pp. 18–21.

[17] *The Northern Forest Lands Study of New England and New York*. Rutland, Vt.: Forest Service, U.S. Department of Agriculture, April 1990, p. 59.

not realistically depict the contemporary availability of energy. It is true that increasing reliance on petroleum, especially in New York State, had in the past led to spot shortages and high prices on this energy source, and that firewood might be a reasonable home heating alternative, especially in rural areas. But petroleum prices in both current and real terms have fallen in the past decade, and with the recent completion of such energy transmission projects as the Marcy South hydroelectric extension and the Iroquois natural gas pipeline, plentiful and fairly inexpensive energy is available to additional areas of the state. Moreover, present concerns about air quality make it less likely that large–scale burning of firewood would be allowed.

Recent developments suggest that the amount of virgin wood fiber produced in New York State may soon be in excess supply. A recent development has been the increased amount of recycling that has reduced the demand for virgin pulpwood. Purchasing of recycled paper products has been encouraged since the Solid Waste Management Act was signed into law in 1988 (Ch. 20, L. 1988). Furthermore, liberalization of trade with Canada in recent years is providing New York with large quantities of forest products (in which Canada has a competitive advantage).

Given that many non–industrial owners do not value their lands solely or primarily for timber production purposes, yet want to keep their lands as open space, and given doubts about shortages of wood fiber in New York in the foreseeable future (at present over 62 percent of the state is in forest cover), the original policy basis for 480–a needs to be reexamined. As demonstrated earlier in this report, the program can cause sizable tax shifts in rural towns. Although such shifts are of concern, their existence is even more problematic if the underlying premise of the program itself is questionable.

There are, however, legitimate concerns that are long term, and are not responsive to market forces alone. One concern is that despite the increasing amount of land that has now come under forest cover in New York State, there has not been a commensurate increase in the supply of certain tree species. Valuable species, such as oak, ash, and cherry, have been selectively harvested in New York, sometimes without management for regeneration. Since management plans are an integral part of the 480–a program, perhaps the program could be redesigned to encourage increased production of high value tree species instead of increased tree production without regard to type. Emphasizing quality instead of quantity of tree production in the 480–a program would most likely favor production in some areas of the state over others.

Another concern, held by a wide range of interests, is that without long–range planning of some sort much of the open space now in forest use will become increasingly fragmented. Fragmentation results not only in uneconomical timber production, but also in sprawling, dispersed development, with concomitantly high expenses in delivery of municipal services (sewer, water, roads, education, etc.), runoff and drainage problems, and also in encroachment on deep woods wildlife habitats by human influences and "edge" wildlife. The major problem in dealing with this concern about fragmentation of open space is not so much whether this open space should receive some protection, but rather, how and to what extent various forms of tax exemptions can and should be used to protect open space over the long run. With less than four percent of the state's eligible forest land enrolled under the 480–a program, a few municipalities have already been strongly impacted. However, a program designed to achieve a significant degree of open space land enrollment would most likely be several times the size of the 480–a program and the resulting additional exemptions would greatly magnify the tax shift. In any event, it seems clear that much of the perceived public benefit of 480–a, at the present time, is its role in preserving open spaces rather than its role in increasing the supply of timber, although its structure reflects the latter purpose and it accomplishes a little of the former almost by accident.

As far as industrial forest owners are concerned, they face two unappealing choices, either having their lands taxed on the basis of market value, making it uneconomical for continued forest production, or filing for an exemption that effectively entails supervision by a government agency. As it stands now, industrial forest land owners in the program see themselves as reluctant participants in a program that may inhibit their ability to compete in dynamic markets.

The 480–a program was designed to serve statewide goals, yet the fiscal impact of tax shifts resulting from the exemptions granted is purely local. Moreover, this exemption, unlike certain other exemptions, contains no "local option" provision and must be granted by municipalities. Local communities have argued for State compensation to help absorb the resultant tax shifts. Reimbursement for such local impacts has been implemented in some other states already. For example, Vermont has reimbursed towns for tax shifts resulting from preferential assessment of lands enrolled under an open space protection program (although more recently Vermont has been reducing the level of reimbursement). Similarly, the federal government has in the past provided local "impact aid" to areas where it was necessary to expand municipal services as a

result of federal policy (eg., development or expansion of military bases). Providing such reimbursement has helped to remove some of the ill will directed by non-exempt owners toward exempt owners and those employed on the exempt properties. As indicated earlier in Table 9, were the state to reimburse local governments fully, the estimated costs would be $2.3 million. Under such a provision, jurisdictions receiving the largest payments would clearly be those located in the Catskill–Hudson Valley region.

A variation on full reimbursement that has been suggested would involve compensating local government above a minimum, or threshold, percentage of the tax base shifted, which would be analogous to "circuit breaker" programs that are utilized in many states to assist taxpayers with low incomes. The rationale behind this concept is that the bulk of the reimbursement funds under this scheme would go to the towns that have the greatest percentage shift of the tax base, and which therefore are in greatest need for reimbursement. Conversely, towns with large tax bases would not receive reimbursements unnecessarily. A threshold level of, say, one percent might be set for reimbursing municipalities affected by tax shifts resulting from the 480–a program, and towns would receive reimbursements for tax shifts over this threshold percentage only.

One concern about reimbursement is that if it were to become available under the 480–a exemption program, it would become politically difficult to resist extending reimbursements on all other exemption programs, many of which have significantly greater local impact. However, a distinction can be made between land–extensive exemption programs, which provide no local option, and which inherently impact most heavily on certain small rural tax bases, and other exemption programs that are more widespread and evenly distributed across the state. The Chairman of the Governor's Task Force on the Forest Industry indicated agreement in principle with the concept of providing reimbursement to municipalities most affected by enrollment in land–extensive exemption programs (480–a, Fisher, and agricultural assessment).[18]

In the end, state forest taxation policy is but one avenue for insuring open space protection of forest lands, both for economic and environmental purposes. The Northern Forest Lands Study, issued in 1990, suggests how policy changes other than forest taxation can influence the use of

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[18] Governor's Task Force on the Forest Industry, advisor's letter by David Gaskell, Executive Director of the Division of Equalization and Assessment, to Ross Whaley, Chairman, August 9, 1988.

forest land.[19] For example, forest use can be affected by various other state programs, such as conservation easements or changing weight limits on roads and bridges. Local governments can influence land use, through enacting zoning or open space ordinances. The federal government also exerts influence on forest use through its policies on taxing income from sales of lumber products or from estate transfers, or through its offering such cost–sharing schemes as the recently–enacted Stewardship Incentive Program. Whatever these policies may be, their effect can be either supportive of or antagonistic to the objectives of a statewide forest taxation program or programs. A major challenge is for those concerned to develop a common vision with respect to use of forest land, viewing forests as both an economic and an environmental resource and using realistic evaluations of future forest needs.

Summary and Conclusions

The 480–a program was created in 1974 to supplant the Fisher forest tax law program, which had major limitations in terms of both its failure to guarantee continued forest activity on the exempt land and the inequities associated with assessments which were "frozen" at greatly varying amounts based upon the time of enrollment. The new program, which opened for enrollment in 1978, provides for a reduced assessment on 50 or more acres certified by DEC as an eligible tract. The reduction in assessment granted is the lesser of 80 percent of assessed value or any assessed value of the eligible land per acre in excess of $40 (equalized).

The program has obligations and enforcement mechanisms lacking in the Fisher program. Lands enrolled in the 480–a program are governed by forest management plans, which are approved and enforced by DEC. Harvests of merchantable timber, which are subject to stumpage tax, are also monitored by DEC. If violations are issued, the owner can be subject to a penalty equal to two and one–half times the tax savings for violation on a full tract, or five times the tax savings for violation on a partial tract, the latter penalty being designed to deter periodic piecemeal removal of land for development.

Enrollment in the program, though light at first, has increased to over 1,400 parcels receiving exemptions of over $88 million in 1990. Exempt tracts occurred in 199 towns and in 37 counties in that same year. Eight counties in the Catskill–Hudson region comprise over 82 percent of this

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[19] Op. cit., *Northern Forest Lands Study.*

exempt value, and this region has been the single largest source of exemptions since the program opened. However, a secondary core has developed in the Adirondack region. Other parts of the state have comparatively little enrollment. After twelve years, less than four percent of the estimated eligible forest land in New York State is enrolled in the program, although revaluation activity in some areas may cause this proportion to rise moderately in the coming years.

Over 45 percent of the exempt value in 1990 was attributable to tracts located in just ten towns, and the leading town comprised 15 percent of this value. The reduction of the tax base has its greatest impact on rural towns having relatively few residential and commercial parcels to which the taxes can be shifted. Over $2.3 million in taxes were shifted as a result of this program in 1990, with over 60 percent occurring in just three counties, all located in the Catskill–Lower Hudson Region. Two towns in this region experienced tax shifts that amounted to over $100 per non–exempt parcel, and other towns having few non–exempt parcels were also strongly impacted by tax shifts. One town lost over nine percent of its tax base from this exemption alone.

The administrative responsibility for this program lies mainly with the Department of Environmental Conservation, which approves applications and management plans and imposes penalties for violation of the terms of the program. Most infractions are settled by informal notices from DEC, which usually prompt most owners to corrective action. Violations that have been issued have occurred mainly among non–resident owners in the Hudson Valley. Penalties have generally occurred on less than five acres, although a few full violations have amounted to over $100,000. Overall, the potential severity of the penalties is a major deterrent to abrogating the management plan.

The assessor's main responsibilities lie in reviewing all applications for exemption and in calculating exempt values on parcels for which this exemption has been granted. Assessors are also involved in apportioning values for properties where partial conversions trigger penalties, and sometimes assist in monitoring activity on enrolled lands. The county treasurer is responsible for receiving and subsequently apportioning payments of both penalty and stumpage taxes to the municipalities affected. In a few instances stumpage tax payments have not been apportioned to these units.

Owners most supportive of this program tend to be resident non–industrial forest land owners. These participants view the program as not only effective in maintaining the use of the land in

forest, but also as an effective way for long–range forest management. Such owners typically do not depend on income from timber harvests as their sole income source, but they nevertheless view positively the potential for increasing timber income by effective timber management. At present, stumpage taxes from such tracts are small, but they are expected to increase as stands mature.

Despite the positive features of the program, less than four percent of all eligible forest land is enrolled in the 480–a program. Major widespread concerns about the program include the perception of low tax savings in contrast to the efforts necessary to adhere to a DEC–approved management plan, loss of options for alternative uses on all or portions of forest tracts following certification, and substantial startup transactional costs. The latter concern may be addressed by the Stewardship Incentive Program, which provides cost sharing between owners and the federal government for preparation of forest resource plans beginning this year.

Some of the current enrollees in the 480–a program are apparently having difficulties with the program. Some non–resident owners who enrolled in the program have found that adherence to the management plan has become more difficult than first realized, and have fallen behind schedule in their prescribed management activities. This may well reflect, as suggested in one study, a relatively low motivational level among non–industrial owners, especially non–residents, for producing timber over extended time periods on their lands, even with the availability of tax incentives.

The 480–a program has not elicited substantial enrollment by industrial forest land owners. While desirous of reduced real property tax liability on their vast holdings, these owners strongly object to submission of their lands to an outside management plan, which they typically see as unnecessary, intrusive, and too inflexible to cope with changes in forest product markets. For these reasons they have generally chosen not to participate in the program. Nevertheless, some of their lands are in the 480–a program because it has become more difficult to maintain lands in forest without this exemption, particularly after revaluation. A program designed specifically for their needs would probably provide a somewhat lower rate of exemption than 480–a, but less government control of forest management. Some safeguards would still be needed to guarantee taxation of timber harvests, and to insure that forest practices would not jeopardize the capability of the land to produce future timber.

The 480–a program, as presently constituted, is oriented primarily to timber production. While the emphasis on timber production may encourage the cultivation of higher valued tree species, the multiple use aspects of forests are not necessarily recognized by this program. Many owners regard their forest holdings from an environmental, recreational, or aesthetic standpoint. In light of developments since the enactment of the program (such as increased paper recycling), it may be advisable to review the emphasis of the program.

A significant concern regarding private forest lands in New York State appears to be protecting open forest space from fragmentation rather than just increasing timber production, especially in areas where demand for land for recreational purposes is great. However, the fiscal impact of a liberal program of open space exemptions would be extensive given the high percentage of forest cover in the state. Although the timber production orientation of 480–a effectively limits the fiscal consequences of the program, it also accomplishes open space protection only indirectly and to a relatively limited extent.

No provision is made for state reimbursement of municipalities in the amount by which taxes have been shifted onto those property owners not benefiting from the 480–a exemption. Furthermore, the 480–a program is presently available throughout the state, and municipalities are not given the option of reducing or not granting exemptions. Lack of such a local option is especially problematic for those municipalities whose tax bases are most severely affected (such as the Town of Lumberland). Some of the actual or potential beneficiaries have themselves expressed concern about the resulting tax shift to non–exempt property holders.

The limitations outlined above suggest that a rethinking of the 480–a program is needed. Restructuring the program to address current concerns would probably entail at least the following changes: (1) increased technical assistance to small non–industrial private forest owners to help overcome high transaction costs, and to meet the ongoing obligations of program participation; (2) relaxation of the requirement for a state–approved management plan for forest land owners, possibly in exchange for some reduction in the amount of exemptions; (3) inserting provisions that will accommodate more open space protection rather than just timber production; and (4) instituting some level of state reimbursement or, alternatively, granting municipalities the option of somehow limiting its fiscal impact on their tax bases.

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APPENDIX

SUMMARY OF RPTL SECTION 480–a LEGISLATION

The legislation is listed in chronological order.

1974 (Ch. 814) Terminated classification of lands pursuant to RPTL §480 (Fisher) after September 1, 1974. After that date, owners of land classified under Fisher could either remain in this program, or transfer lands to certification under RPTL §480–a

Defined eligible land as tracts of forest land comprising at least 25 acres, exclusive of any portion thereof not devoted to production of forest crops; minimum period for certification is eight years

Placed administration of 480–a certification under Department of Environmental Conservation (DEC), with power to establish and promulgate administrative rules and regulations

Authorized the State Board of Equalization and Assessment (SBEA) to establish forest land ceiling values per acre, above which forest land tracts certified under 480–a would be exempt from taxation, upon proper and timely filing of exemption application with assessor

Owners of certified land must give 30 day notice of proposed timber harvests, which are subject to six percent tax on stumpage receipts of forest crop (with allowance for harvests of five standard cords of wood or less); also authorized DEC to direct owner to commence harvests on certified forest tracts; payments of stumpage tax to be made to supervisor(s) in town(s) affected

DEC has authority to render a judgment of conversion on land where management of land for forest purposes is no longer possible; such conversion results in roll back taxes levied on the owner's property, equal to tax savings in excess of forest land value for each year preceding the conversion (up to a maximum of five years); this tax is levied and collected on the first assessment roll prepared subsequent to the conversion, in the same manner and time as other taxes imposed and levied on this roll

1975 (Ch. 68) Delayed availability of 480–a exemption to rolls having a taxable status date on or after July 1, 1976

1976 (Ch. 526) Redefined eligible forest lands as those lands capable of producing merchantable forest crops within 30 years of original certification, and comprising aminimum of 50 contiguous acres, exclusive of land not devoted to production of forest crops

Minimum commitment to forest production under certification is ten years, subject to management plans specified by DEC

Certified eligible tracts are exempt from taxation (contingent on timely submission of application for exemption and its approval by the assessor), to the extent of 80 percent of the assessed valuation thereof, or to the extent the assessed value exceeds $40 per acre (equalized), whichever is less

Timber harvests are taxed on six percent of the value of the timber, and payment shall be made to the chief fiscal officer of the county or counties affected

Clarified instances where DEC can revoke a certification under 480–a; roll back taxes for revocation of a full certified tract are computed as two and one–half times the amount of taxes that would have been levied on forest land exemption entered on the assessment roll for the current year and prior roll years, not to exceed ten years, with annual tax amounts subject to interest charges (at the rate of six percent per annum); roll back taxes on revocation of a portion of a certified tract are twice the amount charged on a revocation of a full tract, to be calculated only on that portion of the tract that was actually converted to uses unsuitable for forest management

Payment of roll back taxes shall be made to the chief fiscal officer of the county or counties affected

Provisions under this chapter shall take effect with rolls having a taxable status date on or following July 1, 1977; owners who have applied for the 480–a certification prior to effective date of above amendments in this chapter shall re–apply for certification under provisions of this section, as amended

1979 (Ch. 683) Municipal corporations barred from filing applications for 480–a exemptions after May 1, 1979

1984 (Ch. 473) Eliminated 480–a exemptions for municipal corporations who filed exemptions prior to May 1, 1979

1985 (Ch. 280) Clarified instances where special equalization rates are used in calculating formula for480–a exemption

1987 (Ch. 428) Excluded land in 480–a where timber harvests took place within three years prior to application for certification with DEC unless such harvests were part of management program

Clarified procedure for filing documentation with county clerk; certificate of commitment needs to be filed with county clerk only in the initial year unless revision in management plan occurs, but such commitment must be filed annually with assessor in order to receive exemption

Stumpage tax in itself is not a lien on the property

Clarified procedures for DEC monitoring of scaled sales, and payment of stumpage tax including notification of stumpage value with county treasurer

Allowance for harvesting timber for owner's personal use without stumpage tax raised from five to ten standard cords

Revocation of certification without penalty can be declared whenever acreage reduction in original tract renders remaining acreage inaccessible

Scheduled required harvests may occur over two year period

Permits mitigating circumstances to be considered before DEC issues notice of violation to owner and treasurer

Interest charges charged on penalties comprising 1984 and subsequent roll years are now in accordance with Sect. 924–a

Rollback tax is now called penalty

Portional violations are levied only on portion of tract converted

Failure to conduct scheduled harvest in timely fashion will subject tract to stumpage tax, based on stumpage value of trees that owner has failed to harvest, and may warrant issuance of notice of violation as well; penalty charged on tracts where owner failed to perform scheduled cuts is same as other types of violation; violation may occur whenever owner fails to pay stumpage tax

Revocation of certification does not occur until penalty resulting from issuance of notice of violation is paid to county treasurer

County clerk authorized to remove certification from deed following notice of revocation issued by DEC

No penalty levied if oil and gas lease activity occurs, based on lease signed more than ten year prior to receiving certification

Owner not subject to violation in emergency situations (fire, storms, acts of God) or other situations beyond owner's control; stumpage tax may be levied on merchantable timber in salvage operations

County treasurer is responsible for apportioning penalties and interest charges, and stumpage taxes to appropriate municipal corporations

Management plans cannot authorize activity prohibited by other DEC laws or any other laws of the state

No otherwise eligible tract shall be declared ineligible for certification solely because any law partially restricts or requires approval for forest activity on the tract in question