§ 480-a. Taxation of forest land. 1. As used in this section:

(a) "Approved management plan" shall mean:

(i) a plan approved by the department for the management of an eligible tract which shall contain requirements and standards to ensure the continuing production of a merchantable forest crop selected by the owner. Every approved management plan shall set forth requirements and standards relating to stocking, cutting, forest management access, and any specified use of the eligible tract other than for the production of a merchantable forest crop which is desired by the owner and compatible with or supportive of the continuing production of a merchantable forest crop. Such plan shall include provisions accommodating endangered and threatened animals and plants. Such plan must be prepared by or under the direct supervision of a forester who may be the owner or an agent of the owner, including an industrial forester or a cooperating consultant forester; or

(ii) participation in a forest certification program (such as Forest Stewardship Council certification, Sustainable Forestry Initiative; American Tree Farm Program, etc.) recognized in the regulations of the department.

(b) "Commitment" shall mean a declaration to the department made on an annual basis by the owner of a certified eligible tract committing such tract to continued forest crop production for the next succeeding ten years under an approved management plan.

(c) "Cooperating consultant forester" shall mean a qualified forester who, or a qualified forestry consultant firm which, has entered into an agreement with the department under the New York state cooperating consultant foresters program pursuant to section 9-0713 of the environmental conservation law.

(d) "Department" shall mean the department of environmental conservation.

(e) "Eligible tract" shall mean a tract of privately owned forest land of at least fifty contiguous acres, exclusive of any portion thereof not devoted to the production of forest crops. Lands divided by federal, state, county or town roads, easements or rights-of-way, or energy transmission corridors or similar facilities will be considered contiguous for purposes of this section, unless vehicular access for forest management purposes is precluded. Lands from which a merchantable

forest crop has been cut or removed within three years prior to the time of application for certification under this section will be ineligible unless such cutting or removal was accomplished under a forest management program designed to provide for the continuing production of merchantable forest crops.

(f) "Forest land" shall mean land exclusively devoted to and suitable for forest crop production through natural regeneration or through forestation and shall be stocked with a stand of forest trees sufficient to produce a merchantable forest crop within thirty years of the time of original certification.

(g) "Merchantable forest crop" shall mean timber or pulpwood, including veneer bolts, sawlogs, poles, posts and fuelwood, that is produced on forest land, has a value in the market and may be sold.

(h) "Stumpage value" shall mean the current market worth of a merchantable forest crop as it stands at the time of sale, cutting, required cutting or removal.

2. (a) An owner of an eligible tract may make application to the department for certification under this section on forms prescribed by the department. If the department finds that such tract is an eligible tract it shall forward a certificate of approval to the owner thereof, together with the approved management plan, and a copy of a commitment certified by the department for the eligible tract.

(b) The department shall, after public hearings, adopt and promulgate rules and regulations necessary for the implementation of the department's responsibilities pursuant to this section. Such regulations relating to approved management plans or amendments thereto may provide for alternative or contingent requirements and standards based on the size and nature of the tract and other criteria consistent with environmentally and economically sound silvicultural practices.

(c) Any tract certified pursuant hereto shall be subject to the provisions of this section. The obligations of this section shall devolve upon and the benefits inure to the owner, his heirs, successors and assigns.

3. (a) To qualify for a forest land exemption under this section the owner of a certified eligible tract shall:

(i) file the certificate of approval in the office of the clerk of the county or counties in which such tract is situated. Such certificate shall specify that the tract described therein is committed to continued forest crop production for an initial period of ten years. Upon receipt of such certificate, the county clerk shall record the same in the books kept for the recording of deeds and shall index the same in the deed index against the name of the owner of the property. Until notice of revocation of the certificate of approval has been recorded and indexed as provided in subdivision seven or eight of this section, a certificate that has been recorded and indexed pursuant to this subdivision shall give notice that the certified tract is subject to the provisions of this section; and

(ii) prior to the taxable status date for the first assessment roll upon which such exemption is sought, file an initial application for exemption with the appropriate assessor on forms prescribed by the commissioner. Such application must be accompanied by a certified commitment issued by the department pursuant to subdivision two of this section; and

(iii) prior to the taxable status date for each subsequent assessment roll upon which such exemption is sought, file with the appropriate assessor a certified commitment of such tract to continued forest crop production for the next succeeding ten years under the approved management plan. Application for such commitment shall be made by the owner of such tract to the department, and the commitment shall be certified by the department.

(b) If the assessor is satisfied that the requirements of this section are met, he or she shall approve the application and such eligible tract shall be exempt from taxation pursuant to subdivision four of this section to be effective as of the first taxable status date occurring subsequent to such approval, and shall continue to be so exempt thereafter upon receipt by the assessor of a certified commitment filed in accordance with subparagraph (iii) of paragraph (a) of this subdivision and so long as the certification of the eligible tract shall not be revoked by the department.

(c) Failure on the part of the owner to file the certified commitment in any year following initial certification will result in the termination of the forest land exemption under this section, if any,

applicable to the property for that and succeeding taxable years for which no such commitments are filed. Failure to file a commitment will not constitute a conversion of the tract or breach of the approved management plan, pursuant to subdivision seven hereof, and the commitment of the property to forest crop production under the approved management plan shall remain in force for the next succeeding nine years following the last taxable year for which a certified commitment was filed.

(d) Following failure to file a certified commitment in one or more years, in order to obtain a forest land exemption under this section, an owner of a certified tract may submit a certified commitment to the assessor before the taxable status date in any subsequent year, except that a new application under paragraph (a) of subdivision two of this section and subparagraph (i) of paragraph (a) of this subdivision also shall be required if more than five years have elapsed since the owner's last certified commitment was filed. Such new application also shall be required whenever, during the preceding year, the approved management plan has been amended with respect to the acreage or location of forest land committed to forest crop production under this section.

4. (a) Certified eligible tracts approved for exemption under this section shall be exempt from taxation to the extent of eighty per centum of the assessed valuation thereof, or to the extent that the assessed valuation exceeds the amount resulting from multiplying the latest state equalization rate or, where a special equalization rate has been established pursuant to section twelve hundred twenty-four of this chapter for the purposes of this section, the special equalization rate by forty dollars per acre, whichever is the lesser.

(b) The assessed value of the exemption, if any, granted pursuant to this section shall be entered by the assessor on the assessment roll in such manner as shall be prescribed by the commissioner.

(c) Where a special equalization rate has been established by the commissioner pursuant to section twelve hundred twenty-four of this chapter, the assessor is directed and authorized to recompute the forest land exemption on the assessment roll by applying such special equalization rate instead of the latest state equalization rate in computing the forest land exemption, and to make the appropriate

corrections on the assessment roll, subject to the provisions of title two of article twelve of this chapter. Upon completion of the final assessment roll or, where a special equalization rate has been established, upon recomputation of the forest land exemption, the assessor shall certify to the department each exemption granted pursuant to this section in a manner prescribed by the commissioner.

5. (a) Whenever any cutting of the merchantable forest crop on any certified eligible tract is proposed during the period of commitment pursuant to subdivision three of this section, the owner shall give not less than thirty days' notice to the department in a manner and upon such form as may be prescribed by the department. Such notice shall include information as to the stumpage value, amount and location of such cutting. The department shall, within fifteen days after receipt of such notice from the owner, certify the stumpage value, if any, to the owner and to the county treasurer of the county or counties in which the tract is situated. No later than thirty days after receipt of such certification of value, the owner shall pay a six percentum tax on the certified stumpage value of the merchantable forest crop to such county treasurer.

(b) Notwithstanding the provisions of paragraph (a) of this subdivision, if the stumpage value of a merchantable forest crop will be determined with reference to a scale to be conducted after the commencement of the proposed cutting, the owner may elect to be taxed in accordance with this paragraph. Such election shall be made not less than thirty days in advance of commencement of the cutting, in such manner and upon such form as may be prescribed by the department. Such notice shall include information as to the estimated volume, scaling method, and the schedule and length of the cutting period, not to exceed one year. If a proper election has been made in accordance with this paragraph, the department shall so notify the owner before any cutting takes place on the eligible tract, and it shall certify the scaled stumpage value to the owner of the tract and to the county treasurer of the county or counties when the cutting has concluded. No later than thirty days after the receipt of such certification of value, the owner shall pay a six per centum tax on the stumpage value of the merchantable forest crop to such county treasurer.

(c) In the event that a tax required by this subdivision or by subdivision six of this section shall not be timely paid, it shall be levied and collected, together with any penalty or penalties determined pursuant to subdivision seven of this section, in the same manner and at the same time as other taxes imposed and levied on the next completed tax roll of such county or counties.

(d) Notwithstanding the foregoing provisions of this subdivision and the provisions of subdivision six of this section, the owner of any land certified under this section may make all intermediate noncommercial cuttings, as prescribed in the approved management plan, and may annually cut, in accordance with sound forestry practices, ten standard cords or the equivalent for such owner's own use, without notice and free of tax imposed by this section.

6. (a) The department may serve notice upon the owner of a certified tract directing such owner to make a cutting as prescribed in the approved management plan for such tract. Should such cutting involve the sale or utilization of a merchantable forest crop, not less than thirty days in advance of cutting the owner shall give notice to the department of the stumpage value, amount and location of the cutting on a form prescribed by the department. The department shall within fifteen days after receipt of such notice from the owner, certify the stumpage value, if any, to the owner and to the county treasurer of the county or counties in which such tract is situated. No later than thirty days after receipt of such certification of value, the owner shall pay a six per centum tax on the certified stumpage value to such county treasurer.

(b) Any cutting of a merchantable forest crop under this subdivision must be conducted within two years from the date of service of the notice upon the owner issued by the department. Upon failure of the owner within such period to conduct such cutting, the department shall certify to the owner and the county treasurer of the county or counties the stumpage value of such merchantable forest crop. No later than thirty days after receipt of such certification of value, the owner shall pay a six per centum tax on the certified stumpage value to such county treasurer.

(c) Any noncommercial cutting under this subdivision must be conducted within one year from the date of service of the notice upon the owner

issued by the department.

(d) If such owner, within the period prescribed by this subdivision, makes such cuttings as directed by the department, the tract shall continue to be certified as long as the owner shall continue to comply with the provisions of this section and manage the same in the manner prescribed in the approved management plan for such tract.

7. (a) The department shall, after notice and hearing, issue a notice of violation of this section for any certified tract whenever it finds that:

(i) any tract or portion thereof is converted to a use which precludes management of the land for forest crop production; or

(ii) the owner fails to give notice of a proposed cutting on such tract or fails to timely pay the appropriate tax on the stumpage value of the merchantable forest crop determined pursuant to subdivision five or six of this section; or

(iii) the owner fails to comply with the approved management plan for such tract at any time during the commitment period; or

(iv) the owner fails to make a timely cutting in accordance with the provisions of subdivision six of this section after service of notice by the department to make such a cutting.

(b) Notwithstanding the finding of an occurrence described by subparagraph (ii), (iii) or (iv) of paragraph (a) of this subdivision, the department, upon prior notice to the appropriate assessor, may determine that a violation has not occurred if the failure to comply was due to reasons beyond the control of the owner and such failure can be corrected forthwith without significant effect on the overall purpose of the management plan.

(c) The owner of such tract, following the issuance of such notice by the department for one or more of the reasons set forth in paragraph (a) of this subdivision, shall be subject to a penalty as provided in paragraph (d) or (e) of this subdivision, whichever applies. Penalties imposed by this section shall be subject to interest charges at the rate established pursuant to section nine hundred twenty-four-a of this chapter for each applicable year or, for years prior to nineteen hundred eighty-four, at a rate of six per centum per annum compounded. Such interest shall accrue in the year with reference to which a penalty, or

portion thereof, is attributed.

(d) Except as otherwise provided in paragraph (e) of this subdivision, the penalty imposed under paragraph (c) of this subdivision shall be computed by multiplying by two and one-half the amount of taxes that would have been levied on the forest land exemption entered on the assessment roll pursuant to subdivision four of this section for the current year and any prior years in which such an exemption was granted, utilizing the applicable tax rate for the current year and for such prior years, not to exceed a total of ten years.

(e) The penalty imposed under paragraph (c) of this subdivision applicable to converted land which constitutes only a portion of a certified eligible tract shall be twice the amount determined under paragraph (d) of this subdivision. In calculating such penalty, only that portion of the tract that was actually converted to a use that precludes management of the land for forest crop production shall be used as the basis for determining the penalty.

(f) A notice of violation issued under this subdivision shall be given by the department to the owner and to the county treasurer of the county or counties in which such tract is located, and the penalty and interest charges shall be computed for each of the municipal corporations in which such tract is located by such county treasurer. Upon completion of the computation of the penalty and interest, the county treasurer shall give notice to the owner of the amount of the penalty and interest, and the amount shall be entered on the next completed tax roll of such county or counties. Such penalties and interest shall be levied and collected in the same manner and at the same time as other taxes are imposed and levied on such roll. Upon collection of such penalties and interest, such county treasurer shall pay the amounts due to each of the appropriate municipal corporations.

(g) Upon receipt of proof satisfactory to the department that all penalties, stumpage taxes and interest imposed by this section have been fully paid or satisfied, the department shall revoke the certificate of approval issued pursuant to subdivision two of this section, and notice of such revocation shall be given to the owner and to the county clerk of the county or counties in which the tract is located. Upon receipt of such notice of revocation, the county clerk shall record the same in the books kept for the recording of deeds and shall index the same in the

deed index against the name of the owner of the property. The county clerk shall also note on the face of the last certificate of approval or certified commitment previously recorded pursuant to this section the word "REVOKED" followed by a reference to the liber and page where the notice of revocation is recorded pursuant to this subdivision.

(h) The certificate of approval of a certified tract for which no notice of violation has been issued shall be revoked without penalty upon receipt of proof satisfactory to the department that nine years have passed from the year of the last certified commitment filed with the assessor by the owner pursuant to subdivision three of this section. Notice of such revocation shall be recorded and indexed as provided in paragraph (g) of this subdivision.

(i) No fee, penalty or rollback of taxes otherwise due pursuant to this section may be imposed upon the city of New York for failure to comply with a certified management plan for an eligible tract that the city acquires for watershed purposes.

8. (a) The owner of a certified tract shall not be subject to any penalty under this section that would otherwise apply because such tract or any portion thereof is converted to a use other than forest crop production by virtue of: (i) an involuntary taking by eminent domain or other involuntary proceeding, except a tax sale, or (ii) a voluntary proceeding, providing such proceeding involves the establishment of rights-of-way for public highway or energy transmission purposes wherein such corridors have been established subsequent to public hearing as needed in the public interest and environmentally compatible, or (iii) oil, gas or mineral exploration, development or extraction activity undertaken by an independent grantee pursuant to a lease or other conveyance of subsurface rights recorded more than ten years prior to the date of the certificate of approval issued by the department under subdivision two of this section, or (iv) where all or a substantial portion of the certified tract is destroyed or irreparably damaged by reason of an act of God or a natural disaster.

(b) In the event the land so converted to a use other than forest crop production constitutes only a portion of such tract, the assessor shall apportion the assessment, and enter that portion so converted as a separately assessed parcel on the appropriate portion of the assessment

roll. The assessor shall then adjust the forest land exemption attributable to the portion of the tract not so converted by subtracting the proportionate part of the exemption of the converted parcel.

(c) If the portion so converted divides the tract into two or more separate parcels, such remaining parcels not so converted will remain certified under this section, regardless of size, except that should any remaining parcel be no longer accessible for continued forest crop production, the department shall, after notice and hearing, revoke the certification of the inaccessible parcel or parcels, and notice of such revocation shall be recorded and indexed as provided in subdivision seven of this section. Such revocation shall not subject the owner of the tract to penalty, but the exemption under this section shall no longer apply to the tract or portion thereof no longer accessible.

(d) The owner of a certified tract shall not be subject to penalty under this section that would otherwise apply because the forest crop on the certified tract or portion is, through no fault of the owner, damaged or destroyed by fire, infestation, disease, storm, flood, or other natural disaster, act of God, accident, trespass or war. If a merchantable forest crop is to be cut or removed in connection with necessary salvage operations resulting from any such event, the owner shall give notice of cutting, the department shall certify the stumpage value, and stumpage tax shall be payable, collected and enforced as provided in subdivisions five and seven of this section. Nothing in this paragraph shall be construed to subject any person to penalty under subdivision seven of this section for immediate action taken in good faith in the event of an emergency.

9. All stumpage tax, penalties and interest charges thereon collected pursuant to subdivisions five, six and seven of this section shall be apportioned to the applicable municipal corporations in which such tract is situated.

10. (a) Management plans approved pursuant to this section shall not be deemed to authorize or permit any practice or activity prohibited, restricted or requiring further approval under the environmental conservation law, or any other general or special law of the state, or any lawful rule or regulation duly promulgated thereunder.

(b) No otherwise eligible tract, or portion thereof, shall be deemed to be ineligible for certification or qualification under this section, and no certificate of approval shall be revoked or penalty imposed, solely on the ground that any such law, rule or regulation partially restricts or requires further approval for forest crop production practices or activities on such tract or portion.