

Tree Growth Tax Law Audit
Report to the
Committee on Taxation
of the
126th Maine Legislature,
Second Regular Session

Submitted as required by An Act To Evaluate the Harvesting of Timber on Land Taxed under the
Maine Tree Growth Tax Law (PL 2011, Chapter 619, 125th Maine Legislature)



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Submitted by

Maine Department of Agriculture, Conservation, and Forestry

Bureau of Forestry

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Introduction

Public Law 2011, Chapter 619, authorized the Bureau of Forestry (aka Maine Forest Service, or MFS) to conduct periodic random sampling (audit) of properties enrolled in the Tree Growth Tax Law (TGTL) program and to report its findings to the Committee on Taxation. This report fulfills those requirements.

Legislative Charge

The Legislature charged MFS to make findings from the audit, including:

1. Any findings related to any differences in compliance issues based on the location of parcels, such as coastal and waterfront properties as compared to other parcels;
2. A summary of data concerning violations and enforcement activities;
3. An assessment of the effectiveness of the Maine Tree Growth Tax Law in promoting the harvesting of fiber for commercial purposes and its impact on the fiber industry; and,
4. Recommendations to address any problems identified and to ensure that parcels enrolled under the Maine Tree Growth Tax Law meet the requirements of the law.

Context

The Tree Growth Tax Law was enacted in 1971, although its foundation dates to the early 1950's. About 11.2 million acres are enrolled statewide in the Tree Growth Tax Law; 7.6 million acres in the unorganized territory and 3.6 million acres in the organized territory. Much of the enrolled acreage in the unorganized territory consists of very large parcels owned by investor-owners (formerly industrial ownership). MFS is confident that the vast majority of owners with significant acreage enrolled in the program are complying with their Tree Growth Plans. These large holdings comprise about 70% of the 11.2 million acres of forestland enrolled in the Tree Growth Tax program. Nearly all of these acres are third-party certified as well-managed either by the Forest Stewardship Council or the Sustainable Forestry Initiative, or both programs. Forest management plans for these certified landowners are much more detailed than the minimum required by the Tree Growth Tax Law and are reviewed frequently by independent auditors. To date, Maine Revenue Services (MRS) has not asked the MFS to review a Tree Growth Tax forest management plan in the unorganized territory, a strong indicator of compliance with program requirements.

Basic requirements of the Tree Growth Tax Law

Landowners

To enroll property in the Tree Growth Tax Law, landowners must own at least ten contiguous acres of forest land, have a forest management plan prepared or approved by a licensed forester¹, submit a current forest type map showing the

¹ "Forest Management and Harvest Plan" means a written document that outlines activities to regenerate, improve and harvest a standing crop of timber. The plan must include the location of water bodies and wildlife habitat identified by the Department of Inland Fisheries and Wildlife. A plan may include, but is not limited to, schedules,

different forest types as well as the other land classifications in the parcel (minimum forest type breakdown is “softwood,” “hardwood,” and “mixed wood”), and submit an application on a prescribed form.

According to MRS Property Tax Bulletin 19, “[landowners] must manage Tree Growth classified parcels according to accepted forestry practices designed to produce trees having commercial value. In considering this option owners may be guided by but are not limited to the following accepted forestry practices: timber harvesting, tree planting, direct seeding, site preparation, thinning, cleaning, weeding, pruning, inventory of standing timber, forest protection measures (insect, fire, wind, etc.), forest access road construction and maintenance, and boundary line work.” The landowner may amend the forest management plan at any time.

Forest management plans must be updated at least every 10 years. Further, every ten years, landowners must provide the assessor with a written statement from a licensed forester that the land is being managed in accordance with the plan.

If the landowner chooses to withdraw a parcel or a portion of a parcel, the Constitution of Maine and statute require a withdrawal penalty. The withdrawal penalty will be an amount equal to 30% of the difference between the 100% Tree Growth valuation (of the classified land on the assessment date immediately preceding withdrawal) and the fair market value of the property on the date of withdrawal. If the land has been classified for more than 10 years, the following percentages apply:

11 years 29%	16 years 24%
12 years 28%	17 years 23%
13 years 27%	18 years 22%
14 years 26%	19 years 21%
15 years 25%	≥ 20 years 20%

In no event may the penalty be less than the minimum required by the Constitution of Maine, Article IX, section 8: ". . . a minimum penalty equal to the tax which would have been imposed over the 5 years preceding that change of use had that real estate been assessed at its highest and best use, less all taxes paid on that real estate over the preceding 5 years, and interest. . . ." No penalty is assessed on withdrawal of land from Tree Growth Tax Law if the same land is accepted for classification as Farm Land or Open Space Land.

Administration

Assessors administer the program in the organized territory; MRS administers the program in the unorganized territory. MFS provides technical assistance to all involved parties (municipalities, MRS, landowners, licensed foresters). MFS also collects stumpage price and forest inventory information necessary for the State Tax Assessor to compute valuations for enrolled properties.

Both municipal assessors and MRS have the authority to reject plans and to withdraw parcels not in compliance with program requirements. The MFS has been

maps and recommendations for timber stand improvements, harvesting plans and recommendations for regeneration activities. (36 M.R.S. §573, sub-§3-A)”

diligent in apprising municipalities and MRS of their rights to request and review Tree Growth forest management plans. The MFS has also informed Licensed Foresters about Tree Growth Tax Law requirements.

Methodology

Determining the sample

To focus the audit on the area of greatest concern, MFS determined that its scope should be limited to the organized territory, which was then stratified into non-coastal and coastal and island sub-populations.² The MFS biometrician determined that the non-coastal stratum should have at least 80 samples, and the coastal and island stratum should have 16 samples. Additional samples were drawn to ensure the statistical validity of the audit.

MFS sent letters originally to 141 landowners. Of those 141:

- 9 parcels had been withdrawn from the program.
- 1 parcel was erroneously identified as being enrolled in the program when, in fact, it is federal land. At least 16 first letters (11%) were returned due to bad addresses.
- At least 8 parcels had changed hands since 2011.

Several parcels are owned by persons whose interests were being attended to by a family representative or power of attorney. Several parcels were owned by persons who recently inherited the land from the previous owners who had passed away. Although MFS did not collect demographic data as part of this audit, the number of calls received from heirs, representatives, and the landowners themselves indicates that the proportion of family woodland owners enrolled in TGTL who are of advanced age could be significant.

During the process of securing forest management plans from landowners, it became clear that many landowners did not possess a current copy of their plan. MFS had to contact several consulting foresters to obtain copies of their clients' forest management plans. The reasons for this included the death of the spouse who originally enrolled the parcel; recent sale of the property to a new owner, and plans that were expired.

Following two mailings, MFS sent certified mail to 26 addresses (18%) from which it had received no response. This mailing yielded 11 additional responses.

MFS then sent letters to the assessors in the municipalities containing the nonresponsive landowners (10%) asking for the municipality's assistance in securing the plans. This request yielded 7 additional responses. One municipality responded that one additional parcel was no longer enrolled in the program.

² The vast majority of the enrolled acres in the unorganized territory are certified as well-managed, either by the Sustainable Forestry Initiative, the Forest Stewardship Council, or both. The concerns which led to the legislative direction for this report were deemed not to apply to these lands.

After subtracting withdrawn properties, and nonresponsive landowners, the final sample totaled 121 parcels, 18 coastal and 103 non-coastal. This sample was sufficient to draw valid conclusions unless noted otherwise.

Once the required number of forest management plans was secured, MFS District Foresters reviewed the plans for compliance with the requirements of the Tree Growth Tax Law. District Foresters also reviewed the selected landowners' parcels on the ground to assess whether landowners were following the recommendations in their management plans and, if not, attempt to determine the reasons why.

Sample Parcel Attributes

Parcels selected for the sample contained land enrolled in the Tree Growth Tax program ranging from 10 to just over 1,600 acres, with an average of 93 enrolled acres per parcel. The median parcel size was 38 acres, meaning that 50% of parcels were larger than 38 acres and 50% were smaller. This indicates that a large proportion of enrolled parcels are fairly small. The first year of enrollment ranged from 1972 to 2013. About half the parcels sampled were enrolled before 1995.

MFS staff identified any special attributes that might factor into the review process, e.g. water frontage, proximity to a ski area, etc. The following table presents the special attributes found on sample parcels.

Attribute	Number of Parcels	% of Parcels
Waterfront	27	22%
Water view	3	3%
Mountainous	3	3%
Other scenic views	1	1%

MFS staff also recorded how the parcel could be accessed (e.g. dirt road, paved road, etc.). The following table presents access information for the sample parcels.

Access type	Number of Parcels	% of Parcels
Paved road	57	47%
Dirt road	49	41%
Seasonal road	10	8%
Landlocked (no access)	3	3%
Right of way over fields	1	1%

The study also provided information about the presence of dwellings on sample parcels, whether the parcels were part of a subdivision, and whether a parcel had been sold within the past 10 years. The following table presents this information.

Dwelling/subdivision/sale	Number of Parcels	% of Parcels
Year-round dwelling	39	32%
Seasonal dwelling	11	9%
Parcel in subdivision	17	14%
Parcel sold within last 10 years	33	27%

The last row in the table confirms what MFS found in doing the original mailings to landowners selected for the sample: there is a relatively high degree of turnover in ownership on Tree Growth Tax parcels in the organized municipalities of the state.

Limitations of the study

The information supplied by municipalities to MFS did not permit the identification of a sub-population of parcels that are truly oceanfront; therefore, the number of parcels sampled with such features is very small. Further, no parcels on islands were drawn in the sample. Conclusions about oceanfront and island properties cannot be inferred from this report.

The Review Process

MFS District Foresters reviewed the plans for conformance to the most basic requirements of the TGTL, specifically:

- Is the plan written?
- Does the plan include a statement that that the parcel is used primarily for the growth of trees to be harvested for commercial use?
- Does the plan outline activities to regenerate and harvest forest products that have commercial value as defined in 36 M.R.S. §573?
- Does the plan include the location of water bodies and wildlife habitat identified by the Department of Inland Fisheries and Wildlife or a statement that none exist?
- Does the plan include a timber type map?

The District Foresters then reviewed landowners' performance on the ground, with a particular focus on whether the landowners were following the recommendations in their management plans, and if they had harvested timber.

Findings

In addition to responding to legislative direction, MFS sought to address three key questions of its own through the audit:

1. Does the landowner's management plan meet the requirements of the TGTL?
2. Is the landowner following their management plan?
3. Has the landowner harvested wood from their enrolled land?

MFS believes it has gathered sufficient information to answer the Legislature's and its own questions, with the exception of coastal and island parcels.

1. Legislative direction: Any findings related to any differences in compliance issues based on the location of parcels, such as coastal and waterfront properties as compared to other parcels.

The random sample yielded 27 enrolled parcels with some frontage on a water body (inland and coastal). Of this subset of the sample population, 17 forest management plans (63%) did not comply with the requirements of the Tree Growth Tax Law. Ten plans did not identify significant wildlife habitat; five plans were expired; six plans had no map or an invalid map (missing required elements); and five plans either lacked a statement regarding the primary objective of growing forest products for commercial use; and three plans either lacked recommendations to harvest, regenerate, and improve the timber or contained recommendations considered unsound silviculture. MFS found that only five of the 27 landowners (19%) were not following the recommendations in their forest management plan. Harvests on two parcels did not conform to the plan recommendations; whereas harvesting was recommended but did not take place on two other parcels. On the fifth parcel, a harvest was recommended, but MFS staff found that a harvest was not feasible due to lack of harvestable volume. Harvesting had taken place on 15 of the 27 properties (56%), indicating that waterfront landowners in general appear to be actively managing their forest land.

As noted earlier in this report, the information supplied by municipalities to MFS did not permit the identification of a sub-population of parcels that are truly oceanfront; therefore, the number of parcels sampled with such features is very small. Conclusions about oceanfront properties should not be drawn from this report.

2. Legislative direction: A summary of data concerning violations and enforcement activities.

MFS staff discovered only a handful of parcels (eight parcels of the 56 parcels harvested; 14.3% of parcels harvested and 7% of all parcels) where violations of MFS or Department of Environmental Protection rules occurred. All violations were deemed to be minor (e.g. no Forest Operations Notification filed).

3. Legislative direction: An assessment of the effectiveness of the Maine Tree Growth Tax Law in promoting the harvesting of fiber for commercial purposes and its impact on the fiber industry.

The Tree Growth Tax Law has been successful at keeping land in forest production. Over 11.2 million acres are enrolled across the state; this amounts to 60% of the state's forestland. Most of the total enrolled acres are certified by independent auditors to a third-party standard of good forest management.

Numerous commissions, study groups, policy analysts, and others have identified stability as the key element of any tax policy affecting forest lands. Significant changes to the law alienate current participants and discourage new participants, both of whom might be encouraged either to liquidate their timber asset to recover their equity and/or convert the land to another use. Neither is in the best interests of the state.

The Tree Growth Tax Law has been and remains controversial. Despite its flaws, the law accomplishes what it was intended to do. Above all, it minimizes the worst disincentives to long-term investment in forest ownership and management of the ad valorem property tax. It encourages forestry investments by taxing productivity rather than standing timber, and it reduces development pressures on forest land to some extent.

The very small percentage of enrolled landowners and acres involved who take advantage of the program for purposes inconsistent with the Tree Growth Tax Law does not justify making significant changes to the program. However, it is clear that the parties responsible for administering the program must redouble their efforts to weed out those few landowners who are abusing the program.

4. Does the landowner's management plan meet the requirements of the TGTL?

MFS found that 66 (55%) of the forest management and harvest plans failed to meet the requirements of the TGTL. However, most deficiencies were minor and should not constitute grounds for removing a parcel from the program. Most of the deficiencies can be corrected easily through a plan amendment. About 10% of the parcels sampled had problems of a more serious nature (e.g. unsound silvicultural recommendations; no recommendations to harvest, regenerate, and improve the timber). The breakdown of reasons for nonconformance is as follows (plans could contain more than one nonconformance):

Reason	Number of plans	% of sample
Wildlife habitat not identified ³	37	31
Invalid map or no map	15	12
No statement of primary purpose for commercial forest products	14	12
Water bodies not identified	13	11
Silviculture not sound	12	10
Plan expired (older than 10 years)	12	10
No recommendations to harvest, regenerate, and improve timber	6	5
Other	18	15

The percentage of nonconforming plans found in this sample is higher than the percentage of nonconforming plans found during municipality-requested reviews of forest management plans (only 17% since 2010). This divergence suggests that municipalities may need to consider appropriate criteria for requesting assistance from MFS.

5. Is the landowner following their management plan?

MFS staff found that 86% of the landowners sampled were following the recommendations in their forest management and harvest plan, even if those plans were not fully compliant. On the parcels where MFS staff found that landowners were not following the recommendations in their plans, the reasons varied greatly, and included, but were not limited to:

1. Harvest recommended but did not take place (7 parcels);
2. Harvest recommended; harvest did not follow plan recommendations (3 parcels); and,
3. Plan did not exist or was prepared after harvest (3 parcels).

This compares well with MFS findings during municipality-requested reviews (78% conformance since 2010).

The fact that five out of six landowners sampled are following the recommendations in their forest management and harvest plans provides reason for comfort regarding the integrity of the Tree Growth Tax program. The Tree

³ This deficiency generally can be corrected by inserting a statement that such habitats do not exist on the parcel.

Growth Tax Law as currently written contains adequate authority for assessors to remove parcels from the program if the assessor believes the landowner is not following the recommendations in their plan (36 M.R.S. §579 and §581).

MFS staff also examined older, expired plans where possible. Of the 23 plans reviewed, 12 (52%) did not conform to program requirements. The deficiencies were largely minor and similar to those found for current plans.

6. Has the landowner harvested wood from their enrolled land?

Harvesting had taken place on 45% of the sample parcels (56 parcels) within the previous ten years (in one instance the landowner indicated that they tried to have a harvest but could not interest a logger). This is a reasonable percentage, considering the long-term nature of forest management. Just over three-quarters of the harvests covered 50 acres or less, a reflection of the relatively small size of enrolled parcels in the organized municipalities. There appears to be some correlation between parcel size and harvesting activity, which is not surprising. Harvesting took place within the previous ten years on 36% of parcels 50 acres or smaller; whereas 61% of parcels larger than 50 acres experienced harvest activity. The difference in harvesting activity between smaller and larger parcels exists in large part because smaller parcels can only support infrequent harvests; whereas larger parcels offer more frequent opportunities for management.

Using landowner reports of timber harvesting for 2006-2010, MFS found that landowners enrolled in the Tree Growth Tax program in the organized municipalities were responsible for an average of 53% of reported harvest acres. Considering the fact that Tree Growth Tax properties comprise 44% of the total forestland acreage in organized municipalities, MFS finds that there is a consistent level of harvest activity on enrolled properties, with a harvest size larger than the average for all properties. In short, landowners enrolled in the Tree Growth Tax program appear to be doing more than their fair share of harvesting and keeping up their end of the bargain.

MFS Recommendations

Introduction

Forest management is a long term endeavor. Investments in the forest require decades to recover, and can transcend the life of the original investor. The risk of policy changes in current use taxation is a strong disincentive to landowners making long-term investments in Maine's future forests.

The Tree Growth Tax Law has stood the test of time and is one of the best examples in the nation of forest policy stability. The MFS did not find - and has not found in the past - large-scale problems that require an overhaul of the law. MFS has found areas to improve administration of, and compliance with, the existing law, and the recommendations which follow are made with that intent.

Tree Growth Tax Law amendments

1. The Legislature should authorize a continued Tree Growth audit function for MFS until 31 December 2015. Should the Legislature continue this authorization, MFS recommends the following methodology to better assess compliance issues on properties with waterfront and oceanfront features, as these properties appear to be the major cause of concern for municipalities.
2. There are 122 coastal municipalities in the organized territory. MFS recommends that either the Maine Municipal Association or the individual coastal municipalities recruit volunteers or interns to assist MFS in this portion of the study. The volunteers or interns would visit coastal municipal offices to identify all coastal parcels enrolled in the Tree Growth Tax Law program. From this population, MFS would draw a random sample of parcels to evaluate, using the same methodology as this study. MFS would focus its efforts, and a 2016 report, solely on coastal Tree Growth Tax Law issues, again along the lines of the current legislative directive. If the Maine Municipal Association and/or the municipalities provide the necessary volunteer or intern labor, MFS can accomplish this task within its existing resources.
3. Municipalities could consider conducting random audits similar to what MFS has done. Assessors already have the authority under 36 M.R.S. §579 to compel enrolled landowners to submit requested information. Conducting random audits would systematize the process and ensure that all enrolled landowners could be held accountable at any point during their tenure.
4. The Tree Growth Tax Law could be amended to clarify the existing requirements for the content of a forest management and harvest plan. Suggested language follows:

3-A. Forest management and harvest plan. "Forest management and harvest plan" means a written document that outlines recommends activities to regenerate, improve and harvest a standing crop of timber over a ten-year period. The plan must state clearly the type, nature, and timing of any recommended activities and the reasoning justifying the recommendation. The plan must include the location of water bodies and wildlife habitat identified by the Department of Inland Fisheries and Wildlife. If such features are not found on a parcel, the plan must explicitly state this. A plan may include, but is not limited to, schedules and recommendations for timber stand improvement, harvesting plans and recommendations for regeneration activities. The plan must be prepared by a licensed ~~professional~~ forester or a landowner and be reviewed and certified by a licensed ~~professional~~ forester as consistent with this subsection and with sound silvicultural practices.

Municipalities

1. The Tree Growth Tax Law could be amended to clarify the reporting responsibilities of municipalities. The timely filing of required, accurate reports to Maine Revenue Services and Maine Forest Service should be linked to the municipal reimbursement under 36 M.R.S. §578 to promote better compliance with current law.

2. The Tree Growth Tax Law allows assessors to request technical assistance from MFS. The results of this study indicate that many requests for assistance result in a MFS finding that the landowner's forest management and harvest plan and/or management conform to the law's requirements. To better screen future requests, MFS will now require assessors to complete a worksheet (see Appendix 3). MFS developed this worksheet several years ago; however, it may not have been as widely used as it could have been.
3. Municipalities should be encouraged to exercise the full range of their administrative powers to ensure that landowners comply with the requirements of the Tree Growth Tax Law. MFS can assist in this regard by offering more workshops for municipal officials about the Tree Growth Tax program, but responsibilities for administration of the program should remain with municipal assessors.

Landowners

1. Several landowners contacted did not possess a copy of their management plan. This required MFS to contact the consulting foresters who prepared the plan to obtain a copy. The Tree Growth Tax Law could be amended to require that landowners maintain a copy of their forest management and harvest plan in their possession (meaning at their primary residence) at all times.

Foresters

1. Anecdotal information obtained during the course of this study suggests that many landowners do not understand their forest management plans, in large part because they are not trained in forestry, but also because foresters may not take the time to explain the plan to the landowner or ask if the landowner understands the plan. The Tree Growth Tax Law should be amended to require that a licensed forester attest that they have explained to the landowner the contents of a forest management and harvest plan that the forester has prepared or approved.
2. Under the Tree Growth Tax Law as currently written, landowners are held responsible for the contents of their forest management plan. Landowners generally are not familiar with the specific requirements for forest management plans and rely on the licensed foresters who prepare their plans to ensure that their plans are compliant. The law and rules regarding licensed foresters could be amended to state clearly the responsibilities of foresters to write forest management plans that conform to the requirements of the Tree Growth Tax Law.
3. The Tree Growth Law requires that a licensed forester certify every 10 years that, for a plan adopted by a new owner following a land transfer, that the new owner is managing the forest land in accordance with the plan prepared for the previous landowner, or, for a plan being recertified, that the forester has inspected the parcel and that the owner is managing the parcel according to the forest management and harvest plan. Anecdotal information suggests that a small number of foresters have recertified landowners even though these foresters are well aware that their client landowners have not followed, are not following, and,

in some instances, have no plans to follow, the recommendations in their management plans. The Tree Growth Tax Law could be amended to require that landowners maintain an expired forest management and harvest plan in their possession for two years following recertification of a parcel to permit assessors to review those expired plans and performance thereon.

The Path Forward

MFS will redouble its efforts to improve municipalities', landowners', and foresters' understanding of their respective roles in the successful implementation of the Tree Growth Tax Law. The changes to laws and rules recommended in this report, if implemented, would enhance the program's integrity. Enabling an ongoing audit function at MFS will allow it to monitor and report on improvements in performance and identify additional remedies where they are needed.

Acknowledgements

Several MFS staff contributed to the development and implementation of the study that forms the background for this report. Data Manager Greg Lord developed the databases, and GIS Manager Greg Miller developed the data collection system. Biometrician Ken Laustsen helped design the sample. All of the field staff - Ken Canfield, Patty Cormier, Shane Duigan, Jim Ecker, Dan Jacobs, Steve MacDonald, Morten Moesswilde, Gordon Moore, Tim Post, Merle Ring, Dave Rochester, and Tom Whitworth - devoted hundreds of hours to reviewing management plans and performance on the ground, in addition to performing their regular duties of helping Maine's woodland owners make informed decisions about managing their land.

Appendix 1. Enabling legislation (Public Law 2011, Chapter 619)

STATE OF MAINE

—————
IN THE YEAR OF OUR LORD
TWO THOUSAND AND TWELVE

—————
S.P. 459 - L.D. 1470

An Act To Evaluate the Harvesting of Timber on Land Taxed under the Maine Tree Growth Tax Law

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 36 M.R.S. §575-A, as enacted by PL 2001, c. 603, §5, is repealed and the following enacted in its place:

§575-A. Determining compliance with forest management and harvest plan

1. Assistance to assessor. Upon request of a municipal assessor or the State Tax Assessor and in accordance with section 579, the Director of the Bureau of Forestry within the Department of Conservation may provide assistance in evaluating a forest management and harvest plan to determine whether the plan meets the definition of a forest management and harvest plan in section 573, subsection 3-A. Upon request of a municipal assessor or the State Tax Assessor, the Director of the Bureau of Forestry may provide assistance in determining whether a harvest or other silvicultural activity conducted on land enrolled under this subchapter complies with the forest management and harvest plan prepared for that parcel of land. When assistance is requested under this section and section 579, the Director of the Bureau of Forestry or the director's designee may enter and examine forest land for the purpose of determining compliance with the forest management and harvest plan.

2. Random sampling and report. The Director of the Bureau of Forestry within the Department of Conservation is authorized to conduct periodic random sampling of land enrolled under this subchapter to identify any differences in compliance with forest management and harvest plans based on location or type of parcel and to assess overall compliance with the requirements of this subchapter. For the purposes of this subsection, the Director of the Bureau of Forestry or the director's designee may:

A. With appropriate notification to the landowner, enter and examine forest land for the purpose of determining compliance with the forest management and harvest plan pursuant to section 574-B;

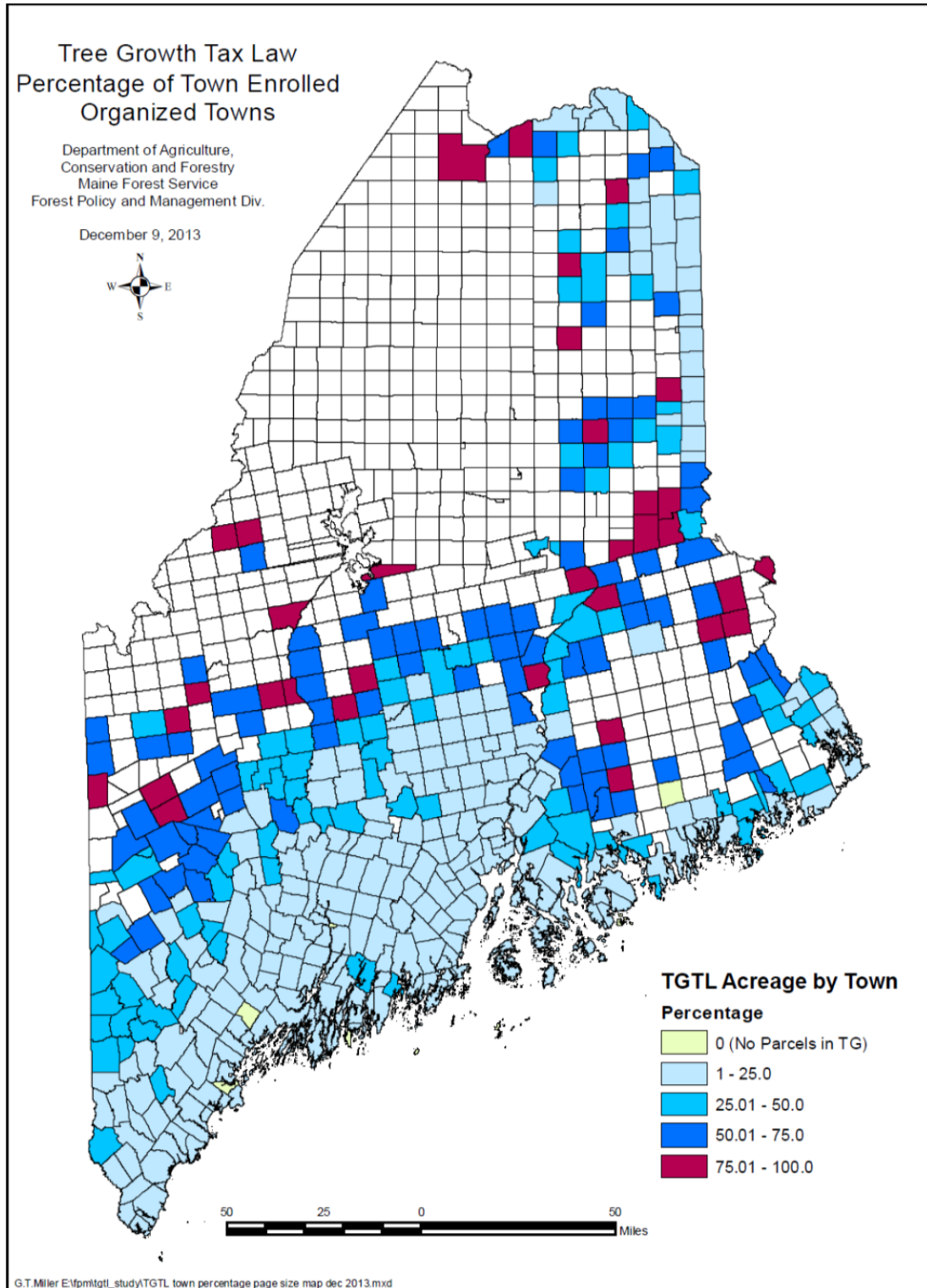
B. Request and review a forest management and harvest plan required under section 574-B, which must be provided by a landowner or the landowner's agent upon request; and

C. Request and review an expired forest management and harvest plan, which must be provided by a landowner or the landowner's agent upon request, if the expired plan is in the possession of the landowner or the landowner's agent.

A forest management and harvest plan provided to the Director of the Bureau of Forestry or the director's designee under this subsection is confidential. Information collected pursuant to this subsection is confidential and is not a public record as defined in Title 1, section 402, subsection 3, except that the director shall publish at least one summary report, which may not reveal the activities of any person and that is available as a public record. This subsection is repealed on December 31, 2014.

Sec. 2. Report. The Director of the Bureau of Forestry within the Department of Conservation shall provide a report to the joint standing committee of the Legislature having jurisdiction over taxation matters no later than March 1, 2014. The report must include: findings from the periodic random sampling of land enrolled under the Maine Tree Growth Tax Law performed pursuant to the Maine Revised Statutes, Title 36, section 575-A, subsection 2, including any findings related to any differences in compliance issues based on the location of parcels, such as coastal and waterfront properties as compared to other parcels; a summary of data concerning violations and enforcement activities; an assessment of the effectiveness of the Maine Tree Growth Tax Law in promoting the harvesting of fiber for commercial purposes and its impact on the fiber industry; and recommendations to address any problems identified and to ensure that parcels enrolled under the Maine Tree Growth Tax Law meet the requirements of the law.

Appendix 2. Tree Growth Tax Law, Percentage of Municipality Enrolled, Organized Municipalities



Appendix 3. Tree Growth Tax Law Plan Review Check Off for Municipal Assessors



INFORMATION SHEET 18
August 2008

Tree Growth Tax Law Plan Review A Guide for Municipal Assessors

Maine Forest Service, DEPARTMENT OF CONSERVATION, 22 State House Station, Augusta, ME 04333

"It is declared to be the public policy of this State that the public interest would be best served by encouraging forest landowners to retain and improve their holdings of forest lands upon the tax rolls of the State and to promote better forest management by appropriate tax measures in order to protect this unique economic and recreational resource." 36 MRSA §572. Current use taxation of forest land may be the most important action state government can take to support the many public values derived from maintaining productive and well-managed forest land, including clean air and water, wildlife habitat, and recreational opportunities. This guide is intended to assist municipal assessors seeking the assistance of the Maine Forest Service in reviewing Tree Growth Tax Law Forest Management and Harvest Plans.

Tree Growth Tax Law Plan Review

Before contacting the Maine Forest Service (MFS) for Tree Growth Tax Law (TGTL) plan review, municipal assessors should answer the following questions.

1. Is the land "forest land" as defined in 36 MRSA §573?
2. Is the forest land 10 acres or larger?
3. Does the landowner have a forest management and harvest plan prepared by a Maine Licensed Forester (LF) or prepared by the landowner and reviewed and certified by a LF as consistent with TGTL and with sound silvicultural practices?
4. Does the plan include all required elements as follows?
 - Is it written?
 - Does it outline activities to regenerate and harvest forest products that have commercial value as defined in 36 MRSA §573?
 - Does it include the location of water bodies and wildlife habitat identified by the Department of Inland Fisheries and Wildlife or a statement that none exists?
 - Does it include a timber type map?
 - Does it include a statement that that the parcel is used primarily for the growth of trees to be harvested for commercial use?
5. Is the plan current (no more than 10 years old)? If the plan is more than 10 years old, has it been updated, and is there evidence of compliance with the plan (a statement from a LF that the landowner is managing the parcel according to the plan)?
6. Does the plan include any optional elements?
 - Schedules and recommendations for timber stand improvement?
 - Harvesting plans?
 - Recommendations for regeneration activities?

If the answers to questions 1 through 5 are yes, you can be confident that the minimum standards have been met. Question 6 is optional, but a yes indicates that the plan exceeds minimum standards.

Maine law authorizes assessors to require landowners to answer any questions that the assessor may have regarding land enrolled in TGTL. MFS recommends that assessors attempt to clarify answers to questions prior to contacting MFS.

If the answers to any of questions 1 through 5 are no, or if you are unable to answer the question, please contact MFS for assistance.

Please note that Maine law designates a landowner's forest management and harvest plan as confidential. Therefore, municipal assessors may "see or possess a copy of a plan for a reasonable amount of time to verify that the plan exists or to facilitate an evaluation as to whether the plan is appropriate and is being followed. **Upon completion of the review, the plan must be returned to the owner or an agent of the owner.**"

For more information, please contact:
Maine Forest Service
DEPARTMENT OF CONSERVATION
22 State House Station
Augusta, ME
04333-0022
(207) 287-2791 or 1-800-367-0223
forestinfo@maine.gov



www.maineforestservice.gov

ABOUT THE MAINE FOREST SERVICE

Established in 1891, the Maine Forest Service's mission is to protect and enhance Maine's forest resources through forest fire prevention, technical assistance, education and outreach to a wide variety of audiences, and enforcement of the state's forest protection laws. Maine Forest Service offices are found throughout the state and provide Maine's citizens with a wide range of forest-related services.

For more information about the Maine Forest Service and its programs, visit our website at www.maineforestservice.gov.