

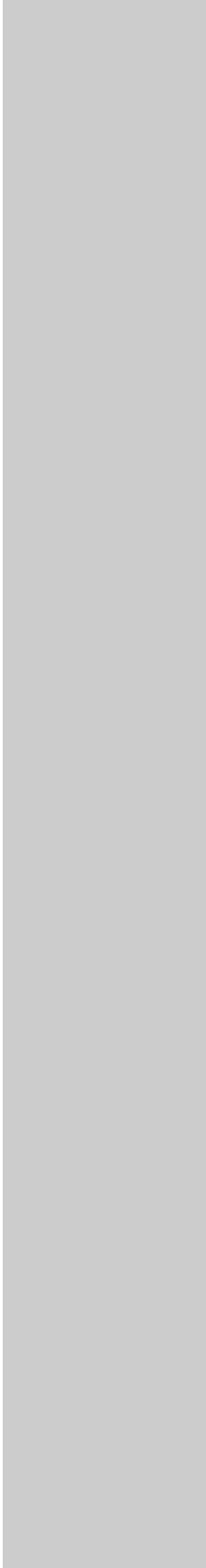
## I. FOSTERING STEWARDSHIP OF PRIVATE LANDS

A major element of the Council's mission is to "reinforce the traditional patterns of land ownership and uses" in the Northern Forest. To do so in a region where nearly 85% of the land is in private ownership means working with private landowners and organizations. What happens to the entire 26 million acres will in large measure depend upon what happens to the private owners of the large forest tracts.

The Council determined that many key federal and state policies impede landowners from retaining and managing these lands sustainably while protecting important natural resources, regardless of their often intense desire to do so. In fact, many public policies encourage sales, subdivision, liquidation, or conversion of their lands, with resulting loss of both private and public values.

In keeping with the principles articulated earlier, the Council has identified the most significant policies affecting private landowners, and has proposed changes or new ways society can enhance their ability to continue ownership and proper management of their lands.





## Stewardship Incentives

### Conservation Easements

The Council believes conservation easements are important voluntary means to protect productive forest land from changes in land use. When forest landowners decide to remove the development rights from their land through use of conservation easements, the economic pressure to change the use of the land is removed. Encouraging landowners to do this promotes long-term stewardship. If landowners decide to sell or donate conservation easements on their forest land, they have assured that the only viable economic use of their land in the future will be natural resource-based—something the Council embraces. Perhaps no other voluntary tool has such an influence on perpetuating forested landscapes, keeping forest land in private ownership, and yielding products and services for society's long-term resource needs.

### Forest Legacy

The Forest Legacy program provides funding for the USDA Forest Service to purchase conservation easements from willing sellers. It has the potential to become an excellent way to encourage the resource-based economy and land conservation in the Northern Forest. However, it needs improvement to be more effective in the Northern Forest and beyond. For the program to be attractive to many forest landowners, the funding criteria and administration of Forest Legacy must change significantly.

**Recommendation 1, to fund Forest Legacy.** Congress should fund Forest Legacy consistently and adequately to make it a more effective tool for protecting working landscapes. The Council recommends a Forest Legacy appropriation of \$25 million per year for the Northern Forest states. The effectiveness of the Forest Legacy Program should be enhanced by changing the existing legislation to include:

- (a) the option for state ownership of easements.
- (b) the option for direct grants to the states.
- (c) payments in lieu of taxes to communities for easements, where appropriate.

- (d) amendments to the “purpose” section of the law to include timber management as a use that Forest Legacy seeks to protect.
- (e) funds for states to monitor easement compliance.

### State Easement Programs

“Federal funding is needed to ensure the success of certain land conservation tools; however, significant state and local government involvement in these efforts is essential. Federal grants to states for acquisition and management are often the most effective and broadly accepted approach. Precedents exist for such state and local involvement, both within the region and elsewhere.”

Conservation Strategies  
Subcommittee Finding #14,  
page A-30.

**In addition to Forest Legacy, the Northern Forest states have their own conservation easement programs. These programs are effective in protecting working forests from changes in use. The Council believes that conservation easements are a critical means for the long-term maintenance of these lands.**

**Recommendation 2, to fund state easement programs. States should continue to support and fund their conservation easement programs. In addition to employing traditional conservation easements to protect productive forest land from changes in use, the programs should explore emerging voluntary conservation measures such as those listed below.**

- (a) acquisition and resale of development rights by the public on private lands.
- (b) term easements (easements of specified duration).
- (c) rolling easements (term easements in which the easement can be renewed at specified intervals).
- (d) voluntary agreements.

**For related recommendations, see recommendations 17 (State Funding for Acquisition), 18 (Conservation Tools Other than Acquisition), and 19 (Conservation Transactions).**

**Responsible agency Congress should act immediately to enhance and adequately fund the Forest Legacy program. State legislatures and conservation agencies should continue to support and fund their easement programs, and use the voluntary tools outlined.**

**Related findings in the AppendixLand conversion 24; biological resources 14; and conservation strategies 10-16, 22.**

**References.** Northern Forest Lands Council, Summary of Public Comment on the Draft Recommendations, August 1994.

State Resource Strategies, New Directions in Conservation Strategies: A Reconnaissance of Recent Experimentation and Experience, October 28, 1993.

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**Stewardship Incentive Program**

More private landowners would be interested in allowing public use of their land for recreation and in managing for non-commodity purposes, if adequate technical and financial assistance were available. Unfortunately, it is not.

Private non-industrial landowners own nearly one third of the land in the Northern Forest, over 8 million acres. Many do not actively manage their lands. Those that do, manage for many different reasons and goals. These lands could provide many more public and private amenities if technical and financial assistance were available to landowners.

The Stewardship Incentive Program (SIP), created by Congress in 1990 as part of the Forest Stewardship Act in the Farm Bill, offers cost share funds and technical assistance to non-industrial private landowners to manage their lands for a variety of natural resources, not just timber. These resources include, among others, fish and wildlife habitats, wetland protection, aesthetics, recreation opportunities, timber supplies, and other products.

Eligible landowners must have an approved Forest Stewardship Plan and own 1,000 acres or less of qualifying land (exceptions are possible for up to 5,000 acres). Payments may not exceed \$10,000 per landowner per year. Landowners must commit to SIP-funded practices for at least ten years.

Authorized up to \$100 million per year through 1995, the program has been funded at less than \$20 million per year since 1991. This is inadequate for broad application.

“Numerous federal and state land conservation tools other than land acquisition are available to encourage the long-term conservation of the region’s forest lands, and to protect public and private values of importance to the people of the region and beyond. Examples include the Forest Stewardship Program and the new Partners in Wildlife program.”

Conservation Strategies Subcommittee Finding #11, page A-29.

**Recommendation 3, to fund the Stewardship Incentive Program. Congress should fund the Stewardship Incentive Program (SIP) at the fully authorized level.** There is a waiting list of landowners who have requested SIP funds. Adequate funding for SIP will encourage sound forest management by more landowners. Practices currently eligible for cost-sharing under SIP include riparian and wetland protection and improvement, fisheries habitat enhancement, and wildlife habitat enhancement, in addition to timber management. Cost-share priority for fisheries and wildlife habitat enhancement is for activities that enhance the habitats of threatened and endangered species and species of special concern. The effectiveness of the program should be enhanced by:

- (a) eliminating the constraint that only 25% of the funds in each state can be used each year for forest management plans.

- (b) raising the 1,000-acre maximum eligibility requirement to 5,000 acres.
- (c) allowing states to provide cost-share funds for expenses related to voluntary land protection, such as appraisals and surveys.
- (d) requiring landowners to reimburse the granting agency if conversion to non-forest use occurs within ten years of receiving the cost-share funds.

For related recommendations, see recommendations 10 (Education about Sound Forest Management), 11 (Forest Practice Regulations and Programs), 12 (Cooperation to Achieve Sustainability), and 21 (Biological Diversity).

**Responsible agency.** State conservation agencies, Congress, and the USDA Forest Service should act immediately to implement this recommendation.

**Related findings in the Appendix.** Biological resources 10, 11, 12; conservation strategies 11; local forest-based economy 15; and recreation and tourism 15, 19, 23.

**References.** Ash Cove Consulting, *Maintaining Biological Diversity on Private Forest Lands: Voluntary Techniques*, August 24, 1993.

Brocke, Rainer, *Recommendations to the Northern Forest Lands Council with Comments on a Briefing Paper*, June 23, 1993.

Brown, Tommy, *Outdoor Recreation and Tourism Studies Applied to the Northern Forest Lands: Literature Review and Analysis*, October 7, 1993.

DeCoster Group, *Environmental and Societal Benefits of Certain Federal Taxation Policies Affecting Private Timberland Owners*, October 12, 1993.

Dubroff, Harold and Alvin Geske, *A Report to the Northern Forest Lands Council on Federal Taxation Issues Affecting Private Timberland Owners*, November 15, 1993.

Howard, Theodore, *Federal Taxation and the Northern Forest Lands: A Discussion Paper Prepared for the Northern Forest Lands Council*, May 20, 1992.

Northern Forest Lands Council, *Summary of Public Comment on the Draft Recommendations*, August 1994.

Northern Forest Lands Council, *Summary of Proceedings: Biological Resources Diversity Forum*, December 9, 1992.

Resource Systems Group, Inc., Ad Hoc Associates, Douglas Morris, *Forest Property Taxation Programs: Report to the Northern Forest Lands Council*, November 1993.

## Green Certification

Few market incentives recognize and reward forest landowners who practice environmentally sound forest management. In recent years, the general public has become sensitive to environmental issues. This often translates into consumer and retailer willingness to buy products perceived to be “environmentally friendly.” Consumers express a willingness to consider natural resource issues as they buy, but to date little or no market rewards reach landowners who practice environmentally sound forest management.

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**“Green certification” programs, however, are emerging. As they develop, they may provide market advantages or other opportunities to forest-based businesses as a way to encourage good forest practices in the region. Moreover, they appeal to existing foreign markets, where such programs have existed for several years. Certifiers review a landowner’s forest management for a range of benefits which include, among other things, sustainability and ecosystem maintenance. Qualifying landowners are certified, and products from their land can be marketed as “environmentally sound.”**

**Green certification programs have the potential to enable landowners and forest product manufacturers to improve their market share in an increasingly sophisticated and competitive consumer environment. If not done well, though, they also have the potential to confuse consumers.**

**Recommendation 4, to encourage green certification programs.**

**State forestry and economic development agencies should encourage and cooperate with emerging private green certification programs that recognize landowners who practice sustainable forest management. They should also work with state forest roundtables, as appropriate. (See Post Council Action section.) The most successful and effective programs will meet the following requirements:**

- (a) Programs will be market-driven; that is, individual landowners and firms will seek certification based upon their assessment of the potential positive returns on their investment in certification, either through increased market share, increased product price, or other benefits.**
- (b) Certification criteria will be based on consistent definitions, and on quantitative and objective standards that are easily understandable by and available to the consuming public. Private sector firms would be the best to carry out standardization and compliance; however, marketing claims should adhere to current and future Federal Trade Commission guidelines.**
- (c) Certification will be financially feasible and practical for most sizes of land ownerships and firms. Smaller landowners need cost-effective ways to allow their participation in certification programs, such as certification of consulting foresters serving them, the Tree Farm program, and landowner cooperatives.**

**For related recommendations, see recommendations 10 (Education about Sound Forest Management) and 37 (Natural Resource Education for the Public).**

“Sustainable forestry is critical to the forest economy, as well as to other forest values, such as biodiversity. Consumers of forest products are showing a willingness to support sustainable forestry through their purchasing behavior.”

Local Forest-Based Economy Subcommittee Finding #15, page A-36.

**Responsible agency.** State forestry and economic development agencies should begin monitoring green certification programs immediately.

**Related findings in the Appendix.** Local forest-based economy 15.

**References.** Northern Forest Lands Council, Summary of Public Comment on the Draft Recommendations, August 1994.

Northern Forest Lands Council, Summary of Proceedings: Forum on Building Local Economies With Wood Products and Forest-Based Recreation and Tourism, June 14-15, 1993.

## Federal and State Tax Policies

**Certain tax policies work against long-term ownership and management of forest land in the Northern Forest. The Council has identified the most far-reaching state and federal tax policies that have serious, unintended, and adverse consequences for land management and conservation by owners of the 22 million acres of private land in the Northern Forest, and by private forest landowners everywhere in the United States.**

**State and federal taxes affect all our lives. Tax policies and the way they are implemented are complex, reflecting the complexity of a society with many kinds of people, industries, regional factors, and political realities. All have molded our tax code and many have unintended negative effects on the stability of land ownership.**

**The Council does not suggest re-writing entire tax codes. Instead, we have identified several key policies that need change. These policies will help landowners in the region (and the country as a whole) keep their lands in long-term forest ownership and management, rather than forcing them to sell or change the use of their land. For property tax policy, states must carefully look at annual costs to landowners in relation to the annual returns possible. Encouraging this long-term ownership and management provides many public benefits.**

### Property Taxes

**Rising property taxes have severe impacts on the ability of landowners' to own and manage forest land. Where current use property tax assessment programs are not available or are not working well, property taxes are one of the most significant problems affecting forest landowners and their ability to hold onto their land. In most areas of the Northern Forest, ensuring that property taxes reflect the productivity of the forest will have the most immediate positive effect on the economic viability of forest land.**

**Local governments have relied on property taxes to raise revenue since colonial times. Then, property taxes on forest land in the Northern Forest were a true measure of wealth in a largely agrarian society. While society since then has generally become non-agrarian, local taxes are still based on land values.**

"Federal tax policy has the potential to provide an incentive for people and companies to invest in and conserve forest land."

State and Federal Taxes  
Subcommittee Finding #5,  
page A-54.

"Federal tax rules designed to encourage long-term forest stewardship often have the very opposite effect and discourage these stewardship objectives because the rules are confusing and difficult to use."

State and Federal Taxes  
Subcommittee Finding #6,  
page A-55.

Further, land values are now often based on ad valorem, or so-called highest and best use. This generally means the value the land might be sold for on the open market for residential, commercial, or industrial development. Increasing demand over the past several decades has raised land values significantly. Now, ad valorem values (for development of residential, commercial, or industrial sites) far outstrip the value of the land for growing crops or trees.

The underlying causes of rising property taxes are rising land values and the costs of education and other government services. (Property taxes are generally not a problem in unorganized townships.) Rising education costs are a significant proportion of the problem, as state and federal funding for local education has not kept pace with new mandates and rising costs. These trends put increasing pressures on landowners to pay higher property taxes, since municipalities must bear the additional costs.

This has discouraged forestry uses and favored conversion of land to the use that gives property owners the best return on their investment: development. Seeing this trend and attempting to address some of the inequity, each Northern Forest state has instituted some sort of differential property tax program for undeveloped forest and farmland (commonly referred to as “current use” tax programs). However, due to weaknesses in the programs and to difficult fiscal times, their effectiveness, if not their existence, is threatened.

The Council proposes a two-phase approach to address the situation: one an immediate buttressing of current use tax programs already in existence; the other a longer-term, permanent solution to inequitable property taxation.

In addition to these recommendations, the Council urges the states and Congress to examine seriously the way we fund education in this country. The present system has substantial negative impacts on open land.

### **Current Use Tax Programs**

Given the present economics of owning and managing timberland in much of the region, the Council finds that current use valuation is essential to helping landowners maintain their land in forest uses.

The Council commissioned a study of the situation, entitled *Property Taxes and the Economics of Timberland Management in the Northern Forest Region*, by forest economist Dr. Hughianham. The Council’s work confirmed the stark reality of growing trees long-term: on average in the Northern Forest, even on the best growing sites, it is extremely difficult to make a profit if property taxes exceed \$2.00 per acre per year, because

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present ad valorem-based property taxes significantly exceed this threshold in many areas of the Northern Forest. The study concluded that current use tax programs are essential for profitable long-term forestry, except where appraised values are at or near current use values.

Each Northern Forest state has some kind of current use tax program. Although some are working relatively well, no single one is ideal in its present form. Further, in those states required by statute to reimburse municipalities for current use, budget actions have eroded such funding, threatening program effectiveness and, in some cases, even their existence.

Each of the four state's current use tax programs have at least some of the following components in place already. (New York's forest tax program is not actually a current use tax program, but is included in this discussion because its objectives are the same.)

**Recommendation 5, to strengthen current use tax programs.**

State legislatures should review existing current use tax programs and adopt the following range of changes:

- (a) In states where reimbursement does not exist, institute, if appropriate, a stable, reliable, and dedicated funding mechanism for reimbursement to localities. Where it does exist, provide consistent and adequate reimbursement.

Reduction in the local property tax base when lands are enrolled in current use tax programs (since assessment on these lands usually is reduced from ad valorem to use value) is often a concern to communities because it affects their ability to raise local taxes for local services. The effect is greatest in communities with any or all of the following: large amounts of land in current use; high ad valorem assessments; and large areas of public land. Stabilizing these programs by providing adequate and consistent reimbursement would encourage more local political support, help communities to provide adequate government services, and recognize that all people of a state should share the cost of maintaining the broad public benefits of well-managed forest land.

- (b) Keep current use tax programs simple, easy to administer, stable over time, and attractive to potential enrollees. Complex programs are costly and difficult to administer, and they deter landowners from participating.

The Council's Land Conversion Study showed clearly that regulations per se are usually not a significant problem for landowners; rather, constantly changing regulations and how they

“In many areas, because there is such a large difference between the market value and the current use value of forest land, the annual tax based on market value exceeds the annualized income that could be derived from timber.”

Property Taxes  
Subcommittee Finding #10,  
page A-40.

are implemented are the problem. This is also true for current use rules and regulations.

- (c) **Base the current use assessment on the potential revenue from the land.**

**The main source of revenue for forest landowners is from forest products. Therefore, assessments should be based on the land’s ability to produce those products. The formulas should be based on reasonable expectations of tree growth, yield, and stumpage values. Where landowners receive other income from the use of the land, that should also be taken into account.**

- (d) **Encourage sound forest management of private forest lands in current use tax programs by having specific management requirements. However, such requirements should balance management costs with benefits to both landowners and society. Further, the provisions should not be so excessive as to discourage landowners from participating.**
- (e) **Set penalties for conversion of enrolled land at levels that discourage conversion yet do not discourage participation. States should review their existing penalties in this light.**
- (f) **Include additional incentives for landowners who voluntarily allow access for public recreation, or who develop and implement forest stewardship plans that go beyond statutory requirements and are not reimbursed by existing cost-sharing programs. However, such practices must not be required for participation in current use taxation programs. Incentives could be a percent reduction from the usual assessment, an actual tax abatement, or some other mechanism. New Hampshire’s current use program provides an example of a first step.**

“Generally, ad valorem property taxes on forest land in the Northern Forest states rose during the 1980-1990 decade. In Maine and New York, these taxes doubled during the period. Increases in New Hampshire and Vermont were somewhat less.”

Property Taxes  
Subcommittee Finding #6,  
page A-40.

### **Ad Valorem System of Property Taxation**

**The Council finds that ad valorem property valuation (valuing land and other real estate at its potential highest value, usually for some developed use) is an underlying cause of pressures that property taxes place on landowners. Local education funding needs are the driving force behind property taxes. A healthier and fairer taxation policy is needed to encourage long-term ownership of forest land.**

**Recommendation 6, to consider replacing the ad valorem taxation system. State legislatures should consider replacing the ad valorem system with one based on current use for all property.**

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**Under the proposed system, all real property would be assessed at its current value in its current use.**

**With such a change, existing current use tax programs could be eliminated, significantly reducing administration of the property tax. The Council recognizes that such a complex change may require additional revenue sources.**

**This approach would not eliminate property taxes, but change the antiquated and deficient assessment method now employed. For undeveloped forest land this means the land would be valued as undeveloped forest, not as potential house lots or other developable property. Industrial sites and buildings would be valued as industrial sites and buildings, residential sites and buildings would be valued as such, agricultural lands as agricultural lands, wetlands as wetlands.**

**Such a shift could take years, with legislative and/or constitutional changes needed in all states. However, the debate is already occurring to some extent in states both within and outside the Northern Forest region. In the meantime, recommendation 5 should be pursued, as an important bridge to a more permanent solution.**

**For related recommendations, see recommendations 10 (Education about Sound Forest Management), 11 (Forest Practice Regulations and Programs), 12 (Cooperation to Achieve Sustainability), 14 (Management of Private and Public Recreational Lands), 26 (Recreation and Tourism on Private Lands), and 29 (Administrative Rules).**

**Responsible agency. State legislatures should begin assessment and action on Recommendation 5 immediately given the urgency of the problems which threaten the ability of these programs (in some states) to exist. State legislatures should begin assessment of the alternative to replace the ad valorem system of taxation (Recommendation 6) immediately since this will be a long-term policy discussion.**

**Related findings in the Appendix All property tax findings.**

**References.** Canham, Hugh O., *Property Taxes and the Economics of Timberland Management in the Northern Forest Lands Region*, February, 1992.

Northern Forest Lands Council, *Summary of Public Comment on the Draft Recommendations*, August 1994.

Resource Systems Group, Inc., Ad Hoc Associates and Professor Doug Morris, *Forest Property Taxation Programs: Report to the Northern Forest Lands Council*, November 1993.

“Fair and reasonable taxation of forest land is an important component of a strategy to protect the Northern Forest. In each of the Northern Forest states, maintenance of the forest is an important public goal for many reasons—economic, environmental, and social—and basing the property tax on ad valorem valuation is a deterrent to achieving that goal.”

Property Taxes  
Subcommittee Finding #5,  
page A-40.

## **Estate Taxes**

**When a person dies and is not survived by a spouse, the estate, including land, is subject to state and federal estate taxes. (The federal tax liability begins at estate value of \$600,000—the so-called “estate**

tax unified credit".) Tax rates are hefty, between 37% and 55% depending on estate value. They usually must be paid within nine months of the death of the owner.

Forest land (and any undeveloped land) usually is taxed at "highest and best use," often predicated on its potential for residential or second home development. For estates with some or much of their value tied up in undeveloped forest land, heirs are often forced to sell or change use of the forest land to pay the estate tax, unless they have other means to obtain cash. Council studies showed this is a serious problem for some non-corporate landowners, both large and small, in the region.

The Council recommends changes to conserve the family-held forest lands in the Northern Forest region and throughout the nation.

**Recommendation 7, to change estate tax policies.** Congress and the state legislatures should change estate tax policies to reduce the pressure on heirs to sell, convert, or otherwise change the character of family forest ownerships. This should be done by (a) allowing heirs to make post-mortem donations of conservation easements on undeveloped estate land; and (b) allowing the valuation of undeveloped land at current use value for estate tax purposes if the owner(s) or heir(s) agrees to maintain the land in its current use for a generation (25 years). Change (b) must include a recapture provision to make future owners liable for taxes if they do not abide by the commitment.

Subsection (b) would be a more attractive alternative to landowners than (a) because the binding commitment not to develop the land is 25 years instead of "in perpetuity," which is the standard for most conservation easements. However, heirs making the perpetual commitment under (a) would have additional incentives. The value of the conservation easement donation is (in current IRS tax code) deductible for income tax purposes and it may reduce property taxes.

**For related recommendations, see recommendations 2 (State Easement Programs), 5 (Current Use Tax Programs), and 6 (Ad Valorem System of Property Taxation).**

**Responsible agency** The Council recommends that Congress and state legislatures take immediate action to change estate tax policies.

**Related findings in the Appendix** Land conversion 14; and all state and federal tax findings.

**References.** DeCoster Group, Environmental and Societal Benefits of Certain Federal Taxation Policies Affecting Private Timberland Owners, October 12, 1993.

"Among individual and family landowners, estate tax concerns are a driving force behind land sales"

Land Conversion  
Subcommittee Finding #14,  
page A-20.

"The estate tax burden imposed on an illiquid asset, and the very short time frame in which these taxes are due to the Treasury, encourage the parcelization and conversion of forest land to non-forest uses."

State and Federal Taxes  
Subcommittee Finding, #3,  
page A-54.

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Dubroff, Harold and Geske, Alvin, A Report to the Northern Forest Lands Council on Federal Taxation Issues Affecting Private Timberland Owners, November 15, 1993.

Howard, Theodore, Federal Taxation and the Northern Forest Lands: A Discussion Paper Prepared for the Northern Forest Lands Council, May 20, 1992.

Northern Forest Lands Council, Summary of Public Comment on the Draft Recommendations, August 1994.

### Capital Gains

Growing timber to maturity is a long-term endeavor with significant risks. Inflation over the many years from the initial investment in forest land to timber harvest substantially reduces the gain on such investments. Reducing income tax on capital gains from timber income will remove from the tax code a disincentive for long-term stewardship. Current federal and state income tax laws fail to recognize the economic erosion caused by inflation on these long-term investments. Capital gains on timber are taxed the same as other investments that yield returns in much less time. Thus, the tax code discourages landowners from maintaining their timberland for long-term stewardship that is both economically and environmentally desirable; and impairs public values on private forest lands.

**Recommendation 8, to allow inflation adjustment on the original cost of timber.** Congress and state legislatures should change income tax policies to allow adjustments for inflation on the basis (original cost) of timber owned by forest landowners. This would tax landowners on the real gain (not inflationary gain) from selling timber, thereby recognizing the long-term nature of forest land investments. This recommendation refers to timber revenue only, not timber land revenue.

The inflation rate should be chosen through one of the existing mechanisms (Consumer Price Index, Treasury bill rates, or similar means).

For related recommendations, see recommendation 9 (Passive Loss).

**Responsible agency:** Congress and state legislatures should take immediate action to change income tax policies.

**Related findings in the Appendix:** All state and federal tax findings.

**References:** DeCoster Group, Environmental and Societal Benefits of Certain Federal Taxation Policies Affecting Private Timberland Owners, October 12, 1993.

Dubroff, Harold and Geske, Alvin, A Report to the Northern Forest Lands Council on Federal Taxation Issues Affecting Private Timberland Owners, November 15, 1993.

Howard, Theodore, *Federal Taxation and the Northern Forest Lands: A Discussion Paper Prepared for the Northern Forest Lands Council, May 20, 1992.*

Northern Forest Lands Council, *Summary of Public Comment on the Draft Recommendations, August 1994.*

### Passive Loss

**The 1986 tax reform act resulted in changes in IRS code which make it very difficult for forest landowners who do not manage their woodlands as a primary activity to deduct their annual forest management expenses against their income during the year in which the expenses occur, unless they happen to have forest land income (from a harvest) or other passive income for the year.**

**Current IRS tax policy in the area of “passive losses” is designed to prevent individuals and certain corporations from sheltering active business and portfolio income from income tax because of losses incurred in passive business activities (activities in which the taxpayer does not “materially participate”). This frequently results in forest landowners being subject to the passive loss rules, and subsequently losing the deduction for annual expenses.**

**To encourage forest landowners to continue managing their forests for long-term stewardship, it is essential that they be allowed to deduct normal expenses.**

**Recommendation 9, to eliminate rule on 100 hours per year. Congress should eliminate the requirement that landowners generally must work 100 hours per year in forest management on their forest properties to be allowed to deduct normal management expenses from timber activities against non-passive income, instead of being required to capitalize these losses until timber is harvested. The IRS code should also allow various family configurations to qualify for this loss allowance since many lands in the region are family-owned.**

“Changes in federal tax laws under the 1986 tax reform act impacted the ability of many forest landowners in the Northern Forest to manage, own and conserve their lands for the long-term.”

State and Federal Taxes  
Subcommittee Finding, #1,  
page A-54.

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**For related recommendations, see recommendations 3 (Stewardship Incentive Program) and 8 (Capital Gains).**

**Responsible agency:**Congress should make this change within no more than five years.

**Related findings in the Appendix:**All state and federal tax findings.

**References.**DeCoster Group, Environmental and Societal Benefits of Certain Federal Taxation Policies Affecting Private Timberland Owners, October 12, 1993.

Dubroff, Harold and Geske, Alvin, A Report to the Northern Forest Lands Council on Federal Taxation Issues Affecting Private Timberland Owners, November 15, 1993.

Howard, Theodore, Federal Taxation and the Northern Forest Lands: A Discussion Paper Prepared for the Northern Forest Lands Council, May 20, 1992.

Northern Forest Lands Council, Summary of Public Comment on the Draft Recommendations, August 1994.



## **Sustainable Forest Management**

Since the Council's inception, people have expressed great concern over current management of the forest. Management for a wide range of benefits is central to the region's economic and environmental health and way of life. The forests have long been the primary economic foundation of the Northern Forest communities, and the continuation of the region's traditions depends on the continued vitality of forest management and the associated forest related industries.

The Council recognizes that many private landowners have been excellent stewards of the land, often for generations. These owners have worked diligently to maintain healthy and diverse forests that provide a multitude of economic and ecological benefits, despite public policies and economic forces that have discouraged the long-term stewardship of forest land. However, we are concerned that some landowners and woods operators are employing forest practices that may compromise the continuous production of the wide array of economic and ecological benefits that the region's forests traditionally have provided.

The Council recognizes that the forests of the region are prolific, renewable resources. When managed well, they not only sustain the region's traditional economy and way of life, but enhance them. This legacy of stewardship makes the Northern Forest so desirable today. We are heartened by indications that some in the forest industry have increased their commitment to address public values through better stewardship of their forest lands, and we encourage this trend. States should unequivocally support policies and educational efforts that improve forest management for a wide range of economic and ecological values.

In this light, the New England Society of American Foresters should be recognized for adopting the Society's Task Force Report on Sustaining Long-Term Forest Health and Productivity. This report is an example of fundamental information that can be used to continue this discussion.

### **Sustainability**

Sustainable management of the Northern Forest is central to the continuation of the region's way of life. Forest management can maintain water quality, preserve soil productivity, increase tree growth, provide habitat for a range of native species, and offer recreational opportunities.

**The public must recognize the rights of private landowners to manage and utilize their lands for the production of forest resources as long as their management protects values like water quality, critical plant and wildlife habitat, and soil productivity. In turn, public and private forest managers must address public desires for the perpetuation of a full range of economic and ecological values by planning and implementing management that will produce a continuous and sustainable yield of forest resources (timber and non-timber) into the long-term future. Key elements of such management include the following Principles of Sustainability which address values to be protected across the forest landscape.**

“The forest products industry, including large and small landowners, manufacturing companies, businesses, and others dependent on the forest resource, can continue to be compatible with maintaining the diversity of the region’s biological resources on managed lands, especially when resource managers are successful in finding systems that integrate biological diversity conservation along with other factors such as timber, recreation and wildlife.”

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#### Principles of Sustainability

- Maintenance of soil productivity.
- Conservation of water quality, wetlands, and riparian zones.
- Maintenance or creation of a healthy balance of forest age classes.
- Continuous flow of timber, pulpwood, and other forest products.
- Improvement of the overall quality of the timber resource as a foundation for more value-added opportunities.
- Addressing scenic quality by limiting adverse aesthetic impacts of forest harvesting, particularly in high elevation areas and vistas.
- Conservation and enhancement of habitats that support a full range of native flora and fauna.
- Protection of unique or fragile natural areas.
- Continuation of opportunities for traditional recreation.

**The Council recognizes and shares public concerns over high-grading (taking the most valuable trees and leaving an inferior forest stand behind) and over-reliance on clearcutting in the Northern Forest. On some parcels, clearcutting has been used not as a forest management practice but as a quick way to liquidate timber. However, silvicultural clearcutting and other intensive forest management methods (such as plantations) are legitimate forest management practices, provided they are consistent with the Principles of Sustainability. States should assess present forest practices and programs, and ensure their ability to achieve the Principles of Sustainability.**

**Many have urged us to recommend additional regulations as a simple remedy for unsound forest practices. Yet, experience around the country demonstrates that while regulation is important and can protect specific resources (such as water bodies) from harmful forest practices, true sustainable forestry results from landowners, foresters, and woods operators making thoughtful and knowledgeable decisions that are also economically viable. Consequently, we recognize and urge that to protect**

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**the full range of forest values there needs to be an array of actions, including appropriate education, incentives, public-private partnerships, voluntary landowner-led initiatives, and regulation.**

### **Education about Sound Forest Management**

**Recommendation 10, to educate forest users and the public about sound forest management. States should strengthen and expand current programs to inform loggers, foresters, landowners, and the general public about sound forest management practices, and the Principles of Sustainability. These programs should include continuing education for foresters and loggers. Examples include the following:**

- (a) State-based logger membership associations should initiate or expand certified professional logger programs to better inform loggers about sound forest management practices, biological resources conservation, and existing laws; and to increase the number of certified loggers.**
- (b) State forester licensing bodies (where they exist) and professional forestry groups should require education about forest management techniques that are compatible with maintenance of biological diversity and ecosystem management (as defined on page 85).**
- (c) States and private groups should initiate landowner training in sound forest management techniques and awareness of licensing and certification programs.**
- (d) State and private groups should initiate public education programs about sound forest management to increase awareness of the benefits of forestry and the implications of management on the resource.**
- (e) Agencies should provide advice and technical assistance to landowners and land managers regarding compliance with regulations to insure that forest operations are designed to protect the resource.**

“Information on forest management techniques to maintain biological diversity is difficult for landowners and land managers to obtain. Furthermore, there is no mechanism for several landowners to integrate and coordinate their management decisions on the landscape scale.”

Biological Resources  
Subcommittee Finding  
#12, page A-25.

### **Forest Practice Regulations and Programs**

**Recommendation 11, to assess forest practices and programs. States should conduct, by June 1996, and periodically thereafter, scientifically-based assessments of the impact of existing forest**

practices, programs, and regulations, to evaluate their adequacy in achieving the Principles of Sustainability listed above. If changes are necessary to address inadequacies in protection and programs, the states need to act to improve forest practices statutes, and properly fund and support forest management programs, regulations, and enforcement.

Agencies responsible for enforcement of existing forest practices acts, water quality protection, and other associated regulations must have full funding and be staffed adequately.

### Cooperation to Achieve Sustainability

**Recommendation 12, to achieve Principles of Sustainability.** State forest roundtables (described on page 93), or something of a similar nature, should implement action to achieve the Principles of Sustainability. They should create a process to define credible benchmarks of sustainability for a variety of forest types to achieve the Principles of Sustainability. These benchmarks, in the form of practical, on-the-ground techniques, should be defined by June 1996. Forest managers, both public and private, should then compare their own management to such benchmarks and be willing to commit to producing a sustainable flow of wood and other amenities from their lands. Public agencies and private organizations should also collaborate with the roundtables to publicize the benchmarks, explain their application, distribute them to forest landowners, and work to educate the public that timber harvesting is a responsible forest use as long as the forests' long-term ability to continue producing timber and other benefits is maintained. (State forest roundtables are described in detail in the Post Council Action section.)

This recommendation does not preclude actions today by individual landowners. In fact, we encourage landowners to be pro-active in developing such standards for their own management.

For related recommendations, see recommendations 3 (Stewardship Incentive Program), 5 (Current Use Tax Programs), 20 (Water Quality), 21 (Biological Diversity), 33 (State University Cooperation), and 37 (Natural Resource Education for the Public).

**Responsible agency:** State conservation agencies and the state forest roundtables should begin immediately to implement these recommendations.

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**Related findings in the Appendix** Biological resources 10, 11, 12; and local forest-based economy 15.

**References:** Ash Cove Consulting, *Maintaining Biological Diversity on Private Forest Lands: Voluntary Techniques*, August 24, 1993.

Brocke, Rainer, *Recommendations to the Northern Forest Lands Council with Comments on a Briefing Paper*, June 23, 1993.

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