



# Natural Resource Reports

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## Minnesota's Sustainable Forest Incentive Act: A Landowner's Guide

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Property taxes...they have been a hot topic among Minnesota forest landowners for years. For many, property taxes are one of the most significant annual costs associated with owning and managing forest land. Over the years, Minnesota's property tax laws such as the Tree Growth and Auxiliary Forest Tax Laws were established to help take the "tax bite" out of forest management by providing forest landowners lower tax rates and property tax payments that coincided with income being generated from the forest. While effective in their day, these laws eventually fell out of favor with many forest landowners and property tax administrators because of their minimal incentives to encourage forest management and investment, inability to provide meaningful tax relief, and negative impacts on the local property tax base.

Minnesota now has a new law called the Sustainable Forest Incentive Act (SFIA) that can substantially reduce the burden of property taxes on managed forest land. This publication will help forest landowners evaluate whether the SFIA is right for them. While it describes many of the act's features and tax benefits, it does not include every aspect of the law. To get more detailed information on the SFIA, contact the Minnesota Department of Revenue (DOR), Minnesota Department of Natural Resources (DNR), or visit the SFIA

Frequently-Asked Questions Website. Information on how to contact these organizations or the FAQ website can be found at the end of this publication.

### **The Sustainable Forest Incentive Act: An Overview**

Minnesota has more than six million acres of private forest land. Greater than five million forest land acres are owned by individuals and families. The estimated 140,000 forest landowners who own and manage this land do so for a variety of reasons. Many are farmers who own woodlots as part of their farm. Others have forest land located on the property where they reside. For many, forest land is used for outdoor recreation such as hunting, cross-country skiing, or just a place to get away on weekends. And a growing number of these landowners manage forest land with the expectation of generating income from timber harvesting.

Recognizing the important economic role forests play in supporting local and state economies, as well as their ecological benefits, the 2001 Legislature created the SFIA. The SFIA provides property tax relief to private forest landowners who are serious about making a long-term commitment to good stewardship and management of their forest land.

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The SFIA differs substantially from other forms of property tax relief in a number of ways. Take, for instance, the way tax relief is provided. Instead of seeing a credit on the property's tax bill, a landowner enrolled in the SFIA will annually receive a check (called an incentive payment) from the DOR based on the number of acres enrolled in the program. No adjustments will appear on the forest land's property tax bill. In fact, the property tax bill will not even indicate the land is enrolled in the SFIA program. That is because of another unique feature regarding how the law is administered. Unlike nearly all property tax laws which are administered by local governments, the SFIA is administered entirely by the DOR. Local assessors will still assess forest land enrolled in the SFIA for tax purposes based on its highest and best use. Similarly, the local auditors will still calculate and assess property taxes owned on all SFIA forest land. However, assessors and auditors will not be involved in administering the SFIA.

### **Eligibility Requirements**

Landowners can begin applying for enrollment in the SFIA in July 2002. To enroll forest land in the SFIA program, six eligibility requirements must be met. These are:

1. *Contain at Least 20 Contiguous Acres.* A landowner may apply to enroll all or part of a land parcel, provided the enrolled property is at least 20 contiguous acres in size and at least 50 percent of the land is defined as "forest land." Contiguous simply means that the forest land is in blocks no smaller than 20 acres. Land separated by a road, waterway, railroad track, or other similar intervening property (e.g., power line) is considered contiguous. At least half of the contiguous acreage must be forest land, which is defined in the act as "at least ten percent stocked by trees of any size and capable of producing timber, or of exerting an influence on the climate or on the water regime; land from which the trees described above have been removed to less than ten percent stocking and which has not been developed for other use; and afforested areas." Open water less than three acres can be included as part of the forest land enrolled in the SFIA, but larger water areas cannot. Marshes and other wetlands not capable of growing trees can be included, provided these areas contribute to the ecological function and value of the surrounding forest land that is enrolled in the SFIA.

Forest land not eligible for the SFIA includes land used for residential or agricultural purposes and land enrolled in federal or state conservation reserve or easement reserve (e.g., CRP or RIM easements), Green Acres, or Agricultural Preserves programs. Additionally, land that has been improved with a structure, pavement, sewer, campsite, or any road (other than a township road or road used for purposes as prescribed in a forest management plan) is not eligible for the SFIA, unless the improvements are exclusively used for forest management purposes. So, for example, a 40-acre tract of forest land that has 4 acres in roads, a general purpose outbuilding, and a campsite would only have 36 eligible acres.

2. *Obtain and Follow a Forest Management Plan.* All land enrolled in the SFIA must have a forest management plan and be managed according to the provisions and recommendations specified in the plan. At a minimum, the forest management plan has to contain: (1) owner-specific forest management goals for the property; (2) a reliable field inventory of the individual forest cover types, their age, and density; (3) a description of the soil type and quality; (4) an aerial photo and/or map of the vegetation and other natural features of the property clearly indicating the boundaries of the property and of the forest land; (5) a description of the landowner's proposed future vegetative condition for the property; (6) prescriptions to meet proposed future conditions of the property; (7) a recommended timetable for implementing the prescribed activities; and (8) a legal description of the parcels encompassing the parcels included in the plan.

Only forest management plans that have been prepared or updated within the past ten years by someone designated by the DNR as an "approved plan writer" qualify for the SFIA. That does not mean only DNR employees are approved plan writers. Approved plan writers include natural resource professionals who may be self-employed or employed by private companies or individuals, nonprofit organizations, local units of government, or public agencies. Each year, the DNR will develop a list of individuals who are approved plan writers for the purposes of the SFIA. Contact the DNR to obtain a list of SFIA approved plan writers (see page 6 for contact information).

3. *Use Timber Harvesting and Forest Management Guidelines.* In 1998, the Minnesota Forest Resources Council issued guidelines for conducting timber harvesting and forest management practices. These guidelines are valuable decision-making tools for landowners, resource managers and loggers who share an ongoing responsibility to make balanced, informed decisions about forest use, forest management and forest sustainability. The guidelines provide a range of recommended practices, depending on the landowner's objectives and site conditions. All activities that are prescribed in the forest management plan for property enrolled in the SFIA must be carried out in a manner consistent with the guidelines. The guidelines can be obtained free of charge from the DNR or the Minnesota Forest Resources Council.
4. *Enroll for at Least Eight Years.* There is no limit on the maximum number of years property can be in the SFIA, but land must be enrolled for a minimum of eight years. After eight years, a landowner can withdraw land from the SFIA program.
5. *No Delinquent Property Taxes.* Only forest land with no delinquent property taxes is eligible to be enrolled in the SFIA. If property taxes become delinquent while enrolled, the land will be terminated from the SFIA and the owner will be subject to termination penalties (see page 4).
6. *Large Enrollments Must Allow Nonmotorized Public Access.* If the applicant enrolls more than 1,920 acres (equal to three sections), all enrolled lands must be open year-round to the public for nonmotorized access to fish and wildlife resources. However, land located within a quarter mile of a permanent dwelling is not open to public nonmotorized access. Additionally, the land can be closed to public access when the DNR determines the fire hazard is high. Note that nonmotorized public access is required whenever a landowner's total enrollment exceeds 1,920 acres, not just when a given parcel is larger than 1,920 acres. The SFIA states that by allowing public access, the landowner does not extend any assurance that the land is safe for any purpose, confer upon the visitor the legal status of an invitee or licensee to whom a duty of care is owed, or assume responsibility or incur liability for any injury to the visitor or property caused by an act or omission of the visitor.

### **Financial Benefits of Enrolling**

The owner of SFIA-enrolled land will receive an "incentive" payment from the DOR by October 1 each year the land is enrolled. The total annual payment a landowner receives is based on the number of acres enrolled. For example, if the incentive payment is \$1.50 per acre, a landowner enrolling 100 acres will be sent a \$150 incentive payment that year. The per acre incentive payment is the same regardless of where the enrolled forest land is in Minnesota. So in a given year, forest land enrolled in St. Louis County will receive the same per acre payment as forest land enrolled in Fillmore County.

Each year, the DOR calculates the incentive payment three ways. The method that produces the highest per acre payment is the one used that year. The three methods the DOR will use in determining the incentive payment are:

**Method 1**  
*Property Tax Based on Market Versus Current Use Value.* The incentive payment equals the difference between the statewide average property tax per acre for land classified as 2b Timberland (the most commonly-used property tax classification for forest land) and a hypothetical statewide average property tax per acre that would have been levied if forest land were valued solely on its ability to generate income from growing trees, also known as its "current use value" (the SFIA specifies how the DOR determines a statewide current use value for forest land).

**Method 2**  
*Two-thirds of Average Forest Property Tax.* The incentive payment is two-thirds of last year's statewide average property tax per acre levied on land classified 2b Timberland.

**Method 3**  
 The incentive payment is \$ 1.50 per acre. Note: This will be the minimum per acre payment.

#### *Example*

Let's assume the following:

Statewide average net tax per acre on 2b Timberland = \$2.00

Stateside average net tax per acre for forest land based on its current use value = \$ 1.40

<u>Method 1</u>	<u>Method 2</u>	<u>Method 3</u>
\$ 2.00	\$ 2.00	
<u>- 1.40</u>	<u>x .67</u>	
\$ .60	\$ 1.34	<b>\$ 1.50</b>

Because Method 3 produced the highest incentive payment, the DOR would make a \$ 1.50 per acre incentive payment on all lands enrolled in the SFIA that year.

### **The Application Process—Before You Apply**

Before applying for enrollment in the SFIA, a landowner must have completed two things. First, the landowner must have a forest management plan prepared on all lands to be enrolled. Remember, the plan has to be prepared by someone who is recognized by the DNR as an approved plan writer. Second, the landowner must record a covenant against all property being considered for enrollment. This covenant will state that the land is not and will not be developed in a manner inconsistent with the requirements of the SFIA for a minimum of eight years or anytime while enrolled. The covenant is binding on the land, not the landowner. If the land is sold while enrolled in the SFIA, the new landowner is still subject to the covenant's restrictions. If the land is not accepted for enrollment in the SFIA, the DOR will provide the landowner a recordable document releasing the land from the covenant. Recording the covenant is done in the recorder's office of the county where the property is located.

### **Filing an Application**

A landowner must apply to put land under the SFIA—enrollment is not automatic. An applicant can be an individual, corporation, or partnership. Both Minnesota residents and nonresidents who own qualifying forest land in Minnesota can apply. Only one claimant is entitled to a payment for any tract, parcel, or piece of land. When enrolled land is owned by two or more persons, the owners must determine which person will claim the payment. SFIA application forms are available from most DNR offices, the DOR, and many forest management consultants. The application process is fairly simple. A landowner can submit a single application to enroll multiple parcels. Completed and signed applications need to be returned to the DOR by September 30 to be considered for enrollment in the SFIA at the beginning of the following year. Remember, an application will not be accepted unless a forest management plan has been prepared and a covenant recorded against the property described in the deed.

### **After You Apply**

Once the application is received by the DOR, it has 90 days to notify the applicant if the land has been approved for enrollment in the SFIA. If the application is accepted, the land becomes effective the day the DOR approves the application. If an application for enrollment is denied, the landowner can appeal the DOR's decision.

### **Annual Certification**

A landowner who has successfully enrolled forest land in the SFIA will receive a certification form from the DOR *each year* the land is enrolled. The certification form states the landowner attests that the requirements and conditions for continued enrollment in the SFIA are being met. The certification form must be signed by the applicant and returned to the DOR by August 15 in order to receive that year's incentive payment. Failure to sign and return the certification form by the August 15 due date will result in all lands being removed from the SFIA and the landowner liable for termination penalties. Since SFIA enrollment does not begin until the start of the new year after the application has been approved, a landowner will receive the first certification form the year following application. For example, a landowner who applies by September 30, 2002, will sign and return the certification form by August 15, 2003, and receive the first incentive payment in September 2003.

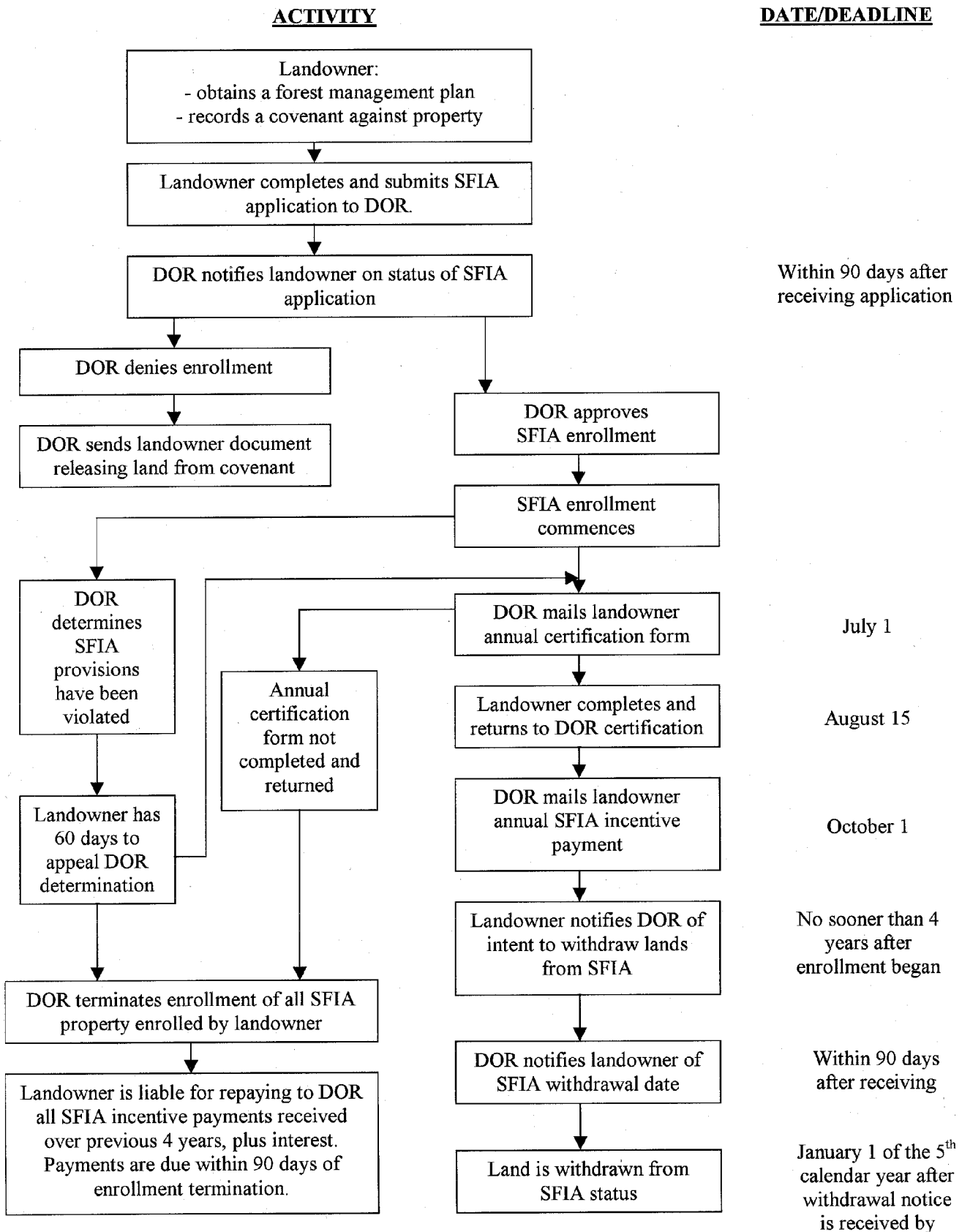
### **Withdrawal Procedures**

The minimum period of enrollment in the SFIA is eight years. Lands have to be enrolled in the SFIA at least four years before the landowner can indicate the intent to withdraw from enrollment. A landowner who wants to take land out of the SFIA must notify the DOR of this intent four years before withdrawal takes place. Once a landowner files a notice with the DOR to withdraw land from the SFIA, the land is removed from the program at the beginning of the year following expiration of the four-year waiting period. Once withdrawn, the land is no longer eligible for SFIA incentive payments, and the landowner must wait three years before applying to re-enroll any of the properties removed.

### **Involuntary Termination**

If the DOR determines that forest land violates the conditions of enrollment, it can remove the forest land from the SFIA program. Reasons for removing land from SFIA status include not having or following the forest management plan, not using timber harvesting/forest management guidelines when conducting land management activities, having delinquent property taxes

## SFIA Process Diagram



on any lands enrolled, not allowing nonmotorized public access if required to do so, allowing land uses inconsistent with the act, and not completing and returning the annual certification form attesting to the DOR that the requirements and conditions for enrollment are being met. If enrollment is terminated, the landowner must pay back to the state all SFIA incentive payments received over the past four years on all properties enrolled, plus interest. It is important to note that in the case of involuntary termination, ALL of the landowner's property will be removed from the SFIA, not just the land found to be in violation. Landowners do have the right to appeal to the tax court the DOR's decision to remove the property from SFIA status.

### **Conversion of Tree Growth and Auxiliary Forest Lands**

Effective January 2002, all forest land enrolled in the Tree Growth Tax Law was converted to taxation under the state's normal (ad valorem) property tax system. This means that 2002 will be the last year landowners will pay property taxes based on Tree Growth tax rates. Beginning in 2003, Tree Growth forest landowners will pay ad valorem-based property taxes. Owners of Tree Growth properties can enroll in the SFIA. However, enrollment is not automatic. Landowners must apply for enrollment and meet all the conditions and requirements of the law in order to be accepted in the program.

When an Auxiliary Forest contract expires, the land automatically qualifies for enrollment in the SFIA. Once enrolled, the landowner must meet all SFIA requirements and conditions in order to keep the land enrolled in the SFIA. An owner of forest land with an unexpired Auxiliary Forest contract can apply for enrollment in the SFIA. If accepted, the Auxiliary Forest contract will be canceled and enrollment in the SFIA will begin, provided the landowner pays a conversion fee to the county where the Auxiliary Forest is located. This fee is equal to the difference in taxes that would have been paid if the land had been enrolled in the Tree Growth Tax Law and the SFIA during the life of the Auxiliary Forest contract, less any taxes already paid while in the Auxiliary Forest contract.

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### **Additional Contact Information**

Sustainable Forest Resources Act Frequently-Asked Questions Website:

<http://www.cnr.umn.edu/cfc/nryb/nrr/> or  
<http://www.cnr.umn.edu/FR/>

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