

Minnesota's Sustainable Forestry Incentive Act

Frequently Asked Questions Revised February 2011

For more information contact Mike Reichenbach, University of Minnesota Extension Service

1) What is the Sustainable Forestry Incentive Act? (SFIA)

This law, enacted in 2002 creates an incentive for landowners to practice sustainable forest management. In addition, the SFIA repeals the Tree Growth Tax provisions.

2) What is "sustainable forest management?"

Sustainable forest management is method of management such that the resources and values of the property (ecological, social, and economic) will be maintained on a perpetual basis.

3) Who can apply for the SFIA?

Anyone who owns 20 or more contiguous acres, 50 percent of which are forested, may apply. Roadways, water, power lines, etc. may bisect contiguous parcels, as long as they are otherwise adjoining. This includes private individuals, corporations, partnerships, and non-Minnesota residents. However, there can only be one claimant per parcel of land. If land is owned by more than one individual or group, the group needs to decide who will receive the payment.

4) If I have more than one parcel of land, do I need more than one application?

No. Each claimant needs to file a 'covenant' with the county recorder. The covenant includes all parcels that will be enrolled in the SFIA and states the land will not be developed in violation of the provisions of the SFIA. A covenant may include more than one parcel whether or not the parcels are contiguous. However, the covenant only covers land in the county in which the covenant was filed. A covenant must be filed in every county the claimant owns property that is to be included in the SFIA.

5) Are there any other requirements to join the SFIA?

Yes. There cannot be any delinquent property taxes prior to enrolling in the program, and property taxes must remain current while enrolled in the SFIA. The landowner must also agree to use the forest management guidelines created by the Minnesota Forest Resources Council. The land must be enrolled in the sustainable forest management program for a minimum of eight years, and have an active forest management plan less than 10 years old, prepared by an approved plan writer.

6) How do I know if my management plan was prepared by an approved plan writer?

The Department of Natural Resources will have up-to-date lists of approved plan providers. Plan providers may include natural resource professionals who are: self-employed, or who work for private companies, non-profit groups, local units of government, or public agencies.

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7) What items must be included in a plan?

The plan must consist of the landowner's goals for the property, a legal description, an inventory of the forest cover types, a map of the vegetation and boundaries, the proposed future conditions, an activity timetable, and other information pertinent to the management of the forest. For ownerships larger than 1,920 acres (three sections) more than one document may be used in place of a single plan. The Department of Natural Resources will work with the claimant to determine what is acceptable.

8) Do I have to follow the plan to be eligible for a payment?

Yes. Each plan will include a calendar of management activities. To remain eligible for reimbursement, the timetable must be followed.

9) Are there any limitations on acreage?

There is no maximum, but any ownerships greater than 1,920 acres must allow non-motorized access to fish, hunt or otherwise use the wildlife resources on the property, except within one quarter mile of a permanent dwelling or during periods of high fire danger. (High fire danger will be determined by the DNR.) Owners are not liable for injuries sustained by individuals that access the land.

10) Can my home be included in the plan?

No. Land that is not eligible in the SFIA includes: residential or agricultural lands, class 2c managed forest land property, and lands enrolled in Reinvest in Minnesota or a federal conservation easement program, (including the Conservation Reserve Program or CRP). A minimum of three acres but be excluded from enrollment for land improvements such as pavement, sewer, campsites, roads, buildings, cabins or other improvements that are not required for forest management activities.

11) What constitutes a campsite?

A campsite is defined as an area that is used either for commercial or private use on a regular basis and because of its existence, the management prescriptions for the surrounding area has changed to recreation.

12) What constitutes agricultural land?

Agricultural land is land used for agricultural purposes, including pasture, hayfields, and cropland.

13) If I have a campsite or agricultural lands, can they be excluded from the SFIA?

Yes. Any portion of a parcel of land that has improvements that are not necessary for sustainable forest management must be excluded. The minimum exclusion is three acres. After making exclusions there must be at least 20 contiguous acres to enroll.

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14) What development may be included under the SFIA?

An example would be a shed or building that only houses equipment used during management activities. If the building also is used as a temporary or permanent dwelling, or is used for storage of items not regularly used for management purposes, the land must be excluded.

15) What if I have non-forested land that is not used for agriculture?

Open water, less than three acres in size, can be included as part of the forested land. Larger areas must be excluded. Marshes and other wetlands not capable of growing trees, but due to its existence has a significant impact on forested land, is eligible for the SFIA. This also includes land that may have been an agricultural field in the past, but has recently been planted for reforestation or Christmas trees.

16) I have a forest management plan prepared by an approved plan preparer and meet the acreage requirements, how do I sign up?

Anyone wishing to enroll in the SFIA must first file a covenant for the land with the local county recorder's office. Once the covenant has been filed, the claimant can then make application. Applications are due annually on September 30. Applications are available at <http://www.taxes.state.mn.us/proptax/forms/programs.html> The application will require the plan preparer's signature and identification number, parcel identification number (PID), number of eligible acres, and proof of a covenant. Landowners are notified within 90 days whether the land is approved for the SFIA.

17) Once I sign up, when will I be paid and how much will the payment be?

Payments will be made annually on or before October 1. The landowner must submit a properly completed annual certification by August 15 to remain in the program. The certification form will be sent to all participants by July 1 of each year. The payment per acre will be the same for all participants. The Department of Revenue will annually calculate the statewide rate based on three formulas. The formula that yields the largest payment will be used.

18) What happens if I move or forget to return the certification form?

Failure to return the form by the deadline results in no incentive payment for that year.

19) What if I sell property that is enrolled in the SFIA program?

If a parcel is sold or exchanged, the covenant remains with the land. The new owner must make application to receive incentive payments.

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20) If, after I sign up for the SFIA, I decide I don't like the program, can I back out?

The land must stay in the program for a minimum of eight years. Application can be made to have a parcel removed from the program after it has been in the program for four years. An additional four year period must pass before removal from the program. On January 1 of the fifth year after the termination request is made, the land will be removed. At the end of this eight-year period, and after receiving authority to release the covenant from the Department of Revenue, the owner may request termination of the covenant from the county. Once a parcel is terminated the landowner must wait three years before reapplying for the SFIA.

21) My land is currently under the Tree Growth Tax Law, is there a penalty for leaving this program?

No. The Tree Growth Tax Law and its provisions were repealed on December 31, 2001.

22) What may cause my land to be removed from this program?

If property taxes are delinquent, or if the landowner fails to follow the provisions of the SFIA, enrollment in the program will be terminated. The landowner will be liable for repayment of all the SFIA payments from the previous four years, plus interest. If the payments are not repaid, they will be added to the next year's ad valorem tax on the property. If the property is sold and the new owner fails to follow the plan, the new owner is liable for penalties. The covenant will still remain on the land.

23) I don't want my land under the SFIA. How do I find out if land I want to purchase is under this agreement?

If a new owner is not informed of the SFIA agreement the covenant will be discovered during a title search.

24) My property is under the Auxiliary Forest Tax Law. Can I opt out of my contract?

A landowner can opt out of the contract if they apply for the SFIA and pay the county treasurer (where the property is located), the difference between the amount of any taxes and assessments that would have been paid had the land been subject to Tree Growth and the taxes payable under the SFIA, dating back to the beginning of the Auxiliary Forest Law contract.

25) My Auxiliary Forest Tax Law contract is about to expire. Do I need to do anything?

Yes. If you are interested in joining the SFIA program you must apply.

26) I plan to purchase some government land. Can I join the SFIA program?

Yes, provided the land meets the requirements of the SFIA program.

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27) Will anyone come out on my land to verify I am complying with the SFIA?

In general, this program uses the honor system and self-certification. By July 1 of each year, all the SFIA participants will receive the certification form and it is the landowners' responsibility to verify compliance. If someone is not complying with the requirements and it is brought to the attention of the Department of Revenue, the agency will take appropriate action.

28) If the State cancels the program what happens to the covenant? If the State changes the rules will there be a way out of the covenant with no penalty?

The Department of Revenue would release landowners from the covenant and would make accommodations for land under a covenant just as was done for land in Tree Growth when it was repealed.

29) When I sign the certification do I lock in for an additional 8 years?

No. When you first enroll in the program you agree to wait 4 years before making application for removal from the program. Then there is a 4-year waiting period before you are removed from the program.

30) Is public access required if I own more than 1920 acres and it is not contiguous?

Yes. Non-motorized public access is required whenever a landowner's total enrollment exceeds 1,920 acres.

31) If I lease land for hunting does it affect my eligibility?

No. Provided the hunting lease does not interfere with the long-term commitment to good stewardship and management of the forest-land.

32) How often should the management plan be updated?

The law does not specify how often the plans should be updated. The law does specify that DNR will provide a framework for plan content and for updating and revising plans. The original plan must have been developed within ten years prior to the original application.

33) If I enroll in the plan and sell the property and then the new property owner violates the covenant, who pays the penalties? (Penalties are the return of incentive payments paid to the land owner over the past 4 years plus interest.)

According to law, all property under that covenant would be subject to a penalty. This means the new owner and former owner, if they still own other land under that covenant, may be subject to a penalty or removal from the program. Covenant violations will be investigated on a case by case basis.

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34) Clarify how a landowner will define areas of the property not included in the program. Does it have to be by survey, map, legal description or a combination of these? Will it vary by county?

The map/aerial photo of the land that is included in the management plan must clearly show the boundaries of the property and of the forestland. That map should also indicate which land is to be enrolled in the program and which is not. The plan must also provide a legal description and parcel identification numbers (PIDs) for all the parcels containing land in the program.

35) How much does it cost to get a management plan?

Landowners should expect to pay for a stewardship plan and to update existing plans.

The Department of Natural Resources and Forest Stewardship Plan partners will charge a minimum fee of \$230 for a 20 acre plan and a maximum of \$1,000 for plans over 260 acres and less than 1000 acres. The DNR will not write plans for more than 1,000 acres. Soil and Water Conservation Districts, industry, and consulting foresters working independently (not as a Forest Stewardship Plan partner with the DNR) can write plans for a fee (a cash plan) that is negotiated with the landowner. Expect to pay a \$50 DNR registration fee if you negotiate directly with consulting, SWCD, or industry foresters for a cash plan. Be sure to select an approved stewardship plan preparer. Only approved plan preparers can write stewardship plans that meet the standards that allow landowners to access federal and state cost share dollars and property tax programs. For a list of approved plan preparers <http://sfec.cfans.umn.edu/index.html> or <http://www.dnr.state.mn.us/grants/forestmgmt/stewardship.html>.

36) Is land that is held in a trust eligible?

Yes. Applicants can be individuals, partnerships or corporations. When enrolled land is owned by two or more persons, the owners must determine which person will claim the payment.

37) What type of building could be included in lands that are enrolled in the program? For example, can a building that is used to store equipment used for sawing timber and the boards sawn be included in the area eligible?

No. Improvements that are on the land must be excluded unless the improvements are used exclusively for the purposes of forest management. These purposes should be described in the forest management plan. An example would be a shed or building that only houses equipment used during management activities. If the building also is used as a temporary or permanent dwelling, or is used for storage of items not regularly used for management purposes, the land must be excluded.

38) Is a deer stand a structure?

No.

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39) Why the requirement to remain enrolled for 8 years?

The purpose of the program is to encourage landowners to make a long-term commitment to good stewardship and management of their forestland.

40) If I receive a cost share payment for tree planting or timber stand improvement am I still eligible for this program?

Yes, however, if your land is enrolled in a Federal or state conservation reserve or easement reserve program it is not eligible for enrollment in the SFIA program.

41) If I sell the property, does the new owner have to reapply?

The new owner will have to reapply so that the Department of Revenue has a contact that can sign the certification forms. The management plan will need to reflect the goals of the current landowner. The new landowner will be subject to the terms of the covenant.

42) If future regulations or local ordinances preclude forest management how will this affect the SFIA?

The SFIA is intended to encourage the sustainable management of forestland. Landowners that are affected by local regulations or ordinances may have to modify their management plan.

43) If a river bisects the property can the area occupied by the river be included in the acreage to be enrolled?

If the area occupied by the river is less than 3 acres it may be included. If it is greater than 3 acres it may not. Land separated by a road, waterway, railroad track or other similar intervening property is considered contiguous.

44) Is the name of the firm that employs the certified plan preparer sufficient for the application?

No. The plan preparer must sign the application form.

45) Can I enroll property that is mortgaged or has a contract for deed?

Yes. You may need approval from the mortgage or contract holder.

46) When is the calculation for payment made? When will the dollar figure for each year be announced?

The calculation for payment will be made in late summer of the year of the payment. This amount will be posted on the Department of Revenues website www.taxes.state.mn.us

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47) If I enroll in this program will this change my tax classification? An example of a tax classification would include class 2a agricultural homestead, or class 2b rural vacant land. There are many reasons your tax classification might change, however, enrollment in the SFIA is not one of them. The Department of Revenue works with County Assessors to create a uniform tax system. Enrollment in this program is not a reason for the property tax classification to change.

48) What are the differences between the Green Acres program and the SFIA program? To enroll in Green acres the land must be classified for property tax purposes as class 2a agricultural land and be primarily devoted to agricultural use or class 2b non-homestead agriculture land. The only areas where this program is available include those where development pressure is driving property values higher. Most typically this program is available near suburban areas. This program reduces the value on which taxes are calculated. It is administered on a county-by-county basis. The point of contact is the county assessor. SFIA is an incentive payment administered by the Department of Revenue.

49) Where can I get copies of the covenant?

Each County Recorder will have copies of the SFIA Covenant. As an alternative source of covenant forms, all County Assessors received copies of the covenant forms.

50) Can I get my old plan updated or do I need a new one?

The plan must be less than 10 years old.

51) Is the new owner liable for SFIA payments for non-compliance even if the property is sold contract for deed?

Once the property is sold and still under the covenant, the new owner must follow provisions of the covenant and would be liable for any penalties associated with noncompliance.

52) How much detail does my management plan need on the soil type?

Each soil type must be identified and described for the property. It may be one short paragraph stating the soil type and a brief description, or it may be several paragraphs if your property covers several soil classifications. The plan writer will know what is best for your property.

53) Does the land have to be tax classified as a certain type?

No. The SFIA is not affected by tax classification, but the land being enrolled cannot be used agriculturally.

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54) Do I have to update my plan when it becomes greater than 10 years old?

Yes. Every ten years you are in the SFIA program, your management plan must be updated. The level of updating will be determined by the amount of activity on your property. If you have done several management practices, then the forester may suggest a new plan; but if you have not done many practices and the forest has changed little, you may only need a brief update.

55) When updating your management plan, will a forester visit the property?

Yes. When the plan is updated every ten years, a forester will most likely visit the property in order to write an accurate update.

56) Do you have a list of approved plan writers?

The Minnesota Department of Natural Resources, Division of Forestry, will maintain the list of approved plan writers.

57) Do you get taxed on the payment you receive?

Yes. Because the payment is an “incentive payment”, it is considered taxable income.

58) How does the Dept. of Revenue check if your plan was done by an approved plan writer?

On the SFIA Application, the plan writer must sign the application. The writer must also give their “DNR ID Number”. This number will tell Department of Revenue that the plan writer is approved by the DNR.

59) Do I have to fence cattle out of my wooded pasture?

Yes. Pasture is considered agricultural use and must be excluded from SFIA. If you fence the cattle out of the woods, you can enroll those wooded acres. If you keep the cattle in the woods, it is considered pastureland and must be excluded from enrollment.

60) Can I keep my land in Ag tax status and enroll in SFIA?

No. Land enrolled in SFIA cannot be used agriculturally. However, the property may be part of an agricultural homestead and may be contiguous to land that is being farmed.

61) What if I want to change management but stay within the covenant, do I have to hire a plan writer to get my plan updated?

The level of updating will be determined by the degree of your new management practices. Your original plan writer will be able to make a recommendation. If you propose dramatic changes to your management techniques, then the forester may suggest a new plan; but if you propose only minor changes, you may only need a brief update.

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62) Are private land trusts lands eligible?

Yes.

63) Does a hunting shack count as a structure?

Yes. Three acres must be excluded from SFIA enrollment.

64) My land has many different tax rates on different parcels. Will I get a different SFIA pay rate on each parcel?

No. The per acre payment is the same for all tax classifications and all areas of Minnesota.

65) If I am involuntarily removed and pay back my 4 years of payments, how do I get a release from the SFIA covenant?

You must wait four years before getting a release from your covenant. To do so, you also MUST notify Department of Revenue that you want to get out. You must then wait four years before the covenant can be removed. In all cases you will remain under the restrictions of the covenant for at least 8 years even if you are removed from the program and no longer receive payments. The 8-year minimum is inescapable.

66) Is land that is exempt from property tax eligible?

No. Since the original intention of the legislation was to help offset the "burden" of property taxes, you cannot enroll land that is exempt from property taxes.

67) Does getting a forest management plan obligate you to enroll in the SFIA?

No.

68) If I enroll two parcels and in three years sell one parcel, what do I do?

The new owner would be responsible for complying with the SFIA on the sold parcel, and you would still be responsible for the parcel for which you maintained ownership. You should have your plan updated to reflect the change.

69) Are SFIA payments public information or is the privacy of the check recipients protected?

Participation in the program is considered public information with the exception of birthdates, Social Security Numbers and Tax Registration Numbers (also called Business Identification Numbers). The statewide payment amount per acre will be public. The number of acres a person or a business enrolls is considered public so it would be easy to determine the total check received by an enrollee. However we will not be placing enrollee information on our web site. If someone were to ask, we will supply public information per their request.

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70) If I have an approved plan writer for my existing plan, will that plan writer be acceptable?

Only if that plan writer for the existing plan is a “DNR Approved Plan Writer”.

71) If I am in the SFIA and I buy new acres, how do I enroll those new acres?

You must first make sure your forest management plan is updated to include those new acres, then you must file a covenant for the new parcel. Then you must submit a new application for the new acreage.

Comments from Landowners

What landowners don't like:

- Not knowing what the payment amount will be from year to year.
- The backlog of plans waiting to be prepared.
- The long-term nature of the program.
- The incentive payment is too low for smaller properties.
- The incentive payment is taxed.

What landowners like:

- Receiving an incentive payment that can be reinvested into forest management
- The long-term nature of the program.

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