

CHAPTER 90

TIMBER LANDS

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90.031 EXECUTIVE COUNCIL, POWERS.

[For text of subd 3, see M.S.1980]

Subd. 4. The executive council may formulate and establish, from time to time, rules it deems advisable for the transaction of timber business of the state, including approval of the sale of timber on any tract in a lot exceeding \$20,000 when the sale is in the best interests of the state, and may abrogate, modify, or suspend rules at its pleasure.

[For text of subd 5, see M.S.1980]

History: 1981 c 305 s 1

90.041 COMMISSIONER, POWERS AND DUTIES.

[For text of subds 1 to 3, see M.S.1980]

Subd. 4. In May of each year, the commissioner shall hold a public meeting in each forest area to inform the public of the manner in which the cutting list for that area for the next fiscal year is proposed to be allocated between informal, intermediate and regular auction sales. The public shall be afforded an opportunity to provide written and oral comments concerning the proposed allocation.

History: 1981 c 305 s 2

90.101 TIMBER SOLD AT PUBLIC AUCTION, MAXIMUM LOTS OF \$20,000.

Subdivision 1. The commissioner may sell the timber on any tract of state land in lots not exceeding \$20,000 in appraised value and may determine the number of sections or fractional sections of land to be covered by any one permit issued to the purchaser of timber on state lands, or in any one contract or other instrument relating thereto. No timber shall be sold, except to the highest bidder at public auction, and the minimum price shall be the appraised value as fixed by the report of the state appraiser. All sales shall be held in the county in which the tract is located and no sale shall be held in more than one location on any one day.

[For text of subd 2, see M.S.1980]

History: 1981 c 305 s 3

90.121 INTERMEDIATE AUCTION SALES; MAXIMUM LOTS OF \$7,000.

The commissioner may sell the timber on any tract of state land in lots not exceeding \$7,000 in appraised value, in the same manner as timber sold at public auction under section 90.101, and related laws, subject to the following special exceptions and limitations:

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(1) sales shall be at the forest office or other public facility most accessible to potential bidders or close to where the tract is located;

(2) the commissioner's list describing the tract, quantity of timber, and appraised price shall be compiled not less than 30 days before the date of sale and a copy of the list posted not less than 30 days before the date of the sale;

(3) notice of the sale shall be published once, not less than one week before the date of the sale;

(4) no bidder may be awarded more than 25 percent of the total tracts offered at the first round of bidding unless fewer than four tracts are offered, in which case not more than one tract shall be awarded to one bidder. Any tract not sold shall be available for a period of 90 days for purchase by persons eligible under this section at the appraised value;

(5) the bond or deposit required pursuant to section 90.161 or 90.173 shall be given or deposited before any cutting begins or not later than nine months after the date of sale, whichever is earlier;

(6) in lieu of the placing of the marks M I N on cut products as prescribed under section 90.151, subdivision 2, all landings of cut products shall be legibly marked with the name of the permit holder and the assigned permit number;

(7) no person may hold more than four permits issued under this section and no sale may be made to a person holding four permits which are still in effect or to a person having more than 20 employees;

(8) the permit may not exceed one year in duration;

(9) if the purchaser for good and sufficient reason is unable to cut the timber within the one year permit period, the commissioner may grant one extension for a period of up to one year from the date of expiration of the original permit without interest, and one additional extension of one year with interest;

(10) if all cut timber, equipment, and buildings, are not removed at the end of any 120 day extension period which the commissioner may grant for removal, the commissioner may grant a second period of time not to exceed 120 days for the removal of cut timber, equipment, and buildings upon receipt of a request by the permit holder for hardship reasons only.

The auction sale procedure set forth in this section constitutes an additional alternative timber sale procedure available to the commissioner and is not intended to replace other authority possessed by the commissioner to sell timber in lots of \$7,000 or less.

History: 1981 c 305 s 4

90.151 PERMITS TO CUT AND REMOVE TIMBER SOLD AT PUBLIC AUCTION.

[For text of subds 1 to 10, see M.S.1980]

Subd. 11. Except as authorized under section 90.191, any permit which fails to conform to the requirements of this section or, in the case of a permit issued under section 90.121, which fails to conform to the requirements of section 90.121, shall be void.

[For text of subd 12, see M.S.1980]

Subd. 13. The commissioner may grant extensions of timber permits and contracts for periods as the commissioner deems advisable, provided that (1) for permits issued on or after May 15, 1975 the total of the extensions shall not exceed

three years from the date of the expiration of the original permit, and (2) for permits issued prior to May 15, 1975 the total of the extensions and the original permit term shall not exceed ten years from date of issuance of the permit. All extensions granted pursuant to this subdivision shall be subject to all the provisions of this chapter. The commissioner shall include in each extension a condition that the purchaser shall pay to the state interest at the rate of eight percent of the unpaid purchase price for each year of extension or portion thereof to the date of the seasonal scale report of products cut as computed on the sale price of the timber cut, or if not cut, upon the official estimate thereof; however, the purchaser is not required to pay interest totaling \$1 or less.

History: 1981 c 305 s 5,6

90.161 SURETY BONDS FOR AUCTION TIMBER PERMITS.

Subdivision 1. Except as otherwise provided by law the purchaser of any state timber, before any timber permit to him shall become effective for any purpose, shall within 90 days from the date of purchase give a good and valid bond to the state of Minnesota equal to the value of all timber covered or to be covered by the permit, as shown by the sale price bid therefor and the appraisal report thereof as to quantity, less the amount of any payment pursuant to section 90.14, which bond shall be conditioned upon the faithful performance by the purchaser and his successors in interest of all the terms and conditions of the permit and all requirements of law in respect to such sales; and the bond shall be approved in writing by the commissioner and filed for record in his office.

[For text of subds 2 and 3, see M.S.1980]

History: 1981 c 305 s 7

90.173 PURCHASER'S OR ASSIGNEE'S CASH DEPOSIT IN LIEU OF BOND.

In lieu of filing the bond required by section 90.161 or 90.171, as security for the issuance or assignment of a timber permit the person required to file the bond may deposit with the state treasurer cash, a certified check, a cashier's check, a postal, bank, or express money order, assignable bonds or notes of the United States, or an assignment of a bank savings account or investment certificate or an irrevocable bank letter of credit, in the same amount as would be required for a bond. If securities listed in this section are deposited, the par value of the securities shall be not less than the amount required for the timber sale bond, and the person required to file the timber sale bond shall submit an agreement authorizing the commissioner to sell or otherwise take possession of the security in the event of default under the timber sale. All of the conditions of the timber sale bond shall equally apply to the deposit with the state treasurer. In the event of a default the state may take from the deposit the sum of money to which it is entitled; the remainder, if any, shall be returned to the person making the deposit and shall bear interest at the rate determined pursuant to section 549.09 if not returned within 30 days from the date of the default. Sums of money as may be required by the state treasurer to carry out the terms and provisions of this section are appropriated from the general fund to the state treasurer for these purposes. When cash is deposited for a bond, it shall be applied to the amount due when a statement is prepared and transmitted to the permit holder pursuant to section 90.181. Any balance due to the state shall be shown on the statement and shall be paid as provided in section 90.181. Any amount of the deposit in excess of the amount determined to be due pursuant to section 90.181 shall be returned to the

permit holder when a final statement is transmitted pursuant to that section. All or part of a cash bond may be withheld from application to an amount due on a non-final statement if it appears that the total amount due on the permit will exceed the bid price.

History: 1981 c 305 s 8

90.181 STATEMENT OF TIMBER CUT.

[For text of subd 1, see M.S.1980]

Subd. 2. **Deferred payments.** If the amount of the statement is not paid within 30 days of the date thereof, it shall bear interest at the rate determined pursuant to section 549.09, except that the purchaser shall not be required to pay interest that totals \$1 or less. If the amount is not paid within 60 days, the commissioner shall place the account in the hands of the attorney general who shall proceed to collect the same. When deemed in the best interests of the state, the commissioner shall take possession of the timber for which an amount is due wherever it may be found and sell the same informally or at public auction after giving reasonable notice. The proceeds of the sale shall be applied, first, to the payment of the expenses of seizure and sale; and, second, to the payment of the amount due for the timber, with interest; and the surplus, if any, shall belong to the state; and, in case a sufficient amount is not realized to pay these amounts in full, the balance shall be collected by the attorney general. Neither payment of the amount, nor the recovery of judgment therefor, nor satisfaction of the judgment, nor the seizure and sale of timber, shall release the sureties on any bond given pursuant to this chapter, or preclude the state from afterwards claiming that the timber was cut or removed contrary to law and recovering damages for the trespass thereby committed, or from prosecuting the offender criminally.

History: 1981 c 305 s 9

90.191 INFORMAL SALES OF STATE TIMBER.

Subdivision 1. The commissioner may sell the timber on any tract of state land in lots not exceeding \$3,000 in appraised value, without formalities but for not less than the full appraised value thereof, to any person. No sale shall be made under this section to any person holding two permits issued hereunder which are still in effect; except that (1) a partnership as defined in chapter 323, which may include spouses but which shall provide evidence that a partnership exists, may be holding two permits for each of not more than three partners who are actively engaged in the business of logging or who are the spouses of persons who are actively engaged in the business of logging with that partnership; and (2) a corporation, a majority of whose shares and voting power are owned by natural persons related to each other within the fourth degree of kindred according to the rules of the civil law or their spouses or estates, may be holding two permits for each of not more than three shareholders who are actively engaged in the business of logging or who are the spouses of persons who are actively engaged in the business of logging with that corporation.

[For text of subds 2 to 4, see M.S.1980]

History: 1981 c 305 s 10

90.195 SPECIAL USE PERMIT.

The commissioner may issue a permit to salvage or cut not to exceed 12 cords of fuelwood per year for personal use from either or both of the following sources:

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(1) Dead, down, and diseased trees; (2) other trees that are of negative value under good forest management practices. The permits may be issued for a period not to exceed one year. The commissioner shall charge a fee, not less than \$5, in an amount up to the stumpage current market value of fuelwood of similar species, grade, and volume that is being sold in the area where the salvage or cutting is authorized under the permit.

History: *1Sp1981 c 4 art 2 s 10*