

CHAPTER 90

TIMBER LANDS

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90.01 DEFINITIONS.

[For text of subs 1 to 9, see M.S.2002]

Subd. 10. **Forestry administrative area.** "Forestry administrative area" means the smallest geographic subdivision of the state designated by the commissioner for the purposes of supervising forestry employees and directing practices and programs.

History: 2003 c 73 s 1

90.101 TIMBER SOLD AT PUBLIC AUCTION, MAXIMUM LOTS OF 6,000 CORDS.

Subdivision 1. **Sale requirements.** The commissioner may sell the timber on any tract of state land in lots not exceeding 6,000 cords in volume and may determine the number of sections or fractional sections of land to be included in the permit area 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 (1) to the highest responsible bidder at public auction, or (2) if unsold at public auction the commissioner may offer the timber for private sale for a period of no more than six months after the public auction to any person who pays the appraised value for the timber. The minimum price shall be the appraised value as fixed by the report of the state appraiser. Sales may include tracts in more than one contiguous county or forestry administrative area and shall be held either in the county or forestry administrative area in which the tract is located or in an adjacent county or forestry administrative area that is nearest the tract offered for sale or that is most accessible to potential bidders. In adjoining counties or forestry administrative areas, sales may not be held less than two hours apart.

Subd. 2. **Sale list and notice.** At least 30 days before the date of sale, the commissioner shall compile a list containing a description of each tract of land upon which any timber to be offered is situated and a statement of the estimated quantity of timber and of the appraised price of each kind of timber thereon as shown by the report of the state appraiser. The commissioner may also list the estimated quantity of timber of doubtful market value and the appraised price of each kind of such timber within the permit area that may be cut at the discretion of the purchaser. Optional timber will not be considered a part of the sale contract until the permit holder has advised the commissioner in writing of an intent to cut such timber. No description shall be added after the list is posted and no timber shall be sold from land not described in the list. Copies of the list shall be furnished to all interested applicants. A copy of the list shall be conspicuously posted in the forest office or other public facility most accessible to potential bidders at least 30 days prior to the date of sale. The commissioner shall cause a notice to be published once not less than one week before the date of sale in a legal newspaper in the county or counties where the land is situated. The notice shall state the time and place of the sale and the location at which further information regarding the sale may be obtained. The commissioner may give other published or posted notice as the commissioner deems proper to reach prospective bidders.

History: 2003 c 73 s 2

90.121 INTERMEDIATE AUCTION SALES; MAXIMUM LOTS OF 3,000 CORDS.

(a) The commissioner may sell the timber on any tract of state land in lots not exceeding 3,000 cords in volume, 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:

(1) the commissioner shall offer all tracts authorized for sale by this section separately from the sale of tracts of state timber made pursuant to section 90.101;

(2) 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 at public auction may be offered for private sale as authorized by section 90.101, subdivision 1, to persons eligible under this section at the appraised value; and

(3) no sale may be made to a person having more than 20 employees.

(b) 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 3,000 cords or less.

History: 2003 c 73 s 3

90.14 AUCTION SALE PROCEDURE.

(a) All state timber shall be offered and sold by the same unit of measurement as it was appraised. The sale shall be made to the person who (1) bids the highest price for all the several kinds of timber as advertised, or (2) if unsold at public auction, to the person who purchases at any subsequent sale authorized under section 90.101, subdivision 1. The commissioner may refuse to approve any and all bids received and cancel a sale of state timber for good and sufficient reasons.

(b) The purchaser at any sale of timber shall, immediately upon the approval of the bid, or, if unsold at public auction, at the time of purchase at a subsequent sale under section 90.101, subdivision 1, pay to the commissioner 15 percent of the appraised value. In case any purchaser fails to make such payment, the purchaser shall be liable therefor to the state in a civil action, and the commissioner may reoffer the timber for sale as though no bid or sale under section 90.101, subdivision 1, therefor had been made.

(c) In lieu of the scaling of state timber required by this chapter, a purchaser of state timber may, at the time of payment by the purchaser to the commissioner of 15 percent of the appraised value, elect in writing on a form prescribed by the attorney general to purchase a permit based solely on the appraiser's estimate of the volume of timber described in the permit, provided that the commissioner has expressly designated the availability of such option for that tract on the list of tracts available for sale as required under section 90.101. A purchaser who elects in writing on a form prescribed by the attorney general to purchase a permit based solely on the appraiser's estimate of the volume of timber described on the permit does not have recourse to the provisions of section 90.281.

History: 2003 c 73 s 4

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

Subdivision 1. **Issuance; expiration.** (a) Following receipt of the down payment for state timber sold at public auction, the commissioner shall issue a numbered permit to the purchaser, in a form approved by the attorney general, by the terms of which the purchaser shall be authorized to enter upon the land, and to cut and remove the timber therein described as designated for cutting in the report of the state appraiser, according to the provisions of this chapter. The permit shall be correctly dated and executed by the commissioner and signed by the purchaser. If a permit is not signed by the purchaser within 60 days from the date of purchase, the permit cancels and the down payment for timber forfeits to the state.

(b) The permit shall expire no later than five years after the date of sale as the commissioner shall specify, and the timber shall be cut within the time specified therein. All cut timber, equipment, and buildings not removed from the land within 90 days after expiration of the permit shall become the property of the state.

(c) The commissioner may grant an additional period of time not to exceed 120 days for the removal of cut timber, equipment, and buildings upon receipt of such request by the permit holder for good and sufficient reasons. 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.

(d) No permit shall be issued to any person other than the purchaser in whose name the bid was made.

Subd. 2. Permit requirements. The permit shall state the amount of timber estimated for cutting on the land, the estimated value thereof, and the price at which it is sold per thousand feet, per cord, per piece, or by whatever description sold, and shall specify that all landings of cut products shall be legibly marked with the assigned permit number. The permit shall provide for the continuous identification of the cut timber from the time of cutting until delivery to the consumer. The permit shall provide that failure to continuously identify the timber as specified in the permit constitutes trespass.

[For text of subs 3 to 12, see M.S.2002]

History: 2003 c 73 s 5,6

90.161 SURETY BONDS FOR AUCTION TIMBER PERMITS.

Subdivision 1. Bond required. Except as otherwise provided by law, the purchaser of any state timber, before any timber permit becomes effective for any purpose, shall 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 and the appraisal report as to quantity, less the amount of any payments pursuant to sections 90.14 and 90.163. The bond shall be conditioned upon the faithful performance by the purchaser and successors in interest of all terms and conditions of the permit and all requirements of law in respect to timber sales. The bond shall be approved in writing by the commissioner and filed for record in the commissioner's office. In the alternative to cash and bond requirements, but upon the same conditions, a purchaser may post bond for 100 percent of the purchase price and request refund of the amount of any payments pursuant to sections 90.14 and 90.163. The commissioner may credit the refund to any other permit held by the same permit holder if the permit is delinquent as provided in section 90.181, subdivision 2, or may credit the refund to any other permit to which the permit holder requests that it be credited.

[For text of subs 2 and 3, see M.S.2002]

History: 2003 c 73 s 7

90.163 PERFORMANCE DEPOSIT OPTION.

In lieu of the bond or cash deposit equal to the value of all timber covered by the permit as required by section 90.161 or 90.173, a purchaser of any state timber may pay to the commissioner a performance deposit of ten percent of the appraised value of the permit for the express purpose of entering on the land to clear building sites or logging roads in advance of cutting state timber. No cutting of state timber, except that incidental to the clearing of building sites or logging roads, is allowed until the purchaser has met all of the requirements of section 90.161 or 90.173.

History: 2003 c 73 s 8

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

(a) 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 commissioner of finance cash, a certified check, a cashier's check, a personal 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 commissioner of finance. 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. 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 nonfinal statement if it appears that the total amount due on the permit will exceed the bid price.

(b) If an irrevocable bank letter of credit is provided as security under paragraph (a), at the written request of the permittee the state shall annually allow the amount of the bank letter of credit to be reduced by an amount proportionate to the value of timber that has been harvested and for which the state has received payment under the timber permit. The remaining amount of the bank letter of credit after a reduction under this paragraph must not be less than the value of the timber remaining to be harvested under the timber permit.

(c) If cash; a certified check; a cashier's check; a personal check; or a postal, bank, or express money order is provided as security under paragraph (a) and no cutting of state timber has taken place on the permit, the commissioner may credit the security provided, less any deposit required by sections 90.14 and 90.163, to any other permit to which the permit holder requests in writing that it be credited.

History: 2003 c 73 s 9; 2003 c 112 art 2 s 50

90.191 INFORMAL SALES OF STATE TIMBER.

[For text of subs 1 and 2, see M.S.2002]

Subd. 3. Scaling; purchaser responsibilities; addition of unsold timber. All timber products, except as specified by the commissioner of natural resources, cut under the provisions of this section, shall be scaled and the final settlement for the timber cut shall be made on this scale. The purchaser shall dispose of slashings according to law, shall be liable under this chapter in trespass for cutting timber held in reserve or unnecessarily injuring any timber not included within the sale under this section, and shall be otherwise subject to all the laws governing the sale and removal of state timber, so far as applicable.

The permit shall provide that should the commissioner find it advisable to salvage or remove for proper forest management certain unsold timber within the permit area, this timber, with the written consent of the permit holder, may be added at an appraised price to the timber sold.

Subd. 4. Timber markings. The permit shall state that all landings of cut products must be legibly marked with the assigned permit number. The permit shall provide for the continuous identification of the cut timber from the time of cutting until delivery to

the consumer. The permit shall provide that failure to continuously identify the timber as specified in the permit constitutes trespass.

History: 2003 c 73 s 10,11

90.251 TIMBER SCALING.

Subdivision 1. Scaling and check scaling procedures and requirements; penalty. The commissioner shall institute scaling and check scaling procedures for state timber sufficient to protect the interest of the state. This will include the assignment of a trained timber scaling specialist in the classified service to be responsible for check scaling and to develop scaling and check scaling techniques and standards. The scaling and check scaling techniques and standards shall be approved by the commissioner. Check scaling shall also be accomplished by other forestry supervisors with reports forwarded to the timber scaling specialist. The timber scaling specialist shall report any scaling deficiencies or trespass to the commissioner. Any deficiencies requiring the attention of the attorney general or State Executive Council will be forwarded to these offices by the commissioner. All timber cut on lands in the charge of the commissioner, except as expressly provided otherwise by the commissioner shall be scaled. No timber may be scaled until it is first properly identified as specified in the permit. All scaling shall be done upon the land from which the timber was cut; provided that the state appraiser, subject to the approval of the commissioner, may designate in writing to a permit holder another location where such timber may be scaled, counted or measured; all logs individually scaled shall be numbered consecutively, and the number of each entered upon the minutes of the scaler; allowance shall be made for defects to make the timber equivalent to merchantable timber. No state timber shall be removed from the land where it was cut until it has been so scaled or counted except as herein provided. Any person removing timber from the land where it was cut, or from the place designated, before it has been so scaled or counted is guilty of trespass.

[For text of subs 2 to 4, see M.S.2002]

History: 2003 c 73 s 12