

CHAPTER 89

STATE FORESTS; TREE PLANTING; FOREST ROADS

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89.001 DEFINITIONS.

[For text of subds 1 to 7, see M.S.2006]

Subd. 8. **Forest resources.** "Forest resources" means those natural assets of forest lands, including timber and other forest crops; biological diversity; recreation; fish and wild-life habitat; wilderness; rare and distinctive flora and fauna; air; water; soil; climate; and educational, aesthetic, and historic values.

[For text of subds 9 to 14, see M.S.2006]

Subd. 15. **Forest pest.** "Forest pest" means any vertebrate or invertebrate animal, plant pathogen, or plant that is determined by the commissioner to be harmful, injurious, or destructive to forests or timber.

Subd. 16. **Shade tree pest.** "Shade tree pest" means any vertebrate or invertebrate animal, plant pathogen, or plant that is determined by the commissioner to be harmful, injurious, or destructive to shade trees or community forests.

Subd. 17. **Community forest.** "Community forest" has the meaning given under section 88.01, subdivision 27.

Subd. 18. **Shade tree.** "Shade tree" means a woody perennial grown primarily for aesthetic or environmental purposes.

History: 2007 c 57 art 1 s 48–52

89.01 COMMISSIONER, POWERS AND DUTIES.

Subdivision 1. **Best methods.** The commissioner shall ascertain and observe the best methods of reforesting cutover and denuded lands, foresting waste lands, minimizing loss or damage of forest resources by fire, forest pests, or shade tree pests, administering forests on forestry principles, encouraging private owners to preserve and grow trees or timber for commercial or other purposes, and conserving the forests around the head waters of streams and on the watersheds of the state.

Subd. 2. **General duties.** The commissioner shall execute all rules pertaining to forestry and forest protection within the jurisdiction of the state; have charge of the work of protecting all forests and lands from fire, forest pests, and shade tree pests; shall investigate the origin of all forest fires; and prosecute all violators as provided by law; shall prepare and print for public distribution an abstract of the forest fire laws of Minnesota, together with such rules as may be formulated.

The commissioner shall prepare printed notices calling attention to the dangers from forest fires and cause them to be posted in conspicuous places.

[For text of subd 3, see M.S.2006]

Subd. 4. **Forest plans.** The commissioner shall cooperate with the several departments of the state and federal governments and with counties, towns, municipalities, corporations, or individuals in the preparation of plans for forest protection and management and planting or replacement of trees in wood lots and community forests or on timber tracts, using such influence as time will permit toward the establishment of scientific forestry principles in the management, protection, and promotion of the forest resources of the state.

[For text of subds 5 to 7, see M.S.2006]

History: 2007 c 57 art 1 s 53–55

89.22 USES OF STATE FOREST LANDS; FEES.

[For text of subd 1, see M.S.2006]

Subd. 2. **Receipts to special revenue fund.** Fees collected under subdivision 1 shall be credited to the special revenue fund and are annually appropriated to the commissioner to recoup the costs of developing, operating, and maintaining facilities necessary for the specified uses in subdivision 1 or to prevent or mitigate resource impacts of those uses.

History: 2007 c 57 art 1 s 56

89.421 FOREST RESOURCE ASSESSMENT PRODUCTS AND SERVICES ACCOUNT.

Subdivision 1. **Creation.** The forest resource assessment products and services account is created in the state treasury in the natural resources fund.

Subd. 2. **Receipts.** Money received from forest resource assessment product sales and services provided by the commissioner under sections 84.025, subdivision 9; 84.026; and 84.0855 shall be credited to the forest resource assessment products and services account. Forest resource assessment products and services include the sale of aerial photography, remote sensing, and satellite imagery products and services.

Subd. 3. **Use of money in account.** Money credited to the forest resource assessment products and services account under subdivision 2 is annually appropriated to the commissioner and shall be used to maintain the staff and facilities producing the aerial photography, remote sensing, and satellite imagery products and services.

History: 2007 c 57 art 1 s 57

89.51 DEFINITIONS.

Subdivision 1. **Applicability.** For the purposes of sections 89.51 to 89.64 the terms described in this section have the meanings ascribed to them.

[For text of subds 2 to 5, see M.S.2006]

Subd. 6. **Infestation.** “Infestation” includes actual, potential, incipient, or emergent infestation or infection by forest pests or shade tree pests.

[For text of subd 7, see M.S.2006]

Subd. 8. [Repealed, 2007 c 57 art 1 s 170]

Subd. 9. **Forest land or forest.** “Forest land” or “forest” means land on which occurs a stand or potential stand of trees valuable for timber products, watershed or wildlife protection, recreational uses, community forest benefits, or other purposes, and shall include lands owned or controlled by the state of Minnesota.

[For text of subd 10, see M.S.2006]

History: 2007 c 57 art 1 s 58–60

89.52 SURVEYS, INVESTIGATIONS.

The commissioner shall make surveys and investigations to determine the presence of infestations of forest pests or shade tree pests. For this purpose, duly designated representa-

tives of the commissioner may enter at reasonable times on public and private lands to conduct the surveys and investigations.

History: 2007 c 57 art 1 s 61

89.53 CONTROL OF FOREST PESTS AND SHADE TREE PESTS.

Subdivision 1. Commissioner's duties; notice of control measures. Whenever the commissioner finds that an area in the state is infested or threatened to be infested with forest pests or shade tree pests, the commissioner shall determine whether measures of control are needed, what control measures are to be applied, and the area over which the control measures shall be applied. The commissioner shall prescribe a proposed zone of infestation covering the area in which control measures are to be applied and shall publish notice of the proposal once a week, for two successive weeks in a newspaper having a general circulation in each county located in whole or in part in the proposed zone of infestation. Prescribing zones of infestation and prescribing measures of control are exempt from the rulemaking provisions of chapter 14 and section 14.386 does not apply.

Subd. 2. Notice requirements; public comment. The notice shall include a description of the boundaries of the proposed zone of infestation, the control measures to be applied, and a time and place where municipalities and owners of forest lands or shade trees in the zone may show cause orally or in writing why the zone and control measures should or should not be established. The commissioner shall consider any statements received in determining whether the zone shall be established and the control measures applied.

Subd. 3. Experimental programs. The commissioner may establish experimental programs for the control of forest pests or shade tree pests and for municipal reforestation.

History: 2007 c 57 art 1 s 62

89.54 ZONES OF INFESTATION, ESTABLISHMENT.

Upon the decision by the commissioner that the establishment of a zone of infestation is necessary, the commissioner shall make a written order establishing the zone, and upon making the order, the zone shall be established. Notice of the establishment of the zone shall thereupon be published in a newspaper having a general circulation in each county located in whole or in part in the proposed zone and posted on the Department of Natural Resources Web site.

History: 2007 c 57 art 1 s 63

89.55 INFESTATION CONTROL, COSTS.

Upon the establishment of the zone of infestation, the commissioner may apply measures of infestation prevention and control on public and private forest and other lands within an infected zone and to any trees, plants, wood or wood products, or contaminated soil harboring or which may harbor the forest pests or shade tree pests. For this purpose, the duly authorized representatives of the commissioner are authorized to enter upon any lands, public or private within the zone. The commissioner may enter into agreements with owners of the lands in the zone covering the control work on their lands, and fixing the pro rata basis on which the cost of the work will be shared between the commissioner and the owner.

History: 2007 c 36 s 1; 2007 c 57 art 1 s 64

89.551 APPROVED FIREWOOD REQUIRED.

(a) After the commissioner issues an order under paragraph (b), a person may not possess firewood on land administered by the commissioner of natural resources unless the firewood:

- (1) was obtained from a firewood distribution facility located on land administered by the commissioner;
- (2) was obtained from a firewood dealer who is selling firewood that is approved by the commissioner under paragraph (b); or

(3) has been approved by the commissioner of natural resources under paragraph (b).

(b) The commissioner of natural resources shall, by written order published in the State Register, approve firewood for possession on lands administered by the commissioner. The order is not subject to the rulemaking provisions of chapter 14 and section 14.386 does not apply.

(c) A violation under this section is subject to confiscation of firewood and after May 1, 2008, confiscation and a \$100 penalty. A firewood dealer shall be subject to confiscation and assessed a \$100 penalty for each sale of firewood not approved under the provisions of this section and sold for use on land administered by the commissioner.

(d) For the purposes of this section, "firewood" means any wood that is intended for use in a campfire, as defined in section 88.01, subdivision 25.

History: 2007 c 36 s 2

89.56 EXPENSES.

Subdivision 1. Statement of expenses; cost to owners. At the end of each fiscal year and upon completion of the infestation control measures in any zone of infestation, the commissioner shall prepare a certified statement of expenses incurred in carrying out the measures, including expenses of owners covered by agreements entered into pursuant to section 89.55. The statement shall show the amount that the commissioner determines to be the commissioner's share of the expenses. The share of the commissioner may include funds and the value of other contributions made available by the federal government and other cooperators. The balance of the costs shall constitute a charge on an acreage basis as provided herein against the owners of lands in the zone containing trees affected or likely to be affected by the forest pests or shade tree pests for which control measures were conducted. In fixing the rates at which charges shall be made against each owner, the commissioner shall consider the present commercial value of the trees on the land, the present and potential benefits to the owner from the application of the control measures, the cost of applying the measures to the land, and such other factors as in the discretion of the commissioner will enable determination of an equitable distribution of the cost to all owners. No charge shall be made against owners to the extent that they have individually or as members of a cooperative association contributed funds, supplies, or services pursuant to agreement under this section.

[For text of subd 2, see M.S.2006]

Subd. 3. Collection. The unpaid charges assessed under sections 89.51 to 89.64 and the actions of the commissioner on any protests filed pursuant to subdivision 2, shall be reported to the tax levying authority for the county in which the lands for which the charges are assessed are situated and shall be made a public record. Any charges finally determined to be due shall become a special assessment and shall be payable in the same manner and with the same interest and penalty charges and with the same procedure for collection as apply to ad valorem property taxes. Upon collection of the charges, the county treasurer shall forthwith cause the amounts thereof to be paid to the forest pest and shade tree pest control account created by section 89.58. Any unpaid charge or lien against the lands shall not be affected by the sale thereof or by dissolution of the zone of infestation.

History: 2007 c 57 art 1 s 65,66

89.57 DISSOLUTION OF ZONE INFESTATION.

Whenever the commissioner shall determine that forest pest or shade tree pest control work within an established zone of infestation is no longer necessary or feasible, the commissioner shall dissolve the zone.

History: 2007 c 57 art 1 s 67

89.58 FOREST PEST AND SHADE TREE PEST CONTROL ACCOUNT.

All money collected under the provisions of sections 89.51 to 89.64, together with such money as may be appropriated by the legislature or allocated by the Legislative Advisory

Commission for the purposes of sections 89.51 to 89.64, and such money as may be contributed or paid by the federal government, or any other public or private agency, organization or individual, shall be deposited in the state treasury, to the credit of the forest pest and shade tree pest control account, which account is hereby created, and any moneys therein are appropriated to the commissioner for use in carrying out the purposes of sections 89.51 to 89.64.

History: 2007 c 57 art 1 s 68

89.59 COOPERATION.

The commissioner may cooperate with the United States or agencies thereof, other agencies of the state, county or municipal governments, agencies of neighboring states, or other public or private organizations or individuals and may accept such funds, equipment, supplies, or services from cooperators and others as the commissioner may provide in agreements with the United States or its agencies for matching of federal funds as required under laws of the United States relating to forest pests and shade tree pests.

History: 2007 c 57 art 1 s 69

89.60 DUTIES, RULES; COMMISSIONER.

The commissioner is authorized to employ personnel in accordance with the laws of this state, to procure necessary equipment, supplies, and service, to enter into contracts, to provide funds to any agency of the United States for work or services under sections 89.51 to 89.64, and to designate or appoint, as the commissioner's representatives, employees of co-operators, including employees of the United States or any agency thereof. The commissioner may prescribe rules for carrying out the purposes of this section.

History: 2007 c 57 art 1 s 70

89.61 ACT SUPPLEMENTAL.

Provisions of sections 89.51 to 89.64 are supplementary to and not to be construed to repeal existing legislation.

History: 2007 c 57 art 1 s 71

89.62 SHADE TREE PEST CONTROL; GRANT PROGRAM.

Subdivision 1. **Grants.** The commissioner may make grants to aid in the control of a shade tree pest. To be eligible, a grantee must have a pest control program approved by the commissioner that:

- (1) defines tree ownership and who is responsible for the costs associated with control measures;
- (2) defines the zone of infestation within which the control measures are to be applied;
- (3) includes a tree inspector certified under section 89.63 and having the authority to enter and inspect private lands;
- (4) has the means to enforce measures needed to limit the spread of shade tree pests; and
- (5) provides that grant money received will be deposited in a separate fund to be spent only for the purposes authorized by this section.

Subd. 2. **Grant eligibility.** The following are eligible for grants under this section:

- (1) a home rule charter or statutory city or a town that exercises municipal powers under section 368.01 or any general or special law;
- (2) a special park district organized under chapter 398;
- (3) a special-purpose park and recreation board;
- (4) a soil and water conservation district;
- (5) a county; or
- (6) any other organization with the legal authority to enter into contractual agreements.

Subd. 3. **Rules; applicability to municipalities.** The rules and procedures adopted under this section by the commissioner apply in a municipality unless the municipality adopts an ordinance determined by the commissioner to be more stringent than the rules and procedures of the commissioner. The rules and procedures of the commissioner or the municipality apply to all state agencies, special purpose districts, and metropolitan commissions as defined in section 473.121, subdivision 5a, that own or control land adjacent to or within a zone of infestation.

History: 2007 c 57 art 1 s 72

89.63 CERTIFICATION OF TREE INSPECTORS.

(a) The governing body of a municipality may appoint a qualified tree inspector. Two or more municipalities may jointly appoint a tree inspector for the purpose of administering their respective pest control programs.

(b) Upon a determination by the commissioner that a candidate for the position of tree inspector is qualified, the commissioner shall issue a certificate of qualification to the tree inspector. The certificate is valid for one year. A person certified as a tree inspector by the commissioner may enter and inspect any public or private property that might harbor forest pests or shade tree pests. The commissioner shall offer an annual tree inspector certification workshop, upon completion of which participants are qualified as tree inspectors.

(c) The commissioner may suspend and, upon notice and hearing, decertify a tree inspector if the tree inspector fails to act competently or in the public interest in the performance of duties.

History: 2007 c 57 art 1 s 73

89.64 EXEMPTIONS.

This chapter does not supersede the authority of the Department of Agriculture under chapter 18G.

History: 2007 c 57 art 1 s 74