

## CHAPTER 90

### TIMBER LANDS

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### **90.005 SURVEYOR GENERAL, OFFICE ABOLISHED; FUNCTIONS TRANSFERRED TO NATURAL RESOURCES COMMISSIONER.**

Subdivision 1. [Repealed, 1996 c 310 s 1]

Subd. 2. **Interpretation of references.** Whenever in any other general law, or resolution of the legislature heretofore or hereafter adopted, or in any document, record, or proceeding authorized by the same, any word or phrase is used in reference to or descriptive of the surveyor general, or officer or employee thereof, or their respective activities, whose powers, duties, or activities are by Laws 1967, chapter 568 assigned or transferred to the commissioner of natural resources, such word, phrase, or reference shall hereafter be deemed to refer to, include, and describe the commissioner of natural resources, or officers or employees of the commissioner.

Subd. 3. **Continuation of surveyor general powers and duties.** The Department of Natural Resources is deemed and held to constitute a continuation of the Office of the Surveyor General as to powers and duties of the surveyor general transferred by Laws 1967, chapter 568, and not a new authority for the purpose of succession to all rights, powers, duties and obligations of the surveyor general as constituted at the time of such assignment or transfer, with the same force and effect as if such powers and duties had not been assigned or transferred.

Subd. 4. [Repealed, 1996 c 310 s 1]

Subd. 5. [Repealed, 1996 c 310 s 1]

Subd. 6. **Unexpended funds.** All unexpended funds appropriated to the surveyor general for the purpose of any of its functions, powers, or duties which are transferred by Laws 1967, chapter 568 to the commissioner of natural resources, are hereby transferred to the commissioner. Where unexpended funds appropriated to the surveyor general for the purposes of any of its functions, powers or duties are changed by Laws 1967, chapter 568 so that the functions, powers or duties are in more than one department, commission, or agency, the commissioner of administration shall allocate the appropriation between the state departments, commissions, or agencies concerned, and the funds so allocated are reappropriated therefor.

Subd. 7. **Employees.** Except as otherwise provided in Laws 1967, chapter 568, all persons in the classified service and employed by the surveyor general for the purposes of any of its functions, powers or duties which are transferred by Laws 1967, chapter 568 to the commissioner of natural resources are hereby transferred to such commissioner. The positions of all persons in the unclassified service and employed by the surveyor general for the purposes of powers or duties which are transferred by Laws 1967, chapter 568 to the commissioner of natural resources

are hereby abolished.

**History:** *1967 c 568 s 1; 1969 c 1129 art 10 s 2; 1986 c 444*

### 90.01 DEFINITIONS.

Subdivision 1. **Applicability.** Unless the language or context clearly indicates that a different meaning is indicated, the following terms, for the purposes of this chapter shall have the meanings ascribed to them.

Subd. 2. **Department.** "Department" means the Department of Natural Resources of the state of Minnesota.

Subd. 3. **Commissioner.** "Commissioner" means the commissioner of natural resources or agents thereof.

Subd. 4. **Scaler.** "Scaler" means a qualified bonded person designated by the commissioner to measure cut forest products.

Subd. 5. **State appraiser.** "State appraiser" means an employee of the department designated by the commissioner to appraise state lands.

Subd. 6. **Timber.** "Timber" means trees that will produce forest products of value whether standing or down, and including but not limited to logs, posts, poles, bolts, pulpwood, cordwood, lumber and decorative material.

Subd. 7. **Permit.** "Permit" means the written authorization of the commissioner to cut timber on state lands.

Subd. 8. **Permit holder.** "Permit holder" means the person holding a permit to cut timber on state lands.

Subd. 9. [Repealed, 2005 c 141 s 14]

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.

Subd. 11. **Effective permit.** "Effective permit" means a permit for which the commissioner has on file full or partial surety as required by section 90.161, 90.162, 90.163, or 90.173 or, in the case of permits issued according to section 90.191 or 90.195, the commissioner has received a down payment equal to the full appraised value.

Subd. 12. **Responsible bidder.** "Responsible bidder" means a person who is financially responsible; demonstrates the judgment, skill, ability, capacity, and integrity requisite and necessary to perform according to the terms of a permit issued under this chapter; and is not currently debarred by another government entity for any cause.

**History:** *(6353, 6394-2) 1917 c 162 s 1; 1925 c 276 s 2; 1961 c 202 s 1; 1967 c 568 s 2; 1969 c 366 s 1; 1969 c 1129 art 10 s 2; 1986 c 444; 2003 c 73 s 1; 2005 c 141 s 2,3*

### 90.02 CITATION, STATEMENT OF POLICY.

This chapter may be cited as the State Timber Act.

It is the intent and desire of the Minnesota legislature to provide equal opportunity for all segments of our society to participate in the sale process; and attempt to prevent the purchase

or acquisition of excessive volumes of the state's timber resources by any one individual or corporation.

The commissioner shall establish specific timber sale allocation standards to reach this objective; including provision for sale of all timber species by each method of sale specified in this chapter; and maintaining reasonable proportions of volume in each method of sale. The standards shall be included in each edition of the timber sales manual published by the commissioner. The standards are not subject to the rulemaking provisions of chapter 14 and section 14.386 does not apply.

**History:** (6394-1) 1925 c 276 s 1; 1975 c 106 s 1; 1985 c 248 s 70; 2004 c 241 s 5

**90.03** [Repealed, 1961 c 202 s 38]

### **90.031 EXECUTIVE COUNCIL AND COMMISSIONER POWERS.**

Subdivision 1. [Repealed, 1967 c 66 s 3]

Subd. 2. [Repealed, 1967 c 66 s 3]

Subd. 3. **Settlement.** The commissioner may make settlement for not less than the full value of any timber cut by lessees of state lands holding under section 92.50.

Subd. 4. **Timber rules.** 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 6,000 cords in volume when the sale is in the best interests of the state, and may abrogate, modify, or suspend rules at its pleasure.

Subd. 5. **Appointment of agents.** The Executive Council may appoint one or more agents to gather evidence in any action brought by the state or to investigate the correctness of any state appraiser's or scaler's report or to ascertain whether any timber proposed to be sold is subject to sale, or whether any trespass has been committed on state lands, and may send such agent to examine such timber or lands. Such agents of the Executive Council, independently of the commissioner, state appraisers, or scalers shall report, in writing, to the governor, and the money necessary to defray expenses in connection therewith shall be paid upon verified accounts from any funds available for the expenses of the Executive Council.

**History:** (6394-8) 1925 c 276 s 8; 1933 c 375 s 1; 1937 c 368 s 2; 1939 c 32 s 1; 1961 c 202 s 7; 1965 c 337 s 1; 1967 c 568 s 3; 1981 c 305 s 1; 1984 c 613 s 2; 1987 c 109 s 4; 1993 c 172 s 43; 1996 c 295 s 3

**90.04** [Renumbered 90.061, subs 5-7]

### **90.041 COMMISSIONER POWERS AND DUTIES.**

Subdivision 1. **General duties.** The commissioner shall make thorough inquiry into the extent, character, and value of the timber on all state lands and shall take such measures as will protect the timber from damage or loss by fire, trespass, or otherwise; and make such rules, in conformity with the other provisions of this chapter, for the care and control of the lands and for the sale of the timber thereon, as will best protect the interests of the state.

Subd. 2. **Trespass on state lands.** The commissioner may compromise and settle, with the approval of the attorney general, upon terms the commissioner deems just, any claim of the state for casual and involuntary trespass upon state lands or timber; provided that no claim shall be settled for less than the full value of all timber or other materials taken in casual trespass or

the full amount of all actual damage or loss suffered by the state as a result. The commissioner shall advise the Executive Council of any information acquired by the commissioner concerning any trespass on state lands, giving all details and names of witnesses and all compromises and settlements made under this subdivision.

Subd. 3. [Repealed, 2005 c 141 s 14]

Subd. 4. [Repealed, 2005 c 141 s 14]

Subd. 5. **Forest improvement contracts.** The commissioner may contract as part of the timber sale with the purchaser of state timber at either informal or auction sale for the following forest improvement work to be done on the land included within the sale area: preparation of the site for seeding or planting of seedlings or trees, seeding or planting of seedlings or trees, and other activities relating to forest regeneration. A contract issued under this subdivision is not subject to the competitive bidding provisions of chapter 16C and is exempt from the contract approval provisions of section 16C.05, subdivision 2.

Subd. 6. **Sale of damaged timber.** The commissioner may sell at public auction timber that has been damaged by fire, windstorm, flood, or other natural cause on notice that the commissioner considers reasonable when there is a high risk that the salvage value of the timber would be lost.

Subd. 7. **Emergency declaration.** The commissioner may declare an emergency in the event of a catastrophe caused by fire, windstorm, flood, insect, disease, or other natural cause. In the event of an emergency declaration, the commissioner may grant an extension, without penalty or interest, on an existing permit for standing timber if the permit holder has entered into a purchase agreement to harvest timber damaged by the natural catastrophe.

Subd. 8. **Adverse surface conditions.** The commissioner may declare an emergency in the event of widespread abnormal surface conditions that prevent the proper and timely harvest of existing permits for standing timber. In the event of an emergency declaration, the commissioner may grant extensions, without penalty or interest, and may modify the terms and conditions of existing permits for standing timber to allow for the harvest of the standing timber in an environmentally sound manner under favorable surface conditions.

Subd. 9. **Reoffering unsold timber.** To maintain and enhance forest ecosystems on state forest lands, the commissioner may reoffer timber tracts remaining unsold under the provisions of section 90.101 below appraised value at public auction with the required 30-day notice under section 90.101, subdivision 2.

**History:** (6394-9) 1925 c 276 s 9; 1961 c 202 s 8; 1967 c 66 s 1; 1981 c 305 s 2; 1984 c 613 s 3; 1985 c 26 s 1; 1985 c 248 s 70 1986 c 444; 1987 c 109 s 5; 1988 c 462 s 5; 1993 c 172 s 44; 1996 c 295 s 4; 2005 c 141 s 4; 2006 c 175 s 1; 2010 c 361 art 4 s 44

## 90.042 PUBLIC INVOLVEMENT PROCESS.

Subdivision 1. **Report to legislature.** By July 1 each year, the commissioner must provide a complete description of the public involvement process for timber harvest plans to the chairs of the legislative committees with jurisdiction over natural resources policy and finance. The process must provide public notice and public input in affected areas of proposed annual harvest plans.

Subd. 2. **Public meetings.** By May 1 each year, the commissioner shall hold one or more public meetings in the forested area of the state to inform the public of the manner in which the proposed annual harvest plan 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:** 2000 c 485 s 1; 2005 c 141 s 5

#### **90.045 APPRAISAL STANDARDS.**

By July 1, 1983, the commissioner shall establish specific timber appraisal standards according to which all timber appraisals will be conducted under this chapter. The standards shall include a specification of the maximum allowable appraisal sampling error, and the procedures for tree defect allowance, tract area estimation, product volume estimation, and product value determination. The timber appraisal standards shall be included in each edition of the timber sales manual published by the commissioner. In addition to the duties pursuant to section 90.061, every state appraiser shall work within the guidelines of the timber appraisal standards. The standards shall not be subject to the rulemaking provisions of chapter 14.

**History:** 1982 c 424 s 130; 1982 c 511 s 21; 1986 c 444

**90.05** [Renumbered 90.061, subs 1-4]

#### **90.051 SUPERVISION OF SALES; BOND.**

The department employee delegated to supervise state timber appraisals and sales shall be bonded in a form to be prescribed by the attorney general and in the sum of not less than \$25,000, conditioned upon the faithful and honest performance of duties.

**History:** (6394-11) 1925 c 276 s 11; 1961 c 202 s 10; 1986 c 444

**90.06** [Repealed, 1961 c 202 s 38]

#### **90.061 STATE APPRAISERS.**

Subdivision 1. **Designation; bond.** The commissioner may designate any qualified person as a state appraiser. Each state appraiser shall be bonded in a sum of not less than \$1,000, conditioned upon the faithful performance of duties.

Subd. 2. **Arrest authority.** Every state appraiser is hereby authorized to arrest any person found trespassing or to have trespassed upon state lands and deliver the trespasser to the sheriff of the county and immediately enter a complaint before a court of competent jurisdiction in the county charging the person so arrested with such trespass, and the person so charged shall be arraigned and given a hearing on the complaint.

Subd. 3. **Identification required.** Each state appraiser shall possess when on duty an identification card provided by the commissioner. Any person not a state appraiser who shall impersonate or claim to be a state appraiser shall be guilty of a misdemeanor.

Subd. 4. **Document requirements.** When an appraisal or valuation of any land is made, the state appraiser shall place an estimate and valuation of any timber thereon and make a separate appraisal report thereof; the report shall be made from field notes made on the land, shall be dated when made and, together with the field notes shall be made a part of the records of the department. The state appraiser shall sign each page of the field notes and appraisal report. These records shall show that the state appraiser was actually upon the land when the estimate and valuation was made.

The appraisal report shall state the amount of each kind of timber and the value of each kind of timber for each 40-acre tract or subdivision and for each tract designated in the government

survey as a government lot or portions thereof except that reports made for the purpose of timber sales only shall include the percentage value of timber on such 40-acre tract or subdivision or government lot or a portion thereof together with the total amount of each kind of timber and the total value of each kind of timber for the sale unit.

Subd. 5. **Appraiser duties.** The duties of the state appraiser shall be to appraise and place a valuation upon any state lands or any state timber or any interest therein anywhere; to check-scale timber cut from state lands in trespass, either situated upon state lands or removed therefrom; to check-scale any scale of timber cut on state lands; to make check-scales, by the stump and top, or any other method, of timber removed from state lands; and to perform such other duties as may be assigned.

Subd. 6. **Construction.** Nothing contained in this chapter shall be construed to in any way amend any other provision of law relating to the appointment of appraisers by other officials.

Subd. 7. **Land interest prohibited.** No state appraiser shall have any interest, directly or indirectly, in any of the state land or material improvements thereon and shall not purchase, directly or indirectly, any interest in the same or any part thereof.

Subd. 8. **Appraiser authority; form of documents.** State appraisers are empowered, with the consent of the commissioner, to perform any scaling, and generally to supervise the cutting and removal of timber on or from state lands so far as may be reasonably necessary to insure compliance with the terms of the permits or other contracts governing the same and protect the state from loss.

The form of appraisal reports, records, and notes to be kept by state appraisers shall be as the commissioner prescribes.

**History:** (6354-6356, 6394-11) 1917 c 162 s 2-4; 1925 c 276 s 11; 1937 c 369 s 1; 1961 c 202 s 2,3,10; 1967 c 38 s 1; 1967 c 568 s 4; 1986 c 444

**90.07** [Renumbered 90.301, subdivision 1]

**90.08** [Renumbered 90.311]

**90.09** [Renumbered 90.321]

**90.10** [Repealed, 1961 c 202 s 38]

## **90.101 TIMBER SOLD AT PUBLIC AUCTION.**

Subdivision 1. **Sale requirements.** The commissioner may sell the timber on any tract of state land 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. 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:** (6394-13) 1925 c 276 s 13; 1961 c 202 s 12; 1963 c 44 s 1; 1967 c 110 s 1; 1969 c 366 s 2; 1975 c 106 s 2; 1981 c 305 s 3; 1986 c 444; 1987 c 109 s 6; 1990 c 443 s 1; 1993 c 172 s 45; 1994 c 551 s 3,4; 1996 c 295 s 6; 2003 c 73 s 2; 2004 c 241 s 6; 2005 c 141 s 6

**90.11** [Renumbered 90.031]

**90.111** [Repealed, 1967 c 110 s 12]

**90.12** [Renumbered 90.041]

### **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 30 employees. For the purposes of this clause, "employee" means an individual working in the timber or wood products industry for salary or wages on a full-time or part-time basis.

(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.

(c) Another bidder or the commissioner may request that the number of employees a bidder has pursuant to paragraph (a), clause (3), be confirmed if there is evidence that the bidder may be ineligible due to exceeding the employee threshold. The commissioner shall request information from the commissioners of labor and industry and employment and economic development including the premiums paid by the bidder in question for workers' compensation insurance coverage for all employees of the bidder. The commissioner shall review



the information submitted by the commissioners of labor and industry and employment and economic development and make a determination based on that information as to whether the bidder is eligible. A bidder is considered eligible and may participate in intermediate auctions until determined ineligible under this paragraph.

**History:** 1981 c 305 s 4; 1991 c 92 s 1; 1993 c 172 s 46; 1994 c 551 s 5; 1996 c 295 s 7; 2000 c 485 s 2; 2003 c 73 s 3; 2005 c 141 s 7; 2010 c 361 art 4 s 45

**90.125** [Renumbered 282.38]

**90.13** [Renumbered 90.191]

### **90.14 AUCTION SALE PROCEDURE.**

(a) All state timber shall be offered and sold by the same unit of measurement as it was appraised. No tract shall be sold to any person other than the purchaser in whose name the bid was made. 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 a down payment of 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.

(d) In the case of a public auction sale conducted by a sealed bid process, tracts shall be awarded to the high bidder, who shall pay to the commissioner a down payment of 15 percent of the appraised value that must be received or postmarked within 14 days of the date of the sealed bid opening. If a purchaser fails to make the down payment, the purchaser is liable for the down payment to the state and the commissioner may offer the timber for sale to the next highest bidder as though no higher bid had been made.

(e) Except as otherwise provided by law, at the time the purchaser signs a permit issued under section 90.151, the commissioner shall require the purchaser to make a bid guarantee payment to the commissioner in an amount equal to 15 percent of the total purchase price of the permit less the down payment amount required by paragraph (b) for any bid increase in excess of \$5,000 of the appraised value. If a required bid guarantee payment is not submitted with the signed permit, no harvesting may occur, the permit cancels, and the down payment for timber

forfeits to the state. The bid guarantee payment forfeits to the state if the purchaser and successors in interest fail to execute an effective permit.

**History:** (6394-16) 1925 c 276 s 16; 1961 c 202 s 13; 1967 c 110 s 2; 1986 c 444; 1987 c 109 s 7; 2000 c 485 s 3; 2003 c 73 s 4; 2004 c 241 s 7; 2006 c 281 art 3 s 10; 2010 c 361 art 4 s 46

### **90.145 PURCHASER QUALIFICATIONS AND REGISTRATION.**

Subdivision 1. **Purchaser qualifications.** (a) In addition to any other requirements imposed by this chapter, the purchaser of a state timber permit issued under section 90.151 must meet the requirements in paragraphs (b) to (d).

(b) The purchaser and the purchaser's agents, employees, subcontractors, and assigns must comply with general industry safety standards for logging adopted by the commissioner of labor and industry under chapter 182. The commissioner of natural resources shall require a purchaser to provide proof of compliance with the general industry safety standards.

(c) The purchaser and the purchaser's agents, subcontractors, and assigns must comply with the mandatory insurance requirements of chapter 176. The commissioner shall require a purchaser to provide a copy of the proof of insurance required by section 176.130 before the start of harvesting operations on any permit.

(d) Before the start of harvesting operations on any permit, the purchaser must certify that a foreperson or other designated employee who has a current certificate of completion from the Minnesota logger education program (MLEP), the Wisconsin Forest Industry Safety and Training Alliance (FISTA), or any similar program acceptable to the commissioner, is supervising active logging operations.

Subd. 2. **Purchaser preregistration.** To facilitate the sale of permits issued under section 90.151, the commissioner may establish a purchaser preregistration system. Any system implemented by the commissioner shall be limited in scope to only that information that is required for the efficient administration of the purchaser qualification provisions of this chapter and shall conform with the requirements of chapter 13.

**History:** 2006 c 281 art 3 s 11

**90.15** Subdivision 1. [Renumbered 90.061, subd 8]

Subd. 2. [Renumbered 90.051]

### **90.151 PERMITS TO CUT AND REMOVE TIMBER.**

Subdivision 1. **Issuance; expiration.** (a) Following receipt of the down payment for state timber required under section 90.14 or 90.191, 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 required under section 90.14 forfeits to the state. The commissioner may grant an additional period for the purchaser to sign the permit, not to exceed five business days, provided the purchaser pays a \$125 penalty fee.

(b) The permit shall expire no later than five years after the date of sale as the commissioner shall specify or as specified under section 90.191, 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.

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.

Subd. 3. **Security provisions.** The permit shall contain such provisions as may be necessary to secure to the state the title of all timber cut thereunder wherever found until full payment therefor and until all provisions of the permit have been fully complied with. The permit shall provide that from the date the same becomes effective until the expiration thereof, including all extensions, the purchaser and successors in interest shall be liable to the state for the full permit price of all timber covered thereby, notwithstanding any subsequent damage or injury thereto or trespass thereon or theft thereof, and without prejudice to the right of the state to pursue such timber and recover the value thereof anywhere prior to the payment therefor in full to the state. Upon recovery from any person other than the permit holder, the permit holder shall be deemed released to the extent of the net amount, after deducting all expenses of collecting same, recovered by the state from such other person.

Subd. 4. **Permit terms.** The permit shall provide that all timber sold or designated for cutting shall be cut without damage to other timber; that the permit holder shall remove all timber authorized to be cut under the permit; that timber sold by board measure but later determined by the commissioner not to be convertible into board measure shall be paid for by the piece or cord or other unit of measure according to the size, species, or value, as may be determined by the commissioner; that all timber products, except as specified by the commissioner, shall be scaled and the final settlement for the timber cut shall be made on this scale; and that the permit holder shall pay to the state the permit price for all timber authorized to be cut, including timber not cut.

Subd. 5. **Report provisions.** The permit shall provide that the permit holder upon request of the commissioner shall make a report in writing to the commissioner under oath enumerating and stating the amounts of timber cut under such permit, the kinds of timber removed and the amounts of each in board feet, per piece, in cords, or any other unit of measure, in the manner required by the commissioner. Any false return or report made to the commissioner by any such permit holder or by any one representing the permit holder shall constitute a gross misdemeanor.

Subd. 6. **Notice and approval required.** The permit shall provide that the permit holder shall not start cutting any state timber nor clear building sites nor logging roads until the commissioner has been notified and has given prior approval to such cutting operations. Approval

shall not be granted until the permit holder has completed a presale conference with the state appraiser designated to supervise the cutting. The permit holder shall also give prior notice whenever permit operations are to be temporarily halted, whenever permit operations are to be resumed, and when permit operations are to be completed.

Subd. 7. **Liability for timber cut in trespass.** The permit shall provide that the permit holder shall pay the permit price value for any timber sold which is negligently destroyed or damaged by the permit holder in cutting or removing other timber sold. If the permit holder shall cut or remove or negligently destroy or damage any timber upon the land described, not sold under the permit, except such timber as it may be necessary to cut and remove in the construction of necessary logging roads and landings approved as to location and route by the commissioner, such timber shall be deemed to have been cut in trespass. The permit holder shall be liable for any such timber and recourse may be had upon the bond.

Subd. 8. **Suspension; cancellation.** The permit shall provide that the commissioner shall have the power to order suspension of all operations under the permit when in the commissioner's judgment the conditions thereof have not been complied with and any timber cut or removed during such suspension shall be deemed to have been cut in trespass; that the commissioner may cancel the permit at any time when in the commissioner's judgment the conditions thereof have not been complied with and such cancellation shall constitute repossession of the timber by the state; that the permit holder shall remove equipment and buildings from such land within 90 days after such cancellation; that, if the purchaser at any time fails to pay any obligations to the state under any other permits, any or all permits may be canceled; and that any timber removed in violation of the terms of the permit or of any law shall constitute trespass.

Subd. 9. **Slashings disposal.** The permit shall provide that the permit holder shall burn or otherwise dispose of all slashings or other refuse resulting from cutting operations in the manner now or hereafter provided by law.

Subd. 10. **Injunctive relief.** The permit shall provide that at any time the state may bring an action or suit to restrain, enjoin and prohibit the further cutting or removal of timber or the further entry of the permit holder or representatives upon any of the lands covered by the permit when in the opinion of the attorney general any of the terms of the permit are being or have been violated, which suit shall be without prejudice to any other action or proceeding on behalf of the state.

Subd. 11. **Void for nonconformance.** 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.

Subd. 12. **Addition of unsold timber.** 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. 13. [Repealed, 1994 c 551 s 12]

Subd. 14. [Repealed, 1994 c 551 s 12]

Subd. 15. **Liquidated damages.** The permit may include a schedule of liquidated damage charges for breach of permit terms by the permit holder. The damage charges shall be limited to amounts that are reasonable in light of the anticipated or actual harm caused by the breach, the difficulties of proof of loss, and the inconvenience or nonfeasibility of otherwise obtaining

an adequate remedy.

**History:** (6394-17) 1925 c 276 s 17; 1937 c 368 s 3; 1961 c 202 s 14; 1967 c 27 s 1; 1967 c 66 s 2; 1967 c 110 s 3-9; 1967 c 568 s 5-7; 1969 c 366 s 3; 1975 c 106 s 3,4; 1981 c 305 s 5,6; 1986 c 444; 1987 c 109 s 8,9; 1994 c 551 s 6; 2000 c 485 s 4,5; 2002 c 351 s 4; 2003 c 73 s 5,6; 2004 c 241 s 8; 2006 c 281 art 3 s 12-14; 2008 c 368 art 1 s 12

**90.16** [Renumbered 90.281]

### **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.

Subd. 2. **Failure to bond.** If bond is not furnished, no harvesting may occur and the down payment for timber shall forfeit to the state.

Subd. 3. **Subrogation.** In case of default in payment by the permit holder the surety upon the bond shall make payment in full to the state of all sums of money due under such permit; and thereupon such surety shall be deemed immediately subrogated to all the rights of the state in the timber so paid for; and such subrogated party may pursue the timber and recover therefor, or have any other appropriate relief in relation thereto which the state might or could have had if such surety had not made such payment. No assignment or other writing on the part of the state shall be necessary to make such subrogation effective, but the certificate signed by and bearing the official seal of the commissioner, showing the amount of such timber, the lands from which it was cut or upon which it stood, and the amount paid therefor, shall be prima facie evidence of such facts.

Subd. 4. **Change of security.** Prior to any harvest activity, or activities incidental to the preparation for harvest, a purchaser having posted a bond for 100 percent of the purchase price of a sale may request the release of the bond and the commissioner shall grant the release upon cash payment to the commissioner of 15 percent of the appraised value of the sale, plus eight percent interest on the appraised value of the sale from the date of purchase to the date of release.

**History:** (6394-18) 1925 c 276 s 18; 1939 c 120 s 1; 1961 c 202 s 15; 1967 c 110 s 10; 1981 c 305 s 7; 1986 c 444; 1987 c 109 s 10; 1994 c 551 s 7,8; 2000 c 485 s 6,7; 2003 c 73 s 7; 2007 c 57 art 1 s 76

### **90.162 ALTERNATIVE TO BOND OR DEPOSIT REQUIREMENTS.**

In lieu of the bond or cash deposit equal to the value of all timber covered by the permit required by section 90.161 or 90.173, a purchaser of state timber may elect in writing on a form prescribed by the attorney general to give good and valid surety to the state of Minnesota equal to

the purchase price for any designated cutting block identified on the permit before the date the purchaser enters upon the land to begin harvesting the timber on the designated cutting block.

**History:** *1991 c 61 s 1; 2000 c 485 s 8; 2002 c 351 s 5*

#### **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*

**90.17** [Renumbered 90.101]

#### **90.171 ASSIGNMENT OF AUCTION TIMBER PERMITS.**

Any permit sold at public auction may be assigned upon written approval of the commissioner. The assignment of any permit shall be signed and acknowledged by the permit holder. The commissioner shall not approve any assignment until the assignee has given to the state a bond which shall be substantially in the form of, and shall be deemed of the same effect as, the bond required of the original purchaser. The commissioner may accept the agreement of the assignee and any corporate surety upon such original bond, substituting the assignee in the place of such original purchaser and continuing such original bond in full force and effect, as to the assignee. Thereupon but not otherwise the permit holder making the assignment shall be released from all liability arising or accruing from actions taken after the assignment became effective.

**History:** *(6394-19) 1925 c 276 s 19; 1961 c 202 s 16; 1969 c 366 s 4; 1986 c 444*

**90.172** [Repealed, 2010 c 361 art 4 s 83]

#### **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 cash; a certified check; a cashier's check; a personal check; a postal, bank, or express money order; or an irrevocable bank letter of credit in the same amount as would be required for a bond. All of the conditions of the timber sale bond shall equally apply to the alternatives in lieu of bond. 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:** *1965 c 38 s 1; 1969 c 399 s 1; 1981 c 305 s 8; 1987 c 109 s 11; 1991 c 61 s 2; 2000 c 485 s 9; 2003 c 73 s 9; 2003 c 112 art 2 s 50; 2005 c 141 s 9*

**90.18** [Repealed, 1961 c 202 s 38]

### **90.181 STATEMENT OF TIMBER CUT.**

Subdivision 1. **Passage of title to timber.** (a) The commissioner shall transmit to the permit holder a statement of the amount due therefor by the terms of the permit upon completion of the cutting or at least annually in the case of an auction permit. Any partial payment received may be applied to any items on the statement as the commissioner shall determine.

(b) The title to the timber shall not pass from the state until the timber has been scaled as required by the permit, full payment for the timber has been received, and all other provisions of the permit have been fully complied with.

Subd. 2. **Deferred payments.** (a) 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 16A.124, 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 commissioner of revenue according to chapter 16D, 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.

(b) 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:** *(6394-30, 31) 1925 c 276 s 30,31; 1933 c 375 s 2; 1961 c 202 s 23,24; 1965 c 337 s 2; 1967 c 110 s 11; 1967 c 568 s 8; 1969 c 366 s 5; 1981 c 305 s 9; 2000 c 485 s 10; 2004 c 241 s 9*

**90.19** [Repealed, 1961 c 202 s 38]

### **90.191 INFORMAL SALES OF STATE TIMBER; MAXIMUM LOTS OF 500 CORDS.**

Subdivision 1. **Sale requirements.** The commissioner may sell the timber on any tract of state land in lots not exceeding 500 cords in volume, 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.

Subd. 2. **Time frame for cutting and removal.** Upon receipt of a down payment for the full appraised value, the commissioner may issue a permit according to section 90.151 to cut timber within the time period specified by the commissioner, which shall not exceed two years from the date of sale.

Subd. 3. [Repealed, 2004 c 241 s 15]

Subd. 4. [Repealed, 2004 c 241 s 15]

Subd. 5. **Additional procedure.** The sale procedure under this section is an additional alternative timber sale procedure available to the commissioner and is not intended to replace other authority of the commissioner to sell timber in lots of 500 cords or less.

**History:** (6394-10) 1925 c 276 s 10; 1939 c 352 s 1; 1949 c 182 s 1; 1951 c 662 s 1; 1959 c 385 s 1; 1961 c 202 s 9; 1963 c 64 s 1; 1967 c 24 s 1-3; 1967 c 27 s 2; 1967 c 568 s 9; 1969 c 366 s 6; 1969 c 1129 art 10 s 2; 1975 c 106 s 5; 1978 c 640 s 1,2; 1981 c 305 s 10; 1986 c 444; 1994 c 551 s 9; 1996 c 295 s 8; 2003 c 73 s 10,11; 2004 c 241 s 10,11

### 90.193 EXTENSION OF TIMBER PERMITS.

The commissioner may, in the case of an exceptional circumstance beyond the control of the timber permit holder which makes it unreasonable, impractical, and not feasible to complete cutting and removal under the permit within the time allowed, grant an extension of one year. A request for the extension must be received by the commissioner before the permit expires. The request must state the reason the extension is necessary and be signed by the permit holder. An interest rate of eight percent may be charged for the period of extension.

**History:** 1984 c 613 s 4; 1994 c 551 s 10; 1998 c 395 s 1; 1998 c 401 s 31

### 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: (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 for the permit that shall cover the commissioner's cost of issuing the permit and shall not exceed the 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:** 1967 c 25 s 1; 1980 c 614 s 78; 1Sp1981 c 4 art 2 s 10; 1Sp2005 c 1 art 2 s 74

### 90.20 [Renumbered 90.14]



**90.201 VOID TIMBER SALES; REFUNDS; ADJUSTMENT OF SALE TERMS.**

Subdivision 1. **Void sales; refunds.** Any sale of timber made by fraud or mistake or in violation of the provisions of this chapter shall be void, the permit issued thereon shall be of no effect, and the holder shall be required to surrender the same. In case of a sale made by mistake the amount paid shall be refunded to the permit holder, or at the request of the permit holder the commissioner may credit the refund as payment upon any other timber purchased by the permit holder. If timber has been cut on a permit which required cancellation due to error by the state, it may be sold at single stumpage rate without formalities.

Subd. 2. **Refunds on final billing.** The commissioner shall refund to a permit holder any amount paid on a timber sale which exceeds the value of the timber cut under that sale as determined on a final statement transmitted pursuant to section 90.181. The commissioner may credit a refund to any other permit held by the same permit holder if the permit is delinquent as provided in section 90.181, subdivision 2, and may credit a refund to any other permit to which the permit holder requests that it be credited.

Subd. 2a. **Prompt payment of refunds.** Any refund of cash that is due to a permit holder as determined on a final statement transmitted pursuant to section 90.181 or a refund of cash made pursuant to section 90.161, subdivision 1, or 90.173, paragraph (a), shall be paid to the permit holder according to section 16A.124 unless the refund is credited on another permit as provided in this chapter.

Subd. 3. **Settlement of permit obligations.** When a permit holder dies or becomes permanently incapacitated, the commissioner may cancel the permit and compromise and settle the remaining obligations to the state.

Subd. 4. **Damaged timber; reappraisal.** When standing timber under a valid permit is damaged through fire, windstorm, flood, or other natural cause, the commissioner may reappraise the timber and modify the permit. The commissioner shall ensure that the reappraisal is in the best interest of the state and the trust.

**History:** (6394-20) 1925 c 276 s 20; 1961 c 202 s 17; 1967 c 23 s 1; 1982 c 511 s 20; 1986 c 444; 1993 c 172 s 47; 2000 c 485 s 11,12

**90.21** [Renumbered 90.151]

**90.211 PURCHASE MONEY, WHEN FORFEITED.**

If the holder of an effective permit fails to cut any part thereof before the expiration of the permit, the permit holder shall nevertheless pay the price therefor; but under no circumstances shall timber be cut after the expiration of the permit or extension thereof.

**History:** (6394-21) 1925 c 276 s 21; 1967 c 27 s 3; 1986 c 444; 2005 c 141 s 10

**90.215** [Renumbered 90.55]

**90.22** [Renumbered 90.161]

**90.221 TIMBER SALES RECORDS.**

The commissioner shall keep timber sales records, including the description of each tract of land from which any timber is sold; the date of the report of the state appraisers; the kind, amount, and value of the timber as shown by such report; the date of the sale; the price for which the timber was sold; the name of the purchaser; the number, date of issuance and date of expiration of

each permit; the date of any assignment of the permit; the name of the assignee; the dates of the filing and the amounts of the respective bonds by the purchaser and assignee; the names of the sureties thereon; the amount of timber taken from the land; the date of the report of the scaler and state appraiser; the names of the scaler and the state appraiser who scaled the timber; and the amount paid for such timber and the date of payment.

**History:** (6394-29) 1925 c 276 s 29; 1957 c 202 s 1; 1961 c 202 s 22; 1967 c 568 s 10

**90.23** [Renumbered 90.171]

### **90.231 TIMBER SALES, MARKING OF BOUNDARIES.**

Whenever timber on a tract of state-owned land is sold, prior to the removal of the timber, the commissioner shall designate the boundaries of such tract.

**History:** 1961 c 757 s 1; 1969 c 366 s 7

**90.24** [Renumbered 90.201]

**90.25** [Renumbered 90.211]

### **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.

Subd. 2. **Reports of scaled timber.** The scaler or state appraiser shall make separate reports to the commissioner of all such timber scaled, covering the respective permits. Each report shall describe the land on which the timber was cut, the quantities of each kind or species of timber, the total number of feet or other units of measurement, as the case may be.

Subd. 3. **Final examination.** Final examination of lands and timber covered by any permit shall be made by a state appraiser at or subsequent to the expiration of the permit or of any cutting season and it shall be the duty of such appraiser to ascertain and report the amount of any timber covered by the permit and cut and left on the land or left standing thereon, but the appraiser shall

not report any timber cut and left which has been marked as scaled.

Subd. 4. **Scaling requirements.** No state timber shall ever be scaled for or on behalf of the state by any person except a state appraiser or scaler except as provided otherwise by the commissioner, and as far as practicable the scaler and appraiser shall not be the same person for any timber cut under a permit. No scale, count, measurement, or estimate of state timber officially made and reported by any state appraiser or scaler shall ever be changed or altered by any other person, nor superseded or set aside in any manner except as expressly provided in this chapter. Reappraisals of unsold state land or timber may be made when deemed advisable by the commissioner. Except as herein expressly provided and as generally authorized by section 16D.09, no claim of the state for timber from state lands shall ever be settled or discharged for less than the full amount thereof as shown by the scale or estimate of scalers, or of state appraisers, as the case may be.

**History:** (6394-22,25,26) 1925 c 276 s 22,25,26; 1957 c 278 s 1; 1961 c 202 s 18,20,21; 1967 c 568 s 11; 1969 c 366 s 8,9; 1973 c 492 s 14; 1982 c 511 s 22,23; 1984 c 613 s 5; 1986 c 444; 1995 c 186 s 25; 2003 c 73 s 12

### **90.252 CONSUMER SCALE OF STATE TIMBER; WEIGHT MEASUREMENT SERVICES; FEES.**

Subdivision 1. **Consumer scaling.** The commissioner may enter into an agreement with either a timber sale permittee, or the purchaser of the cut products, or both, so that the scaling of the cut timber and the collection of the payment for the same can be consummated by the consumer. Such an agreement shall be approved as to form and content by the attorney general and shall provide for a bond or cash in lieu of a bond and such other safeguards as are necessary to protect the interests of the state. The scaling and payment collection procedure may be used for any state timber sale, except that no permittee who is also the consumer shall both cut and scale the timber sold unless such scaling is supervised by a state scaler.

Subd. 2. **Weight measurement services; fees.** The commissioner may enter into an agreement with the owner or operator of any weight scale inspected, tested, and approved under chapter 239 to provide weight measurements for the scaling of state timber according to section 90.251. The agreement shall be on a form prescribed by the attorney general, shall become a part of the official record of any state timber permit so scaled, and shall contain safeguards that are necessary to protect the interests of the state. Except as otherwise provided by the commissioner, the cost of any agreement to provide weight measurement of state timber shall be paid by the permit holder of any state timber permit so measured and the cost shall be included in the statement of the amount due for the permit under section 90.181, subdivision 1.

**History:** 1969 c 366 s 10; 2000 c 485 s 13; 2004 c 241 s 12

**90.26** [Renumbered 90.251, subs 1-3]

**90.27** [Repealed, 1967 c 568 s 14]

**90.28** [Repealed, 1967 c 568 s 14]

### **90.281 RESCALES, RECOUNTS AND REESTIMATES.**

(a) Upon complaint of any interested permit holder questioning the accuracy of any scale, count, or estimate of timber made by any state appraiser, or at any other time the commissioner determines in the absence of a complaint, the commissioner may cause a rescale, recount, or

reestimate thereof to be made jointly by any two or more state appraisers, which when made shall supersede and for all purposes take the place of the original scale, count, or estimate, if and only when the scale or count varies more than ten percent from the original or the estimate exceeds the standards established by section 90.045.

(b) As a condition precedent to the making of a rescale, recount, or reestimate upon the complaint of any person, the commissioner may require the person to make available such sum of money as the commissioner deems necessary for the actual expenses thereof and to forfeit the same to the state if the rescale and recount does not vary more than ten percent from the original or the reestimate does not exceed the standards established by section 90.045. All forfeited money shall be paid into the state treasury and credited to the fund or account from which the expenses of the rescale, recount, or reestimate were paid.

**History:** (6394-12) 1925 c 276 s 12; 1961 c 202 s 11; 1967 c 568 s 12; 1986 c 444; 2000 c 485 s 14

**90.29** [Renumbered 90.251, subd 4]

**90.30** [Renumbered 90.251, subd 5]

### **90.301 TIMBER TRESPASS ON STATE LANDS; UNLAWFUL POSSESSION AND SALE; REWARDS; RECORDS.**

Subdivision 1. **Trespass on public lands, damages.** Whoever without valid permit shall cut any timber upon lands owned by this state, or held in trust by the state for the counties, or remove or carry away any such timber, or any other property appertaining to these lands, or shall commit any other trespass upon these lands, or shall induce or assist another to do so, shall be liable to the state for treble damages if the trespass is adjudged to have been willful but liable for double damages only if the trespass is adjudged to have been casual and involuntary. Any person found to have acquired possession in any manner of any timber unlawfully cut on lands owned by this state or held in trust by the state for the counties, shall be liable to the state for twice the stumpage value thereof. It shall be no defense to plead or claim a purchase of any state timber from any one other than the commissioner, or a purchase of any timber held in trust by the state for the counties from anyone other than the county auditor, nor may it be claimed that any other person should be joined as defendant; nor may any claim be made for remuneration or allowance for labor or expenses incurred in preparing such timber for market or transporting the same to or toward market. Every such trespass willfully committed shall be a gross misdemeanor.

Subd. 2. **Seizure of unlawfully cut timber.** The commissioner may take possession of any timber hereafter unlawfully cut upon or taken from any land owned by the state wherever found and may sell the same informally or at public auction after giving such notice as the commissioner deems reasonable and after deducting all the expenses of such sale the proceeds thereof shall be paid into the state treasury to the credit of the proper fund; and when any timber so unlawfully cut has been intermingled with any other timber or property so that it cannot be identified or plainly separated therefrom the commissioner may so seize and sell the whole quantity so intermingled and, in such case, the whole quantity of such timber shall be conclusively presumed to have been unlawfully taken from state land. When the timber unlawfully cut or removed from state land is so seized and sold the seizure shall not in any manner relieve the trespasser who cut or removed, or caused the cutting or removal of, any such timber from the full liability imposed by this chapter for the trespass so committed, but the net amount realized from such sale shall be credited on whatever judgment is recovered against such trespasser.

Subd. 3. **Penalty.** In addition to any other penalty provided by law, any person who shall remove, transport, carry away, conceal, or convert to personal use any timber unlawfully cut on state lands, knowing the same to have been so cut, shall be guilty of theft of the same and prosecuted and punished accordingly in the county where the property was cut or in any county into or through which the property or any part thereof may be removed; and when any corporation is guilty of the acts herein declared to be theft, each officer of the corporation shall, individually and severally, be guilty of such theft.

Subd. 4. **Apprehension of trespassers; reward.** The commissioner may offer a reward to be paid to a person giving to the proper authorities any information that leads to the conviction of a person violating this chapter. The reward is limited to the greater of \$100 or ten percent of the single stumpage value of any timber unlawfully cut or removed. The commissioner shall pay the reward from funds appropriated for that purpose or from receipts from the sale of state timber. A reward shall not be paid to salaried forest officers, conservation officers, or licensed peace officers.

Subd. 5. **Record of trespasses.** The commissioner shall keep a record of all trespasses reported, with the estimates, appraisals and settlements thereof.

Subd. 6. **Ticket for theft violations.** The commissioner may design and issue a ticket in the form, and having the effect, of a summons and complaint, for use in cases of theft of state timber or other state property, where the value of the property is within the limits established by section 609.52, subdivision 3, clause (5). The ticket shall provide for the name and address of the person charged with the violation, the offense charged, the time and place the person is to appear before a court, and any other necessary information.

**History:** (6394-3,32-34) 1925 c 276 s 3,32-34; 1937 c 368 s 1; 1955 c 387 s 1; 1961 c 202 s 4,25-27; 1965 c 35 s 5; 1967 c 23 s 2; 1984 c 613 s 6; 1986 c 444; 1987 c 254 s 5; 1990 c 566 s 5; 2005 c 141 s 11

**90.31** [Repealed, 1957 c 202 s 2]

### **90.311 POSSESSION OF LANDS CONTRARY TO AGREEMENT, REMEDIES.**

If any person holds or continues in possession of any lands mentioned in this chapter contrary to the conditions or covenants of any lease, certificate of sale, permit, or other written agreement, that person shall be liable to an action for the recovery of possession of such lands and damages for the detention of the same. The commission of trespass or waste upon these lands or the destruction or removal of timber or other property therefrom may be restrained, enjoined, or otherwise prohibited by any court of competent jurisdiction at the suit of the state pending final determination of the rights of the state therein, and permanently thereafter, as the facts may warrant. No bond shall ever be required of the state in any such proceeding.

**History:** (6394-4) 1925 c 276 s 4; 1961 c 202 s 5; 1986 c 444

**90.32** [Renumbered 90.221]

### **90.321 PROSECUTIONS.**

The attorney general shall prosecute or cause to be prosecuted by the county attorney when the public interest so requires any person who may be charged with any indictable offense under this chapter.

The county attorneys of the several counties shall promptly report to the commissioner all trespasses committed upon state lands which may come to their knowledge and when directed by

the attorney general shall prosecute all actions for any trespass or injury thereto, for the recovery of the possession thereof, or otherwise.

The county attorneys shall prosecute all actions for trespass on lands or timber on lands held in trust by the state for the counties in their respective counties.

**History:** (6394-5) 1925 c 276 s 5; 1955 c 387 s 2; 1961 c 202 s 6

**90.33** [Renumbered 90.181, subdivision 1]

**90.34** [Renumbered 90.181, subd 2]

**90.35** [Renumbered 90.301, subds 2,3]

**90.36** [Renumbered 90.301, subd 5]

**90.37** [Renumbered 90.301, subd 4]

**90.38** [Repealed, 1961 c 202 s 38]

**90.39** [Renumbered 90.411]

**90.40** [Renumbered 90.412]

#### **90.41 STATE APPRAISER AND SCALER; VIOLATIONS, PENALTIES.**

Subdivision 1. **Violations.** Any state scaler or state appraiser who shall accept any compensation or gratuity for services as such from any other source except the state of Minnesota, or any state scaler, or other person authorized to scale state timber, or state appraiser, who shall make any false report, or insert in any such report any false statement, or shall make any such report without having examined the land embraced therein or without having actually been upon the land, or omit from any such report any statement required by law to be made therein, or who shall fail to report any known trespass committed upon state lands, or who shall conspire with any other person in any manner, by act or omission or otherwise, to defraud or unlawfully deprive the state of Minnesota of any land or timber, or the value thereof, shall be guilty of a felony. Any material discrepancy between the facts and the scale returned by any such person scaling timber for the state shall be considered prima facie evidence that such person is guilty of violating this statute.

No such appraiser or scaler who has been once discharged for cause shall ever again be appointed. This provision shall not apply to resignations voluntarily made by and accepted from such employees.

Subd. 2. **Penalty.** Every person who shall cut timber on state lands and fail to mark the same, as provided by law, and the permit under which the same was cut, shall be guilty of a gross misdemeanor.

**History:** (6394-26, 6394-27) 1925 c 276 s 26,27; 1961 c 202 s 29; 1967 c 568 s 13; 1969 c 366 s 11; 1986 c 444

#### **90.411 RECORDS AS NOTICE.**

The records kept by the commissioner pursuant to this chapter shall be deemed notice of the facts therein set forth. All these records shall be prima facie true and correct.

**History:** (6394-36) 1925 c 276 s 36; 1961 c 202 s 28

**90.412 STATUTE OF LIMITATION NOT APPLICABLE; VENUE OF PROCEEDINGS.**

The statutes of this state limiting the time for bringing either civil or criminal actions shall not apply to any action brought by the state for trespass upon any of its lands, or for violating any of the terms of the permit under which timber is removed from state lands, or for failure to pay the state for all the timber removed under any such permit, or to any criminal prosecution instituted under this chapter. Any civil action brought under this chapter may, at the election of the attorney general, be brought in any county in this state.

**History:** (6394-37) 1925 c 276 s 37

**90.42 LAWS NOT AFFECTED.**

Nothing in this chapter shall be deemed or construed as authorizing the sale, cutting, or removal, or as excusing damage or injury to any timber reserved to the state and set aside for any purpose, including state forests set aside under the Constitution of the state of Minnesota, Article XI, Section 11, and laws enacted in furtherance thereof, except as provided in the laws directly relating to such reserved timber.

All persons cutting or removing state timber shall be subject to all laws now in force or hereafter enacted governing the burning and disposition of slashings or other debris resulting from timber operations, and concerning forest fires, including the setting or spreading or prevention or control thereof or liability therefor.

**History:** (6394-38) 1925 c 276 s 38; 1965 c 51 s 14; 1976 c 2 s 172

**90.46** Subdivision 1. [Renumbered 90.111, subdivision 1]

Subd. 2. MS 1957 [Repealed, 1961 c 202 s 31,38]

Subd. 2. MS 1961 [Renumbered 90.111, subd 2]

Subd. 3. [Renumbered 90.111, subd 3]

Subd. 4. MS 1957 [Repealed, 1961 c 202 s 33,38]

Subd. 4. MS 1961 [Renumbered 90.111, subd 4]

Subd. 5. MS 1957 [Repealed, 1961 c 202 s 34,38]

Subd. 5. MS 1961 [Renumbered 90.111, subd 5]

Subd. 6. [Renumbered 90.111, subd 6]

**90.47** [Renumbered 90.231]

**90.50** [Repealed, 2002 c 351 s 34]

**90.55** [Repealed, 1967 c 22 s 1]

**90.60** [Repealed, 1967 c 26 s 1]

**90.61** [Repealed, 1967 c 26 s 1]

**90.62** [Repealed, 1967 c 26 s 1]

**90.63** [Repealed, 1967 c 26 s 1]