

## CHAPTER 89

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**89.001 DEFINITIONS.**

Subdivision 1. **Applicability.** Unless the language or context clearly indicates that a different meaning is intended, the following terms for the purpose 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 agent of the commissioner.

Subd. 4. **Forest land.** "Forest land" means land which is at least ten percent stocked by trees of any size and capable of producing timber, or of exerting an influence on the climate or on the water regime; land from which the trees described above have been removed to less than ten percent stocking and which has not been developed for other use; and afforested areas.

Subd. 5. **Timber.** "Timber" means trees that will produce forest products of value, whether standing or down, and including but not limited to logs, bolts, pulpwood, posts, poles, cordwood, lumber and decorative material.

Subd. 6. **State forest lands.** "State forest lands" means all land and waters owned by the state within state forests, including all lands set apart under the Constitution of the state of Minnesota, article XI, section 11, and laws enacted pursuant thereto, but excepting lands acquired by the state for other specific purposes or tax-forfeited lands held in trust for the taxing districts unless incorporated into state forests as otherwise provided by law.

Subd. 7. **Reproduction.** "Reproduction" means young stands of commercial tree species ranging from one foot high to 4.9 inches diameter at 4-1/2 feet above the ground and at least ten percent stocked.

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

Subd. 9. **Multiple use.** "Multiple use" means the principle of forest management by which forest resources are utilized in the combinations that will best meet the needs of the people of the state; including the harmonious and coordinated management of the forest resources, each with the other, without impairment of the productivity of the land and with consideration of the relative values of the resources, and not necessarily the combination of uses resulting in the greatest economic return or unit output.

Subd. 10. **Sustained yield.** "Sustained yield" means the principle of forest management for the achievement and maintenance in perpetuity of a high-level annual or regular periodic output of forest resources without impairment of the productivity of the land; allowing for periods of intensification of management to enhance the current or anticipated output of one or more of the resources.

Subd. 11. **Reforestation.** "Reforestation" means the process of natural or artificial forest regeneration, including securing seed, growing seedlings, preparing sites, planting seed, planting trees, removing deleterious growth and underbrush and other activities related to forest regeneration.

Subd. 12. **Extractive use.** "Extractive use" means the removal of sand, gravel, peat or any mineral from beneath the surface of the land.

Subd. 13. **Forest lands under authority of commissioner.** "Forest lands under the authority of the commissioner" means state forest lands and other forest lands managed by the commissioner outside of state forests, except for tax-forfeited lands held in trust for the taxing districts and for the following units of the outdoor recreation system as defined in section 86A.04: state parks, state trails, state wildlife management areas, state scientific and natural areas, state water access sites, state historic sites, state rest areas and state wilderness areas.

Subd. 14. **State forest road.** "State forest road" means a road constructed, acquired, maintained, or administered by the commissioner for the purpose of carrying out forest resource management policy as set forth in section 89.002.

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:** 1961 c 223 s 1; 1965 c 51 s 13; 1969 c 1129 art 10 s 2; 1976 c 2 s 172; 1982 c 511 s 2; 1986 c 444; 1988 c 686 art 4 s 1; 1995 c 220 s 76; 2007 c 57 art 1 s 48-52

## **89.002 POLICIES.**

Subdivision 1. **Forest resource management policy.** The commissioner shall manage the forest resources of state forest lands under the authority of the commissioner according to the principles of multiple use and sustained yield. The forest resource management policy shall not supersede any existing duty or authority of the commissioner in managing forest lands, but the duties and authorities, as far as practicable, shall be exercised consistently with this policy. The forest resource management policy is not intended to exclude extractive uses of forest lands under the authority of the commissioner pursuant to state law.

Subd. 2. **Reforestation policy.** (a) The commissioner shall maintain all forest lands under authority of the commissioner in appropriate forest cover with species of trees, degree of stocking, rate of growth and stand conditions designed to secure optimum public benefits according to multiple use, sustained yield principles and consistent with applicable forest management plans.

(b) Each year the commissioner shall strive to assure that (1) reforestation occurs annually on an acreage at least equal to the acreage harvested that year on all forest lands under the authority of the commissioner; (2) additional reforestation is accomplished on areas previously harvested but not adequately reforested so that the backlog of reforestation work can be eliminated; and (3) poorly stocked forest land, or forest land damaged by natural causes, shall be returned to a state of productivity.

Subd. 3. **Forest road policy.** The commissioner shall provide a system of forest roads and trails which provides access to state forest land and other forest land under the commissioner's authority which is

adequate to permit the commissioner to manage, protect, and develop those lands and their forest resources consistent with the forest resource management policy, and to meet demands for forest resources.

**History:** 1982 c 511 s 3; 1986 c 444

### **89.01 COMMISSIONER, POWERS AND DUTIES.**

Subdivision 1. **Best methods.** The commissioner shall ascertain and observe the best methods of re-foresting 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.

Subd. 3. **Fire damage.** Damage by fire occurring to state timber, reproduction or lands, when coming to the knowledge of the commissioner, shall be promptly reported to the attorney general, who may either enforce collection of such demands directly or may employ private attorneys therefor on such terms, not contingent, as the attorney general deems for the best interests of the state. The amount so collected, after deducting therefrom the fees of such attorneys, if any, and other necessary expenses incurred in investigation, preparation for trial, and trial, shall be paid into the state treasury and credited to the fund that would have been entitled to receive the sale price of the lands, reproduction, or timber if sold; or, if there be no such fund, then such money shall be credited to the general fund. The attorney general, either in or out of court, may compromise and settle state claims for fire damage to state lands, reproduction, or timber, on such terms as the attorney general deems for the best interests of the state.

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.

Subd. 5. **Eliminating state forest land.** When any tract or tracts of land that are included in areas set apart as state forests are found to be more valuable for agriculture than for forestry or other conservation purposes, or when any tract or tracts of land used as a forestry administrative site are found to be no longer needed for administrative purposes, the commissioner by written order may eliminate such lands from state forests whereupon such lands shall be subject to sale the same as other lands not reserved. When any tract or tracts of land that are included in areas set apart as state forests are found to be more valuable for the construction of industrial plants or for purposes including forestry essential to the establishment of or expansion of substantial commercial developments, the commissioner, by written order, with the unanimous approval of the Land Exchange Board may eliminate such lands from state forests whereupon such lands shall be subject to sale the same as other lands not reserved.

Subd. 5a. **Sale of state forest land.** Any state lands included in areas set apart as state forests are eliminated from the state forest upon sale under the provisions of sections 92.06 to 92.08 or 94.09 to 94.16.

Subd. 6. **Designating state lands.** When any state lands not reserved or set aside are found by the commissioner to be more valuable for the production of timber than for agriculture the commissioner may by written order designate such lands as state forest or adjust the boundaries of state forests subject to the approval of the state legislature at its next regular session.

Subd. 7. [Repealed, 2014 c 289 s 70]

**History:** (4031-5 - 4031-10) 1911 c 125 s 3-6; 1925 c 407 s 5-10; 1961 c 223 s 2; 1963 c 381 s 1; 1969 c 399 s 1; 1975 c 271 s 6; 1982 c 511 s 4; 1985 c 248 s 70; 1986 c 444; 1988 c 462 s 2; 1988 c 686 art 4 s 2; 2004 c 262 art 1 s 10; 2005 c 10 art 1 s 22; 2006 c 281 art 1 s 19; 2007 c 57 art 1 s 53-55

### **89.011 FOREST PLANNING COORDINATION.**

Subdivision 1. [Repealed, 2006 c 281 art 3 s 20]

Subd. 2. [Repealed, 2006 c 281 art 3 s 20]

Subd. 3. [Repealed, 2006 c 281 art 3 s 20]

Subd. 4. **Federal coordination.** The Department of Natural Resources shall coordinate all forest resources planning efforts with the appropriate federal agencies in order to achieve optimum public benefit, to obtain federal assistance, to participate in the federal forestry planning process, and to enhance the productivity and multiple use management of forest resources.

Subd. 5. **Public and private coordination.** The Department of Natural Resources shall coordinate all forest resources planning efforts with counties and other public agencies and private organizations engaged in forest resource management and research.

Subd. 6. [Repealed, 2006 c 281 art 3 s 20]

**History:** 1982 c 511 s 5

### **89.012 UNIT FOREST RESOURCE PLANS.**

Each geographic administrative unit of the Division of Forestry identified by the commissioner as an appropriate unit for forest resource planning shall have a unit forest resource plan which is consistent with the forest resource management policy and plan, including state reforestation and road policies. The scope and content of the plan shall be determined by the commissioner. The plan is not subject to the rulemaking provisions of chapter 14 and section 14.386 does not apply. A unit plan shall not be implemented until approved by the commissioner by written order that is published in the State Register.

A unit plan shall set forth the specific goals and objectives for the management, protection, development, and production of forest resources in the administrative unit. A unit plan shall be integrated with other uses not managed under the multiple use, sustained yield principles policy when those uses have been authorized and approved according to law, including compliance with environmental review procedures. Unit plans shall be revised as necessary to remain consistent with the forest resource management plan.

**History:** 1982 c 511 s 6; 2004 c 221 s 28

**89.013** [Repealed, 1996 c 310 s 1]

**89.014** [Repealed, 1996 c 310 s 1]

**89.015 SOUTHERN MINNESOTA TREE SPECIES, RESEARCH.**

Research shall be carried on by the University of Minnesota School of Forestry in cooperation with the Division of Lands and Forestry of the Department of Natural Resources, North Central Forest Experiment Station of the United States Forest Service, individual timber land owners and others directly concerned on such valuable southern Minnesota tree species as basswood, red elm, rock elm, red and white oak, black walnut, black cherry, butternut and green ash to develop means of increasing the contribution of the large acreage of farm woodlands to the agricultural economy. The research effort will be concentrated on such important problems as means of reproducing basswood, development of planting stock, selection of superior strains of these species, methods of field planting, management of existing stands, and methods of increasing the representation of these species in woodlands and forests in need of rehabilitation because of past damage from high-grading, burning, and grazing.

**History:** *1957 c 765 s 1; 1961 c 223 s 3; 1967 c 905 s 9; 1969 c 1129 art 10 s 2; 1971 c 25 s 28*

**89.016 FOREST CAMPGROUNDS.**

The commissioner must hold a public meeting before closing a campground in a state forest for a camping season. The public meeting must be held near the state forest where the campground is to be closed.

**History:** *1987 c 404 s 109*

**HERITAGE FOREST AREAS**

**89.018 HERITAGE FORESTS.**

Subdivision 1. **Establishment; termination.** (a) The commissioner may establish, by written order published in the State Register, heritage forest areas within counties named under this subdivision if:

(1) the commissioner determines that establishment is consistent with the purposes of the heritage forest; and

(2) the county board has submitted a resolution to the commissioner delineating and requesting establishment of the heritage forest areas of the county.

(b) The named counties for the Big Woods Heritage Forest are:

(1) Blue Earth;

(2) Carver;

(3) Dakota;

(4) Hennepin;

(5) Le Sueur;

(6) McLeod;

- (7) Meeker;
- (8) Nicollet;
- (9) Rice;
- (10) Sibley;
- (11) Scott;
- (12) Waseca; and
- (13) Wright.

(c) The commissioner may terminate the heritage forest status of an area within a county if the commissioner determines that the termination would be in the public interest and the county board has submitted a resolution to the commissioner requesting termination.

**Subd. 2. Commissioner's powers.** (a) Within areas established as a heritage forest under subdivision 1, the commissioner may:

- (1) designate, by written order published in the State Register, any commissioner-administered state-owned lands as heritage forest lands for management purposes, including lands that have previously been designated for another purpose;
- (2) accept donations of land, including easements under subdivision 3, for heritage forest management;
- (3) manage lands designated by local governments for heritage forest management; and
- (4) contract with other agencies or organizations for management services, including any required monitoring activities.

(b) Lands designated under paragraph (a), clause (1), that were previously designated by law or by the commissioner continue to be subject to requirements and uses authorized under the previous designation.

**Subd. 3. Easements.** (a) The commissioner or a political subdivision may individually or jointly acquire heritage forest land for conservation purposes in areas established under subdivision 1 by entering into easements with landowners. The easements must be conservation easements as defined in section 84C.01, clause (1), except the easements may be made possessory as well as nonpossessory if agreed upon by the landowner and the commissioner or political subdivision.

(b) In an easement agreement between the commissioner or political subdivision and a landowner, the landowner must agree:

- (1) to place forest lands in the program for the period of the easement;
- (2) to implement a heritage forest stewardship plan as provided in the easement agreement;
- (3) not to alter the heritage forest by developing the land, cutting timber that is not identified in the forest stewardship plan, or otherwise destroying the heritage forest character of the easement area;
- (4) to allow the commissioner or political subdivision or agents of the commissioner or political subdivision access to the land for monitoring activities;

(5) not to adopt a practice specified by the commissioner or political subdivision in the easement as a practice that would tend to defeat the purposes of the heritage forest; and

(6) to additional provisions included in the easement that the commissioner or political subdivision determines are consistent with the purposes of the heritage forest program.

(c) A limited-term easement may be converted to a permanent easement or renewed at the end of the easement period by mutual agreement of the commissioner or political subdivision and the landowner.

(d) If during the easement period the landowner sells or otherwise disposes of the ownership or right of occupancy of the land, the new landowner must continue the easement under the same terms or conditions.

(e) If during the limited-term easement period the landowner sells or otherwise disposes of the ownership or right of occupancy of the land, the new landowner may continue the easement under the same terms or conditions.

(f) The commissioner or political subdivision may terminate an easement by mutual agreement with the landowner if the commissioner or political subdivision determines that the termination would be in the public interest. The commissioner or political subdivision may agree to modification of an agreement if the commissioner or political subdivision determines the modification is desirable to implement the heritage forest program.

Subd. 4. **Forest stewardship registration.** Private landowners may establish their lands as heritage forest land by having a heritage forest stewardship plan prepared and by completing a stewardship registration agreement. A stewardship registration agreement is a nonbinding commitment by a landowner to provide stewardship to forested lands. In a stewardship registration agreement, a landowner acknowledges an intent to implement a heritage forest stewardship plan. If the landowner sells or otherwise disposes of the ownership or right of occupancy of the land, the commissioner shall terminate the stewardship registration agreement. A new owner must enter into a new stewardship registration agreement to continue recognition of the forest land as heritage forest. The commissioner may terminate a stewardship registration agreement by mutual agreement of the landowner if the commissioner determines the termination would be in the public interest.

Subd. 5. **Highways.** The establishment of a heritage forest shall not, by itself, impose any additional restrictions upon the commissioner of transportation or a local road authority, to construct, improve, or maintain a highway, as defined in section 160.02, subdivision 26.

Subd. 6. **State regulation and control.** Nothing in this chapter shall be used to authorize the acceptance of grants or agreements that would preempt state regulation and control of state lands.

Subd. 7. **Rulemaking exemption.** Designations under subdivisions 1 and 2 are not subject to the rulemaking provisions of chapter 14 and section 14.386 does not apply.

**History:** 2000 c 375 s 2; 2004 c 221 s 29-31

## STATE FORESTS

### 89.021 STATE FORESTS.

Subdivision 1. **Established.** There are hereby established and reestablished as state forests, in accordance with the forest resource management policy and plan, all lands and waters now owned by the state



or hereafter acquired by the state, excepting lands acquired for other specific purposes or tax-forfeited lands held in trust for the taxing districts unless incorporated therein as otherwise provided by law.

**History:** *1943 c 171 s 1; 1963 c 332 s 1; 1982 c 511 s 9; 1990 c 473 s 3,6*

Subd. 1a. **Boundaries designated.** The commissioner of natural resources may acquire by gift or purchase land or interests in land adjacent to a state forest. The commissioner shall propose legislation to change the boundaries of established state forests for the acquisition of land adjacent to the state forests, provided that the lands meet the definition of forest land as defined in section 89.001, subdivision 4.

**History:** *2011 c 3 s 3*

Subd. 2. Badoura State Forest.

**History:** *1963 c 332 s 1; 1967 c 514 s 1; 1980 c 424*

Subd. 3. Battleground State Forest.

**History:** *1963 c 332 s 1*

Subd. 4. Bear Island State Forest.

**History:** *1963 c 332 s 1*

Subd. 5. Beltrami Island State Forest.

**History:** *1943 c 171 s 1; 1963 c 332 s 1; 2000 c 485 s 20 subd 1; 2004 c 262 art 2 s 14*

Subd. 6. Big Fork State Forest.

**History:** *1963 c 332 s 1*

Subd. 7. Birch Lakes State Forest.

**History:** *1963 c 332 s 1; 2008 c 368 art 1 s 23*

Subd. 8. Blackduck State Forest.

**History:** *1943 c 171 s 1; 1963 c 332 s 1*

Subd. 9. Bowstring State Forest.

**History:** *1963 c 332 s 1; 1967 c 514 s 2*

Subd. 10. Buena Vista State Forest.

**History:** *1943 c 171 s 1; 1963 c 332 s 1; 1967 c 514 s 3*

Subd. 11. Burntside State Forest.

**History:** *1963 c 332 s 1*

Subd. 12. Chengwatana State Forest.

**History:** *1953 c 292; 1963 c 332 s 1; 1967 c 514 s 4; 1969 c 257 s 1; 1971 c 720 s 1*

Subd. 13. Cloquet Valley State Forest.

**History:** *1943 c 171 s 1; 1963 c 332 s 1; 1969 c 257 s 2*

Subd. 14. Crow Wing State Forest.

**History:** *1943 c 171 s 1; 1963 c 332 s 1; 1967 c 514 s 5*

Subd. 15. D.A.R. State Forest.

**History:** *1943 c 171 s 1; 1963 c 332 s 1*

Subd. 16. Emily State Forest.

**History:** *1963 c 332 s 1*

Subd. 17. Finland State Forest.

**History:** *1943 c 171 s 1; 1963 c 332 s 1*

Subd. 18. Fond du Lac State Forest.

**History:** *1943 c 171 s 1; 1963 c 332 s 1; 1967 c 514 s 6; 1985 c 191 s 1; 2012 c 236 s 9*

Subd. 19. Foot Hills State Forest.

**History:** *1943 c 171 s 1; 1963 c 332 s 1; 1967 c 514 s 7; 1Sp2003 c 13 s 11 subd 1; 2004 c 262 art 3 s 6*

Subd. 20. General C. C. Andrews State Forest.

**History:** *1943 c 171 s 1; 1963 c 332 s 1; 1967 c 514 s 8*

Subd. 21. George Washington State Forest.

**History:** *1943 c 171 s 1; 1963 c 332 s 1; 1967 c 514 s 9; 2004 c 262 art 3 s 5*

Subd. 22. Golden Anniversary State Forest.

**History:** *1961 c 330; 1963 c 332 s 1; 1967 c 514 s 10*

Subd. 23. Grand Portage State Forest.

**History:** *1943 c 171 s 1; 1943 c 305; 1963 c 332 s 1*

Subd. 24. Hill River State Forest.

**History:** *1963 c 332 s 1; 2000 c 485 s 20 subd 2; 2001 c 206 s 10*

Subd. 25. Huntersville State Forest.

**History:** *1963 c 332 s 1; 1967 c 514 s 11*

Subd. 26. Insula Lake State Forest.

**History:** *1963 c 332 s 1*

Subd. 27. Kabetogama State Forest.

**History:** *1943 c 171 s 1; 1963 c 332 s 1; 1Sp2003 c 13 s 11 subd 2*

Subd. 28. Koochiching State Forest.

**History:** *1943 c 171 s 1; 1963 c 332 s 1; 1967 c 514 s 12; 1985 c 191 s 2*

Subd. 29. Lake Isabella State Forest.

**History:** *1963 c 332 s 1*

Subd. 30. Lake Jeanette State Forest.

**History:** *1963 c 332 s 1*

Subd. 30a. Lake of the Woods State Forest.

**History:** *1990 c 473 s 4; 2000 c 485 s 20 subd 3*

Subd. 31. Land O'Lakes State Forest.

**History:** *1943 c 171 s 1; 1963 c 332 s 1; 1967 c 514 s 13*

Subd. 31a. Lost River State Forest.

**History:** *1985 c 191 s 4; 1987 c 137; 2000 c 485 s 20 subd 4; 2011 c 98 s 8*

Subd. 32. Lyons State Forest.

**History:** *1963 c 332 s 1; 1971 c 720 s 2; 2011 c 3 s 8*

Subd. 33. Richard J. Dorer Memorial Hardwood State Forest.

**History:** *1961 c 521; 1963 c 332 s 1; 1967 c 514 s 14; 1975 c 103; 1985 c 191 s 3; 2002 c 366 s 9 subd 1*

Subd. 34. Mississippi Headwaters State Forest.

**History:** *1943 c 171 s 1; 1943 c 550; 1963 c 332 s 1; 1967 c 514 s 15; 1969 c 257 s 3; 1Sp2003 c 13 s 11 subd 3*

Subd. 35. Nemadji State Forest.

**History:** *1943 c 171 s 1; 1959 c 176; 1963 c 332 s 1; 1967 c 81; 1969 c 257 s 4; 2012 c 236 s 10*

Subd. 36. Northwest Angle State Forest.

**History:** *1943 c 171 s 1; 1963 c 332 s 1*

Subd. 37. Pat Bayle State Forest.

**History:** *1963 c 332 s 1*

Subd. 38. Paul Bunyan State Forest.

**History:** *1943 c 171 s 1; 1963 c 332 s 1; 1Sp2003 c 13 s 10 subd 1; 2004 c 262 art 3 s 7*

Subd. 39. Pillsbury State Forest.

**History:** *1943 c 171 s 1; 1963 c 332 s 1; 1967 c 514 s 16; 2002 c 366 s 9 subd 2*

Subd. 40. Pine Island State Forest.

**History:** *1943 c 171 s 1; 1963 c 332 s 1; 2000 c 485 s 20 subd 5*

Subd. 41. Red Lake State Forest.

**History:** *1963 c 332 s 1; 2000 c 485 s 20 subd 6; 1Sp2003 c 13 s 11 subd 4*

Subd. 42. Remer State Forest.

**History:** *1963 c 332 s 1*

Subd. 43. Rum River State Forest.

**History:** *1943 c 171 s 1; 1963 c 332 s 1; 2006 c 236 art 1 s 9*

Subd. 44. St. Croix State Forest.

**History:** *1963 c 332 s 1; 1967 c 81*

Subd. 45. Sand Dunes State Forest.

**History:** *1943 c 171 s 1; 1945 c 79; 1951 c 61; 1963 c 332 s 1; 1995 c 220 s 77*

Subd. 46. Savanna State Forest.

**History:** *1943 c 171 s 1; 1953 c 383; 1963 c 332 s 1; 2000 c 485 s 20 subd 7; 1Sp2003 c 13 s 10 subd 2*

Subd. 47. Smokey Bear State Forest.

**History:** *1963 c 332 s 1*

Subd. 48. Smoky Hills State Forest.

**History:** *1943 c 171 s 1; 1963 c 332 s 1; 1967 c 514 s 48; 1969 c 257 s 5; 2011 c 98 s 2,7*

Subd. 48a. Snake River State Forest.

**History:** *1969 c 257 s 9; 2013 c 73 s 9; 2014 c 217 s 6*

Subd. 49. Solana State Forest.

**History:** *1963 c 332 s 1; 2000 c 485 s 20 subd 8*

Subd. 50. Sturgeon River State Forest.

**History:** *1963 c 332 s 1; 1969 c 257 s 6*

Subd. 51. Two Inlets State Forest.

**History:** *1963 c 332 s 1; 1969 c 257 s 7*

Subd. 51a. Waukenabo State Forest.

**History:** *2000 c 485 s 20 subd 9; 1Sp2003 c 13 s 10 subd 3*

Subd. 52. Wealthwood State Forest.

**History:** *1963 c 332 s 1; 2000 c 485 s 20 subd 10*

Subd. 53. Welsh Lake State Forest.

**History:** *1963 c 332 s 1*

Subd. 54. White Earth State Forest.

**History:** *1943 c 171 s 1; 1963 c 332 s 1; 1965 c 63; 1971 c 720 s 3; 1973 c 224; 2000 c 485 s 20 subd 11*

Subd. 55. Whiteface River State Forest.

**History:** *1963 c 332 s 1*

Subd. 56. Administrative and scattered state forest land.

**History:** *1963 c 332 s 1; 1967 c 514 s 18; 1969 c 257 s 8; 1971 c 720 s 4*

Subd. 57. [Renumbered subd 60]

Subd. 58. [Renumbered subd 48a]

Subd. 59. [Renumbered subd 31a]

Subd. 60. **Reservation of land canceled.** Upon the effective date of Laws 1963, chapter 332, all the certificates of the commissioner of natural resources reserving certain state lands for state forest purposes heretofore issued pursuant to provisions of section 89.01, are hereby canceled.

**History:** *1963 c 332 s 2*

#### **89.0211 SALE OF STATE FOREST LANDS ADJACENT TO PLATTED AREAS.**

Notwithstanding section 89.021, the commissioner may sell state forest lands that are adjacent to areas platted under section 92.46 in accordance with the applicable procedures in chapter 92 or 94.

**History:** *1995 c 108 s 1*

#### **89.022 DISPOSAL OF TILLABLE LAND IN MEMORIAL HARDWOOD FOREST.**

Subdivision 1. **Exchange or sale required.** If any parcel acquired for the Memorial Hardwood Forest after July 1, 1977 contains more than ten contiguous acres of tillable land adjacent to other tillable land or to a maintained public road or a farm homestead consisting of a residence and farm buildings abutting a maintained public road, the commissioner of natural resources shall either exchange the land for other land suitable for forest purposes or declare the land as surplus land. Tillable land is land classified as class 1, 2,

or 3 as defined by the United States Natural Resources Conservation Service. Notwithstanding any law to the contrary neither the state nor any of its subdivisions shall be required to construct or maintain any street, highway or other road to provide access to any parcel of land sold or exchanged pursuant to this section. The commissioner of natural resources may retain easements over parcels sold or exchanged pursuant to this section as are required for purposes of providing access to public waters or forest lands or access to insure stream bank stabilization and protection.

Subd. 2. **Exemption.** The commissioner of natural resources may apply to the county board for an exemption from the exchange or sale requirements of subdivision 1 in instances where it can be demonstrated that tillable land has been or will be acquired for natural resource and public access purposes. The county board may approve or disapprove the exemption. If the application for exemption is not decided by the county board within 90 days, the application shall be deemed to have been approved.

Subd. 3. **Disposition.** Money collected pursuant to this section shall be deposited in the natural resources fund established under section 16A.531, subdivision 2.

**History:** 1979 c 248 s 1,2; 1988 c 690 art 1 s 1; 1989 c 335 art 1 s 269; 2006 c 243 s 21; 2014 c 217 s 2; 2015 c 21 art 1 s 109

### **89.025 DORER MEMORIAL HARDWOOD FOREST; LAND USE RESTRICTED.**

After June 1, 1993, the commissioner may not allow the use of additional state forest lands within the boundaries of the Richard J. Dorer Memorial Hardwood State Forest for development or operation of a motor sports area for use by all-terrain vehicles, motorcycles, or four-wheel drive trucks without legislative approval. This restriction does not apply to recreational trails.

**History:** 1993 c 203 s 2

### **89.03 ADVANCEMENT OF EDUCATION.**

The commissioner may advance education in forestry within the state by publications and lectures, and upon the invitation of the director of the School of Forestry of the University of Minnesota may cooperate with the school, and the school shall furnish such aid to the commissioner as, in the circumstances, is consistent with its own proper functions.

**History:** (4031-12) 1925 c 407 s 12; 1961 c 223 s 4; 1986 c 444

### **89.031 MANAGEMENT AND CONTROL.**

All state forest lands shall be under the management and control of the commissioner who shall have authority to make, establish, promulgate and enforce all necessary rules not inconsistent with the laws of the state for the care and management of state forest lands.

**History:** 1943 c 171 s 2; 1961 c 223 s 5; 1985 c 248 s 70

### **89.032 ACQUISITION OF LAND.**

Subdivision 1. **Acquisition for state use and development.** The commissioner may acquire administrative sites or rights-of-way by eminent domain, in the manner provided by law, or by purchase any lands or interest in lands in the state forests as created by law, which the commissioner deems necessary for state use, and development.

Subd. 2. **Acquisition for state forests.** The commissioner may acquire lands or interest in lands for state forest purposes. The land or interests in land may be subject to mineral reservations.

Subd. 3. **Leases for forestry purposes.** The commissioner may lease any land which the commissioner deems necessary for use for buildings, lookout towers, or other facilities for forestry purposes for such period as deemed necessary.

**History:** 1943 c 171 s 3; 1955 c 115 s 1; 1961 c 223 s 6; 1986 c 444; 2011 c 3 s 4

### **89.033 GIFTS.**

The commissioner may accept for and in behalf of the state, any gift, bequest, devise, or grant of land or interest in lands in any state forests, or of money or personal property of any kind, which the commissioner may deem suitable for use in connection with the operation, control, development, or use of any state forest.

**History:** 1943 c 171 s 4; 1961 c 223 s 7; 1986 c 444

### **89.034 TAX-FORFEITED LANDS, INCLUSION IN STATE FORESTS.**

Whenever the board of county commissioners, by resolution duly adopted, resolves that any lands, forfeited for nonpayment of taxes, lying within the boundaries of any of the forests hereinabove designated, or that certain tax-forfeited land lying outside of such boundaries and classified as conservation lands are suitable primarily for the growing of timber and timber products, it may submit such resolution to the commissioner. If, upon investigation, the commissioner determines that the lands covered by such resolution can best be managed and developed as state forest lands or as a portion of an existing state forest, the commissioner shall make a certificate describing the lands and reciting the acceptance thereof on behalf of the state as state forest lands. The commissioner shall transmit the certificate to the county auditor, who shall note the same upon records of the auditor and record the same with the county recorder. The title to all lands so accepted shall be held by the state free from any trust in favor of any and all taxing districts, and such lands shall thereafter be managed and devoted to the purposes of state forest lands in the same manner as lands hereinabove set apart as state forest lands, and subject to all the provisions of law.

**History:** 1943 c 171 s 5; 1961 c 223 s 8; 1976 c 181 s 2; 1986 c 444

### **89.035 INCOME FROM STATE FOREST LANDS; DISPOSITION.**

All income which may be received from lands acquired by the state heretofore or hereafter for state forest purposes by gift, purchase or eminent domain and tax-forfeited lands to which the county has relinquished its equity to the state for state forest purposes shall be paid into the state treasury and credited as provided in this section, except where the conveyance to and acceptance by the state of lands for state forest purposes provides for other disposition of receipts. The income derived from timber sales receipts shall be credited to the forest management investment account and the amounts derived from all other receipts shall be credited to the general fund.

**History:** 1943 c 171 s 6; 1961 c 223 s 9; 1989 c 335 art 4 s 27; 1992 c 513 art 2 s 23; 2004 c 241 s 2

**89.036** [Repealed, 1992 c 513 art 2 s 32]

**89.037** [Repealed, 1961 c 223 s 14]

**89.038** [Repealed, 1961 c 223 s 14]

**89.0385 FOREST MANAGEMENT INVESTMENT ACCOUNT; COST CERTIFICATION.**

(a) The commissioner shall certify the total costs incurred for forest management, forest improvement, and road improvement on state-managed lands during each fiscal year. The commissioner shall distribute forest management receipts credited to various accounts according to this section.

(b) The amount of the certified costs incurred for forest management activities on state lands shall be transferred from the account where receipts are deposited to the forest management investment account in the natural resources fund, except for those costs certified under section 16A.125. Transfers may occur quarterly, based on quarterly cost and revenue reports, throughout the fiscal year, with final certification and reconciliation after each fiscal year. Transfers in a fiscal year cannot exceed receipts credited to the account.

**History:** *1Sp2011 c 2 art 4 s 5; 2013 c 114 art 4 s 21*

**89.039 FOREST MANAGEMENT INVESTMENT ACCOUNT.**

Subdivision 1. **Account established; sources.** The forest management investment account is created in the natural resources fund in the state treasury and money in the account may be spent only for the purposes provided in subdivision 2. The following revenue shall be deposited in the forest management investment account:

(1) timber sales receipts transferred from the consolidated conservation areas account as provided in section 84A.51, subdivision 2;

(2) timber sales receipts from forest lands as provided in section 89.035;

(3) money transferred from the forest suspense account according to section 16A.125, subdivision 5;

(4) interest accruing from investment of the account; and

(5) money transferred from other accounts according to section 89.0385.

Subd. 2. **Purposes of account.** Subject to appropriation by the legislature, money in the forest management investment account may be spent by the Department of Natural Resources in accordance with the forest resource management policy and plan for any of the following purposes:

(1) reforestation and timber stand improvement, including forest pest management;

(2) timber sales administration, contract marking of commercial thinning sales, cultural resource reviews, and other timber sales costs; and

(3) state forest road maintenance costs that exceed appropriations under section 89.70.

**History:** *2004 c 241 s 3; 1Sp2005 c 1 art 2 s 70; 1Sp2011 c 2 art 4 s 6*

**89.04** [Repealed, 1989 c 335 art 4 s 109]

**89.05 ACCOUNTING SYSTEM.**

The Department of Natural Resources shall consolidate and simplify the accounting system within the department for receipts from department managed lands, disbursements made on a regular basis, and the



program for federal aids and grant reimbursements. The new accounting system shall be implemented with the cooperation and under the supervision of the Department of Management and Budget.

**History:** *1982 c 511 s 12; 1999 c 99 s 12; 2009 c 101 art 2 s 109*

**89.06** [Repealed, 2012 c 272 s 98]

**89.08** [Repealed, 1947 c 94 s 7]

**89.12** [Repealed, 1961 c 223 s 14]

**89.13** [Repealed, 1961 c 223 s 14]

**89.14** [Repealed, 1961 c 223 s 14]

**89.15** [Repealed, 1961 c 223 s 14]

**89.16** [Repealed, 1961 c 223 s 14]

**89.163** [Renumbered 90.60, subdivision 1]

**89.164** [Renumbered 90.60, subd 2]

**89.165** [Renumbered 90.60, subd 3]

**89.166** [Renumbered 90.61]

**89.167** [Renumbered 90.62]

**89.168** [Renumbered 90.63]

**89.17 LEASES AND PERMITS.**

(a) Notwithstanding the permit procedures of chapter 90, the commissioner shall have power to grant and execute, in the name of the state, leases and permits for the use of any forest lands under the authority of the commissioner for any purpose which in the commissioner's opinion is not inconsistent with the maintenance and management of the forest lands, on forestry principles for timber production. Every such lease or permit shall be revocable at the discretion of the commissioner at any time subject to such conditions as may be agreed on in the lease. The approval of the commissioner of administration shall not be required upon any such lease or permit. No such lease or permit for a period exceeding 21 years shall be granted except with the approval of the Executive Council.

(b) Public access to the leased land for outdoor recreation shall be the same as access would be under state management.

(c) Notwithstanding section 16A.125, subdivision 5, after deducting the reasonable costs incurred for preparing and issuing the lease, all remaining proceeds from the leasing of school trust land and university land for roads on forest lands must be deposited into the respective permanent fund for the lands.

**History:** *(6513-6) 1931 c 263 s 6; 1957 c 136 s 1; 1959 c 473 s 1; 1961 c 223 s 10; 1965 c 382 s 2; 1986 c 444; 1988 c 462 s 3; 2010 c 361 art 4 s 43; 2011 c 107 s 46*

**89.18 ROADS THROUGH STATE FORESTS, PERMITS.**

No public highway, other than a state trunk highway, shall be established or laid out through any state forest as the same shall be created and withdrawn from public sale and entry by existing or subsequent act, without the consent of the commissioner, certified in writing to the public authority having power to establish or lay out such highway. In any judicial proceeding affecting the laying out of a highway, the court may either sustain or reverse the action of the commissioner as the court, in its discretion, may deem proper. The limitations and restrictions provided in this section shall not apply to state-owned lands which have not been expressly withdrawn from sale and created and reserved as state forests. No state forest lands or right or easement therein shall be taken by eminent domain for any purpose without the consent of the commissioner, certified in writing to the authority or corporation exercising such power of eminent domain.

**History:** (6513-7) 1931 c 263 s 7; 1961 c 223 s 11; 1986 c 444; 2006 c 214 s 20

**89.19 RULES.**

Subdivision 1. **Rulemaking authority.** The commissioner may prescribe rules governing the use of forest lands under the authority of the commissioner and state forest roads, or any parts thereof, by the public and governing the exercise by holders of leases or permits on forest lands and state forest roads of all their rights under the leases or permits.

Subd. 2. **Rulemaking exemption.** Designations of forest trails and changes to the designations by the commissioner shall be by written order published in the State Register. Designations and changes to designations are not subject to the rulemaking provisions of chapter 14 and section 14.386 does not apply. Before designating or changing a designation of forest trails, the commissioner shall hold a public meeting in the county where the largest portion of the forest lands are located to provide information to and receive comment from the public regarding the proposed trail designation or change in designation. Sixty days before the public meeting, notice of the proposed forest trail designation or change in designation shall be published in the legal newspapers that serve the counties in which the lands are located, in a statewide Department of Natural Resources news release, and in the State Register.

**History:** (6513-8) 1931 c 263 s 8; 1961 c 223 s 12; 1985 c 248 s 70; 1988 c 462 s 4; 1988 c 686 art 4 s 3; 2004 c 221 s 32; 1Sp2005 c 1 art 2 s 71

**89.20 POSTED LAND, TRESPASS.**

Camping on posted state forest land or the erection of any type of building without written authorization shall be considered trespass. Any violation of the terms of this section shall constitute a misdemeanor. This does not prohibit temporary camping on unrestricted areas for such purposes as hunting, fishing, berry picking, or other similar uses of state forest land.

**History:** 1961 c 223 s 13

**89.201** [Repealed, 1955 c 714 s 3]

**89.21 CAMPGROUNDS, ESTABLISHMENT AND FEES.**

(a) The commissioner is authorized to establish and develop state forest campgrounds and may establish minimum standards not inconsistent with the laws of the state for the care and use of such campgrounds and charge fees for such uses as specified by the commissioner of natural resources.

(b) Notwithstanding section 16A.1283, the commissioner shall, by written order, establish fees providing for the use of state forest campgrounds. The fees are not subject to the rulemaking provisions of chapter 14 and section 14.386 does not apply.

(c) All fees shall be deposited in an account in the natural resources fund and are appropriated annually to the commissioner.

**History:** 1963 c 657 s 1; 1967 c 905 s 9; 1969 c 1129 art 10 s 2; 1989 c 335 art 4 s 29; 2004 c 221 s 33; 1Sp2011 c 2 art 4 s 7

## **89.22 USES OF STATE FOREST LANDS; FEES.**

Subdivision 1. **Establishing fees.** Notwithstanding section 16A.1283, the commissioner may, by written order published in the State Register, establish fees providing for the use of state forest lands, including motorcycle, snowmobile, and sports car rallies, races, or enduros; orienteering trials; group campouts that do not occur at designated group camps; dog sled races; dog trials; large horse trail rides; and commercial uses. The fees are not subject to the rulemaking provisions of chapter 14 and section 14.386 does not apply.

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:** 2006 c 281 art 3 s 9; 2007 c 57 art 1 s 56

## **89.26 STATE WATER POWERS WITHDRAWN FROM SALE.**

All water powers having a possible average development of 100 horsepower or more owned by or subject to the control of the state and all lands so owned, controlled, or held in trust by the state lying within one mile of such water powers are hereby withdrawn from sale and held for the purpose of the improvement and utilization of the same for the purpose of having paper manufactured by plants built at and using the power of such water powers.

**History:** (6519) 1917 c 360 s 1

## **89.27 LAND SUITABLE FOR REFORESTATION WITHDRAWN FROM SALE.**

All lands owned, controlled, or held in trust by the state, which lands would be overflowed by the complete and full development of the water powers referred to in section 89.26 are hereby reserved and withdrawn from sale in order that they may be overflowed by the improvement of the water powers within whose basin of overflow they lie. All lands unfit for agricultural and suitable for reforestation purposes are hereby withdrawn from sale. The commissioner is hereby requested and directed to ascertain all the water powers and lands referred to in section 89.26 with all due speed and to withdraw from sales all such lands and to report such withdrawals, including in such report the description of the land, the present character and the growth thereon, the estimated value of the land, and of the timber, if any, now growing thereon; also the quantity and character of the timber suitable for use in the manufacture of paper growing on the land and the most accessible method of transportation of the timber of use in the manufacture of paper to the nearest reserved water power or any water power which in the opinion of the commissioner can advantageously be procured by the state by condemnation or purchase for the purposes provided in sections 89.26 to 89.28.

**History:** (6520) 1917 c 360 s 2

**89.28 PULPWOOD INVESTIGATION.**

The commissioner shall make an investigation of the possibility of the state securing by purchase or condemnation water powers in the vicinity of state lands wherein pulpwood is now growing or upon which it may be profitably grown in the future. For such purpose the commissioner may call upon the state drainage engineer for assistance.

**History:** (6521) 1917 c 360 s 3; 1986 c 444

**89.29** [Repealed, 1961 c 223 s 14]

**89.30** [Repealed, 1961 c 223 s 14]

**TREE PLANTING**

**89.31** [Repealed, 1973 c 234 s 5]

**89.32** [Repealed, 1973 c 234 s 5]

**89.33** [Repealed, 1973 c 234 s 5]

**89.34** [Repealed, 1973 c 234 s 5]

**89.35 TREE PLANTING.**

Subdivision 1. **Definitions.** The definitions in this subdivision apply to sections 89.35 to 89.39.

(a) "Tree" means any species of tree, woody perennial, shrub, or vine approved by the commissioner for the purposes authorized in sections 89.35 to 89.39, except cultivated varieties that are capable of producing fruit for human consumption.

(b) "Planting stock" or "tree planting stock" means trees native to this state and includes native tree hybrids that have been improved for conservation purposes.

Subd. 2. **Purpose of planting.** The purposes for which trees may be produced, procured, distributed, and planted under sections 89.35 to 89.39 shall include auxiliary forests, woodlots, windbreaks, shelterbelts, erosion control, soil conservation, water conservation, provision of permanent food and cover for wild life, environmental education, and afforestation and reforestation on public or private lands of any kind, but shall not include the raising of fruit for human consumption or planting for purely ornamental purposes. It is hereby declared that all such authorized purposes are in furtherance of the public health, safety, and welfare.

**History:** 1947 c 94 s 1; 1969 c 1129 art 10 s 2; 1978 c 578 s 1; 1980 c 509 s 20; 1993 c 224 art 14 s 2; 1997 c 119 s 1

**89.36 PRODUCING AND PROCURING PLANTING STOCK.**

Subdivision 1. **Production at state nurseries.** The commissioner of natural resources may produce tree planting stock for the purposes of sections 89.35 to 89.39 upon any lands under control of the commissioner which may be deemed suitable and available therefor so far as not inconsistent with other uses to which such lands may be dedicated by law. The commissioner may not produce more than 10,000,000 units of planting stock annually, after January 1, 2003.

Subd. 2. **Purchase of stock.** The commissioner of natural resources may purchase tree planting stock for the purposes herein authorized under the provisions of sections 89.35 to 89.39, or any other applicable law now or hereafter in force. The commissioner must give preference for Minnesota-grown planting stock.

Subd. 3. **Sale or exchange of stock.** In carrying out the provisions of sections 89.35 to 89.39, the commissioner may sell to or exchange surplus tree planting stock and seed with other states or the federal government for the following purposes:

- (1) to acquire tree planting stock of a species which is in short supply in the commissioner's inventory;
- (2) to acquire tree planting stock of a species not grown by the commissioner;
- (3) to acquire tree planting stock genetically superior to that grown by the commissioner; and
- (4) to utilize tree planting stock or seed not needed for the reforestation program in the state.

Subd. 4. **Annual report.** The commissioner shall submit an annual report to the legislature relating to the production of planting stock at state nurseries. The report must include the following:

- (1) sales figures;
- (2) income figures; and
- (3) expenses for operations and administration.

Copies of the report must be filed with the Legislative Reference Library and made available to the public.

The commissioner shall also provide any additional information requested by the legislature relating to the production of planting stock at state nurseries.

**History:** 1947 c 94 s 2; 1969 c 1129 art 10 s 4; 1973 c 234 s 1; 1980 c 509 s 21; 1983 c 196 s 1; 1986 c 444; 1994 c 551 s 1; 1997 c 119 s 2,3; 2002 c 351 s 3; 1Sp2005 c 1 art 2 s 72

### **89.37 DISTRIBUTING PLANTING STOCK.**

Subdivision 1. **Planting conditions.** The commissioner of natural resources may supply planting stock produced or procured hereunder for use on any public or private lands within the state for the purposes herein authorized under such conditions as the commissioner may prescribe for planting, care, and maintenance in furtherance of such purposes.

Subd. 2. **Public lands; auxiliary forests of nonprofit corporations.** Such planting stock may be supplied for use on any lands owned by or subject to an easement or right-of-way held by the state or by any political subdivision of the state upon payment of the cost of such stock and expenses of distribution, as the commissioner may determine. Such planting stock may be supplied under like conditions for use in any auxiliary forest owned and maintained by any corporation organized for religious, social, moral, educational, scientific, benevolent, charitable, fraternal, or reformatory purposes and not for profit.

Subd. 3. **Private lands.** The commissioner may supply only bare root seedlings, woody cuttings, and transplant material for use on private land, provided that such material must be sold in lots of not less than 500 for a sum determined by the commissioner to be equivalent to the cost of the materials and the expenses

of their distribution. The commissioner may not directly or indirectly supply any other planting stock for use on private lands.

Subd. 3a. **Sales of trees to soil and water conservation districts.** The commissioner of natural resources may supply tree planting stock to organized soil and water conservation districts for soil, water, wildlife and conservation purposes or as prescribed in section 89.35, subdivision 2, upon payment of the cost of the stock and expenses of distribution.

There is no minimum limitation on the number of trees going on an individual location. The district shall make the determination of the numbers of trees going to each location.

Resale of trees with roots attached by the districts to their cooperators is permitted if planted in accordance with conservation purposes set forth in section 89.35, subdivision 2.

The soil and water conservation districts are permitted to resell trees with an adequate amount added to defray costs of handling, grading, transportation, storage, salaries and other costs directly related to planting the stock.

The district shall keep a record of all trees planted and the locations of the plantings. A record of the plantings shall be sent to the commissioner of natural resources.

Soil and water conservation districts may establish joint distribution centers, if necessary, to facilitate distribution or improve quality of tree planting stock when approved by the commissioner of natural resources and the soil and water conservation districts so affected.

Subd. 3b. **Sales to nurseries.** To promote the availability and use of native plant material, the commissioner may sell native tree seed to licensed, private Minnesota nurseries when supplies of seed from geographically adapted sources are not available from private Minnesota seed dealers. The commissioner may also sell native trees and shrubs in lots of ten or more to nonprofit groups and local units of government.

Subd. 4. **Proceeds of sale.** All money received in payment for tree planting stock supplied under this section shall be deposited in the state treasury and credited to a forest nursery account and are available to the commissioner of natural resources for the purposes of sections 89.35 to 89.37, including up to \$250,000 per year for forestry education and technical assistance.

Subd. 5. **Investment income.** Income earned from the investment of funds in the forest nursery account beginning July 1, 1989, shall be credited to the account and are annually appropriated to the commissioner of natural resources for the purposes of sections 89.35 to 89.37.

Subd. 6. **Promotional activities.** All promotional materials for public cost-share programs for tree planting shall address the eligibility of private nursery planting stock.

Subd. 7. **Rulemaking exemption.** The sale price of planting stock and native tree seeds distributed by the commissioner under this section is not subject to the rulemaking provisions of chapter 14 and section 14.386 does not apply. The commissioner may establish the sale price of planting stock and native tree seeds notwithstanding section 16A.1283.

**History:** 1947 c 94 s 3; 1953 c 580 s 1,2; 1969 c 399 s 1; 1969 c 1129 art 10 s 2; 1973 c 234 s 2; 1982 c 511 s 14-17; 1986 c 444; 1989 c 335 art 4 s 106; 1991 c 199 art 2 s 6; 1992 c 513 art 2 s 24,25; 1994 c 551 s 2; 1997 c 119 s 4,5; 2004 c 221 s 34; 1Sp2005 c 1 art 2 s 73

**89.38 PROHIBITION; PENALTIES.**

It shall be unlawful for a period of ten years from the date of purchase for any person who purchases trees from the commissioner to use or permit the use of planting stock furnished hereunder for any purpose not authorized hereunder, or to sell, give, remove, or permit the removal with roots attached of any tree previously planted from stock furnished hereunder for replanting on any ground not owned by the purchaser or for any purpose not authorized hereunder. Any violation of this section shall be a misdemeanor.

**History:** 1947 c 94 s 4; 1973 c 234 s 3; 1978 c 773 s 3; 1986 c 444

**89.39 PURCHASE AGREEMENTS AND PENALTIES.**

Every individual, partnership, or private corporation to whom any planting stock is supplied for planting on private land hereunder shall execute an agreement, upon a form approved by the attorney general, to comply with all the requirements of sections 89.35 to 89.39 and all conditions prescribed by the commissioner hereunder. Any party to such an agreement who shall violate any provision thereof shall, in addition to any other penalties that may be applicable, be liable to the state in a sum equal to three times the reasonable value of the trees affected by the violation at the time the same were shipped for planting; provided, that if such trees are sold or offered for sale for any purpose not herein authorized, such penalty shall be equal to three times the sale price. Such penalties shall be recoverable in a civil action brought in the name of the state by the attorney general.

**History:** 1947 c 94 s 5; 1980 c 509 s 22

**89.391 NURSERY INSPECTION CERTIFICATES; LIMITATIONS ON ISSUANCE.**

No certificate of inspection shall be issued pursuant to section 18H.05 by the commissioner of agriculture to a person who is determined by the commissioner of natural resources to have purchased trees pursuant to sections 89.35 to 89.39 and who is selling, giving, removing, or permitting the removal of the trees with roots attached, in violation of section 89.38.

**History:** 1973 c 234 s 4; 1978 c 773 s 4; 1986 c 444; 2004 c 228 art 1 s 20

**89.40** [Repealed, 1973 c 234 s 5]**89.41 SCHOOL FORESTS.**

Subdivision 1. **Establishment and maintenance of school forests.** Any school district in the state, however organized, the University of Minnesota, or any branch thereof, any state university, community college, or other public educational institution or agency of the state, all herein referred to as agencies, may establish and maintain school forests according to this section, subject to the approval of the commissioner of natural resources. For the purpose of a school forest, an agency may use land the agency owns or uses under an agreement or may acquire land by gift or with contributed funds.

Subd. 2. **Conveyance of tax-forfeited land for school forest use.** For the purposes of school forests established under this section, any tax-forfeited lands may be sold by the county board to an agency or may be conveyed by the commissioner of revenue to an agency in like manner as provided for the sale or conveyance of tax-forfeited lands to governmental subdivisions under section 282.01. A conveyance under this subdivision is made without monetary compensation or consideration for the conveyance, but the conveyance is subject to the conditional use and reversion provisions under section 282.01, subdivisions 1c and 1d, paragraph (e).

Subd. 3. **Monitoring and reporting.** The commissioner shall annually monitor tax-forfeited lands conveyed according to subdivision 2 to determine whether the lands continue to be used as school forests. The commissioner shall submit an annual monitoring report to the commissioner of revenue that identifies any lands no longer used as school forests.

**History:** 1949 c 431 s 1; 1957 c 576 s 1,2; 1969 c 1129 art 10 s 2; 1973 c 349 s 2; 1973 c 582 s 3; 1975 c 321 s 2; 2013 c 73 s 2

#### **89.42 SALE OF FOREST PRODUCTS.**

Any such agency may sell or otherwise dispose of timber or other forest products grown in any such forest in such manner as the governing authority of such agency may determine, subject to the approval of the commissioner of natural resources. The proceeds of such sales shall be paid into the treasury of the agency, and may be used for maintenance or improvement of the forest, for acquisition of additional land for such forests, or for any other purpose within the lawful powers of the agency, as its governing authority may determine.

**History:** 1949 c 431 s 2; 1969 c 1129 art 10 s 2

#### **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

#### **89.43 TREE SEEDS AND CONES, PAYMENTS FROM APPROPRIATIONS.**

Notwithstanding any provision of law to the contrary, out of any money appropriated to the commissioner of natural resources for the purchase of tree seeds and seed cones the commissioner of management and budget shall pay to the commissioner upon request the amounts deemed necessary by the commissioner to maintain an inventory of tree seeds and seed cones to assure an adequate supply for the nursery and forestry development needs of the department and to pay for the seeds and seed cones in cash at the time of delivery.

The commissioner shall deposit any money received pursuant to this section in a state depository subject to withdrawal for disbursement by check for the purposes described by the commissioner or authorized agent.

The commissioner of management and budget shall prescribe rules by which the commissioner of natural resources shall account for the expenditures made pursuant to this section and may require an ad-



ditional bond to cover all money paid to the commissioner of natural resources for disbursement pursuant to this section. Any bond premiums shall be paid by the commissioner from money available for that purpose.

Unless the legislature specifically otherwise directs in any act appropriating money to the commissioner of natural resources for the purchase of tree seeds and seed cones, money paid to the commissioner pursuant to this section shall not cancel on June 30 of any fiscal year and shall be available for expenditure in the ensuing fiscal year.

**History:** 1961 c 172 s 1; 1967 c 905 s 5; 1969 c 1129 art 10 s 2; 1973 c 492 s 14; 1981 c 356 s 279; 1986 c 444; 2003 c 112 art 2 s 50; 2009 c 101 art 2 s 109

### FOREST AND SHADE TREE PESTS; CONTROL

**89.51** MS 1957 [Renumbered 18.341]

#### **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.

Subd. 2. **Person.** "Person" shall include any individual, firm, partnership, corporation, public or private, association or any other business entity whether or not incorporated.

Subd. 3. **Commissioner.** "Commissioner" shall mean the commissioner of natural resources.

Subd. 4. **Director, Division of Lands and Forestry.** "Director, Division of Lands and Forestry" shall include Department of Natural Resources and Department of Agriculture personnel deputized by the director, Division of Lands and Forestry.

Subd. 5. **Control.** "Control" includes prevent, retard, suppress, eradicate or destroy.

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

Subd. 7. **Cooperators.** "Cooperators" shall include state, federal, county, municipal and private governmental and business organizations and their legal representatives.

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.

Subd. 10. **Timber.** "Timber" includes forest trees standing or down, alive or dead.

**History:** 1955 c 676 s 1; 1957 c 295 s 1,2; 1961 c 113 s 1; 1967 c 905 s 5; 1969 c 1129 art 3 s 1; 1976 c 16 s 1; 2007 c 57 art 1 s 58-60

**89.52** MS 1957 [Renumbered 18.351]

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

**History:** 1955 c 676 s 2; 1957 c 295 s 3; 2007 c 57 art 1 s 61

**89.53** MS 1957 [Renumbered 18.361]

**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:** 1955 c 676 s 3; 1957 c 295 s 4; 1986 c 444; 2004 c 221 s 35; 2007 c 57 art 1 s 62

**89.54** MS 1957 [Renumbered 18.371]

**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:** 1955 c 676 s 4; 1957 c 295 s 5; 1986 c 444; 2007 c 57 art 1 s 63

**89.55** MS 1957 [Renumbered 18.381]

**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:** *1955 c 676 s 5; 1957 c 295 s 6; 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 MS 1957 [Renumbered 18.391]**

### **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 co-operators. 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.

Subd. 2. **Notice of costs; review.** Notice of said charge and the amount thereof shall be given to the owner by delivery or by depositing the same in the United States mails in an envelope properly addressed to the owner and bearing sufficient postage. The owner shall have the right to protest such charge to the commissioner within 60 days from the date of such notice, and shall also have the same right to review of such charge as is provided with respect to ad valorem property assessments. Application for such review shall be made within 60 days from the date of action by the commissioner on any protest.

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:** 1955 c 676 s 6; 1957 c 295 s 7; 1967 c 905 s 5; 1976 c 16 s 2; 1986 c 444; 1987 c 384 art 2 s 1; 2007 c 57 art 1 s 65,66

**89.57** MS 1957 [Renumbered 18.401]

### **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:** 1955 c 676 s 7; 1957 c 295 s 8; 2007 c 57 art 1 s 67

**89.58** MS 1957 [Renumbered 18.411]

### **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:** 1955 c 676 s 8; 1957 c 295 s 9; 1975 c 271 s 6; 1990 c 594 art 3 s 4; 2007 c 57 art 1 s 68

**89.59** MS 1957 [Renumbered 18.421]

### **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:** 1955 c 676 s 9; 1957 c 295 s 10; 2007 c 57 art 1 s 69

**89.60 MS 1957** [Renumbered 18.422]

**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 cooperators, including employees of the United States or any agency thereof. The commissioner may prescribe rules for carrying out the purposes of this section.

**History:** 1955 c 676 s 10; 1957 c 295 s 11; 1985 c 248 s 70; 2007 c 57 art 1 s 70

**89.61 MS 1957** [Renumbered 18.423]

**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:** 1955 c 676 s 11; 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

### **89.65 FORESTRY EDUCATION.**

Subdivision 1. **Report on forester education.** By March 1, 1983, the commissioner shall provide to the respective standing committees on natural resources and finance of the house of representatives and the senate a report on continuing education needs of public and private foresters. The report shall be done with the assistance and cooperation of the University of Minnesota's Agricultural Extension Service, Agricultural Experiment Station and College of Forestry, and shall detail the benefits and costs, including recommendations on licensing and course curricula, of developing a cooperative continuing education program for forestry professionals.

Subd. 2. **Forester continuing education.** By July 1, 1983, the commissioner shall implement a continuing education program for state foresters in the employ of the Department of Natural Resources. The program shall be based on recommendations made in the report required in subdivision 1.

Subd. 3. **Forest management manual.** The commissioner shall prepare and distribute a forest management manual, stressing the concept of multiple use and education and management concerns for

small landowners who own at least ten acres of woodlands. The manual shall be prepared with the assistance and cooperation of the University of Minnesota's Agricultural Extension Service, Agricultural Experiment Station and College of Forestry, and other public and private forestry organizations.

**History:** *1982 c 511 s 18*

## **89.66 FORESTRY RESEARCH AND EXTENSION.**

Subdivision 1. **Agriculture experiment station.** The director of the state agricultural experiment station at the University of Minnesota is authorized to conduct, support and cooperate in research activities deemed necessary to obtain scientific information about forest resources. Activities conducted under this section shall include, but not be limited to, the following:

- (a) forest resources management research, including activities related to managing, reproducing and growing forest vegetation for forest resources purposes;
- (b) forest environmental research, including activities related to management of watersheds, controlling erosion, improving wildlife habitats, reducing water and air pollution and related purposes;
- (c) forest protection research, including activities related to protection of forest vegetation from fire, insects, diseases, animals, noxious plants, and air pollutants;
- (d) forest utilization research, including activities related to harvesting, transportation, marketing, and utilization of wood; and
- (e) forest resource assessment research, including activities required to inventory and survey the type and extent of forest resources.

To ensure efficient and effective accomplishment of forest research goals and objectives, the director of the state agricultural experiment station shall cooperate with other public and with private forestry organizations seeking scientific forestry information through research, and provide to the commissioner appropriate forest research results in the development and implementation of the forest resources management policy and plan.

Subd. 2. **Agricultural Extension Service.** The director of the Agricultural Extension Service at the University of Minnesota is authorized to conduct, support, and cooperate in forestry extension activities including, but not limited to, the following:

- (a) Providing educational programs that will enable individuals to recognize and capture opportunities for managing forests for purposes of recreation, timber, water, wildlife, forage, and other purposes;
- (b) Using educational programs to disseminate the results of forestry research;
- (c) Providing for the forestry educational needs of the private, nonindustrial forest landowner;
- (d) Assisting in providing continuing education programs for professionally trained resource managers;
- (e) Providing educational programs that will enhance in harvesting, processing, and marketing of wood;
- (f) Assisting in the identification of topics in need of forestry research.

In implementing this subdivision, all appropriate educational methods may be used.

To ensure efficient and effective accomplishment of forestry extension goals and objectives, the director of the state Extension Service shall cooperate with the commissioner in the development and implementation of the forest resources management policy and plan, and shall encourage close cooperation between forestry extension staffs in county, state, and federal service, and between personnel involved in forestry research and land management in all public and private agencies.

**History:** *1982 c 511 s 19*

## FOREST ROADS

### 89.70 STATE FOREST ROAD ACCOUNT.

There is created in the state treasury a state forest road account in the special revenue fund, consisting of money credited under section 296A.18, subdivision 7. Money in the state forest road account is appropriated to the commissioner and remains available until expended for:

(1) acquisition, development, maintenance, and administration of state forest roads under the jurisdiction of the commissioner of natural resources; and

(2) the commissioner's share of the cost of cooperative maintenance agreements made with other providers of forest roads.

**History:** *1988 c 686 art 4 s 4; 1998 c 299 s 30*

### 89.71 FOREST ROADS.

Subdivision 1. **Designation, inventory, recording.** The commissioner shall designate forest roads by written order published in the State Register. Designated forest roads, bridges, and other improvements administered under section 89.002, subdivision 3, are designated to the width of the actual use including ditches, backslopes, fills, and maintained right-of-way, unless otherwise specified in a prior easement of record. The commissioner may undesignate, by written order published in the State Register, all or part of a state forest road that is not needed to carry out forest resource management policy. Designations and undesignations are not subject to the rulemaking provisions of chapter 14 and section 14.386 does not apply. The commissioner shall maintain and keep current an inventory listing and describing roads in which the state claims a right or property interest for state forest road purposes. The commissioner may file for record with a county recorder or registrar of titles appropriate documents setting forth the state's interest in all or part of any state forest road.

Subd. 2. **Right-of-way.** Additional rights-of-way and easements, including easements needed for drainage or slopes, may be acquired by the commissioner by purchase or gift and by condemnation for safety or environmental protection on existing roads and to provide access to tracts of public land larger than 1,000 acres having no access, following a public meeting in the area affected. Rights-of-way and easements shall be designated as state forest roads when needed for construction, maintenance, or safety of roads.

Subd. 3. **Construction; maintenance.** The commissioner shall develop specifications for the design and construction of state forest roads and shall establish maintenance schedules for forest roads consistent with their intended use.

Subd. 4. **Rules.** In adopting rules relating to the use of state forest roads, the commissioner may incorporate into the rules, by reference, traffic regulations contained in chapters 169 and 169A.



Subd. 5. **Posting of minimum-maintenance forest roads.** The commissioner may designate a state forest road as a minimum-maintenance forest road to be maintained at a level consistent with the intended use. Designation of a state forest road as a minimum-maintenance forest road is effective on the posting of signs, at entry points to the road and at regular intervals along the road, to the effect that the road is a minimum-maintenance forest road and that the user travels on the road at the user's risk. Posting of the signs is prima facie evidence that adequate notice of minimum-maintenance status has been given to the public. Liability on a road designated under this subdivision is governed by section 160.095, subdivision 4.

Subd. 6. **Conveyance of unneeded roads to other governments.** When the commissioner undesignates a state forest road and determines that the road is no longer needed for any state purpose, the commissioner may convey by mutual agreement, in the manner provided in section 84.63, the state interest in the road to the United States, the state of Minnesota, or any of its subdivisions, whether or not the road is on state land.

Subd. 7. **Application of other law.** Except as otherwise provided, the commissioner is not a road authority under chapters 160 to 168, and chapters 160 to 168 do not apply to forest roads unless specifically made applicable by law or rule.

**History:** 1988 c 686 art 4 s 5; 2000 c 478 art 2 s 7; 2004 c 221 s 36; 2005 c 141 s 1

#### **89.715 ALTERNATIVE RECORDING FOR STATE FOREST ROAD.**

Subdivision 1. **Authorization.** The commissioner may adopt a forest road map under this section to record the department's state forest road prescriptive easements. For purposes of this section, "state forest road map" means the official map of state forest roads adopted by the commissioner.

Subd. 2. **Map requirements.** The state forest road map must:

- (1) show state forest roads at the time the map is adopted;
- (2) be prepared at a scale compliant with standards of the county recorder where the state forest roads are located;
- (3) include section numbers;
- (4) include a north point arrow;
- (5) include the name of the county and state;
- (6) include a blank and a description under the blank for the date of public hearing and date of adoption;
- (7) include blanks for signatures and dates of signatures for the commissioner; and
- (8) include a list of legal descriptions of all parcels crossed by state forest road prescriptive easements.

Subd. 3. **Procedure to adopt map.** (a) The commissioner must prepare an official map for each county or smaller geographic area as determined by the commissioner as provided in subdivision 2, and set a time, place, and date for a public hearing on adopting a forest road map to record roads.

(b) The hearing notice must state that the roads to be recorded will be to the width of the actual use including ditches, backslopes, fills, and maintained rights-of-way, unless otherwise specified in a prior easement of record. The hearing notice must be published once a week for two successive weeks in a qualified newspaper of general circulation that serves the county or smaller geographic areas as determined

by the commissioner, the last publication to be made at least ten days before the date of the public hearing. At least 30 days before the hearing, the hearing notice must be sent by certified mail to the property owners directly affected in the county or smaller geographic areas as determined by the commissioner at the addresses listed on the tax assessment notices at least seven days before appearing in the qualified newspaper. The hearing notice may be sent with the tax assessment, but all additional costs incurred shall be billed to the department.

(c) After the public hearing is held, the commissioner may amend and adopt the forest road map. The state forest road map must be dated and signed by the commissioner and must be filed for recording with the county recorder within 90 days after the map is adopted. The map is effective when filed with the county recorder.

(d) The state forest road map that is recorded with the county recorder must comply with the standards of the county recorder where the state forest roads are located.

(e) A state forest road map that was prepared by using aerial photographs to establish road centerlines and that has been duly recorded with the county recorder is an adequate description for purposes of recording road easements and the map is the legally constituted description and prevails when a deed for a parcel abutting a road contains no reference to a road easement. Nothing prevents the commissioner from accepting a more definitive metes and bounds or survey description of a road easement for a road of record if the description of the easement is referenced to equal distance on both sides of the existing road centerline.

(f) The commissioner shall consult with representatives of county land commissioners, county auditors, county recorders, and Torrens examiners in implementing this subdivision.

Subd. 4. **Appeal.** (a) Appeals may be filed only by property owners who are directly affected by a proposed map designation and only for those portions of the map designation that directly affect them.

(b) A property owner may appeal the map designation to the commissioner within 60 days of the map being recorded by filing a written request for review. The commissioner shall review the request and any supporting evidence and render a decision within 45 days of receipt of the request for review.

(c) If a property owner wishes to appeal a decision of the commissioner after review under paragraph (b), the property owner must file an appeal with the district court within 60 days of the commissioner's decision.

(d) If any portion of a map appealed under paragraph (b) is modified or found to be invalid by a court of competent jurisdiction under paragraph (c), the remainder of the map shall not be affected and its recording with the county recorder shall stand.

Subd. 5. **Unrecorded road or trail not affected.** This section does not affect or diminish the legal status or state obligations of roads and trails not shown on the state forest road map.

Subd. 6. **Exemption.** Adoption of a state forest road map under this section is exempt from the rulemaking requirements of chapter 14 and section 14.386 does not apply.

**History:** 2005 c 101 s 1; 2008 c 357 s 21; 2008 c 368 art 1 s 11

## **89.72 COUNTY FOREST ACCESS ROAD ACCOUNT.**

There is created in the state treasury a county forest access road account in the special revenue fund, consisting of money credited under section 296A.18, subdivision 7. Money in the county forest access road

account is appropriated to the commissioner for distribution to counties managing forest lands administered through a county land department under the jurisdiction of a land commissioner appointed under section 282.13. The payments must be made by July 15 and January 15 of each year through the commissioner and in proportion to each county's ownership of commercial forest lands, for purposes of constructing, reconstructing, acquiring, and maintaining county management access roads, including the acquisition of rights-of-way or easements as may be needed.

**History:** *1988 c 686 art 4 s 6; 1998 c 299 s 30*