

CHAPTER 90

TIMBER LANDS

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

Subdivision 1. The powers and duties vested in, or imposed upon, the surveyor general relating to timber scaling under Minnesota Statutes 1965, Chapter 91, or any other laws are transferred to, vested in, and imposed upon the commissioner of natural resources. The office of surveyor general as heretofore constituted is abolished.

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

Subd. 3. The department of natural resources is deemed and held to constitute a continuation of the office of the surveyor general as to powers and duties of the surveyor general transferred by Laws 1967, Chapter 568, and not a new authority for the purpose of succession to all rights, powers, duties and obligations of the surveyor general as constituted at the time of such assignment or transfer, with the same force and effect as if such powers and duties had not been assigned or transferred.

Subd. 4. Any proceeding, court action, prosecution, or other business or matter undertaken or commenced before the passage of Laws 1967, Chapter 568 by the surveyor general, and still pending on July 1, 1967, may be conducted and completed by the commissioner of natural resources in the same manner and under the same terms and conditions and with the same effect as though it were undertaken or commenced and were conducted or completed by the surveyor general before the transfer.

Subd. 5. The surveyor general, in regard to powers and duties assigned and transferred by Laws 1967, Chapter 568 to the natural resources commissioner, shall transfer and deliver to the commissioner all contracts, books, maps, plans, papers, records, and property of every description within his jurisdiction or control. The commissioner of natural resources is hereby authorized to take possession of such property.

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

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

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

90.01 DEFINITIONS.

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

Subd. 2. "Department" means the department of natural resources of the state of Minnesota.

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

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

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

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

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

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

Subd. 9. "Person" means any natural person acting in his own right, or in any representative capacity, and any corporation, firm, or association of whatever nature or kind.

History: 1917 c 162 s 1; 1925 c 276 s 2; 1961 c 202 s 1; 1967 c 568 s 2; 1969 c 366 s 1; 1969 c 1129 art 10 s 2 (6353, 6394-2)

90.02 CITATION, STATEMENT OF POLICY.

This chapter may be cited as the state timber act.

It is the intent and desire of the Minnesota legislature to provide equal opportunity for all segments of our society to participate in the sale process; and attempt to prevent the purchase or acquisition of excessive volumes of the state's timber resources by any one individual or corporation.

The department of natural resources is directed to enact regulations to reach this objective; including provision for sale of all timber species by both the

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informal and the auction sale method; and maintaining reasonable proportions of volume in each method of sale.

History: 1925 c 276 s 1; 1975 c 106 s 1 (6394-1)

90.03 [Repealed, 1961 c 202 s 38]

90.031 EXECUTIVE COUNCIL, POWERS.

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

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

Subd. 3. The executive council may compromise and settle, with the approval of the attorney general, upon such terms as it may deem just, any claim of the state for casual and involuntary trespass upon state lands or timber where the full stumpage value of such timber so taken in trespass would not exceed \$1,000; provided, that no such claim shall be settled in any case for less than the full stumpage value of all timber so taken in casual trespass or the full amount of all actual damage or loss suffered by the state as a result thereof. The executive council may make settlement for not less than the full stumpage value of any timber cut by lessees of state lands holding under section 92.50.

Subd. 4. The executive council may formulate and establish, from time to time, such rules and regulations as it deems advisable for the transaction of timber business of the state and abrogate, modify, or suspend such rules and regulations at pleasure.

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

History: 1925 c 276 s 8; 1933 c 375 s 1; 1937 c 368 s 2; 1939 c 32 s 1; 1961 c 202 s 7; 1965 c 337 s 1; 1967 c 568 s 3 (6394-8)

90.04 [Renumbered 90.061, subs 5-7]

90.041 COMMISSIONER, POWERS AND DUTIES.

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

Subd. 2. The commissioner shall advise the executive council of any information acquired by him concerning any trespass on state lands, giving all details and names of witnesses.

Subd. 3. The commissioner shall report annually or more frequently, as required, to the state executive council concerning the status of the state timber sales and timber management program, including any special problems or changes occurring since the previous report.

History: 1925 c 276 s 9; 1961 c 202 s 8; 1967 c 66 s 1 (6394-9)

90.05 [Renumbered 90.061, subs 1-4]

90.051 SUPERVISION OF SALES; BOND.

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

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

90.06 [Repealed, 1961 c 202 s 38]

90.061 STATE APPRAISERS, DUTIES.

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

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

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

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

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

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

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

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

Subd. 8. State appraisers are empowered, with the consent of the commissioner, to perform any scaling, and generally to supervise the cutting and removal of timber on or from state lands so far as may be reasonably necessary

to insure compliance with the terms of the permits or other contracts governing the same and protect the state from loss.

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

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

90.07 [Renumbered 90.301, subdivision 1]

90.08 [Renumbered 90.311]

90.09 [Renumbered 90.321]

90.10 [Repealed, 1961 c 202 s 38]

90.101 TIMBER SOLD AT PUBLIC AUCTION, MAXIMUM LOTS OF \$7,500.

Subdivision 1. The commissioner may sell the timber on any tract of state land in lots not exceeding \$7,500 in appraised value and may determine the number of sections or fractional sections of land to be covered by any one permit issued to the purchaser of timber on state lands, or in any one contract or other instrument relating thereto. No timber shall be sold, except to the highest bidder at public auction, and the minimum price shall be the appraised value as fixed by the report of the state appraiser. All sales shall be held in the county in which the tract is located and no sale shall be held in more than one location on any one day.

Subd. 2. At least 30 days before the date of sale the commissioner shall compile a list containing a description of each tract of land upon which any timber to be offered is situated and a statement of the quantity of timber and of the appraised price of each kind of timber thereon as shown by the report of the state appraiser. The commissioner may also list the quantity of timber of doubtful market value and the appraised price of each kind of such timber located in other timber types within the sale area that may be cut at the discretion of the purchaser. Optional timber will not be considered a part of the sale contract until the permit holder has advised the commissioner of his intent to cut such timber. No description shall be added after the list is posted as herein provided and no timber shall be sold from land not described therein. Copies of the list shall be furnished to all interested applicants. A copy of the list shall be conspicuously posted in the office of the commissioner and in the office of the auditor of the county in which the lands are situated at least 30 days prior to the date of sale, and extra copies of the list shall be furnished to the county auditor for distribution to applicants. The commissioner shall cause a notice to be published for three consecutive weeks in a legal newspaper in the county where the land is situated. The notice shall state the time and place of the sale and the location at which further information regarding the sale may be obtained. He may give such other published or posted notice as he deems proper to reach prospective bidders.

History: 1925 c 276 s 13; 1961 c 202 s 12; 1963 c 44 s 1; 1967 c 110 s 1; 1969 c 366 s 2; 1975 c 106 s 2 (6394-13)

90.11 [Renumbered 90.031]

90.111 [Repealed, 1967 c 110 s 12]

90.12 [Renumbered 90.041]

90.125 [Renumbered 282.38]

90.13 [Renumbered 90.191]

90.14 AUCTION SALE PROCEDURE.

All state timber shall be offered and sold by the same unit of measurement as it was appraised. The sale shall be made to the party who shall bid the highest price for all the several kinds of timber as advertised. The purchaser at any sale of timber shall, immediately upon the approval of his bid, pay to the commissioner 25 percent of the appraised value. In case any purchaser fails to make such payment, he shall be liable therefor to the state in a civil action, and the commissioner may reoffer the timber for sale as though no bid therefor had been made.

History: 1925 c 276 s 16; 1961 c 202 s 13; 1967 c 110 s 2 (6394-16)

90.15 Subdivision 1. [Renumbered 90.061, subd 8]

Subd. 2. [Renumbered 90.051]

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

Subdivision 1. Following receipt of the down payment for state timber sold at public auction, the commissioner shall issue a numbered permit to the purchaser, in a form approved by the attorney general, by the terms of which he shall be authorized to enter upon the land, and to cut and remove the timber therein described, according to the provisions of this chapter. The permit shall be correctly dated and executed by the commissioner or his agent and signed by the purchaser. The permit shall expire no later than two years after the date of sale as the commissioner shall specify, and the timber shall be cut within the time specified therein. All cut timber, equipment, and buildings not removed from the land within 90 days after expiration of the permit shall become the property of the state. The commissioner may grant an additional period of time not to exceed 120 days for the removal of cut timber, equipment, and buildings upon receipt of such request by the permit holder for good and sufficient reasons. No permit shall be issued to any person other than the purchaser in whose name the bid was made.

Subd. 2. The permit shall state the amount of timber estimated for cutting on the land, the estimated value thereof, and the price at which it is sold per thousand feet, per cord, per piece, or by whatever description sold, and shall specify the identification marks to be used which shall be M I N unless otherwise specified. The permit shall provide that the permit holder shall plainly place the specified marks upon a sufficient number of pieces to adequately identify the timber from the time of cutting until delivered to the consumer. The permit shall make provisions for the continuous identification of the cut timber. It shall provide that in case of any failure to mark the timber as specified in the permit, the state has the right to take possession of the cut timber.

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

Subd. 4. The permit shall provide that all timber sold or designated for cutting shall be cut without damage to other timber; that the permit holder shall remove all timber authorized to be cut under the permit; that timber sold by board measure but later determined by the commissioner not to be convertible into board measure shall be paid for by the piece or cord or other unit of measure according to the size, species, or value, as may be determined by the commissioner; that the permit holder shall pay to the state the permit price for all timber authorized to be cut, including timber which he fails to cut.

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

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

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

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

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

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

Subd. 11. Except as authorized under section 90.191, any permit failing to conform to the requirements of this section shall be void on its face.

Subd. 12. The permit shall provide that should the commissioner find it advisable to salvage or remove for proper forest management certain unsold timber within the permit area; this timber, with the written consent of the permit holder, may be added at an appraised price to the timber sold.

Subd. 13. The commissioner may grant extensions of timber permits and contracts, whether issued before or after July 1, 1967, for such periods as the commissioner deems advisable, provided that (1) for permits issued on or after May 15, 1975 the total of such extensions shall not exceed three years from the date of the expiration of the original permit, and (2) for permits issued prior to May 15, 1975 the total of such extensions and the original permit term shall not exceed ten years from date of issuance of the permit. All extensions granted pursuant to this subdivision shall be subject to all the provisions of this chapter. The commissioner shall include in each extension a condition that the purchaser shall pay to the state interest at the rate of six percent of the unpaid purchase price for each year of such extension or portion thereof to the date of the seasonal scale report of products cut as computed on the sale price of the timber cut, or if not cut, upon the official estimate thereof; however, the purchaser is not required to pay interest totaling \$1 or less.

History: 1925 c 276 s 17; 1937 c 368 s 3; 1961 c 202 s 14; 1967 c 27 s 1; 1967 c 66 s 2; 1967 c 110 s 3-9; 1967 c 568 s 5-7; 1969 c 366 s 3; 1975 c 106 s 3,4 (6394-17)

90.16 [Renumbered 90.281]

90.161 SURETY BONDS FOR AUCTION TIMBER PERMITS.

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

Subd. 2. If such bond is not furnished within 90 days from the date of purchase, the down payment for such timber shall forfeit to the state, except that the commissioner may grant an extension of time for good and sufficient reason, provided that such extension of time shall not exceed 30 days.

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

History: 1925 c 276 s 18; 1939 c 120 s 1; 1961 c 202 s 15; 1967 c 110 s 10 (6394-18)

90.17 [Renumbered 90.101]

90.171 ASSIGNMENT OF AUCTION TIMBER PERMITS.

Any permit sold at public auction may be assigned upon written approval of the commissioner. The assignment of any permit shall be signed and acknowledged by the permit holder. The commissioner shall not approve any assignment

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

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

90.172 ANNUAL REPORT.

The commissioner shall file an annual report on or before September 30 of each year with the legislative reference library providing detailed information on all auctions and informal sales made in the previous fiscal year. The report shall include but not be limited to the names and addresses of all purchasers, volumes of timber purchased, species, appraised value and sale price. The commissioner shall make copies of the report available to the public upon request.

History: 1975 c 106 s 6

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

In lieu of filing the bond required by section 90.161 or 90.171, as security for the issuance or assignment of a timber permit the person required to file such bond may deposit with the state treasurer cash, a certified check, or a cashier's check in the same amount as would be required for a bond. All of the conditions of the bond shall equally apply to such deposit with the state treasurer. In the event of a default the state may take from such deposit the sum of money to which it is entitled; the remainder, if any, shall be returned to the person making such deposit. Such sums of money as may be required by the state treasurer to carry out the terms and provisions of this section are hereby appropriated from the general fund to the state treasurer for such purposes.

History: 1965 c 38 s 1; 1969 c 399 s 1

90.18 [Repealed, 1961 c 202 s 38]

90.181 STATEMENT OF TIMBER CUT.

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

The title to the timber shall not pass from the state until such timber has been scaled as required by the permit and the commissioner has made adequate arrangements for collecting the payment for the same as will protect the interest of the state.

Subd. 2. **Deferred payments.** If the amount of the statement is not paid within 30 days of the date thereof, it shall bear interest at the rate of six percent per annum from date, except that the purchaser shall not be required to pay such interest that totals \$1 or less. If the amount is not paid within 60 days, the commissioner shall place the account in the hands of the attorney general who shall proceed to collect the same. When the commissioner shall deem it for the best interest of the state he shall take possession of the timber for which such amount is due wherever it may be found and sell the same informally or at public auction after giving such notice as he deems reasonable. The proceeds of such sale shall be applied, first, to the payment of the expenses of seizure and

sale; and, second, to the payment of the amount due for such timber, with interest; and the surplus, if any, shall belong to the state; and, in case a sufficient amount is not realized to pay such amounts in full, the balance shall be collected by the attorney general. Neither payment of such amount, nor the recovery of judgment therefor, nor satisfaction of such judgment, nor the seizure and sale of such timber, shall release the sureties on any bond given pursuant to this chapter, or preclude the state from afterwards claiming that such timber was cut or removed contrary to law and recovering damages for the trespass thereby committed, or from prosecuting the offender criminally.

History: 1925 c 276 s 30,31; 1933 c 375 s 2; 1961 c 202 s 23,24; 1965 c 337 s 2; 1967 c 110 s 11; 1967 c 568 s 8; 1969 c 366 s 5 (6394-30, 31)

90.19 [Repealed, 1961 c 202 s 38]

90.191 INFORMAL SALES OF STATE TIMBER.

Subdivision 1. The commissioner may sell the timber on any tract of state land in lots not exceeding \$1,500 in appraised value, without formalities but for not less than the full appraised value thereof, to any individual. No sale shall be made under this section to any person holding two permits issued hereunder which are still in effect.

Subd. 2. Upon receipt of payment for the full appraised value, the commissioner may issue a permit to cut such timber within one year from the date of sale under such supervision and provisions as the commissioner shall deem advisable. If the purchaser for good and sufficient reason is unable to cut the timber within the one-year period, an extension of time may be granted by the commissioner. Only one extension shall be granted and the extension shall not exceed one year. All cut timber, equipment, and buildings not removed from the land within 90 days after expiration of the permit shall become the property of the state. The commissioner of natural resources may grant an additional period of time not to exceed 120 days for the removal of cut timber, equipment, and buildings upon receipt of such request by the permit holder for good and sufficient reasons. The commissioner may grant a second period of time not to exceed 120 days for the removal of cut timber, equipment and buildings upon receipt of such request by the permit holder for hardship reasons only.

Subd. 3. All timber products, except as specified by the commissioner of natural resources, cut under the provisions of this section, shall be scaled and the final settlement for the timber cut shall be made on this scale. The purchaser shall dispose of slashings according to law, shall be liable under this chapter in trespass for cutting timber held in reserve or unnecessarily injuring any timber not included within the sale made to him under this section, and shall be otherwise subject to all the laws governing the sale and removal of state timber, so far as applicable except as provided under subdivision 4.

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

Subd. 4. In lieu of the placing of the marks M I N on cut products as prescribed under section 90.151, subdivision 2, all landings of cut products must be legibly marked with the name of the permit holder and the assigned permit number.

History: 1925 c 276 s 10; 1939 c 352 s 1; 1949 c 182 s 1; 1951 c 662 s 1; 1959 c 385 s 1; 1961 c 202 s 9; 1963 c 64 s 1; 1967 c 24 s 1-3; 1967 c 27 s 2; 1967 c 568 s 9; 1969 c 366 s 6; 1969 c 1129 art 10 s 2; 1975 c 106 s 5; 1978 c 640 s 1,2 (6394-10)

90.195 SPECIAL USE PERMIT.

The commissioner may issue a permit to salvage or cut not to exceed 25 cords of fuelwood per year for personal use from either or both of the following sources: (1) Dead, down, and diseased trees; (2) other trees that are of negative value under good forest management practices. The permits may be issued for a period not to exceed one year. The commissioner shall charge a fee, not less than \$5, in an amount up to the stumpage current market value of fuelwood of similar species, grade, and volume that is being sold in the area where the salvage or cutting is authorized under the permit.

History: 1967 c 25 s 1; 1980 c 614 s 78

NOTE: Section 90.195 was also amended by Laws 1980, Chapter 579, Section 3, to read as follows:

"90.195 **Special use permit.** The commissioner may issue a permit to salvage or cut not to exceed 12 cords of fuelwood per year for personal use from either or both of the following sources: (1) Dead, down, and diseased trees; (2) other trees that are of negative value under good forest management practices. Such permits may be issued for a period not to exceed one year. A fee shall be charged for the permit of not less than \$5 nor more than the approximate current market value of fuelwood stumpage of similar species, grade and volume that is being charged in the area."

90.20 [Renumbered 90.14]

90.201 TIMBER SALES, WHEN VOID; REFUNDS.

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

History: 1925 c 276 s 20; 1961 c 202 s 17; 1967 c 23 s 1 (6394-20)

90.21 [Renumbered 90.151]

90.211 PURCHASE MONEY, WHEN FORFEITED.

If the purchaser of any timber or his assignee fails to cut any part thereof before the expiration of the permit, he shall nevertheless pay the price therefor; but under no circumstances shall he cut any such timber after the expiration of the permit or extension thereof.

History: 1925 c 276 s 21; 1967 c 27 s 3 (6394-21)

90.215 [Renumbered 90.55]

90.22 [Renumbered 90.161]

90.221 TIMBER SALES RECORDS.

The commissioner shall keep timber sales records, including the description of each tract of land from which any timber is sold; the date of the report of the state appraisers; the kind, amount, and value of the timber as shown by such report; the date of the sale; the price for which the timber was sold; the name of the purchaser; the number, date of issuance and date of expiration of each permit; the date of any assignment of the permit; the name of the assignee; the dates of the filing and the amounts of the respective bonds by the purchaser and assignee; the names of the sureties thereon; the amount of timber taken from the land; the date of the report of the scaler and state appraiser; the names of the scaler and the state appraiser who scaled the timber; and the amount paid for such timber and the date of payment.

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

90.23 [Renumbered 90.171]

90.231 TIMBER SALES, MARKING OF BOUNDARIES.

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

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

90.24 [Renumbered 90.201]

90.25 [Renumbered 90.211]

90.251 TIMBER SCALING; REPORTS; FEES; SETTLEMENT OF CLAIMS.

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

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

Subd. 3. Final examination of lands and timber covered by any permit shall be made by a state appraiser at or subsequent to the expiration of the permit or of any cutting season and it shall be the duty of such appraiser to ascertain and report the amount of any timber covered by the permit and cut and left on the land or left standing thereon, but he shall not report any timber cut and left which has been marked as scaled.

Subd. 4. No state timber shall ever be scaled for or on behalf of the state by any person except a state appraiser, or scaler except as provided otherwise by the commissioner. No scale, count, measurement, or estimate of state timber officially made and reported by any state appraiser or scaler shall ever be changed or altered by any other person, nor superseded or set aside in any manner except as expressly provided in this chapter. Reappraisals of unsold state land or timber may be made when deemed advisable by the commissioner.

Except as herein expressly provided and as generally authorized by sections 10.11 and 10.12, no claim of the state for timber from state lands shall ever be settled or discharged for less than the full amount thereof as shown by the scale or estimate of scalers, or of state appraisers, as the case may be.

History: 1925 c 276 s 22,25,26; 1957 c 278 s 1; 1961 c 202 s 18,20,21; 1967 c 568 s 11; 1969 c 366 s 8,9; 1973 c 492 s 14 (6394-22, 25, 26)

90.252 CONSUMER SCALE OF STATE TIMBER.

The commissioner may enter into an agreement with either a timber sale permittee, or the purchaser of the cut products, or both, so that the scaling of the cut timber and the collection of the payment for the same can be consummated by the consumer. Such an agreement shall provide for a bond or cash in lieu of a bond and such other safeguards as are necessary to protect the interests of the state. Such a scaling and payment collection procedure may be used for any state timber sale, except that in the case of timber sold under section 90.101, no permittee who is also the consumer shall both cut and scale the timber sold unless such scaling is supervised by a state scaler.

History: 1969 c 366 s 10

90.26 [Renumbered 90.251, subds 1-3]

90.27 [Repealed, 1967 c 568 s 14]

90.28 [Repealed, 1967 c 568 s 14]

90.281 RE-SCALES, RECOUNTS AND RE-ESTIMATES.

Upon complaint of any interested permit holder questioning the accuracy of any scale, count, or estimate of timber made by any state appraiser, the commissioner at his discretion or of his own motion when no complaint is pending may cause a re-scale, recount, or re-estimate thereof to be made jointly by any two or more state appraisers, which when made shall supersede and for all purposes take the place of the original scale, count, or estimate, if and only when it varies more than ten percent from the original. As a condition precedent to the making of any such re-scale, recount, or re-estimate upon the complaint of any person the commissioner at his discretion may require such person to make available such sum of money as the commissioner deems necessary for the actual expenses thereof and to forfeit the same to the state if such re-scale, recount, or re-estimate does not vary more than ten percent from the original. All such forfeited money shall be paid into the state treasury and credited to the fund or account from which the expenses of such re-scale, recount, or re-estimate were paid.

History: 1925 c 276 s 12; 1961 c 202 s 11; 1967 c 568 s 12 (6394-12)

90.29 [Renumbered 90.251, subd 4]

90.30 [Renumbered 90.251, subd 5]

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

Subdivision 1. **Trespass on public lands, damages.** Whoever without valid permit shall cut any timber upon lands owned by this state, or held in trust by the state for the counties, or remove or carry away any such timber, or any other property appertaining to these lands, or shall commit any other trespass upon these lands, or shall induce or assist another to do so, shall be liable to the state for treble damages if the trespass is adjudged to have been willful but liable for double damages only if the trespass is adjudged to have been casual and involuntary. Any person found to have acquired possession in any manner of any timber unlawfully cut on lands owned by this state or held in trust by the

state for the counties, shall be liable to the state for twice the stumpage value thereof. It shall be no defense to plead or claim a purchase of any state timber from any one other than the commissioner, or a purchase of any timber held in trust by the state for the counties from anyone other than the county auditor, nor may it be claimed that any other person should be joined as defendant; nor may any claim be made for remuneration or allowance for labor or expenses incurred in preparing such timber for market or transporting the same to or toward market. Every such trespass wilfully committed shall be a gross misdemeanor.

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

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

Subd. 4. Apprehension of trespassers; reward. The following rewards shall be paid to any person giving to the proper authorities any information which shall lead to the detection and conviction of any persons violating any of the provisions of this chapter: \$25 reward, if the value of the timber so unlawfully cut or removed shall not exceed the sum of \$25; \$50 reward, if the value of the timber shall not exceed \$50; and \$100 reward, if the value of the timber shall exceed the sum of \$100; and the court before whom the person so violating the provisions of this chapter shall have been tried, shall, upon application of any person claiming to be entitled to such reward, examine the claim in a summary manner and determine whether or not the person claiming the reward is entitled to the same and, if it should appear to the satisfaction of the court that the person claiming the reward is entitled to the same, a certificate of such facts shall be made by the court and delivered to the person, which shall be deemed evidence of his right to the reward. The executive council shall pay the same from any funds appropriated for its expenses.

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

History: 1925 c 276 s 3,32-34; 1937 c 368 s 1; 1955 c 387 s 1; 1961 c 202 s 4,25-27; 1965 c 35 s 5; 1967 c 23 s 2 (6394-3,32-34)

90.31 [Repealed, 1957 c 202 s 2]

90.311 POSSESSION OF LANDS CONTRARY TO AGREEMENT, REMEDIES.

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

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

90.32 [Renumbered 90.221]

90.321 PROSECUTIONS.

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

The county attorneys of the several counties shall promptly report to the commissioner all trespasses committed upon state lands which may come to their knowledge and when directed by the attorney general shall prosecute all actions for any trespass or injury thereto, for the recovery of the possession thereof, or otherwise.

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

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

90.33 [Renumbered 90.181, subdivision 1]

90.34 [Renumbered 90.181, subd 2]

90.35 [Renumbered 90.301, subds 2 and 3]

90.36 [Renumbered 90.301, subd 5]

90.37 [Renumbered 90.301, subd 4]

90.38 [Repealed, 1961 c 202 s 38]

90.39 [Renumbered 90.411]

90.40 [Renumbered 90.412]

90.41 STATE APPRAISER AND SCALER; VIOLATIONS, PENALTIES.

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

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

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

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

90.411 RECORDS AS NOTICE.

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

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

90.412 STATUTE OF LIMITATION NOT APPLICABLE; VENUE OF PROCEEDINGS.

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

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

90.42 LAWS NOT AFFECTED.

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

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

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

90.46 Subdivision 1. [Renumbered 90.111, subdivision 1]

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

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

Subd. 3. [Renumbered 90.111, subd 3]

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

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

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

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

Subd. 6. [Renumbered 90.111, subd 6]

90.47 [Renumbered 90.231]

90.50 LEASE OF CERTAIN STATE LANDS FOR CULTIVATION AND HARVESTING OF DECORATIVE TREES.

Subdivision 1. **Commissioner of natural resources may lease lands.** The commissioner of natural resources may lease as herein provided any state lands under his jurisdiction and control for the purposes of cultivating and harvesting stagnant swamp trees for Christmas trees or other decorative purposes, except lands included in a state park and except lands within the area defined by the Act of Congress approved July 10, 1930, Title 16, U.S. Code Annotated, Section 577. Such leases shall be offered at public sale upon like proceedings as provided by law for the sale of state timber. The appraisers in such proceedings shall determine and report the annual rental value of the land and the location, estimated quantity and stumpage value of the stagnant swamp trees and other merchantable timber thereon.

Subd. 2. **Bids.** No bid shall be accepted which is for less than the appraised price, and any bidding over and above the appraised price shall be by percentage, a percent bid to be added to the appraised rental value of the land and stumpage value of the stagnant swamp trees in the same proportion, provided that if no bids are received on a parcel when offered, it may be leased at not less than the appraised value at any time within one year thereafter, without reoffering it for public sale.

Subd. 3. **Restrictions in leases.** Such leases shall be subject to the following restrictions:

(a) The commissioner, by written order, shall determine that the lands to be leased are not suitable for agricultural or forestry use other than the growing of stagnant swamp trees of no commercial value for other than decorative purposes, and that they are lands which, under the general policy of the natural resources department, would not be offered for sale; that in the opinion of the commissioner, the use of such lands for the cultivation and harvesting of stagnant swamp trees is in the public interest and will best advance the conservation of the resources of the state.

(b) All such leases shall be subject to sale and leasing of the land for mineral purposes under legal provisions and shall also be subject to cancellation by the commissioner of natural resources for mining or exploration purposes, upon three months written notice, and shall be subject to cancellation by the commissioner for violation of any conditions of the lease after giving the lessee written notice of alleged violations and at least three months to rectify same.

(c) No such lease shall be made for a term to exceed 15 years.

(d) No individual, corporation or partnership shall hold at any one time any lease or leases covering a total of more than 10,000 acres, and no lease shall cover a total of more than 5,000 acres. The lease shall specify the annual rental to be paid for the lands, and a stumpage value to be paid for stagnant swamp trees harvested therefrom.

(e) Such lease shall provide that before it becomes effective for any purpose, the lessee within 90 days from the date of purchase, shall give a good and valid bond to the state of Minnesota at double the sale value of all stumpage of stagnant swamp trees covered or to be covered by the lease.

(f) Such lease shall confer no rights to cut commercial timber other than the stagnant swamp trees.

(g) Such lease may prescribe such other terms and conditions as to the use and improvement of such lands, the manner of harvesting such trees, and other pertinent matter, as the commissioner deems in the public interest.

(h) Such lease shall be assignable only with the written approval of the commissioner of natural resources endorsed thereon.

Subd. 4. **Form of lease; allocation of moneys received under lease.** The form of the lease shall be approved by the attorney general.

All moneys received under any such lease shall be credited to the fund to which the land belongs.

Subd. 5. **Land rental in lieu of general property taxes on leased lands; distribution of rentals.** State lands, leased pursuant to subdivisions 1 to 4, for the purposes of cultivating and harvesting stagnant swamp trees for Christmas trees or other decorative purposes shall not be subject to general property taxation during the term of such lease, and Minnesota Statutes, Section 273.19, shall not be applicable thereto, provided, however, that an amount equal to the annual land rental shall be paid in lieu of the general property tax to the county treasurer of the county in which the lands are located at the same time that such rentals are payable to the state, and shall be distributed to the taxing districts in which located in proportion to the mill rates of such districts.

History: 1955 c 805 s 1; 1957 c 396 s 1; 1969 c 1129 art 10 s 2

90.55 [Repealed, 1967 c 22 s 1]

90.60 [Repealed, 1967 c 26 s 1]

90.61 [Repealed, 1967 c 26 s 1]

90.62 [Repealed, 1967 c 26 s 1]

90.63 [Repealed, 1967 c 26 s 1]