

CHAPTER 88

DIVISION OF FORESTRY

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88.14 DISPOSAL OF SLASHINGS AND DEBRIS.

[For text of subs 1 and 2, see M.S.2004]

Subd. 3. **Entry to dispose; lien.** When any such slashings, debris, or refuse are not disposed of or are left unattended for a period exceeding 30 days, contrary to the instructions of the commissioner, or forest officer, the commissioner, or any forest officer or fire warden, may go upon the premises with as many workers as may be necessary and burn or otherwise dispose of the same and the expense thereof shall be a lien upon the land on which they are situated and upon all contiguous lands of the same owner, and also upon all logs and other timber products cut or manufactured upon all these lands. This lien shall have the same effect and may be enforced in the same manner as a judgment in favor of the state for money. An itemized statement verified by the oath of the commissioner, or forest officer, of the amount of the costs and expenses incurred in burning or otherwise disposing of these slashings, debris, or refuse shall be recorded, within 90 days from the time the disposal thereof is completed, in the office of the county recorder, or, if the property is registered, in the office of the registrar of titles of the county in which the timber or timber products were cut or manufactured; and the amount of the lien shall be a valid claim that may be collected in a civil action from the person who cut or manufactured the wood, timber, or timber products from which the slashings, debris, or refuse were produced. Any moneys so collected shall be paid into the state treasury and credited to the general fund.

[For text of subs 4 to 9, see M.S.2004]

History: 2005 c 4 s 13

88.17 PERMISSION TO START FIRES; PROSECUTION FOR UNLAWFULLY STARTING FIRES.

Subdivision 1. **Permit required.** (a) A permit to start a fire to burn vegetative materials and other materials allowed by Minnesota Statutes or official state rules and regulations may be given by the commissioner or the commissioner's agent. This permission shall be in the form of:

(1) a written permit issued by a forest officer, fire warden, or other person authorized by the commissioner; or

(2) an electronic permit issued by the commissioner, an agent authorized by the commissioner, or an Internet site authorized by the commissioner.

(b) Burning permits shall set the time and conditions by which the fire may be started and burned. The permit shall also specifically list the materials that may be burned. The permittee must have the permit on their person and shall produce the permit for inspection when requested to do so by a forest officer, conservation officer, or other peace officer. The permittee shall remain with the fire at all times and before leaving the site shall completely extinguish the fire. A person shall not start or cause a fire to be started on any land that is not owned or under their legal control without the written permission of the owner, lessee, or an agent of the owner or lessee of the land. Violating or exceeding the permit conditions shall constitute a misdemeanor and shall be cause for the permit to be revoked.

[For text of subd 3, see M.S.2004]

Subd. 4. **Account created.** There is created in the state treasury a burning permit account within the natural resources fund where all fees collected under this section shall be deposited.

Subd. 5. **Permit fees.** (a) The annual fees for an electronic burning permit are:

(1) \$5 for a noncommercial burning permit; and

(2) for commercial enterprises that obtain multiple permits, \$5 per permit for each burning site, up to a maximum of \$50 per individual business enterprise per year.

(b) Except for the issuing fee under paragraph (c), and for the electronic licensing system commission established by the commissioner under section 84.027, subdivision 15, money received from permits issued under this section shall be deposited in the state treasury and credited to the burning permit account and is annually appropriated to the commissioner of natural resources for the costs of operating the burning permit system.

(c) Of the fee amount collected under paragraph (a), \$1 shall be retained by the permit agent as a commission for issuing electronic permits.

(d) Fire wardens who issue written permits may charge a fee of up to \$1 for each permit issued, to be retained by the fire warden as a commission for issuing the permit. This paragraph does not limit a local government unit from charging an administrative fee for issuing open burning permits within its jurisdiction.

History: 1Sp2005 c 1 art 2 s 66-68

88.27 [Repealed, 2005 c 146 s 52]

88.41 COUNTY AUDITORS; TABULAR STATEMENTS; POWERS AND DUTIES.

At as early a date as possible after letting the contract or contracts under any improvement authorized by sections 88.28 to 88.46, and as soon as the cost of the improvement and expenses connected therewith can be ascertained, the auditor of the county shall make in tabular form a list and statement as provided by General Statutes 1923, section 6703, and the cost of making the improvement of each tract, together with its proportionate share of the total expense, shall be assessed against such tract, and the provisions of General Statutes 1923, section 6703, so far as applicable, shall govern the proceedings under sections 88.28 to 88.46. The auditor is hereby authorized to exercise all the rights and authority granted by General Statutes 1923, section 6703, and in all places where the term "ditch" or "drainage ditch" shall appear therein, the same, for all purposes of sections 88.28 to 88.46 shall be construed as reading "improvement," and General Statutes 1923, section 6703, used and applied accordingly. The auditor, after preparing this statement, shall cause a duplicate thereof to be recorded in the office of the county recorder in and for the county, as provided in General Statutes 1923, section 6705, and the provisions thereof shall apply to the proceedings under sections 88.28 to 88.46. The auditor and county recorder are hereby authorized to exercise the rights and authority and perform the duties here specified, and the provisions of General Statutes 1923, sections 6712 and 6713, shall apply to and govern the proceedings under sections 88.28 to 88.46. The county auditor, the county treasurer, and the county recorder are each hereby authorized and required to perform in all proceedings under sections 88.28 to 88.46 the duties specified in General Statutes 1923, sections 6712 and 6713; and in all cases where the term "ditch" or "ditches" or any other similar term appears therein, the same, for all purposes of sections 88.28 to 88.46, shall be construed as reading "improvement."

History: 2005 c 4 s 14

88.49 CONTRACTS.

[For text of subd 1, see M.S.2004]

Subd. 2. **Preparation, form, approval.** The contract shall be prepared by the director of the Division of Lands and Forestry on a recordable form approved by the

attorney general and prescribe such terms and conditions as will reasonably tend to produce merchantable timber upon the lands described therein and specify the kind or species of seeds to be planted or seedlings to be set out and the quantity or number thereof, or other acts or steps that the commissioner shall deem necessary in respect to afforestation or reforestation of the lands; the time or times when the same shall be done; the kind and amount, if any, of culture or other attention to be given in aid of the growth of timber thereon; the uses, if any, which may be made of the land while the same remains an auxiliary forest; the period of time, not exceeding 50 years, during which the land may continue to be an auxiliary forest, with privilege of renewal by mutual agreement between the owner and the state acting through the commissioner, with the approval of the county board and the Executive Council, for an additional period not exceeding 50 years; the rate of taxation which may be levied annually on the land, exclusive of merchantable timber growing thereon at the time of the making of the contract and exclusive of mineral or other things of value thereunder, the rate to be determined as hereinafter provided; the keeping open to the public, as public hunting and fishing grounds, of all approved auxiliary forest lands, except when such lands are closed to public hunting or fishing by order of the director of the Division of Lands and Forestry in order to protect such lands from fire, loss of life or property provided, however, that the term keeping open shall not apply to private roads or improvements should the owner desire to close same; and such other conditions, provisions, and stipulations, as the commissioner, in the exercise of scientific knowledge and business judgment, may deem necessary or proper. Every such contract shall be approved by the Executive Council.

As far as practicable all contracts shall be uniform and equal in respect to all lands or classes of lands substantially similar in capacity for, or adaptability to, any particular kind or species of tree culture or forest growth.

Subd. 3. **Recording.** The commissioner shall submit such contract in recordable form to the owner of the land covered thereby. If the owner shall indicate to the commissioner an unwillingness to execute the same, or if the owner or any of the persons having an interest therein or lien thereon fail to execute it within 60 days from the time of its submission to the owner, all proceedings relating to the making of this land into an auxiliary forest shall be at an end.

When the contract shall have been executed it shall forthwith be recorded in the office of the county recorder at the expense of the owner or, if the title to the land be registered, with the registrar of titles. At the time the contract is recorded with the county recorder for record the owner, at the owner's expense, shall record with the county recorder a certificate from the county attorney to the effect that no change in record title thereof has occurred, that no liens or other encumbrances have been placed thereon, and that no taxes have accrued thereon since the making of the previous certificate. It shall be the duty of the county attorney to furnish this certificate without further compensation.

All the provisions of the contract shall be deemed covenants running with the land from the date of the filing of the contract for record.

[For text of subd 4, see M.S.2004]

Subd. 5. **Cancellation.** Upon the failure of the owner faithfully to fulfill and perform such contract or any provision thereof, or any requirement of sections 88.47 to 88.53, or any rule adopted by the commissioner thereunder, the commissioner may cancel the contract in the manner herein provided. The commissioner shall give to the owner, in the manner prescribed in section 88.48, subdivision 4, 60 days' notice of a hearing thereon at which the owner may appear and show cause, if any, why the contract should not be canceled. The commissioner shall thereupon determine whether the contract should be canceled and make an order to that effect. Notice of the commissioner's determination and the making of the order shall be given to the owner in the manner provided in section 88.48, subdivision 4. On determining that the contract should be canceled and no appeal therefrom be taken, the commissioner shall send notice thereof to the auditor of the county and to the town clerk of the town

affected and file with the recorder a certified copy of the order, who shall forthwith note the cancellation upon the record thereof, and thereupon the land therein described shall cease to be an auxiliary forest and, together with the timber thereon, become liable to all taxes and assessments that otherwise would have been levied against it had it never been an auxiliary forest from the time of the making of the contract, any provisions of the statutes of limitation to the contrary notwithstanding, less the amount of taxes paid under the provisions of section 88.51, subdivision 1, together with interest on such taxes and assessments at six percent per annum, but without penalties.

The commissioner may in like manner and with like effect cancel the contract upon written application of the owner.

The commissioner shall cancel any contract if the owner has made successful application under sections 290C.01 to 290C.11, the Sustainable Forest Incentive Act, and has paid to the county treasurer the difference between the amount which would have been paid had the land under contract been subject to the Minnesota Tree Growth Tax Law and the Sustainable Forest Incentive Act from the date of the recording of the contract and the amount actually paid under section 88.51, subdivisions 1 and 2. This tax difference must be calculated based on the years the lands would have been taxed under the Tree Growth Tax Law and the Sustainable Forest Incentive Act. The sustainable forest tax difference is net of the incentive payment of section 290C.07. If the amount which would have been paid, had the land under contract been under the Minnesota Tree Growth Tax Law and the Sustainable Forest Incentive Act from the date of the filing of the contract, is less than the amount actually paid under the contract, the cancellation shall be made without further payment by the owner.

When the execution of any contract creating an auxiliary forest shall have been procured through fraud or deception practiced upon the county board or the commissioner or any other person or body representing the state, it may be canceled upon suit brought by the attorney general at the direction of the commissioner. This cancellation shall have the same effect as the cancellation of a contract by the commissioner.

[For text of subs 6 to 11, see M.S.2004]

History: 2005 c 4 s 15-17

88.491 RESTRICTIONS ON NEW AUXILIARY FORESTS, EXTENSIONS OF EXISTING CONTRACTS.

[For text of subd 1, see M.S.2004]

Subd. 2. Effect of expired contract. When auxiliary forest contracts expire, or prior to expiration by mutual agreement between the land owner and the appropriate county office, the lands previously covered by an auxiliary forest contract automatically qualify for inclusion under the provisions of the Sustainable Forest Incentive Act; provided that when such lands are included in the Sustainable Forest Incentive Act prior to expiration of the auxiliary forest contract they will be transferred and a tax paid as provided in section 88.49, subdivision 5, upon application and inclusion in the sustainable forest incentive program. The land owner shall pay taxes in an amount equal to the difference between:

(1) the sum of:

(i) the amount which would have been paid from the date of the recording of the contract had the land under contract been subject to the Minnesota Tree Growth Tax Law; plus

(ii) beginning with taxes payable in 2003, the taxes that would have been paid if the land had been enrolled in the sustainable forest incentive program; and

(2) the amount actually paid under section 88.51, subdivisions 1 and 2.

History: 2005 c 4 s 18

88.6435 BOUGH BUYERS.

[For text of subds 1 to 3, see M.S.2004]

Subd. 4. **Forest bough account; disposition of fees.** (a) The forest bough account is established in the state treasury within the natural resources fund.

(b) Fees for permits issued under this section shall be deposited in the state treasury and credited to the forest bough account and, except for the electronic licensing system commission established by the commissioner under section 84.027, subdivision 15, are annually appropriated to the commissioner of natural resources for costs associated with balsam bough educational programs for harvesters and buyers.

History: *1Sp2005 c 1 art 2 s 69*