Timber Sale Policies and Practices
of Public Forest Land Management Agencies in Minnesota.¹

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by

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EXECUTIVE SUMMARY

The timber marketing policies of public agencies can influence how timber is distributed to different segments of the forest industry. This is true in Minnesota where half the timberland in the state is publicly owned. This study presents an overview of timber sale policies and procedures of public agencies in Minnesota. This information was gathered through a literature review and interviews with public officials at the federal, state, and county level. The agencies included in this report are the Minnesota Department of Natural Resources, Division of Forestry (MNDNR), seven county land departments in northern Minnesota, and the USDA Forest Service which manages the Chippewa and Superior National Forests. The assistance of the various organizations and individuals that contributed to the data acquisition phase of this project is greatly appreciated.

Minnesota's public forest land management agencies have similar methods of marketing timber. The sale procedure chosen by the agency is sometimes determined in part by the size of the timber sale. In general, these agencies sell larger volumes of timber by competitive auction. These sales are generally sales that are attractive to loggers because they may contain substantial volumes of commercial trees species. Smaller volumes are sold on an over-the-counter basis, often on a first come, first served basis. Over-the-counter sales are usually required to be below a relatively small dollar or volume limit.

The State of Minnesota, through the MNDNR, has three main sale methods. Two are auction methods and the third is an over-the-counter method. The MNDNR has the authority to approve auction sales up to $50,000 in appraised value, and over-the-counter sales up to $3,000 in appraised value. Sales larger than $50,000 in appraised value must be approved by the Executive Council of the State of Minnesota. Sales requiring this approval have been relatively rare. Many counties also have three main procedures for selling timber, two of which are auction methods and the third which is an over-the-counter method. Some counties only use one auction procedure. The USDA Forest Service sells most of its timber through an auction method, but the size of sale that is authorized to be sold as one sale varies by forest. The USDA Forest Service also sells some timber on an over-the-counter basis. Generally these are small sales.

Many agencies have regulations that limit the size of firm that may bid on certain auction sales. For instance, the State of Minnesota and many counties have intermediate auction sales which exclude larger firms from bidding. At the state level, these sales can be up to $15,000 in appraised value. At the county level, the requirements on the type of firm that may bid on intermediate sales varies from county to county. The national forests also have regulations that favor smaller firms. For instance, the national forests have set-aside sales, which can be purchased only by firms that meet the federal definition of a small firm.
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1. INTRODUCTION

Minnesota's forest industry depends heavily on timber from public lands. This is due to the amount of timberland administered by public agencies in Minnesota. Of the 14.8 million acres of timberland in Minnesota, 51.5 percent is owned by the public, 5.1 percent is owned by the forest industry, and the remaining 43.4 percent is privately owned, including Native American lands (Figure 1.1). Of the public timberlands, 40.4 percent are managed by the State of Minnesota, 26.6 percent are managed by various federal agencies, and 33.0 percent are administered by county and municipal governments (Miles and Chen 1992, pp. 30-31).

![Percentage of timberland by ownership in Minnesota, 1990.](image)

**Figure 1.1** Percentage of timberland by ownership in Minnesota, 1990. (Source: Miles and Chen 1992, p. 30-31)

The timber marketing policies of public forest land management agencies can influence how timber is distributed to different segments of forest industry. This background paper documents timber sale practices of these agencies in Minnesota and the policies that govern these practices. Data are presented to document the extent of
timber sales in Minnesota by these agencies. Assistance from the various organizations and individuals that contributed to the data acquisition phase of this project is greatly appreciated.

The agencies included in this study are the Minnesota Department of Natural Resources, Division of Forestry (MNDNR), various counties in northern Minnesota, and the U.S. Forest Service (Chippewa National Forest and Superior National Forest). Information on the U.S. Department of the Interior, Bureau of Indian Affairs (BIA) is not included because sales administered by this agency are generally considered as originating from non-industrial private forests. The following counties are included: Becker, Beltrami, Cass, Itasca, Koochiching, Lake, and St. Louis. These seven counties accounted for more than 85 percent of county timber sale dollars in 1990 and approximately 75 percent of timber sale volume from county lands (MNDNR 1991b). Many of the agencies that provided the information in this study reported that they were in the process of adjusting the timber sale policies and procedures they use to market timber.

Each of these public forest land management agencies administers a substantial timber sale volume. Figure 1.2 represents an estimate of the relative proportion of timber volume sold by public agencies from publicly owned lands in Minnesota in 1992. These agencies sold slightly more than 1.5 million cords with an estimated value of $16,435,539 (MNDNR 1993). Detailed information is available on the receipts generated from timber sales conducted by public forest land management agencies in Minnesota in *Trends in financing Minnesota's public forest land management agencies: 1987-1992* (MacKay, McDill, and Baughman 1993).
Figure 1.2  Percent of public timber volume sold by public agencies in Minnesota, 1992.
(Source: MNDNR 1993)
2. STATE OF MINNESOTA

The Division of Forestry of the Minnesota Department of Resources (MNDNR) has responsibility for protection and multiple-use management of 4.5 million acres of state forests and other state-owned lands (MNDNR 1991a). The total timber sale volume from these lands was nearly 611,000 cords in state fiscal year 1992 (July 1 to June 30). Receipts from MNDNR administered sales totalled $5.3 million in the same year (MNDNR 1992).

2.1 Types of Sales

The State of Minnesota has a variety of procedures for selling timber from state lands. State timber sale procedures are generally distinguished by the dollar amount of timber that can be sold as one unit. State law provides for four main sale procedures.

1. The Executive Council has the authority to approve the sale of timber in amounts greater than $50,000 in appraised value (MN Stat. 90.031 [4]).

2. Regular auction sale procedures can be used up to $50,000 in appraised value (MN Stat. 90.101).

3. Intermediate auction procedures can be used up to $15,000 in appraised value (MN Stat. 90.121).

4. Informal sales of state timber can occur up to $3,000 in appraised value (MN Stat. 90.191).

These different sale procedures are designed to make timber supplies available to various segments of the forest products industry and are intended to allow the MNDNR flexibility to sell timber in a manner that suits the size and circumstances of the timber sale.

Section 90.02 of Minnesota Statutes contains a statement of policy regarding the allocation of the state's timber resources to various users.
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 rules to reach this objective; including provision for sale of all timber species by both the informal and the auction sale method; and maintaining reasonable proportions of volume in each method of sale.

The commissioner is directed to hold public meetings annually in each forest area and inform the public how timber sales are proposed to be allocated between informal sales, intermediate auctions, and regular auctions. The public also must be given an opportunity to respond to the allocation proposal (MN Stat. 90.041 Subd. 4).

2.1.1 Executive Council Approved Sales

Sales approved by the Executive Council are authorized under Minnesota Statutes, Section 90.031, Subd. 4. The Executive Council consists of the governor, the lieutenant governor, secretary of state, state auditor, state treasurer, and attorney general (MN Stat. 9.011). The council must approve sales on any tract in a lot in excess of $50,000 in appraised value when the sale is in the best interest of the state. The council may also formulate, from time to time, rules regarding timber sales from state lands. The council may also abrogate, modify, or suspend rules at its pleasure (MN Stat. 90.031 [4]). Use of this sale procedure has been relatively rare since it was introduced in 1984. Between 1984 and September 1991, the MNDNR requested the approval of 11 sales under this procedure, all of which were approved. The largest of these sales had an appraised value of $100,900 and the smallest was appraised at $21,000 (Berndt 1991).
2.1.2 MNDNR Approved Sales

The main body of law regarding the sale of timber at public auction is Section 90.101 of the state statutes. The commissioner of natural resources of the MNDNR or agents of the commissioner have the authority to sell timber up to $50,000 in appraised value. This statute also allows the commissioner to delegate that authority to others upon the conditions that they be bonded up to $25,000 in a way prescribed by the attorney general and that those delegated the authority perform their duties faithfully and honestly.

2.1.2.1 Regular Auction

The MNDNR *Timber Sales Manual* (1982) offers the following description of regular auctions:

Auction sales provide the means to move large volumes of timber from state lands at a relatively low administrative cost. Smaller volumes of high demand species can also be sold by this method to obtain a higher market value. Through the competitive bidding process, auction sales offer a measure of establishing stumpage prices. It is also a system that allows the state to impartially distribute permits to harvest timber from state lands.

There is no limit on how many lots of timber a buyer can purchase under this procedure, or how many adjoining lots the MNDNR can sell. Under auction procedures timber must be sold to the highest bidder, but it cannot be sold for less than the appraised value. Bids are made for the entire tract and the highest total value for the tract is the accepted bid. If the timber is unsold at auction, the timber may be sold in a private sale for a period of up to 90 days after the auction. Again, the minimum sale price is the appraised value. Some of the major attributes of regular auctions are summarized in Table 2.1. These attributes are compiled from state law and are
minimum requirements. Administrative policies of the MNDNR may add further requirements.

2.1.2.2 Intermediate Auction Sales

The MNDNR Timber Sales Manual (1982) offers the following description of intermediate auctions:

The 1981 Legislature amended the Timber Sale laws to facilitate the sale of state timber and to make it more available to small businesses and independent operators. A major part of this legislation was the addition of a second type of auction sale. This sale was specifically designed to enable independent timber operators to compete more successfully in the auction process, and thereby reduce their dependence on informal permits. This is done by preventing large companies from bidding, and limiting the number of tracts anyone may hold at one time.

The requirements of intermediate auctions are authorized under Minnesota Statutes, Section 90.121. This is an alternative auction procedure from regular auctions. Intermediate auctions are limited to lots of timber appraised at no more than $15,000 and they cannot be sold to firms with more than 20 employees. Table 2.1 compares intermediate auctions with other types of timber sales.

2.1.2.3 Informal Sales

The MNDNR Timber Sales Manual (1982) offers the following description of informal sales:

The informal sale provides the opportunity to sell small volumes relatively fast with little formalities. It is easy to prepare and administer but it does not necessarily provide the State its full stumpage value, and the selection of who is to receive a permit, creates many problems.

The informal timber sale statute (section 90.191) was enacted in 1929 to provide the local settlers with an opportunity to obtain wood products for their own use. Since that time the statute has been changed numerous
times. These changes have broadened the scope and increased the size of the sale many times.

The *Timber Sales Manual* (1982) adds that "a public auction should be considered when there is a large volume of timber involved or when a number of applicants would be interested in purchasing the same tract." Informal sales can be made to individuals acting for themselves or in any representative capacity as well as to any corporation, firm, or group of people working together.

Informal sales are allowed for tracts up to $3,000 in appraised value. These sales can occur without many of the requirements of the auction method, but cannot sell for less than their appraised value. Informal and auction sales are compared in Table 2.1 (MN Stat. 90.191).

The *Timber Sales Manual* (1982) sets some policy limitations on informal sales. No informal sales can be made to any person who had an account deemed uncollectible by the Attorney General or any person with an account past due for over 90 days. Similarly, no informal sale could be made to any person who had not settled a trespass.

The *Timber Sales Manual* (1982) directs that the allocation of informal sales be accomplished in as impartial a manner as possible. The Manual suggests that informal sales be divided into two types to reduce conflict over the allocation of informal sales:

1) Planned sales without special salvage problems are allocated in the order that applications to cut are received.

2) Applications for sales for salvage, road clearing, or to prevent loss to the State do not need to be processed in order.

### 2.1.2.4 Fuelwood

The commissioner may issue special use permits for the purchase of fuelwood for personal use. These permits are limited to one year in duration and may not be for
more than twelve cords. The minimum fee for the permit is $5.00. The MNDNR sold 10,314 cords for $28,029 in FY 1991 (Berndt 1991). However, most fuelwood is sold as part of a larger sale by informal sale, intermediate auction, or regular auction procedures. The MNDNR sold 33,313 cords for $91,875 by these procedures in 1991.

2.1.2.5 Leases

State law allows for leasing of state lands for the cultivation and harvesting of "stagnant swamp trees" to be used for decorative purposes, such as Christmas trees (MN Stat. 90.50). The state does not have any leases for timber (Berndt 1991).

2.2 Sale Administration

2.2.1 Permits

A permit is issued to the purchaser when state timber is sold at public auction or informally. Some of the necessary terms of the permit are described in Minnesota Statutes, Section 90.151. The terms must include provisions which give the state title to all timber cut until the purchaser pays in full for the timber and meets all the other provisions of the sale. The purchaser must pay for all timber cut, as well as all timber authorized to be cut, but not cut. While the permit holder must pay for authorized but uncut timber, the permit holder is not allowed to cut this timber after the expiration of the permit (MN Stat. 90.211). The permit holder may be held liable for timber cut in error, negligently destroyed, or damaged. The permit holder must not begin cutting, clearing sites, or constructing logging roads until the responsible individual at the MNDNR has been notified. The permit must also specify the method of disposal of all slash and other refuse from cutting operations. The state may act to halt further cutting
### Table 2.1. Characteristics of three major timber sale methods used by the MNDNR.

<table>
<thead>
<tr>
<th>Sale Characteristics</th>
<th>Regular Auction</th>
<th>Intermediate Auction</th>
<th>Informal Sale</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Maximum Appraisal</strong></td>
<td>$50,000</td>
<td>$15,000</td>
<td>$3,000</td>
</tr>
<tr>
<td><strong>Down Payment</strong></td>
<td>25% of appraised value</td>
<td>25% of appraised value</td>
<td>100% of appraised value</td>
</tr>
<tr>
<td><strong>Eligibility Requirement For Permit</strong></td>
<td>none</td>
<td>no more than 20 employees</td>
<td>none</td>
</tr>
<tr>
<td><strong>Number of Simultaneous Permits</strong></td>
<td>no limit</td>
<td>6</td>
<td>2¹</td>
</tr>
<tr>
<td><strong>Permits Transferable?</strong></td>
<td>yes</td>
<td>yes</td>
<td>no</td>
</tr>
<tr>
<td><strong>Permit Lifetime</strong></td>
<td>3 years</td>
<td>1 year</td>
<td>1 year</td>
</tr>
<tr>
<td><strong>Number of Extensions</strong></td>
<td>2 extensions</td>
<td>2 extensions</td>
<td>1 extension</td>
</tr>
<tr>
<td></td>
<td>1 year each</td>
<td>1 year each</td>
<td>1 year</td>
</tr>
<tr>
<td></td>
<td>plus 1 year special extension</td>
<td>plus 1 year special extension</td>
<td>plus 1 year special extension</td>
</tr>
<tr>
<td><strong>Charge for Extensions</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>- 1st year</td>
<td>- 5% interest</td>
<td>- none</td>
<td>- none</td>
</tr>
<tr>
<td>- 2nd year</td>
<td>- 15% interest</td>
<td>- at MS 549.09⁴</td>
<td>- value of timber re-calculated</td>
</tr>
<tr>
<td>- 3rd year</td>
<td>- value of remaining timber is re-appraised plus interest²</td>
<td>- value of remaining timber is re-appraised plus interest²</td>
<td>- value of timber re-calculated</td>
</tr>
<tr>
<td><strong>Notice³</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>- Posted</td>
<td>- 30 days</td>
<td>- 30 days</td>
<td>- none</td>
</tr>
<tr>
<td>- Published</td>
<td>- three consecutive weeks</td>
<td>- once, one week prior to sale</td>
<td>- none</td>
</tr>
</tbody>
</table>

¹ Six permits for certain partnerships and family corporations.
² Value of timber to be cut is recalculated at higher of current rates or original rates.
³ When timber has been damaged by fire, windstorm, flood, or other natural cause, it may be sold at public auction on short notice.
⁴ The interest rate shall be computed as simple interest per year. The rate of interest shall be based on the secondary market yield of one year U.S. treasury bills, calculated on a bank discount basis as provided in Minnesota Statutes Section 549.09.
at any time when, in the opinion of the attorney general, any term of the permit has been violated. The commissioner also has the authority to order that the permit holder cease operations, or to cancel the permit, if the commissioner deems that the permit conditions have not been followed or timber has been cut in trespass.

Permits have a limited lifetime during which time all the timber should be cut. Extensions to permits are allowed under state law. Permits are also transferable with written approval from authorized agents of the commissioner of natural resources (MN Stat. 90.171). In the event that standing timber on a permit is damaged through some natural cause such as fire or a flood, the timber may be reappraised and the permit modified. The commissioner must ensure that the reappraisal is in the best interest of the state (MN Stat. 90.201 [4]).

2.2.2 Payment for State Timber

The commissioner is charged under Section 90.181 of Minnesota Statutes to transmit a statement of the amount due to the permit holder. The statement can be transmitted at the completion of the cutting, but it must be done at least annually in the case of an auction permit. Title to the timber passes from the State once the timber has been scaled and the commissioner has made arrangements for collection of payment.

Refunds are available in the event that the amount paid on the timber sale surpasses the value of the timber as determined by the final statement of timber cut. The refund can take the form of cash or a credit to another permit held by the permittee (MN Stat. 90.201 [2]).
2.2.3 Scaling of Timber

Scaling is the measurement of the volume of timber removed from the site of a timber harvest. The majority of timber sales sold by the State require scaling to determine the amount permit holders must pay. Scaling laws are generally covered under Minnesota Statutes Sections 90.251 and 90.252. Not all timber sold from state administered lands is scaled. Approximately 16 percent of timber harvested in fiscal year 1991 was sold on appraised volume (Berndt 1991). When a sale is "sold on appraised volume" the timber volume on the tract is measured during the appraisal of the tract, and not after it is harvested. This practice was originally used for sales of low value or small volumes, however it has become more common in recent years (Berndt 1991). The *Timber Sales Manual* (1982) states that there are policy limits on "Sold on Appraised Volume" sales. These policies are under revision, but currently timber should only be sold on appraised volume if a number of conditions are met. This procedure can be used if the majority of timber on the tract is aspen pulpwood and hardwood, with small volumes of other types of products or species. The other species or products can only comprise a maximum of 10 percent of the appraised value of the sale or 30 percent of the volume by bolts if the timber is sold as pulpwood and bolts. Area foresters can exceed these limits for specific permits with the approval of the MNDNR regional office. Other products, such as cut products resulting from timber stand improvement, clearing for roads or trails, or logging residue and high value species such as walnut veneer also may be sold on appraised volume.

When scaling is part of the timber sale contract, it must be accomplished on the tract where the timber was cut, unless the state appraiser with the approval of the agent of the commissioner of natural resources designates in writing an alternative location.
The state appraiser must also review the area designated by the permit after the permit has expired to determine the amount of timber designated to be cut but left standing. Scaling should be accomplished by a state scaler or appraiser unless designated otherwise by the commissioner. State law also states "as far as practicable the scaler and appraiser shall not be the same person for any timber cut under permit" (MN Stat. 90.251 [4]).

State law provides an alternative timber scale method which allows for consumer scale of state timber. Under this alternative the mill that processes the cut timber reports to the state the volume of timber delivered by the permit holder. Bonding or other forms of safeguards are necessary under this procedure. Minnesota Statutes, Section 90.252 gives the commissioner the authority to allow this process. If the timber was sold under an auction procedure and it is scaled and cut by the permittee who is also the consumer, the scaling must be supervised by a state scaler.

In the event of a disputed scale or at the commissioner's discretion, the commissioner may have the tract reappraised or rescaled. This appraisal will be accomplished by two appraisers and will take effect only if the result varies by more than 10 percent from the original (MN Stat. 90.281).

2.2.4 Forest Roads

State policy for maintaining forest roads on state forest lands is detailed in Minnesota Statutes, Section 89.002, Subdivision 3.

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.
Buyers of state timber generally use state roads. Forest road users do not pay directly for the use of the roads. Small logging trails are cut at the buyer’s expense. These trails are not expected to be permanent.

2.2.5 Review of Sales

There is a general review of upcoming timber sale plans by wildlife, recreation, and other professionals within the MNDNR. However, there is no specific sale by sale review, other than in wildlife management areas where the wildlife manager’s approval is necessary. There are guidelines regarding harvesting impacts on recreational trails, waterways, and old growth forest stands.

2.3 State of Minnesota Sale Data

The MNDNR sells more timber volume from public lands in Minnesota than any other single public forest land management agency. The average volume sold and the average volume harvested from MNDNR administered lands from 1990 to 1992 were 674,000 cords and 653,000 cords per year, respectively (Table 2.2). The volume sold and volume harvested will be different because timber sold one year may not be harvested until later years. Average receipts from timber sales for the 1990 to 1992 time period are $4,766,000 per year. Note that the receipts for one fiscal year are not necessarily from timber sales made the same fiscal year. Receipts include revenues resulting from sales from previous years, because in many cases harvesting and scaling occurs in a different fiscal year than the date of sale. Also, while some timber sold in one year will not be harvested in the same year, the down payment on these sales is included in the
receipts for the first year. Finally, total receipts include adjustments for refunds, receipts from fuelwood sales, and receipts for timber cut in trespass.

Table 2.2. MNDNR timber sale data, state fiscal years 1990-92.

<table>
<thead>
<tr>
<th></th>
<th>1990</th>
<th>1991</th>
<th>1992</th>
</tr>
</thead>
<tbody>
<tr>
<td>Volume Sold</td>
<td>772.3</td>
<td>637.6</td>
<td>611.5</td>
</tr>
<tr>
<td>(thousand cords)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total Receipts</td>
<td>$4,473.7</td>
<td>$4,507.6</td>
<td>$5,315.3</td>
</tr>
<tr>
<td>(thousand dollars)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Volume Harvested</td>
<td>633.0</td>
<td>685.9</td>
<td>641.1</td>
</tr>
<tr>
<td>(thousand cords)</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

(Source: MNDNR 1992)

The relative proportion of sales using the various sale procedures has changed over time, as have the percentages of the volumes sold by the various procedures (Tables 2.3 and 2.4). In fiscal year 1992 there were 1,262 timber sales from MNDNR administered lands. This is substantially lower than the 1,647 in 1990. The number of informal sales offered by the MNDNR decreased over this period. This decrease in the number of sales has been matched by a decrease in the volume of timber sold by the informal sale procedure. Executive council sales are rare -- there have been only eleven since 1984 -- and these are counted as regular auction sales (Berndt 1991).
### Table 2.3. Number of MNDNR timber sales by type of sale, state fiscal years 1990-92.

<table>
<thead>
<tr>
<th>Type of Sale</th>
<th>1990</th>
<th>1991</th>
<th>1992</th>
</tr>
</thead>
<tbody>
<tr>
<td>Informal Sales</td>
<td>839</td>
<td>524</td>
<td>499</td>
</tr>
<tr>
<td>Intermediate Auction</td>
<td>542</td>
<td>504</td>
<td>498</td>
</tr>
<tr>
<td>Regular Auction</td>
<td>266</td>
<td>285</td>
<td>265</td>
</tr>
<tr>
<td>TOTAL</td>
<td>1,647</td>
<td>1,313</td>
<td>1,262</td>
</tr>
</tbody>
</table>

(Source: MNDNR 1992)

### Table 2.4. Volume of MNDNR timber sales by type of sale, state fiscal years 1990-92.

<table>
<thead>
<tr>
<th>Type of Sale</th>
<th>1990</th>
<th>1991</th>
<th>1992</th>
</tr>
</thead>
<tbody>
<tr>
<td>Informal Sales</td>
<td>145.8</td>
<td>71.4</td>
<td>63.7</td>
</tr>
<tr>
<td>Intermediate Auction</td>
<td>283.3</td>
<td>256.4</td>
<td>254.2</td>
</tr>
<tr>
<td>Regular Auction</td>
<td>343.2</td>
<td>309.8</td>
<td>293.6</td>
</tr>
<tr>
<td>TOTAL</td>
<td>772.3</td>
<td>637.6</td>
<td>611.5</td>
</tr>
</tbody>
</table>

(Source: MNDNR 1992)
3. MINNESOTA COUNTIES

The vast majority of county administered lands in northern Minnesota came under public ownership due to tax forfeiture. Tax forfeiture was common by the mid-1800's, and was particularly common in the 1920's and 1930's. While the counties had a policy of returning these lands to private ownership, by the 1930's they had acquired more than six million acres (Baughman 1982, p. 2). The state took the title to these tax forfeited lands, but the counties retain the authority to manage them. The counties also retain most of the revenues from these lands, which make up approximately 99 percent of county administered lands (Baughman 1982, p. 1). There were approximately 2,809,000 acres of tax forfeited lands in Minnesota in 1990 (Helmberger 1991), and more than 2,506,000 acres of county administered timberland in Minnesota (Miles and Chen 1992, pp. 30-31).

The county auditor has the authority to sell timber from tax-forfeited land managed by the county (MN Stat. 282.04 [1]). However, the land commissioners in the northern Minnesota counties generally make decisions regarding the sale of timber from these public lands (McCann & Ellefson 1980, pp. 41-42.). Counties have several procedures for selling timber, including: auction sales, informal sales, and leases.

The commissioner of natural resources has authority over the county timber sales in four areas (MN Stat. 282.04 [1]). The commissioner must approve the:

- Tract of timber which is to be sold;
- Appraisal value of the timber;
- Forestry practices used in cutting the timber;
- Person or persons scaling the timber.
However, in 1973 the MNDNR issued *Division of Forestry Circular Letter 3270-2*, in which the commissioner waived the right to complete examination in a number of counties: Aitkin, Becker, Beltrami, Carlton, Cass, Clearwater, Crow Wing, Itasca, Koochiching, Lake, and St. Louis. In these counties the land department generally retains control over timber sales, although pertinent information is kept on file at the land department and these files are available for inspection by the MNDNR.

### 3.1 Types of Sales

Timber sale agreements and policies vary among counties (Baughman 1982, p. 108). For this report, seven counties were contacted to determine the range of policies and procedures that are employed by the counties to sell county timber. The seven counties contacted were Becker, Beltrami, Cass, Itasca, Koochiching, Lake, and St. Louis. The selected counties had the highest levels of both timber sales and timber revenues in fiscal year 1990 (MNDNR 1991b). These seven counties administered 75 percent of the county administered timberland in the state in 1990 (Miles and Chen 1992, pp. 30-31).

The land departments of the five with the largest timber revenues, Beltrami, Cass, Itasca, Koochiching, and St. Louis, were visited for extended interviews regarding timber sale procedures. Discussion with land department personnel and a review of the literature revealed that some policies and procedures were common across counties, while others varied significantly. Some of the procedures are outlined in state law, while others stem from county policies.
3.1.1 Auction Sales

Under the procedure outlined in Minnesota Statutes, Section 282.04, auctioned timber must be sold to the highest bidder. The auction sale can consist of oral or sealed bids. There is no limit on the amount of timber which can be sold by counties as one tract under the auction method. If the timber is unsold at auction, the timber can be sold at private sale until the county board withdraws the timber from sale. In any event, timber cannot be sold for less than its appraised value. Full payment based on appraisal price or sale price, whichever is higher, is necessary before entry on to any block to be cut. A down payment in cash of 25 percent of the appraised value is necessary upon sale. If there are multiple blocks together, the 25 percent down payment must be for all the blocks, but the balance for a given block is paid only prior to entry of that particular block. Table 3.1 details some of the other requirements of auctions sales, including public notice requirements (MN Stat. 282.04).

A number of counties have introduced intermediate auction sales, which are generally similar to the intermediate sales conducted by the State of Minnesota. However, the criteria that are employed to determine the eligibility of a buyer to bid on an intermediate sale vary between counties. Also, not all counties place a dollar limit on the amount of timber that can be sold as one intermediate auction sale.

The five counties with the highest timber revenues have a variety of intermediate auction sale policies. For instance, Beltrami County limits these sales to bidders with less than 20 employees (Milne 1991). Cass County limits these sales to bidders with 10 employees or less (Brown 1991). Itasca County limits include a $7,000 appraised value limit, a limit of four permits in effect to any person or enterprise, and bidders must not have more than 10 employees (Marshall 1991). Koochiching does not have a dollar limit
on the size of sales, but it does limit the number of sales to two per operation (Hummitzsch 1991). St. Louis County does not offer intermediate sales (Duffy 1991). As intermediate sales at the county level are relatively new, most counties indicated that policies regarding intermediate auctions are in the formative stage or are in the process of revision. Some will have changed their policies by the time this document is published.

Scaling can be used as a basis for final settlement at the discretion of the county board. Any tract where timber is to be sold on the basis of cut products must be designated in the published advertisement as such. The appraisal price for each species and estimated quantity must also appear in the advertisement. There are two methods to accomplish scaling of timber from county managed lands. One method requires that no timber other than hardwood pulpwood be removed from the tract or from designated landings until scaling can be accomplished by a person or persons designated by the county board and approved by the commissioner of natural resources. Designated landings must be determined by the county board with the written agreement of the purchaser. The alternative method is to have the consumer scale the timber removed. This method involves a written agreement between the county board, the purchaser, and the consumer, and the approval of the commissioner of natural resources.

The final scale of the timber may vary from the estimated sale volume at the time of the sale. If the final scale shows that more timber was cut or that more timber was available to cut than was estimated, then the purchaser will pay the extra amount at the rate determined by the terms of the sale for each species. If the final scale reveals that less timber was available than was estimated under the terms of the sale, then a refund will be made to the purchaser from the forfeited tax sale fund.
Most counties sell at least some timber on a sold on appraised volume basis. The proportion of timber sold on appraised volume varies among counties. Under this procedure, the timber is not scaled, rather the volume estimated at the time of sale is used to determine the final sale price. St. Louis and Koochiching Counties rely almost entirely on scaling (Duffy 1991 and Hummitzsch 1991). Beltrami and Itasca Counties rely mostly on scaling, selling approximately 15 percent of their timber on appraised volume. In Beltrami and Itasca Counties the timber sold on appraised volume was sometimes part of a larger sale where only certain species were designated to be scaled. In contrast, Cass County sells almost all of its timber on appraised volume (Brown 1991).

3.1.2 Informal Sale

State law allows for timber appraised at less than or equal to $3,000 to be sold without notice to the general public for cash, but at not less than appraised value. There are few formalities associated with this type of sale. No notice of sale or calling for bids is necessary. Payment for all timber sold is required at the time of sale. The major requirements of this procedure are summarized in Table 3.1 (MN Stat. 282.04).

In general, counties allocate these sales on a first come, first served basis. However, under certain conditions such as salvage or road clearing, choice of buyer can be made at the discretion of the land department. Informal sale policies vary slightly among counties. For instance, Beltrami County allows only one informal sale to be in effect at any one time to any individual or enterprise (Milne 1991). Koochiching and Itasca counties allow informal sales of timber only to county residents (Hummitzsch 1991 and Marshall 1991).
Table 3.1. Requirements of two types of Minnesota county timber sales.

<table>
<thead>
<tr>
<th>Sale Characteristics</th>
<th></th>
<th>Informal</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maximum Appraisal</td>
<td>none</td>
<td>$3,000</td>
</tr>
<tr>
<td>Minimum Sale Price</td>
<td>appraisal value</td>
<td>appraisal value</td>
</tr>
<tr>
<td>Down Payment</td>
<td>25% of total appraised value, balance paid prior to entry</td>
<td>100% of total sale price</td>
</tr>
<tr>
<td>Eligibility Requirements For Permit</td>
<td>none</td>
<td>private sale to individual persons²</td>
</tr>
<tr>
<td>Number of Simultaneous Permits</td>
<td>not limited</td>
<td>not more than two such sales, directly or indirectly to any individual²</td>
</tr>
<tr>
<td>Notice to Public - Published</td>
<td>1 week in an official paper within the county</td>
<td>none</td>
</tr>
</tbody>
</table>

¹ There may be further requirements for intermediate auctions, depending on county policy. 
² Counties generally interpret this as a sale to any person acting as an individual, employee, partner, family member, or agent.

Scaling is not necessary for sales with an appraised value under $200. For informal sales with an appraised value over $200, scaling can be accomplished in the same manner as for timber sold under the auction procedure.

3.1.3 Leases

None of the counties contacted currently lease lands for timber harvesting. However, the county board does have the option to lease tax-forfeited lands with timber resources to individuals or corporations. The board can prescribe the terms and prices for leases which involve taking and removing stumpage. There is a limit of ten years on such leases, but there is no limit on acreage (Baughman 1982, p. 108). Leases which
involvemore than a $300 consideration per year must be offered in the same manner as auction sales of timber (MN Stat. 282.04 [1]).

3.2 Sale Administration

All five counties with the largest timber revenues issued permits to purchasers of cutting rights. Permits are generally valid for two years. All five allowed for the assignment of cutting rights, but most stipulated that this could occur only in exceptional circumstances and with the approval of the county land commissioner. These counties generally allowed for the extension of permits, although the number of years and the terms vary from county to county. First extensions range from six months to one year, and second extensions of one more year are possible. There are a wide variety of financial penalties associated with extensions, including administrative fees, a payment equal to some percentage (usually 10 percent) of uncut timber, or full re-appraisal of the timber. Financial penalties are harsher in the second year. Buyers of timber sales are generally responsible for cutting all the timber they purchase. Only in certain situations are refunds allowed for timber which is purchased but not cut.

Beltrami, Cass, Itasca, Koochiching, and St. Louis counties all maintain a network of roads which buyers use to remove timber.

3.3 County Timber Sale Data

Minnesota counties generate a substantial level of timber sale receipts from the lands they manage (Table 3.2). However, there is substantial variation between counties. St. Louis County sells the largest volume of timber of any county (Figure 3.1). Cook County did not report any sales in calendar year 1992.
Table 3.2. Estimated timber sale data for sales administered by a county land department, 1992.

<table>
<thead>
<tr>
<th>COUNTY</th>
<th>Sale Volume (Thousand Cords)</th>
<th>Sale Value (Thousand $)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Aitkin</td>
<td>31</td>
<td>223</td>
</tr>
<tr>
<td>Becker</td>
<td>38</td>
<td>264</td>
</tr>
<tr>
<td>Beltrami</td>
<td>28</td>
<td>407</td>
</tr>
<tr>
<td>Carlton</td>
<td>5</td>
<td>30</td>
</tr>
<tr>
<td>Cass</td>
<td>66</td>
<td>594</td>
</tr>
<tr>
<td>Clearwater</td>
<td>26</td>
<td>236</td>
</tr>
<tr>
<td>Cook</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Crow Wing</td>
<td>28</td>
<td>256</td>
</tr>
<tr>
<td>Hubbard</td>
<td>24</td>
<td>243</td>
</tr>
<tr>
<td>Itasca</td>
<td>83</td>
<td>1,108</td>
</tr>
<tr>
<td>Koochiching</td>
<td>91</td>
<td>760</td>
</tr>
<tr>
<td>Lake</td>
<td>26</td>
<td>139</td>
</tr>
<tr>
<td>Pine</td>
<td>6</td>
<td>48</td>
</tr>
<tr>
<td>St. Louis</td>
<td>180</td>
<td>1,618</td>
</tr>
<tr>
<td>TOTAL</td>
<td>633¹</td>
<td>5,926</td>
</tr>
</tbody>
</table>

¹ Does not sum due to rounding.
(Source: MNDNR 1993)
4. USDA FOREST SERVICE

There are two national forests within Minnesota: the Chippewa National Forest and the Superior National Forest. These forests together account for more than 2,763,000 acres of northern Minnesota, of which 1,821,000 acres are timberland.

The Chippewa National Forest is headquartered in Cass Lake, Minnesota, and includes 663,048 acres of land in Beltrami, Cass and Itasca counties (Rebholz 1991). Approximately 567,000 acres of the Chippewa are considered timberland (Miles and Chen 1992, p. 30-31). In fiscal year 1992, 7,734 acres were harvested on the Chippewa National Forest (USDA Forest Service 1993, p. 115).

The Superior National Forest is headquartered in Duluth, Minnesota, and includes 2.1 million acres of land located in Cook County, Lake County, northern St. Louis County, and a tiny portion of Koochiching County (Rebholz 1991). Approximately 1,254,000 acres of this forest are considered timberland (Miles and Chen 1992, pp. 30-31). In 1992, 9,794 acres of the Superior National Forest were harvested (USDA Forest Service 1993, p. 115).

4.1 Types of Sales

The USDA Forest Service has various methods of offering timber for sale in Minnesota. The vast majority of timber volume is sold by commercial timber sale. Other timber marketing methods used by the Forest Service include: administrative use, free use, and disposal of miscellaneous forest products.
4.1.1 Commercial Timber Sales

There is no legal limit on the size of Forest Service timber sales either by volume or dollar amount. However, there are limits to the size and value of sale that can be approved by various Forest Service employees. In Region 9, the region which contains Minnesota, sales of up to 20 million board feet can be authorized by the regional forester. Sales above this size must be approved by the Washington Office of the USDA Forest Service. On the Chippewa National Forest, the Forest Supervisor can approve commercial sales up to a volume of 6.5 million board feet, and the districts can approve sales of up to 5 million board feet per sale (Larson 1991). On the Superior National Forest, the Forest Supervisor can approve commercial sales up to 7.5 million board feet (Dexter 1992).

The advertised value of timber is generally the appraised value, unless other factors are taken into account such as specified road costs. Sale of timber in excess of $10,000 or cases where construction requirements for specified roads are included require advertisement for at least 30 days. Timber can be sold without advertisement and under an informal basis when the appraised value is less than $10,000 (USDA Forest Service 1991d, 2432.44b). If a sale of timber is advertised but does not sell, it may be re-advertised or sold for an amount not less than the appraisal price without further advertisement (36 CFR 223.85).

National forests have some leeway in the choice of sale procedure when offering advertised timber. For instance, the Chippewa National Forest generally advertises timber that has been appraised between $2,000 and $10,000, and most timber within this range is sold on a contract basis in the same manner as sales over $10,000. However, sales under $10,000 also can be sold on a permit basis. Permit sales in this range are
relatively rare and are usually used to sell timber on a right-of-way or for fuelwood. Permits generally have fewer requirements and conditions than other USDA Forest Service contracts. The Chippewa National Forest also has permit sales which are under $2,000 in appraised value. These are sold over-the-counter and may not be advertised (Larson 1991). The sales policies of the Superior National Forest are similar to those used by the Chippewa National Forest.

The USDA Forest Service Manual states a number of objectives for the appraisal of timber on National Forests, some of which are:

- To establish the minimum value that will encourage purchasers to harvest the allowable sale quantity of timber under multiple use and sustained yield principles and provide a fair return to purchasers and government; (FSM 2420.2 [1])

- To maintain a balance of resource use over the long run; (FSM 2420.2 [3])

- To provide a stable market for National Forest timber. (FSM 2420.2 [4])

The USDA Forest Service appraises timber using information on prices paid by buyers for previous sales. There is no scaling of timber sold by the USDA Forest Service. Commercial sales are made on appraised volume.

The USDA Forest Service uses sealed bidding for competitive sale of timber. Timber sold by the commercial sale procedure may be sold by either volume or area (USDA Forest Service 1991d, 2431.11). In general, the bid accepted is the high bid in terms of total value. However, any or all bids may be rejected (USDA Forest Service 1991c).

On the Superior National Forest, timber sales are designed not exceed five years in duration. Sales can exceed five years but require the approval of the forest supervisor. Sales over seven years in duration must have the approval of the regional forester (USDA Forest Service 1991d, FSM 2431.14, SNF SUPP 79). The approval of
the Chief of the Forest Service is required for timber sales longer than ten years in
duration (USDA Forest Service 1991d, 2430.41).

Once purchased, the buyer of a commercial sale has the obligation to cut and
remove all the designated trees in the contract area unless the trees have been specified
to be left standing. Title to timber remains with the seller until the timber is removed
from the sale area, as does the title to any timber left in the sale area after the
termination date of the contract (USDA Forest Service 1985).

Extensions are possible if the buyer is not able to cut all the timber within the
time specified in the timber sale contract. However, these extensions have many
eligibility requirements. Among these requirements are that at least 75 percent of the
advertised timber must have been cut. Further, the rate or price of the timber remaining
will be recalculated or current contract rates will be applied, whichever are higher. An
increased deposit may be necessary to cover a possible increased value in stumpage due
to recalculated rates, and also a cash payment may be necessary to recoup increased
costs to the government (USDA Forest Service 1985). Extensions generally are not
possible if the timber has been sold on a permit basis (Dexter 1992).

The USDA Forest Service allows for assignment of sales to a third party under a
variety of conditions and with the approval of the USDA Forest Service. Transfer of
cutting rights may be allowed if the original purchaser cannot complete the contract
because it has ceased operations or it can prove that it does not have the financial
resources to complete the contract. The transfer may also be approved if it is evident
that the timber is in urgent need of harvest (USDA Forest Service 1991a, 34.)
Responsibility for performance of the contract remains with the first party if the third
party defaults (Dexter 1992).
In the case of some commercial sales, the Forest Service may determine that a road must be built into the timber sale area by the purchaser of the sale. The cost of building the road is estimated by the USDA Forest Service and the estimated cost is offered as a credit for the purchaser. This credit may be used toward the down payment or to pay for a portion of the stumpage.

4.1.2 Other Types of Sales

The Superior and the Chippewa also offer small amounts of timber to the public using procedures not associated with commercial sales. For instance, both forests offer free fuelwood and sell Christmas trees. However, the volumes sold are small compared with the volume sold by commercial sales. For instance, in 1992 the two national forests combined sold 1,544 Christmas trees and provided approximately 1.4 million board feet of free fuelwood (USDA Forest Service 1991b).

4.2 Allocation of Sale Policies

The *USDA Forest Service Manual* (1991) has several statements about how timber should be allocated among various potential buyers. Some of the relevant statements of policy include:

Design an orderly program of timber sales to obtain the regular harvest of National Forest timber under harvest prescriptions and within allowable sale quantities as determined by Forest plans, recognizing impacts on annual programs which may occur due to economic cycles, catastrophic events, community dependency, and resource coordination needs. (FSM 2430.3 [1])

Develop a mix of sale sizes to meet local industry and resource needs. Give preference to relatively small, short-term sales to reduce risk of severe change in market conditions and to reduce opportunities for speculation. (FSM 2430.3 [7])
4.3 Small Business Administration Programs

The *USDA Forest Service Manual* (1991) outlines the sections of The Small Business Act that affect timber sale procedures. The act provides for small business firms to receive some share of the volume of sawtimber sold from national forest lands. The Small Business Act also allows small businesses to receive loans for the construction of roads specified in the timber sale contract or to turn road construction back to the USDA Forest Service. There are a variety of attributes which an enterprise must have to qualify as a small business, including having a maximum of 500 employees. The share of timber volume allotted for small businesses under this program is recomputed every five years. Only if sales to small businesses fall below a certain minimum level are the national forests required to offer set-aside sales. The share which is to be allocated to small businesses is based on the total sawlog volume sold by the individual National Forest. Pulpwood volumes are not included in the small business set-aside calculations.

The *USDA Forest Service Manual* (1991) explicitly states one objective of sales to small businesses:

To ensure that small business timber purchasers have the opportunity to purchase a fair proportion of the sales of National Forest timber. (FSM 2436.02 [1])

The Superior National Forest is currently required to set aside a portion of their sawtimber sales for small businesses. They will most likely be required to do this until the portion to be set aside for small business is recomputed in 1996 (Dexter 1992). The amount set aside in each fiscal year will vary on the Superior, because it depends upon the amount of timber purchased by small businesses in the preceding six months. The Chippewa National Forest is currently not required to make set-aside sales (Larson 1991).
4.4 National Forest Sales Data

The two National Forests in Minnesota harvest a substantial amount of timber (Tables 4.1 and 4.2). Under the Timber Sale Program Information Reporting System (TSPIRS) revenues are recognized at the time title changes hands from the Forest Service to the purchaser of the timber. Items such as cash payments for timber, interest and penalties, and effective road credits are all considered timber related revenues (USDA Forest Service, Chippewa National Forest 1991, p. 3.). A portion of these revenues are returned to the counties in which the forest is situated. These funds are targeted for road and school programs (USDA Forest Service, Chippewa National Forest 1991, p. 5).

Table 4.1. Timber sale data from the Superior National Forest, federal fiscal years 1990-92.

<table>
<thead>
<tr>
<th></th>
<th>1990</th>
<th>1991</th>
<th>1992</th>
</tr>
</thead>
<tbody>
<tr>
<td>Timber-related Revenues</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(thousand $)</td>
<td>$1,144</td>
<td>$1,255</td>
<td>$1,504</td>
</tr>
<tr>
<td>Volume Sold$\textsuperscript{1}</td>
<td>204</td>
<td>168</td>
<td>166</td>
</tr>
<tr>
<td>(thousand cords)</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

\textsuperscript{1} Conversion (Two cords equals one MBF).
(Source: USDA Forest Service 1991b, 1992 and 1993.)
Table 4.2. Timber sale data from the Chippewa National Forest, federal fiscal years 1990-92.

<table>
<thead>
<tr>
<th></th>
<th>1990</th>
<th>1991</th>
<th>1992</th>
</tr>
</thead>
<tbody>
<tr>
<td>Timber-related Revenues (thousand $)</td>
<td>$1,659</td>
<td>$1,560</td>
<td>$2,552</td>
</tr>
<tr>
<td>Volume Sold(^1) (thousand cords)</td>
<td>160</td>
<td>163</td>
<td>147</td>
</tr>
</tbody>
</table>

\(^1\) Conversion (Two cords equals one MBF).
(Source: USDA Forest Service 1991b, 1992, and 1993.)
5. REFERENCES


USDA Forest Service. 1991c. Timber sales prospectus form, instructions to bidders.


6. GLOSSARY

*Cord.* A unit of volume equal to 128 cubic feet, often specified as having the dimensions 8 feet long, 4 feet wide, and 4 feet high.

*MBF.* Thousand board feet. A unit of measurement of timber volume.

*Pulpwood.* Wood used primarily for the manufacture of wood pulp, for subsequent conversion into paper, fiberboard, oriented strandboard, and other products, depending on the species of the product and the pulping process.

*Sawlogs.* Logs suitable in size or length for the production of lumber.

*Scale.* To weigh or measure the volume of a load or individual log.

*Stumpage.* Two meanings in general usage:
   A. unprocessed timber as found in the woods, whether live or dead; and
   
   B. the value of such timber.

*Tax-forfeited land.* Generally refers to land that was owned privately, but was forfeited by the owner due to nonpayment of property taxes.

*Timberland.* Forest land that is currently producing or is capable of producing more than 20 cubic feet per acre per year of industrial wood crops. Land considered timberland must not be withdrawn from timber utilization or associated with rural or urban development.

*Veneer.* Logs of the size and quality necessary to produce either sliced or sawed veneer.