

Dear Senators SCHROEDER, Pearce & Stennett, and
Representatives STEVENSON, Wood(35) & Saylor:

The Legislative Services Office, Research and Legislation, has received the enclosed
rules of the Idaho Department of Lands:

1. IDAPA 20.02.01 - Rules Pertaining to the Idaho Forest Practices Act
2. IDAPA 20.02.09 - Method of Selling Pole-Quality Western Red Cedar (Repeal)
3. IDAPA 20.02.10 - Rules For Selling of Forest Products on State-Owned Endowment
Lands (Repeal)
4. IDAPA 20.02.14 - Rules For Selling Forest Products on State-Owned Endowment
Lands (New Chapter)
5. IDAPA 20.06.02 - General Rules, Licensing and Check Scales of the Idaho Board of
Scaling Practices
6. IDAPA 20.06.03 - Measurement Rules For Forest Products of the Idaho Board of
Scaling Practices (Repeal)

Pursuant to Section 67-454, Idaho Code, a meeting on the enclosed rules may be called by
the cochairmen or by two (2) or more members of the subcommittee giving oral or written notice
to Research and Legislation no later than fourteen (14) days after receipt of the rules' analysis
from Legislative Services. The final date to call a meeting on the enclosed rules is no later than
9-9-08. If a meeting is called, the subcommittee must hold the meeting within forty-two (42)
days of receipt of the rules' analysis from Legislative Services. The final date to hold a meeting
on the enclosed rules is 10-7-08.

_____The germane joint subcommittee may request a statement of economic impact with
respect to a proposed rule by notifying Research and Legislation. There is no time limit on
requesting this statement, and it may be requested whether or not a meeting on the proposed rule
is called or after a meeting has been held.

To notify Research and Legislation, call 334-2475, or send a written request to the
address or FAX number indicated on the memorandum enclosed.

MEMORANDUM

TO: Rules Review Subcommittee of the Senate Resources & Environment Committee
and the House Resources & Conservation Committee

FROM: Katharine Gerrity, Principal Legislative Research Analyst, LSO

DATE: August 21, 2008

SUBJECT: Idaho Department of Lands

1. IDAPA 20.02.01 - Rules Pertaining to the Idaho Forest Practices Act
2. IDAPA 20.02.09 - Method of Selling Pole-Quality Western Red Cedar (Repeal)
3. IDAPA 20.02.10 - Rules For Selling of Forest Products on State-Owned Endowment
Lands (Repeal)
4. IDAPA 20.02.14 - Rules For Selling Forest Products on State-Owned Endowment
Lands (New Chapter)
5. IDAPA 20.06.02 - General Rules, Licensing and Check Scales of the Idaho Board of
Scaling Practices
6. IDAPA 20.06.03 - Measurement Rules For Forest Products of the Idaho Board of
Scaling Practices (Repeal)

1. IDAPA 20.02.01 - Rules Pertaining to the Idaho Forest Practices Act

The Department of Lands submits notice of proposed rule at IDAPA 20.02.01 - Rules Pertaining to the Idaho Forest Practices Act. According to the Department, the rule is intended to implement the recent 2008 amendment to Section 42-201, Idaho Code, which allows for the diversion of water from a natural watercourse for certain forest practices and forest dust abatement without a water right, with certain restrictions. Negotiated rulemaking was not conducted.

Although there independently appears to be authority for the Department to promulgate the rule as written, the Committees should be aware of some discrepancies between the statute and the proposed rule. The statute was amended in 2008 (with the substantive changes underscored) as follows:

“ ...**(3)** Notwithstanding the provisions of subsection (2) of this section, water may be diverted from a natural watercourse and used at any time, with or without a water right:

(a) To extinguish an existing fire on private or public lands, structures, or equipment, or to prevent an existing fire from spreading to private or public lands, structures, or equipment endangered by an existing fire;

(b) For forest practices as defined in section 38-1303(1), Idaho Code, and forest dust abatement. Such forest practices and **forest dust abatement** use is limited to two-tenths (0.2) acre-feet per day from a single watercourse.

_____ (4) For purposes of subsection (3)(b) of this section, no person shall divert water from a canal or other irrigation facility while the water is **lawfully diverted, captured, conveyed, used or otherwise physically controlled by the appropriator.**

(5) If water is to be diverted from a natural watercourse within a water district, or from a natural watercourse from which an irrigation delivery entity diverts water, a person diverting water pursuant to subsection (3)(b) of this section shall give notice to the watermaster of the intent to divert water for the purposes set forth in said subsection. In the event that the water to be diverted pursuant to subsection (3)(b) of this section is not within a water district, but an irrigation delivery entity diverts water from the same natural watercourse, the required notices shall be given to said irrigation delivery entity. For uses authorized in subsection (3)(a) of this section, notice shall not be required but may be provided when it is reasonable to do so.

(6) A water right holder, who determines that a use set forth in subsection (3) of this section is causing a water right to which the holder is entitled to be deprived of water to which it may be otherwise entitled, may petition the director of the department of water resources to order cessation of or modification of the use to prevent injury to a water right. Upon such a petition, the director shall cause an investigation to be made and may hold hearings or gather information in some other manner. In the event that the director finds that an injury is occurring to a water right, he may require the use to cease or be modified to ensure that no injury to other water rights occurs. A water right holder feeling aggrieved by a decision or action of the director shall be entitled to contest the action of the director pursuant to section 42-1701A(3), Idaho Code. ...”

The proposed rule changes are as follows:

“...c. Water may be diverted from a stream and used at any time to carry out Idaho forest practices and for forest **road** dust abatement, provided that:

i. The total daily volume diverted is no greater than two-tenths (0.2) acre-feet (65,170 gallons) from a single natural watercourse; and

ii. **The rate of diversion shall never exceed twenty-five (25) percent of the rate of flow then available in the natural watercourse at the point of diversion for these purposes.** No person shall, under this Section 020, divert water from an **irrigation canal, irrigation reservoir, or other irrigation facility** while water is lawfully diverted, **stored**, captured, conveyed, used or otherwise physically controlled by **an irrigator, irrigation district or canal company**.

d. Water diversion intakes used for diversions under Subsection 020.01 shall be screened with a maximum screen mesh size as follows:

i. Fish-bearing Class I steams: Three thirty-seconds (3/32) inch.

ii. All other streams and watercourses: One-quarter (1/4) inch. ...”

**The discrepancies have been indicated in bold. The discrepancies are as follows:

1. The rule uses the phrase “forest road dust abatement” while the statute uses the phrase “forest dust abatement.”

2. The rule uses the phrase “irrigation canal, irrigation reservoir, or other irrigation facility” while the statute uses the phrase “canal or other irrigation facility.”

3. The rule uses the phrase “irrigator, irrigation district or canal company” while the statute uses the phrase “the appropriator.”

4. The rule includes the following sentence “(t)he rate of diversion shall never exceed twenty-five (25) percent of the rate of flow then available in the natural watercourse at the point of diversion for these purposes.” That particular term is not in the statute.

5. Subsection d of the rule is not in the statute.

6. The statutory changes reflected in subsections (5) and (6) of Section 42-201, Idaho Code, are not found in the rule but there is probably no need for those terms to be covered in the rule as well as the statute.

7. The rule uses the phrase “...while water is lawfully diverted, **stored**, captured, conveyed, used or otherwise physically controlled by...” The statute does not use the word

“stored.”

We contacted the Department to determine the basis of the discrepancies. The Department indicates that the rule was drafted from the perspective of forest practices whereas the statute is actually a water resources statute. The elements of the rule are geared toward forest practice needs. However, the Department does intend to review the discrepancies as noted.

Despite the discrepancies, it appears that the rule is authorized pursuant to Sections 58-104 and 58-105, Idaho Code, and could have been promulgated absent the changes to Section 42-201, Idaho Code.

2. IDAPA 20.02.09 - Method of Selling Pole-Quality Western Red Cedar (Repeal)

The Department of Lands submits notice of proposed rule at IDAPA 20.02.09 - Method of Selling Pole-Quality Western Red Cedar. The Department proposes repealing this rule based on the fact that the rule restates statutory provisions with no additional clarification or interpretation of the statutes. The Department continues that by repealing the rule and eliminating the redundant material, and combining the remaining items into one consolidated rule, efficiency can be gained.

We have no specific comments regarding the proposed repeal. The rule appears to be authorized pursuant to Sections 58-104 and 58-105, Idaho Code.

3. IDAPA 20.02.10 - Rules For Selling of Forest Products on State-Owned Endowment Lands (Repeal)

The Department of Lands submits notice of proposed rule at IDAPA 20.02.10 - Rules For Selling of Forest Products on State-Owned Endowment Lands. The Department proposes repealing this rule based on the fact that the rule restates statutory provisions with no additional clarification or interpretation of the statutes. The Department continues that by repealing the rule and eliminating the redundant material, and combining the remaining items into one consolidated rule, efficiency can be gained.

We have no specific comments regarding the proposed repeal. The rule appears to be authorized pursuant to Sections 58-104 and 58-105, Idaho Code.

4. IDAPA 20.02.14 - Rules For Selling Forest Products on State-Owned Endowment Lands (New Chapter)

The Department of Lands submits notice of proposed rule at IDAPA 20.02.14 - Rules For Selling Forest Products on State-Owned Endowment Lands. According to the Department the rule is a consolidation and shortening of two existing rules that are being repealed as noted in sections 2 and 3 of this memorandum. The Department adds that the rule will eliminate

duplication and expense of maintaining rules that do not provide clarification or interpretation of the statutes. Negotiated rulemaking was not conducted due to the nature of the rule.

We have no other specific comments regarding the proposed repeal. The rule appears to be authorized pursuant to Sections 58-104 and 58-105, Idaho Code.

5. IDAPA 20.06.02 - General Rules, Licensing and Check Scales of the Idaho Board of Scaling Practices

The Department of Lands submits notice of proposed rule at IDAPA 20.06.02 - General Rules, Licensing and Check Scales of the Idaho Board of Scaling Practices. According to the Department, the purpose of the rule changes are to make a number of technical corrections, to incorporate the “Idaho Log Scaling Manual” by reference, and to provide new sections reflecting gross and net scale determination, although maintaining the same intent as is currently reflected in the rule. The present measurement Rules For Forest Products of The Idaho Board of Scaling Practices will be repealed as is reflected in section 6 of this memorandum. Negotiated rulemaking was conducted.

We have no specific comments regarding the rule as the result of our review. The rule appears to be authorized pursuant to Sections Chapter 12, Title 38, Idaho Code.

6. IDAPA 20.06.03 - Measurement Rules For Forest Products of the Idaho Board of Scaling Practices (Repeal)

The Department of Lands submits notice of proposed rule at IDAPA 20.06.03 - Measurement Rules For Forest Products of the Idaho Board of Scaling Practices. The Department proposes to repeal this rule because it will no longer be necessary due to the fact that the Department is proposing to place log scaling measurement rules in the Idaho Log Scaling Manual and state all administrative rules in the revised chapter as provided in section 5 of this memorandum. Negotiated rulemaking was conducted.

We have no specific comments regarding the rule as the result of our review. The rule appears to be authorized pursuant to Chapter 12, Title 38, Idaho Code.

cc: Idaho Department of Lands
Craig Foss
Ernest Bauer

IDAPA 20 - DEPARTMENT OF LANDS

20.02.01 - RULES PERTAINING TO THE IDAHO FOREST PRACTICES ACT

DOCKET NO. 20-0201-0801

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized by Sections 58-104(6), 58-105, and 38-1304, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearings concerning this rulemaking will be held as follows:

IDAHO DEPARTMENT OF LANDS		
Friday - September 5, 2008 3780 Industrial Ave S. Coeur d'Alene, ID	Thursday - September 11, 2008 10250 Hwy 12 Orofino, ID	Thursday - September 18, 2008 300 North 6th Street, Suite 103 Boise, ID

The hearing sites will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

This rule is intended to implement the recent 2008 amendment to Section 42-201, Idaho Code, adding subsections 3(b), (4), (5) and (6) thereto, which allow for the diversion of water from a natural watercourse for certain forest practices and forest dust abatement without a water right, with certain restrictions.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year as a result of this rulemaking: There is no fiscal impact associated with this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the language of this rule was developed by the Forest Practices Act Advisory Committee, which includes representatives of the persons affected by the rule.

GENERAL INFORMATION: For more information about IDL's programs and activities, visit IDL's web site at <http://www.idl.idaho.gov>.

ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this rulemaking, contact the undersigned.

Anyone may submit written comments by mail, fax or e-mail at the address below regarding this proposed rule. IDL will consider all written comments received by the undersigned on or before September 24, 2008.

DATED this 17th day of July, 2008.

Craig Foss
Chief, Bureau of Forestry Assistance
Idaho Department of Lands
300 North 6th Street, Suite 103
Boise, Idaho 83720
Phone: (208) 334-0200 / Fax No. (208) 334-2297

THE FOLLOWING IS THE TEXT OF DOCKET NO. 20-0201-0801

020. GENERAL RULES.

01. Compliance. Practices contained within a rule shall be complied with to accomplish the purpose to which the rule is related. (8-13-85)

a. If conditions of sites or activities require the application of practices which differ from those prescribed by the rules, the operator shall obtain a variance according to the following procedure: (8-13-85)

i. The operator shall submit a request for variance to the department in writing. The request shall include a description of the site and particular conditions which necessitate a variance, and a description of proposed practices which, if applied, will result in a violation of the rules. (8-13-85)

ii. Within fourteen (14) calendar days the department shall evaluate the request and notify the operator in writing of the determination to allow or disallow the variance request. (7-1-96)

iii. All practices authorized under this procedure shall provide for equivalent or better results over the long term than the rules which are superseded to insure site productivity, water quality and fish and wildlife habitat. A variance can be applied only at approved sites. (8-13-85)

b. Practices shall also be in compliance with the Stream Channel Alteration Act (Title 42, Chapter 38, Idaho Code), Idaho Water Quality Standards and Waste Water Treatment Requirements (Title 39, Chapter 1, Idaho Code), the Idaho Pesticide Law (Title 22, Chapter 34, Idaho Code), and the Hazardous Waste Management Act of 1983 (Title 39, Chapter 44, Idaho Code), and rules and regulations pursuant thereto. (8-13-85)

c. Water may be diverted from a stream and used at any time to carry out Idaho forest practices and for forest road dust abatement, provided that: ()

i. The total daily volume diverted is no greater than two-tenths (0.2) acre-feet (65,170 gallons) from a single natural watercourse; and ()

ii. The rate of diversion shall never exceed twenty-five (25) percent of the rate of flow then available in the natural watercourse at the point of diversion for these purposes. No person shall, under this Section 020, divert water from an irrigation canal, irrigation reservoir, or other irrigation facility while water is lawfully diverted, stored, captured, conveyed, used or otherwise physically controlled by an irrigator, irrigation district or canal company. ()

d. Water diversion intakes used for diversions under Subsection 020.01 shall be screened with a maximum screen mesh size as follows: ()

i. Fish-bearing Class I streams: Three thirty-seconds (3/32) inch. ()

ii. All other streams and watercourses: One-quarter (1/4) inch. ()

02. Conversion of Forest Lands. Conversions require a notification be filed, and compliance with all rules except those relating to reforestation. On converted parcels larger than one (1) acre, plant acceptable vegetative cover sufficient to maintain soil productivity and minimize erosion. Cover shall be established within one (1) year of completion of the forest practice except that the director may grant an extension of time if weather or other conditions interfere. Within three (3) years of completion of the forest practice, the director shall determine if the conversion has been accomplished by: (7-1-96)

a. The presence or absence of improvements necessary for use of land for its intended purpose; (7-1-96)

- b.** Evidence of actual use of the land for the intended purpose. (10-14-75)
- c.** If the conversion has not been accomplished within three (3) years of the completion of harvest, supplemental reforestation Subsection 050.06 applies. (7-1-96)
- 03. Annual Review and Consultation.** The director shall, at least once each year, meet with other state agencies and the Forest Practices Advisory Committee and review recommendations for amendments to rules, new rules, or repeal of rules. He shall then report to the board a summary of such meeting or meetings, together with recommendations for amendments to rules, new rules, or repeal of rules. (10-14-75)
- 04. Consultation.** The director shall consult with other state agencies and departments concerned with the management of forest environment where expertise from such agencies or departments is desirable or necessary. (10-14-75)
- a.** The Idaho Water Quality Standards and Wastewater Treatment Requirements, IDAPA 58.01.02, (Title 39, Chapter 1, Idaho Code) reference the Forest Practice Rules as approved best management practices and describe a procedure of modifying the practices based on monitoring and surveillance. The director shall review petitions from Idaho Department of Environmental Quality for changes or additions to the rules according to Administrative Procedures Act (Title 67, Chapter 52, Idaho Code) and make recommendations for modification to the Board of Land Commissioners. (9-20-88)
- 05. Notification of Forest Practice.** (10-14-75)
- a.** Before commencing a forest practice or a conversion of forest lands the department shall be notified as required in Subsection 020.02.b. The notice shall be given by the operator. However, the timber owner or landowner satisfies the responsibility of the operator under this subsection. When more than one forest practice is to be conducted in relation to harvesting of forest tree species, one notice including each forest practice to be conducted shall be filed with the department. (7-1-96)
- b.** The notification required by Subsection 020.05.a. shall be on forms prescribed and provided by the department and shall include the name and address of the operator, timber owner, and landowner; the legal description of the area in which the forest practice is to be conducted; whether the forest practice borders an outstanding resource water and other information the department considers necessary for the administration of the rules adopted by the board under Section 38-1304, Idaho Code. All notifications must be formally accepted by the department before any forest practice may begin. Promptly upon formal acceptance of the notice but not more than fourteen (14) calendar days from formal acceptance of the notice, the department shall mail a copy of the notice to whichever of the operator, timber owner, or landowner that did not submit the notification. The department shall make available to the operator, timber owner, and landowner a copy of the rules. (7-1-96)
- c.** An operator, timber owner, or landowner, whichever filed the original notification, shall notify the department of any subsequent change in the information contained in the notice within thirty (30) calendar days of the change. Promptly upon receipt of notice of change, but not to exceed fourteen (14) calendar days from receipt of notice, the department shall mail a copy of the notice to whichever of the operator, timber owner, or landowner that did not submit the notice of change. (7-1-96)
- d.** The notification is valid for the same period as set forth in the certificate of compliance under Section 38-122, Idaho Code. At the expiration of the notification, if the forest practice is continuing, the notification shall be renewed using the same procedures provided for in this section. (4-21-92)
- e.** If the notification required by Subsection 020.05.a. of this section indicates that at the expiration of the notification that the forest practice will be continuing, the operator, timber owner, or landowner, at least thirty (30) calendar days prior to the expiration of the notification, shall notify the department and obtain a renewal of the notification. Promptly upon receipt of the request for renewal, but not to exceed fourteen (14) calendar days from receipt of the request, the department shall mail a copy of the renewed notification to whichever of the operator, timber owner, or landowner that did not submit the request for renewal. (7-1-96)
- 06. Notification Exception.** A notification of Forest Practice is required except for: (7-1-98)

a. Routine road maintenance, recreational uses, grazing by domestic livestock, cone picking, culture and harvest of Christmas trees on lands used solely for the production of Christmas trees, or harvesting of other minor forest products. (10-14-75)

b. Non-commercial cutting and removal of forest tree species by a person for his own personal use. (10-14-75)

c. Clearing forest land for conversion to surface mining or dredge and placer mining operations under a reclamation plan or dredge mining permit. (9-20-88)

07. Emergency Forest Practices. No prior notification shall be required for emergency forest practices necessitated by and commenced during or immediately after a fire, flood, windthrow, earthquake, or other catastrophic event. Within forty-eight (48) hours after commencement of such practice, the operator, timber owner, or landowner shall notify the director with an explanation of why emergency action was necessary. Such emergency forest practices are subject to the rules herein, except that the operator, timber owner, or landowner may take any reasonable action to minimize damage to forest lands, timber, or public resource from the direct or indirect effects of the catastrophic event. (7-1-96)

08. Duty of Purchaser. The initial purchaser of forest tree species which have been harvested from forest lands shall, before making such purchase or contract to purchase or accepting delivery of the same, receive and keep on file a copy of the notice required by Section 38-1306, Idaho Code relating to the harvesting practice for which the forest tree species are being acquired by the initial purchaser. Such notice shall be available for inspection upon request by the department at all reasonable times. (7-1-96)

09. State Divided into Regions. For the purpose of administering this Act, the State is divided into two (2) forest regions: one (1) north of the Salmon River and one (1) south of the Salmon River. (7-1-96)

10. Regions Divided into Forest Habitat Types. For the purpose of further refining the on-the-ground administration of the Act, the forest regions can be divided into Habitat Types. (7-1-96)

IDAPA 20 - DEPARTMENT OF LANDS

20.02.09 - METHOD OF SELLING POLE-QUALITY WESTERN RED CEDAR

DOCKET NO. 20-0209-0801 (CHAPTER REPEAL)

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. The action is authorized by Sections 58-104(6) and 58-105, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearings concerning this rulemaking will be held as follows:

IDAHO DEPARTMENT OF LANDS		
Friday - September 5, 2008 3780 Industrial Ave S. Coeur d'Alene, ID	Thursday - September 11, 2008 10250 Hwy 12 Orofino, ID	Thursday - September 18, 2008 300 North 6th Street, Suite 103 Boise, ID

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: This Rule mostly restates Idaho Code and provides no additional clarification or interpretation of the Statutes. By repealing this Rule and eliminating the redundant material, and combining the remaining items into one consolidated rule, efficiency can be gained. The other rule being repealed (IDAPA 20.02.10) will be consolidated with a concurrently proposed new rule, IDAPA 20.02.14.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year as a result of this rulemaking: There is no fiscal impact associated with this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted due to the nature of this rulemaking.

GENERAL INFORMATION: For more information about IDL's programs and activities, visit IDL's web site at <http://www.idl.idaho.gov>.

ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this rulemaking, contact the undersigned.

Anyone may submit written comments by mail, fax or e-mail at the address below regarding this proposed rule. IDL will consider all written comments received by the undersigned on or before September 24, 2008.

DATED this 17th day of July, 2008.

Craig Foss
Bureau Chief, Forestry Assistance
300 North 6th Street, Suite 103
Boise, Idaho 83720
(208)334-0200 Fax No. (208)334-2297

IDAPA 20.02.09 IS BEING REPEALED IN ITS ENTIRETY

IDAPA 20 - DEPARTMENT OF LANDS

20.02.10 - RULES FOR SELLING OF FOREST PRODUCTS ON STATE-OWNED ENDOWMENT LANDS

DOCKET NO. 20-0210-0801 (CHAPTER REPEAL)

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized by Sections 58-104(6) and 58-105, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearings concerning this rulemaking will be held as follows:

IDAHO DEPARTMENT OF LANDS		
Friday - September 5, 2008 3780 Industrial Ave S. Coeur d'Alene, ID	Thursday - September 11, 2008 10250 Hwy 12 Orofino, ID	Thursday - September 18, 2008 300 North 6th Street, Suite 103 Boise, ID

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

This rule mostly restates Idaho Code and provides no additional clarification or interpretation of the statutes. By repealing this rule and eliminating the redundant material, and combining the remaining items into one consolidated rule, efficiency can be gained. The other rule being repealed (IDAPA 20.02.09) will be consolidated with a concurrently proposed new rule, IDAPA 20.02.14.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year as a result of this rulemaking: There is no fiscal impact associated with this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to 67-5220(2), Idaho Code, negotiated rulemaking was not conducted due to the simple nature of this rulemaking.

GENERAL INFORMATION: For more information about IDL's programs and activities, visit IDL's web site at <http://www.idl.idaho.gov>.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this rulemaking, contact the undersigned. Anyone may submit written comments by mail, fax or e-mail at the address below regarding this proposed rule. IDL will consider all written comments received by the undersigned on or before September 24, 2008.

DATED this 17th day of July, 2008.

Craig Foss
Bureau Chief, Forestry Assistance
300 North 6th Street, Suite 103
Boise, Idaho 83720
(208)334-0200 Fax No. (208)334-2297

THE TEXT OF IDAPA 20.02.10 IS BEING REPEALED IN ITS ENTIRETY.

IDAPA 20 - DEPARTMENT OF LANDS

20.02.14 - RULES FOR SELLING FOREST PRODUCTS ON STATE-OWNED ENDOWMENT LANDS

DOCKET NO. 20-0214-0801 (NEW CHAPTER)

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. The action is authorized by Sections 58-104(6) and 58-105, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearings concerning this rulemaking will be held as follows:

IDAHO DEPARTMENT OF LANDS		
Friday - September 5, 2008 3780 Industrial Ave S. Coeur d'Alene, ID	Thursday - September 11, 2008 10250 Hwy 12 Orofino, ID	Thursday - September 18, 2008 300 North 6th Street, Suite 103 Boise, ID

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

This Rule is a consolidation and shortening of two existing rules that are concurrently being repealed, IDAPA 20.02.09 and IDAPA 20.02.10. This rule will eliminate duplication and expense of maintaining Rules that do not provide clarification or interpretation of the Statutes.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year as a result of this rulemaking: There is no fiscal impact associated with this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to 67-5220(2), Idaho Code, negotiated rulemaking was not conducted due to the simple nature of this rulemaking.

GENERAL INFORMATION: For more information about IDL's programs and activities, visit IDL's web site at <http://www.idl.idaho.gov>.

ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this rulemaking, contact the undersigned.

Anyone may submit written comments by mail, fax or e-mail at the address below regarding this proposed rule. IDL will consider all written comments received by the undersigned on or before September 24, 2008.

DATED this 17th day of July, 2008.

Craig Foss
Bureau Chief, Forestry Assistance
300 North 6th Street, Suite 103
Boise, Idaho 83720
(208)334-0200 Fax No. (208)334-2297

THE FOLLOWING IS THE TEXT OF DOCKET NO. 20-0214-0801

IDAPA 20
TITLE 02
CHAPTER 14

20.02.14 - RULES FOR SELLING FOREST PRODUCTS ON STATE-OWNED ENDOWMENT LANDS

000. LEGAL AUTHORITY.

This chapter is adopted under the legal authority of Sections 58-104(6), 58-105, 67-5201, et seq, Idaho Code. ()

001. TITLE AND SCOPE.

01. Title. These rules shall be cited as IDAPA 20.02.14 “Rules for Selling Forest Products on State-Owned Endowment Lands”. ()

02. Scope. These rules govern the selling of forest products from state endowment lands. ()

002. WRITTEN INTERPRETATION.

The Idaho Department of Lands maintains written interpretations of its rules which may include, but may not be limited to, written procedures manuals and operations manuals, Attorney General formal and information opinions, and other written guidance, which pertain to the interpretation of the rules of this chapter. Copies of the procedures manuals and operations manuals, Attorney General opinions and other written interpretations, if applicable, are available for public inspection and copying at the Director’s Office of the Idaho Department of Lands, Boise, Idaho. ()

003. ADMINISTRATIVE APPEALS.

Any person aggrieved by any final decision or order of the Board shall be entitled to judicial review pursuant to the provisions of Sections 58-122 and 67-5201, et seq, Idaho Code. (“Administrative Procedures Act”), and IDAPA 20.01.01. ()

004. INCORPORATION BY REFERENCE.

The following document is incorporated by reference into these rules: American National Standard Institute, 05.1, 2002 Edition, published by the Alliance for Telecommunication Industry Solutions and available to purchase on the Internet at: <http://www.atis.org>. ()

005. OFFICE - OFFICE HOURS - MAILING ADDRESS AND STREET ADDRESS.

The principal place of business of the Idaho Department of Lands is in Boise, Idaho. ()

01. Address. The office is located at 300 N. 6th Street, Ste. 103, Boise, Idaho. ()

02. Office Hours. Open from 8 a.m. to 5 p.m., Monday through Friday, except weekends and holidays. ()

03. Mailing Address. Idaho Department of Lands, P.O. Box 83720, Boise, Idaho 83720. ()

04. Telephone. The telephone number is 208-334-0200. ()

006. PUBLIC RECORDS ACT COMPLIANCE.

This rule is subject to and in compliance with the provisions of Sections 9-303, et seq, Idaho Code. (“Public Records Act”). All records related to this chapter are public records except to the extent such records are, by law, exempt from disclosure. ()

007. -- 009. (RESERVED).

010. DEFINITIONS.

- 01. Board.** The Idaho State Board of Land Commissioners. ()
- 02. Cable Yarding.** Transportation of forest products from stump to road by means of a suspended, powered cable system. ()
- 03. Cedar.** Western Red Cedar (*Thuja plicata*) which is a forest species that is plentiful on state-owned forest lands in northern Idaho. ()
- 04. Cedar Pole.** A segment or portion of a western red cedar tree that can be manufactured into a utility pole meeting current ANSI Specifications. ()
- 05. Contract.** Timber sale contract in a form prescribed by the Department. ()
- 06. Cutting Unit.** A defined portion of a timber sale that is identified on a map and on the ground. ()
- 07. Department.** The Idaho Department of Lands. ()
- 08. Development Credits.** A stumpage credit received by the purchaser for the construction or reconstruction of roads, bridges, or other permanent improvements. ()
- 09. Director.** The director of the Idaho Department of Lands or his authorized representative. ()
- 10. Extreme Circumstances.** Catastrophic circumstances including, but not limited to, fire, downed timber due to a wind event, flood, earthquake, destruction of a purchaser's milling facilities or equipment by fire, or milling operation shut down due to a court order related to compliance with state or federal environmental laws. ()
- 11. Forest Products.** Major forest resources including sawlogs, pulp, cedar poles, and cedar products suitable for split products or other marketable materials. ()
- 12. Ground-Based Yarding.** Transportation of forest products from stump to road using tractors, forwarders, or rubber-tired skidders. ()
- 13. Length.** The length of a pole in five (5) foot increments. ()
- 14. Measurement.** Weight, length, board foot volume, cubic volume, or any other means or procedure for determining quantity of forest products. ()
- 15. Net Appraised Value.** The minimum estimated sale value of the forest products after deducting the development credit. ()
- 16. Net Sale Value.** The final sale bid value of the forest products after deducting the development credit. ()
- 17. Pulp.** Any portion of a sawlog that does not meet the sawlog merchantability specifications of thirty-three and one-third percent (33 1/3%) net scale. ()
- 18. Purchaser.** A successful bidder for forest products from a state sale who has executed a timber sale contract. ()
- 19. Roads.** Forest access roads used for the transportation of forest products. ()

20. **Scaling.** Quantitative measurement of logs or other forest products by a log rule. ()
21. **Scribner Decimal “C” Board Foot Measure.** The measurement of forest products in accordance with the log rule described in Title 38, Chapter 12, Idaho Code, and the rules promulgated thereunder. ()
22. **State.** The State of Idaho. ()
- 011. ABBREVIATIONS.**
01. **ANSI.** American National Standards Institute. ()
02. **IDAPA.** Idaho Administrative Procedures Act. ()
03. **MBF.** Thousand Board Feet. ()
- 012. -- 018. (RESERVED).**
- 019. FIREWOOD AND PERSONAL USE PRODUCT PERMITS.**
Permits for the sale of dead and down forest products will be on a charge basis at a rate determined by the Board. Permits will not exceed a maximum value established by the Director. ()
- 020. DIRECT SALES.**
The direct sale of forest products without advertisement may be authorized by the Director if the net appraised value does not exceed the maximum value established by the Board. This type of sale is to be used to harvest isolated or by-passed parcels of timber of insufficient value and volume to justify a salvage sale (refer to Rule Section 021). The direct sale shall not be used when two (2) or more potential purchasers may be interested in bidding on the forest products offered for sale. The duration of a direct sale shall not exceed an initial period of six (6) months with a provision for one six (6) month extension. The purchaser shall furnish an acceptable performance bond in the amount of thirty percent (30%) of the sale value with a minimum bond of one hundred dollars (\$100). Advance payment will be required and all sales will be on a lump sum basis. ()
- 021. SALVAGE SALES.**
Salvage sales shall not exceed the net appraised value and volume established by the Board and are intended to be used in the harvesting of timber which, in the opinion of the Director, is of insufficient quality and/or quantity to support a timber sale (refer to Rule Section 022). The contract requirements for salvage sales shall be the same as for timber sales. ()
- 022. TIMBER SALES.**
Timber sales exceed the net appraised value or volume for salvage sales established by the Board. ()
- 023. CEDAR POLE SALE SELECTION.**
01. **Requirements for Cedar Pole Sale.** An area shall be reserved for a pole-quality cedar sale if the area contains at least one hundred fifty (150) cedar poles in a density of at least five (5) poles per acre on ground based yarding areas and at least ten (10) poles per acre on cable yarding areas. Areas with a lower density of poles may be offered as a pole sale if the Department determines that such sale is economically feasible. ()
02. **Maximum Amount of Sawlogs.** Sawlogs and other forest products shall not exceed fifty percent (50%) of the total sale volume, excluding materials generated through the construction of roads and development sites. ()
03. **Poles within Sawlog Sale.** If any area within a sawlog sale contains two hundred fifty (250) cedar poles or more in a density of at least ten (10) poles per acre, the area shall be reserved for a pole-quality cedar sale. ()
- 024. CEDAR POLE SALE PROCEDURES.**

01. Length Appraisal. Cedar poles shall be appraised by length and bid on a lineal foot basis. The conversion table set out below shall be used to establish the corresponding board foot volume. ()

02. Length to Volume Conversion Table for Western Red Cedar Poles:

Pole Length	Board Feet Each*
30'	50
35'	70
40'	101
45'	161
50'	239
55'	261
60'	304
65'	418
70'	462
75'	512
80'	595
85'	736
90'	792
95'	892
100'	929
105'	1113
110'	1132
115'	1420
120'	1475

* Based on Scribner Decimal "C" board foot measure

()

03. Bidding Limited to Cedar. When cedar represents eighty percent (80%) or more of the total appraised value, bidding shall be limited to cedar poles and cedar sawlogs only. ()

04. Purchaser's Option. The purchaser may opt to remove cedar as poles, sawlogs, and products or as sawlogs and products. Such choice shall be made at the completion of the auction. ()

05. Option to Manufacture. If the purchaser opts to manufacture the cedar as poles, the poles and sawlog material shall be removed at bid prices (lineal foot basis for poles and MBF basis for sawlogs). Pole-quality cedar trees containing thirty (30) foot cedar poles may be harvested as poles or sawlogs at the purchaser's discretion unless such trees are designated reserve. ()

06. Option to Manufacture Sawlogs. If the purchaser elects to manufacture cedar poles as sawlogs, the bid values of cedar poles and cedar sawlog material shall be weighted by volume to determine the selling value for all cedar sawlogs. ()

025. POLE SPECIFICATIONS.

Poles will conform to current ANSI Specifications and Dimensions for Wood Poles unless agreed otherwise by contract. ()

026. ANNUAL SALES PLAN.

The Department will prepare an annual sales plan which will describe the timber sales to be offered for sale during the forthcoming fiscal year. The plan will be based on recommended annual harvest volumes utilizing inventory data, local stand conditions, special management problems, and economic factors. The plan will be presented to the Board for approval annually and upon approval made available to all interested parties. The plan may be altered to respond to changing market conditions or to expedite the sale of damaged or insect-infested forest products. Each individual timber sale will be submitted to the Board for approval prior to advertisement. ()

027. -- 030. (RESERVED).

031. TIMBER SALE AUCTIONS.

01. Requirements for Bidding. ()

a. Bidders shall present a bid deposit in a form acceptable to the State in the amount of ten percent (10%) of the net appraised value. ()

b. Bidders shall not be delinquent on any payments to the State at the time of sale. ()

c. Bidders shall not be a minor as defined in Section 32-101, Idaho Code. ()

d. Foreign corporations, as defined in Section 30-1-106, Idaho Code, shall procure a certificate of authority to do business in Idaho to be eligible to bid on and purchase State timber. ()

02. Opening the Auction. The Director's representative will open the sale, read the advertisement, ask for questions, and then accept bid deposits. Each eligible bidder will select a numbered card to determine who will be allowed the first bid. The person entitled to the first bid may bid the minimum appraised or any higher price. Any bidder is then entitled to bid and bidding progresses with each previous bid being accepted by the last bidder. All bidding is done in the form of an oral auction. ()

03. Closing the Auction. The Director's representative will close the auction and award the sale to the successful bidder. Bid deposits will be returned to the unsuccessful bidders. Sale values and charges will be calculated on the day of sale. Within ten (10) days the successful bidder will be required to pay ten percent (10%) of the final net sale value. Surety bid bonds must be replaced with cash within ten (10) days of the date of sale, either separately or as part of the total ten percent (10%) initial deposit. ()

032. TIMBER SALE CONTRACT SIGNATURES.

The Department shall prepare and make available to the purchaser a contract and supplemental documents, including bond forms, with appropriate instructions. The purchaser shall return the signed contract and bonds for appropriate State signatures. The State will return a fully executed contract to the purchaser. ()

033. INITIAL DEPOSIT AND BONDS.

01. Initial Deposit. The initial deposit (ten percent (10%) of net sale value) shall be retained by the state as a cash reserve for the duration of the contract; the purchaser shall not be entitled to any interest earned thereon. ()

02. Performance Bond. A bond of sufficient amount for carrying out in good faith all applicable laws and all the terms and conditions imposed by the Board and the sale contract or fifteen percent (15%) of the net sale value of the forest products (whichever is greater) shall be executed within thirty (30) days from the date of sale but prior to execution of the contract. ()

03. Guarantee of Payment. Prior to cutting of any forest products, the purchaser shall provide a bond

acceptable to the Department as assurance of payment for products to be cut and/or removed during the next ninety (90) days. This bond is in addition to the required initial deposit. ()

034. -- 040. (RESERVED).

041. STUMPAGE AND INTEREST PAYMENT.

A stumpage summary of forest products measured during the prior month and a statement of account will be prepared by the Department and forwarded to the purchaser monthly. The statement shall include interest computed from the date of sale to the date of the billing at a rate specified in the contract. The purchaser shall make payments within thirty (30) days of the end of the billing period or the payment shall be considered delinquent. ()

042. TIMBER SALE CANCELLATION.

It is the purchaser's responsibility to initiate cancellation by submitting such request in writing to the respective supervisory area office. A signed and notarized early release form must be completed by the purchaser when cancellation is requested prior to the original contract expiration date. When all contractual requirements have been completed, final payments have been received, all load tickets have been accounted for, and a written request for cancellation has been received by the Department, any credit balances will be returned and/or transferred to other timber sale accounts as requested by the purchaser within forty-five (45) days. ()

043. TIMBER SALE TERMINATION.

01. Request. A timber sale purchaser may, for reasons of hardship, make written request to terminate a timber sale contract before harvesting is completed. In such cases, the Board will determine if a hardship exists and if the contract should be terminated. ()

02. Premature Termination Policy. ()

a. The Board may authorize premature termination of any sale under any terms considered reasonable and appropriate. Any remaining amount of the ten percent (10%) initial deposit will be retained as a penalty, which amount may not be used as payment for forest products cut and/or removed. Additionally, the Board will seek payment of the value of the overbid for the uncut residual volume. For example, if white pine had been bid up by five dollars (\$5) per thousand board feet over the appraised price and there are one hundred thousand (100,000) board feet of white pine remaining on the sale area, the purchaser will have to pay five hundred dollars (\$500) upon termination. ()

b. If logging has occurred on the sale, the purchaser must complete the units that have been partially logged according to contract standards and complete all development work as specified in the contract to the extent of allowances that have been credited to the purchaser. ()

c. The purchaser who has terminated a timber sale contract will not be eligible to rebid that particular sale unless specifically authorized to do so by the Board. ()

044. -- 999. (RESERVED).

**IDAPA 20 - DEPARTMENT OF LANDS
IDAHO BOARD OF SCALING PRACTICES**

**20.06.02 - GENERAL RULES, LICENSING AND CHECK SCALES OF THE
IDAHO BOARD OF SCALING PRACTICES**

DOCKET NO. 20-0602-0801

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section(s) 38-1208 and 38-1220(a), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 17, 2008.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Revisions proposed to Chapter 20.06.02, "General Rules, Licensing and Check Scales of the Idaho Board of Scaling Practices" include:

1. Reindexing of 20.06.02 to 20.06.01;
2. Incorporation by reference of the "Idaho Log Scaling Manual";
3. Addition of new rules to reflect gross and net scale determination (keeping the same intent currently reflected in Chapter 20.06.03 Rules; and
4. Technical corrections to existing rules.

Rules of the Idaho Board of Scaling Practices that govern scale determination in Idaho remain essentially unchanged, but will reference a new "Idaho Log Scaling Manual" rather than the USFS "National Forest Log Scaling Handbook." IDAPA 20.06.03, "Measurement Rules for Forest Products of the Idaho Board of Scaling Practices," will be repealed in their entirety. Resulting rules revisions will have all administrative rules of the Idaho Board of Scaling Practices stated in one chapter of rules. Once this rulemaking is adopted as a pending rule and approved as final by the legislature, this chapter will be reindexed as IDAPA 20.06.01.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 2, 2008 Idaho Administrative Bulletin, Volume 08-7, page 64.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Ernie Bauer, phone 208-769-1445. The Idaho Log Scaling Manual and proposed rules are available at: www.ibsp.idaho.gov (the Idaho Board of Scaling Practices website).

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 24, 2008.

DATED this 4th day of August, 2008.

Ernest H. Bauer, Executive Director
Department of Lands/Idaho Board of Scaling Practices
3780 Industrial Avenue South
Coeur d'Alene, ID 83815
Phone: 208-769-1445, Fax: 208-769-1524
Email: ebauer@ibsp.idaho.gov
Web: www.ibsp.idaho.gov

THE FOLLOWING IS THE TEXT OF DOCKET NO. 20-0602-0801

IDAPA 20
TITLE 06
CHAPTER 021

20.06.021 - ~~GENERAL RULES, LICENSING, AND CHECK SCALES~~ RULES OF THE
IDAHO BOARD OF SCALING PRACTICES

001. TITLE AND SCOPE.

01. **Title.** These rules shall be cited as IDAPA 20.06.021, "~~General Rules, Licensing, and Check Scales~~ Rules of the Idaho Board of Scaling Practices," ~~IDAPA 20.06.02.~~ (4-15-98)()

02. **Scope.** ~~These rules constitute the levy of assessment, payment for logging and hauling, licensing standards and renewals, and check scaling operations.~~ These rules constitute the levy of assessment, payment for logging and hauling, licensing standards and renewals, method of scaling forest products for commercial purposes, check scaling operations, and informal hearings. (4-15-98)()

(BREAK IN CONTINUITY OF SECTIONS)

004. INCORPORATION BY REFERENCE.

01. **Incorporated Document.** IDAPA 20.06.01 adopts and incorporates by reference the "Idaho Log Scaling Manual," 2008 Edition, published by the Idaho Board of Scaling Practices. ()

02. **Availability of Referenced Documents.** Copies of the "Idaho Log Scaling Manual," 2008 Edition, are available at the following locations: ()

a. Idaho Board of Scaling Practices, 3780 Industrial Avenue South, Coeur d'Alene, Idaho 83815-8918. ()

b. State Law Library, 702 W. Idaho St., 4th Floor, Boise, Idaho 83702. ()

c. Web address: www.ibsp.idaho.gov/scalingmanual.htm. ()

005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS.

01. Office Address. The office of the Idaho Board of Scaling Practices is located at 3780 Industrial Avenue South, Coeur d'Alene, Idaho. ()

02. Office Hours. The office is open from 8 a.m. to 5 p.m., except Saturday, Sunday and legal holidays. ()

03. Mailing Address. The mailing address is: Idaho Board of Scaling Practices, 3780 Industrial Avenue South, Coeur d'Alene, Idaho 83815-8918. ()

04. Telephone and Fax. The telephone number is (208) 769-1445; fax number is (208) 769-1524. ()

006. PUBLIC RECORDS ACT COMPLIANCE.

The rules contained herein have been promulgated according to the provisions of Title 67, Chapter 52, Idaho Code, and are public records. ()

0047. -- 009. (RESERVED).

010. DEFINITIONS.

01. Board. The ~~State~~ Idaho Board of Scaling Practices. (~~3-20-04~~)()

02. Check Scaling. The comparison of scaling practices between a Board-appointed check scaler and any other scaler. (4-15-98)

03. Combination Log. Any multiple-segment log involving more than one (1) product classification. (4-15-98)

04. Complaint. A written statement alleging a violation of the Idaho Scaling Law, Title 38, Chapter 12, Idaho Code. (3-20-04)

05. Complainant. A person or entity who submits a complaint to the Board. (3-20-04)

06. Cubic Volume. A log rule that uses cubic feet or cubic meters as its basic unit of measure, determined on the basis of a mathematical formula. ()

067. Decimal "C." A log rule that uses tens of board feet as its basic unit of measure; one (1) decimal "C" equals ten (10) board feet. The ~~standard~~ Idaho Scribner ~~Cocconino~~ decimal "C" volumes as listed in the Appendix, ~~Table I, IDAPA 20.06.03, "Measurement Rules for Forest Products of the State Board of Scaling Practices of the "Idaho Log Scaling Manual."~~ (4-15-98)()

078. Gross Scale. The log rule volume of timber products before deductions are made for defects. (4-15-98)

089. Gross Weight. The actual weight of the products hauled. (4-15-98)

0910. Informal Hearing. Any hearing before the Board of Scaling Practices, as opposed to a formal hearing before a hearing officer designated by the Board. (3-20-04)

101. Log Brands. A unique symbol or mark placed on or in forest products for the purpose of identifying ownership. (4-15-98)

112. Net Scale. The remaining log rule volume of timber products after deductions are made for defects, based on the product classification that is used. (4-15-98)

123. Official Seal. An official seal of the Idaho Board of Scaling Practices is hereby adopted. The seal shall be round, of a diameter of at least one and one-half inches (1-1/2”), and be so constructed that it may readily be imprinted on paper. The seal appears in the appendix hereto. (4-15-98)

134. Prize Logs. As described in Section 38-809, Idaho Code. (4-15-98)

145. Product Classification. Classification as sawlog, pulp log, or cedar products log for purposes of net scale determination or check scaling. ~~(4-15-98)~~(____)

156. Purchaser. The principal individual, partnership, or corporation entitled to ownership at the first determination of scale for forest products harvested in Idaho. Purchaser shall also include the owner of the timber as provided in Section 38-1209(b), Idaho Code. (4-15-98)

167. Requested Check Scale. A check scale performed pursuant to Section 820 of these rules. (4-15-98)

178. Relicense Check Scale. A check scale requested and scheduled in advance, by a licensed scaler, for purposes of license renewal. (4-15-98)

189. Routine Check Scale. A check scale that is not a relicense, temporary permit, or requested check scale. (4-15-98)

1920. Respondent. The person or entity accused of violating the Idaho Scaling Law, Title 38, Chapter 12, Idaho Code. (3-20-04)

201. Temporary Permit Check Scale. A check scale performed pursuant to provisions of Section 240 of these rules. (4-15-98)

212. Written Scaling Specifications. A written document provided to the scaler that states the information necessary to scale logs in accordance with a contractual scaling agreement. (4-15-98)

(BREAK IN CONTINUITY OF SECTIONS)

100. PAYMENT FOR LOGGING OR HAULING. Provisions of Section 38-1220(b), Idaho Code, govern payment for logging or hauling. (3-20-04)

01. Gross Scale Determination. Gross scale shall be determined ~~in accordance with IDAPA 20.06.03, “Measurement Rules for Forest Products of the Idaho Board of Scaling Practices by the methodology stated in Chapter Two (2) of the “Idaho Log Scaling Manual.”~~ ~~(4-15-98)~~(____)

02. Compliance with Gross Scale Determination. Notwithstanding the ~~mensuration methodology~~ methodology criteria contained in ~~IDAPA 20.06.03, “Measurement Rules for Forest Products of the Idaho Board of Scaling Practices~~ the “Idaho Log Scaling Manual,” compliance shall be determined to have been met when check scale results on gross scale comparisons are within allowable standards of variation as contained in these rules. ~~(4-15-98)~~(____)

(BREAK IN CONTINUITY OF SECTIONS)

300. STANDARD LICENSE EXAMINATION.

01. General. To be taken by all persons applying for the standard license. (4-15-98)

02. Written Examination. (4-15-98)

a. Will be based upon ~~the National Forest Log Scaling Handbook, FSH 2409.11, Amendment No. 6, Chapters 10, 20, and 30, and established rules of the Board~~ Chapters 1, 2, and 3 of the "Idaho Log Scaling Manual." (4-15-98)()

b. Any score of seventy percent (70%) or better is a passing grade. (4-15-98)

c. The written test must be taken and passed before the practical examination can be attempted. (4-15-98)

03. Practical Examination. (4-15-98)

a. The practical examination for a scaler's license will consist of scaling a minimum of not less than two hundred (200) logs with a net decimal "C" scale determination for sawlogs of not less than twenty thousand (20,000) board feet, or not less than fifteen thousand (15,000) board feet in the southeast Idaho area. (4-15-98)

b. The logs will first be scaled by three (3) qualified check scalers, except the southeast Idaho area shall be two (2) or more qualified check scalers, and the agreed-upon results will be the basis for grading the examination. (4-15-98)

c. To obtain a passing grade, a scaler must be within allowable limits of variation in the following categories:

CATEGORY		ALLOWABLE VARIATION
Gross Volume	For logs in round form	+/- 2.0%
	For logs in fractional or slab form	+/- 5.0%
Net Volume	Check scale percent of defect on logs checked	
	Up to 10	+/- 2.0%
	10.1 to 15	+/- 3.0%
	15.1 to 20	+/- 0.2% for each percent of defect
	Over 20	+/- 5.0%
	Species identification errors	3.0%

(4-15-98)

(BREAK IN CONTINUITY OF SECTIONS)

401. -- 499. (RESERVED).

500. METHOD OF SCALING FOREST PRODUCTS FOR COMMERCIAL PURPOSES.

01. Scribner Decimal "C". Log scaling by the Scribner decimal "C" method shall be made according to scaling practices and procedures described in the "Idaho Log Scaling Manual" and Sections 501 through 504 of these rules. ()

02. Cubic Volume. Log scaling by a cubic volume method shall be made according to scaling practices and procedures agreed upon in writing between parties to a scaling agreement. ()

03. Other Scaling Methods. Log scaling by any method other than Scribner decimal "C" or cubic volume shall be considered and determined by the Board upon written request. ()

501. GROSS VOLUME CONVERSIONS.

01. Conversion to Gross Decimal "C" or Gross Cubic Volume. Gross volume measurement determined in a manner other than decimal "C" or cubic volume shall be converted to an equivalent decimal "C" or cubic volume gross scale. ()

02. Conversion Factors. Measurement procedures and converting factors described in the Special Situations Measurement section, Chapter Two (2) of the "Idaho Log Scaling Manual," may be used to express decimal "C" board foot equivalents. ()

03. Other Conversion Factors. Measurement procedures and converting factors not listed in the "Idaho Log Scaling Manual" shall be considered and determined by the Board upon written request. ()

502. GENERAL SCALING REQUIREMENTS.

01. Written Scaling Specifications. At any scaling site, licensed scalers shall be provided with a written document that states the information necessary to scale logs in accordance with a contractual scaling agreement. ()

02. Recording Measurements on Scale Tickets. For each log scaled, scalers shall record a combination of data from which both gross and net volume can be derived. This data shall include scaling length and scaling diameter(s). ()

03. Load Identification. Scalers shall ensure that all loads are readily identifiable upon completion of scaling. ()

503. GROSS DECIMAL "C" SCALE DETERMINATION.

Contractual scaling agreements relating to determination of Scribner decimal "C" gross scale shall not establish any scaling requirement that differs from those stated in the "Idaho Log Scaling Manual" except for a minimum top diameter that may be smaller than five and fifty-one hundredths inches (5.51") actual measure. Licensed scalers shall be provided with written scaling specifications that denote any minimum top diameter that is smaller than five and fifty-one hundredths inches (5.51") actual measure. ()

504. NET DECIMAL "C" SCALE DETERMINATION.

Contractual scaling agreements relating to determination of Scribner decimal "C" net scale may establish scaling requirements that differ from those stated in the "Idaho Log Scaling Manual." Licensed scalers shall be provided with written scaling specifications that clearly describe any changes in net scale scaling practices. ()

505. -- 799. (RESERVED).

800. CHECK SCALING PROCEDURES.

01. Valid Check Scale. (4-15-98)

a. Check scaling shall require a minimum of fifty (50) logs containing a decimal "C" gross scale of at least ten thousand (10,000) board feet. When other methods of measurement are used, the check scaler will investigate the situation and determine the most logical method of check scaling. (4-15-98)

b. Check scaling will be performed without scaler's knowledge, when possible. (4-15-98)

c. Check scales shall be performed only on logs that are in the same position as presented to the scaler. (4-15-98)

d. Check scales shall not be performed if the logs are not spread adequately enough, in the check scaler's discretion, to allow for accurate scaling. If these conditions arise, the check scaler shall make a written report describing the conditions and surrounding circumstances. The Board shall make a decision as to the disposition of

these conditions and direct the check scaler accordingly. (4-15-98)

e. The check scaler shall use the written scaling specifications that have been provided to the scaler. In the absence or omission of written scaling specifications, logs shall be check scaled according to ~~IDAPA 20-06-03, "Measurement Rules for Forest Products of the Idaho Board of Scaling Practices~~ scaling methodology stated within the "Idaho Log Scaling Manual." (4-15-98)()

02. Cooperative Scaling. Cooperative scaling involves two (2) scalers, using different scaling specifications, working together to determine the log scale volume. In these instances, each scaler shall be individually responsible for the scale recorded. (4-15-98)

03. Team Scaling. Team scaling is two (2) scalers, using the same scaling specifications, working together to determine the log scale volume. In these instances, both scalers shall be responsible for the scale recorded, except that if one (1) of the individuals is an apprentice scaler, the licensed scaler shall be responsible for the scale recorded. (4-15-98)

04. Holding Check Scale Log Loads. All log loads involved in an unacceptable check scale will be held at the point of the check scale until such time as the logs have been reviewed with the scaler, or for a period up to forty- eight (48) hours. (4-15-98)

a. During this period the load(s) shall not be moved or tampered with in any way. (4-15-98)

b. The Board's check scaler shall affix a tag to all loads which must be held, and notify the scaler and landing supervisors respectively. (4-15-98)

**IDAPA 20 - DEPARTMENT OF LANDS
IDAHO BOARD OF SCALING PRACTICES**

**20.06.03 - MEASUREMENT RULES FOR FOREST PRODUCTS OF THE
IDAHO BOARD OF SCALING PRACTICES**

DOCKET NO. 20-0603-0801 (CHAPTER REPEAL)

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section(s) 38-1208 and 38-1220(a), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 17, 2008.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The Idaho Board of Scaling Practices proposes to repeal Chapter 20.06.03, "Measurement Rules," in its entirety because it will no longer be needed. Instead, log scaling measurement rules will be reflected in the Idaho Log Scaling Manual and all administrative rules will be stated in one revised chapter.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 2, 2008 Idaho Administrative Bulletin, Volume 08-7, page 64.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Ernie Bauer, phone 208-769-1445. The Idaho Log Scaling Manual and proposed rules are available at: www.ibsp.idaho.gov (the Idaho Board of Scaling Practices website).

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 24, 2008.

DATED this 4th day of August, 2008.

Ernest H. Bauer, Executive Director
Department of Lands/Idaho Board of Scaling Practices
3780 Industrial Avenue South
Coeur d'Alene, ID 83815

Phone: 208-769-1445, Fax: 208-769-1524
Email: ebauer@ibsp.idaho.gov
Web: www.ibsp.idaho.gov

IDAPA 20.06.03 IS BEING REPEALED IN ITS ENTIRETY