

Dear Senators VICK, Heider, Stennett, and
Representatives GIBBS, Lickley, Rubel:

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

IDAPA 20.02.14 - Rules for Selling Forest Products on State-Owned Endowment Lands (ZBR
Chapter Rewrite) - Proposed Rule (Docket No. 20-0214-2201).

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 10/21/2022. 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 11/18/2022.

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 334-4854, or send a written request to the address on the
memorandum attached below.



Terri Kondeff
Director

Legislative Services Office

Idaho State Legislature

Serving Idaho's Citizen Legislature

MEMORANDUM

TO: Rules Review Subcommittee of the Senate Resources & Environment Committee and the House Resources & Conservation Committee
FROM: Deputy Division Manager - Katharine Gerrity
DATE: October 04, 2022
SUBJECT: Idaho Department of Lands

IDAPA 20.02.14 - Rules for Selling Forest Products on State-Owned Endowment Lands (ZBR Chapter Rewrite) - Proposed Rule (Docket No. 20-0214-2201)

Summary and Stated Reasons for the Rule

The Idaho 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 rulemaking is made in compliance with Executive Order 2020-01: Zero Based Regulation. The department states that the rulemaking decreases the total word count and the number of restrictive rules and that no changes were made that change the context of the previous rule.

Negotiated Rulemaking / Fiscal Impact

The department notes that negotiated rulemaking was conducted and there is no fiscal impact.

Statutory Authority

The rulemaking appears to be authorized pursuant to Sections 58-104 and 58-105, Idaho Code.

cc: Idaho Department of Lands
Amy Johnson

*** PLEASE NOTE ***

Per the Idaho Constitution, all administrative rules may be reviewed by the Legislature during the next legislative session. The Legislature has 3 options with this rulemaking docket: **1)** Approve the docket in its entirety; **2)** Reject the docket in its entirety; or **3)** Reject the docket in part.

Paul Headlee, Deputy Director Legislative Services Office	Kristin Ford, Manager Research & Legislation	Keith Bybee, Manager Budget & Policy Analysis	April Renfro, Manager Legislative Audits	Glenn Harris, Manager Information Technology
--	---	--	---	---

Statehouse, P.O. Box 83720
Boise, Idaho 83720-0054

Tel: 208-334-2475
legislature.idaho.gov

IDAPA 20 – IDAHO DEPARTMENT OF LANDS

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

DOCKET NO. 20-0214-2201 (ZBR CHAPTER REWRITE)

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 Sections 58-104(6) and 58-105, 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 21, 2022.

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 Department of Lands initiated this rulemaking in compliance with [Executive Order 2020-01: Zero-Based Regulation](#). This rule chapter is scheduled for a comprehensive review in 2022 with the goal of simplifying and streamlining the rules for increased clarity and ease of use.

The regulatory burden has been reduced by decreasing both the total word count (-19%) and the number of restrictive words (-11%) in the proposed rule. No changes were made that change the context of the previous rule.

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(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the March 2, 2022, Idaho Administrative Bulletin, [Vol. 22-3, pages 22-23](#).

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Jeremy Shawver at (208) 666-8672 or jshawver@idl.idaho.gov.

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 28, 2022.

DATED this 7th day of September 2022.

David Greenwood, Timber Management Bureau Chief
Idaho Department of Lands
3284 West Industrial Loop
Coeur d'Alene, Idaho 83815
Phone: (208) 769-1525
Fax: (208) 769-1524
rulemaking@idl.idaho.gov

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 20-0214-2201
(Zero Based Regulation (ZBR) Chapter Rewrite)

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 38-1201, et seq.; 58-104(6); 58-105; 67-5201, et seq.; Idaho Code. ()

001. SCOPE.

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

002. -- 009. (RESERVED)

010. DEFINITIONS.

01. Board. The Idaho State Board of Land Commissioners. ()

02. Contract. Timber sale contract in a form prescribed by the Department. ()

03. Department. The Idaho Department of Lands. ()

04. Development Credits. A stumpage credit received by the purchaser for road construction and improvements. ()

05. Director. The director of the Idaho Department of Lands or his designee. ()

06. Forest Products. Marketable forest materials. ()

07. Net Appraised Value. The minimum estimated sale value of the forest products after deducting the development credit. ()

08. Net Sale Value. The final sale bid value of the forest products after deducting the development credit. ()

09. Purchaser. A successful bidder for forest products from a state sale who has executed a timber sale contract. ()

011. -- 018. (RESERVED)

019. FIREWOOD AND OTHER PERSONAL USE PRODUCT PERMITS.

Forest product permits for personal use will be sold on a charge basis. The Director will determine permit rates and maximum permit values. ()

020. DIRECT SALES.

The 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. The duration of a direct sale is six (6) months. The purchaser must 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). ()

021. TIMBER SALES.

Timber sales exceed the net appraised value or volume for direct sales established by the Board. ()

022. -- 025. (RESERVED)

026. ANNUAL SALES PLAN.

The Department's annual sales 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. ()

027. -- 030. (RESERVED)

031. TIMBER SALE AUCTIONS.

01. Requirements. Timber and Delivered Products sales must be sold at public auction. ()

02. Requirements for Bidding. Bidders must: ()

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

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

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

d. If a foreign corporation, have a completed and accepted foreign registration statement with the secretary of state and comply with Title 30, Chapter 21, Part 5, Idaho Code in order to do business in Idaho and be eligible to bid on and purchase State timber. ()

032. INITIAL DEPOSIT AND BONDS.

01. Initial Deposit. The initial deposit (ten percent (10%) of net sale value) is paid in cash and retained by the state as a cash reserve for the duration of the contract; the purchaser is not entitled to any interest earned thereon. All or a portion of the initial deposit may be applied to charges as the contract nears completion. Any remaining initial deposit will be forfeited in the event the contract is terminated without being completed. ()

02. Performance Bond. A bond of sufficient amount to ensure compliance with the terms and conditions of the sale contract or fifteen percent (15%) of the net sale value of the forest products (whichever is greater) must be executed within thirty (30) days from the date of sale and prior to contract execution. Failure to fully perform the contract may result in forfeiture of all or part of the performance bond. ()

03. Payment Bond. Prior to cutting any forest products, the purchaser must provide a bond acceptable to the Department as assurance of payment for products to be cut or removed, or both, within the succeeding ninety (90) days. The Department will determine the payment bond amount on delivered product sales. Failure to make full and timely payment per contract terms may result in forfeiture of all or a portion of the payment bond. ()

033. -- 040. (RESERVED)

041. STUMPAGE AND INTEREST PAYMENT.

The Department will prepare and forward to the purchaser a monthly stumpage summary of forest products measured during the prior month and a statement of account. The statement will include interest computed from the date of sale to the date of the billing at a rate specified in the contract. The purchaser must make payments within thirty (30) days of the end of the billing period or the payment is considered delinquent. Interest will not be charged on delivered product sales. ()

042. TIMBER SALE CANCELLATION.

It is the purchaser's responsibility to initiate cancellation by submitting a written request to the applicable supervisory area office. Once the cancellation process has finished, any credit balances and all cash bonds will be returned and/or transferred to other timber sale accounts within forty-five (45) days, as requested by the purchaser. ()

043. PREMATURE 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. 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 in full and applied towards assessed damages and may not be used as payment for forest products cut and/or removed. Assessed damages in excess of the initial deposit will be applied against the performance bond. ()

b. The following damages will be assessed by the Board for premature sale terminations. The Board will seek payment: ()

i. 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 be assessed five hundred dollars (\$500) upon termination. ()

ii. Of the accrued stumpage interest due the endowed institutions based on the interest rate specified in the contract and calculated on all remaining volume from the date of sale to the date the Board approved termination of the contract. ()

iii. For any credits given for developments that remain incomplete at the time of termination. ()

iv. For estimated Department costs associated with reoffering the timber sale. ()

v. For other expenses including, but not limited to, legal costs and Department staff time. ()

c. 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. ()

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

044. -- 999. (RESERVED)