

TITLE 58
PUBLIC LANDS

CHAPTER 4
SALE OF TIMBER ON STATE LANDS

58-401. PRESERVATION OF TREES ON STATE LANDS. No trees standing on lands of the state, which lands when cleared of trees will not be suitable for cultivation and raising crops, and no trees needed to conserve the snows, ice or water of any irrigation district, shall be cut from any part of the public lands belonging to the state, except as hereinafter provided.

[(58-401) 1905, p. 145, sec. 1; reen. R.C. & C.L., sec. 1588; C.S., sec. 2925; I.C.A., sec. 56-401.]

58-402. DISPOSAL OF DEAD AND DOWN TIMBER. Dead and down timber on state land and trees and/or brush growing thereon and which are not suitable for sawing, manufacture or processing, and which are not required for water conservation, may be sold and disposed of by the director of the department of lands for the use of any applicant when authorized so to do by any general or special resolution of the state land board, upon written application being filed therefor, and without necessity of advertising as is otherwise provided by law on sale of state owned timber. The state land board may authorize the cutting and removal of an amount of such material, not to exceed fifteen (15) standard cords by an individual for his personal use as firewood without any payment to the state.

[(58-402) C.S., sec. 2925A, as added by 1931, ch. 174, sec. 1, p. 289; I.C.A., sec. 56-402; am. 1943, ch. 96, sec. 1, p. 191; am. 1965, ch. 40, sec. 1, p. 64.]

58-403. APPLICATION TO PURCHASE TIMBER -- LIMITATIONS ON SALE OF TIMBER. Any person desiring to purchase timber on any lands owned by the state shall make application in writing to the director of the department of lands; which application shall contain a complete description by legal subdivisions of the lands upon which it is desired to purchase timber and a provision that if he is the successful bidder he will furnish such bond as may be required by the state board of land commissioners; conditioned, that he will comply with all rules and regulations made by the state board of land commissioners pertaining to the cutting and removal of said timber and the disposal of slashings and debris; the protection from fires or other damage of all trees or timber which are reserved from sale, and such other conditions as may be imposed by the state board of land commissioners with reference to any particular tract of timber sold; provided, however, that this provision does not prohibit the state board of land commissioners from offering for sale, or selling, timber without application having first been filed, and such authority is hereby expressly given to the state board of land commissioners.

[(58-403) 1905, p. 145, sec. 2; reen. R.C. & C.L., sec. 1589; C.S., sec. 2926; am. 1921, ch. 38, sec. 1, p. 48; I.C.A., sec. 56-403; am. 1935, ch. 6, sec. 1, p. 18; am. 1974, ch. 17, sec. 66, p. 308; am. 1985, ch. 181, sec. 1, p. 466.]

58-404. NOTICE TO DEPARTMENT OF WATER RESOURCES -- OBJECTIONS -- HEARING AND DETERMINATION. The director of the department of lands shall, before advertising any timber for sale, notify the director of the department of water resources, that the state board of land commissioners have an application for, or are considering the sale of such timber, giving in such notice, the description of the lands by legal subdivisions on which such timber is situated. The director of the department of water resources shall consider such notice, and if he desires to interpose any objections to the sale of the timber on said lands, because of any interference with the conservation of the irrigation waters of any watershed, he shall then within ten (10) days after receipt of said notice, file with the director of the department of lands, any objections that he may have thereto, setting forth in detail such objections and the reasons therefor. If no such objections are interposed within such time by the director of the department of water resources, and no extension of time is granted by the director of the department of lands for him to file such objections, it shall be presumed that there are no objections from his department to the making of such sale. However, if any objections are interposed, the state board of land commissioners shall appoint a time for the hearing of such objections, and shall determine whether or not, said sale should be made.

[(58-404) 1905, p. 145, sec. 4; reen. R.C. & C.L., sec. 1591; C.S., sec. 2928; am. 1921, ch. 38, sec. 2, p. 48; I.C.A., sec. 56-404; am. 1974, ch. 17, sec. 67, p. 308.]

58-405. LAND BOARD TO ACT ON APPLICATION. Upon the expiration of the time for filing protests as provided herein, the director of the department of lands shall refer all papers to the state board of land commissioners. If there be any protests from the director of the department of water resources, or any other persons, the board shall consider such protests, and such data as the director of the department of lands may furnish, together with his recommendations, and shall decide whether or not, the timber in question should be disposed of: provided, however, that the state board of land commissioners shall determine the trees or timber to be reserved on such land; provided further, however, that decisions by the state board of land commissioners to dispose of timber shall not receive judicial review pursuant to the administrative procedure act, [chapter 52, title 67](#), Idaho Code.

[(58-405) 1905, p. 145, sec. 6; reen. R.C. & C.L., sec. 1593; C.S., sec. 2930; am. 1921, ch. 38, sec. 3, p. 48; I.C.A., sec. 56-405; am. 1974, ch. 17, sec. 68, p. 308; am. 1993, ch. 216, sec. 95, p. 665.]

58-406. SALE OF PARCELS -- ADVERTISEMENT OF SALE. (1) Whenever the state board of land commissioners directs a sale of timber, it shall direct such sale in such parcels as it deems for the best interests of the state.

(2) All sales of timber on state lands, where sold separate from the lands, shall be advertised in one (1) or more newspapers, to be designated by the board, one (1) of which shall be in the county where such timber is located, if there be such paper, if not, then in some newspaper published in an adjoining county, and if such timber is located in more than one (1) county, then in some newspaper in each of the said counties, if there be such paper, if not, then in some newspaper published in an adjoining county, once a week for four (4) consecutive weeks, except that in cases of catastrophic damage

caused by insect, weather, or fire, the state board of land commissioners may direct an advertisement of less than four (4) consecutive weeks.

(3) The advertisement shall set forth the time and place of the sale, a description of the land by legal subdivisions on which such timber is situated, the length of time allowed for harvesting the timber, and the minimum price below which no bid shall be accepted.

(4) Small sales of timber, not exceeding one million (1,000,000) board feet in volume, according to the cruiser's estimate, and not exceeding a maximum value established by the state board of land commissioners, may be made as provided herein, except that only one (1) publication of advertisement shall be necessary and the date of sale shall be set not less than four (4) days after date of publication.

(5) Very small sales of timber, not exceeding two hundred thousand (200,000) board feet and not exceeding a maximum value established by the state board of land commissioners, may be made without advertisement and upon approval of the director of the department of lands.

[(58-406) 1905, p. 145, sec. 7; reen. R.C. & C.L., sec. 1594; C.S., sec. 2931; am. 1921, ch. 38, sec. 4, p. 48; I.C.A., sec. 56-406; am. 1955, ch. 15, sec. 1, p. 18; am. 1963, ch. 29, sec. 1, p. 170; am. 1969, ch. 200, sec. 1, p. 587; am. 1974, ch. 17, sec. 69, p. 308; am. 1978, ch. 253, sec. 1, p. 554; am. 1987, ch. 63, sec. 1, p. 114; am. 1990, ch. 124, sec. 1, p. 294; am. 1993, ch. 29, sec. 1, p. 97; am. 1995, ch. 165, sec. 1, p. 647; am. 2005, ch. 162, sec. 1, p. 497.]

58-407. BOND OF PERSONS CUTTING TIMBER. The state board of land commissioners shall require of all persons cutting timber upon state lands, a bond in a sufficient amount, with good and approved sureties, for the carrying out in good faith all the laws applicable thereto and all the terms and conditions imposed by the state board of land commissioners.

In any action or proceeding brought for the purpose of setting aside a sale of timber directed by the state board of land commissioners or brought for the purpose of delaying or preventing the cutting or removal of timber by the purchaser at any such sale, in which any party seeks a stay or seeks a temporary restraining order or preliminary injunction against the state board of land commissioners, the state of Idaho or the purchaser, the court shall require security as provided in rule 65(c) of the Idaho rules of civil procedure, in an amount equal to not less than ten percent (10%) of either the appraised value of the timber or the purchase price of the sale, whichever is greater, for the benefit of the fund for which the state holds in trust the timber included in the sale.

[(58-407) 1905, p. 145, sec. 8; reen. R.C. & C.L., sec. 1595; C.S., sec. 2932; am. 1921, ch. 38, sec. 5, p. 48; I.C.A., sec. 56-407; am. 1992, ch. 264, sec. 1, p. 819.]

58-408. TREE DEFINED. For the purpose of sections [58-401](#) to [58-410](#), inclusive, the word "tree" shall be held to mean all vegetable growth of a woody texture of any size whatsoever. No lands contemplated in sections [58-401](#) to [58-410](#), inclusive, shall be leased for any purpose whatsoever that will destroy the tree growth.

[(58-408) 1905, p. 145, sec. 9; reen. R.C. & C.L., sec. 1596; C.S., sec. 2933; I.C.A., sec. 56-408.]

58-409. VIOLATION OF PRECEDING SECTIONS A MISDEMEANOR -- ACTION FOR DAMAGES. Any person violating any of the provisions of sections [58-401](#) to [58-410](#)[, Idaho Code], inclusive, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined in the sum of not less than ten dollars (\$10.00) nor more than \$100, or be punished by imprisonment of not less than sixty (60) days, or by both fine and imprisonment, as the court may direct. Suit may also be brought in the name of the state whenever such damage has been caused by any violation of the provisions of sections [58-401](#) to [58-410](#)[, Idaho Code], inclusive, by any person or persons engaged in any business or pleasure pursuit whatever.

[(58-409) 1905, p. 145, sec. 14; reen. R.C. & C.L., sec. 1597; C.S., sec. 2934; I.C.A., sec. 56-409.]

58-410. PROSECUTING ATTORNEYS TO PROSECUTE. The prosecuting attorneys of the various counties of the state are hereby directed to prosecute in the name of the state all cases arising under sections [58-401](#) to [58-410](#)[, Idaho Code], inclusive.

[(58-410) 1905, p. 145, sec. 15; reen. R.C. & C.L., sec. 1598; C.S., sec. 2935; I.C.A., sec. 56-410.]

58-411. SALE OF TIMBER. Timber belonging to the state of Idaho may be sold at public auction by the state board of land commissioners, at their option, as follows: ten percent (10%) of the estimated value of the timber, after deducting the development credits attendant to the sale of the timber, shall be presented as a bid deposit, in a form acceptable to the state, on the day of sale. Ten percent (10%) of the purchase price of the timber, after deducting the development credits attendant to the sale of the timber, shall be due and payable within ten (10) days of the date of sale. This sum shall be retained by the director of the department of lands as a cash reserve for the duration of the sale or the director may, at his discretion, apply all or a portion of the sum as final payment or payments for forest products removed or to satisfy other contractual obligations. The balance of such purchase price shall be paid at such time as the timber is scaled and billed with interest computed from the date of sale to the date of billing at the rate per annum set by the state board of land commissioners. Lump sum sales may be sold for cash at the time of sale or upon such terms and conditions as the state board of land commissioners may prescribe.

[(58-411) 1985, ch. 254, sec. 2, p. 706; am. 1992, ch. 144, sec. 1, p. 438; am. 2008, ch. 114, sec. 1, p. 319.]

58-412. NOTICE OF INTENT TO CUT TIMBER -- CUTTING PERMITS. No timber shall be cut under the above provisions of this act except as follows: thirty (30) days' written notice shall be given to the state board of land commissioners, by filing such notice with the director, department of lands, of the particular land, described by legal subdivision or cutting unit, upon which the purchaser desires to cut timber. In addition, the purchaser shall provide the director of the department of lands with an adequate cash deposit, letter of credit, payment bond or other acceptable guarantee of payment, which shall be at least equal to the estimated value of the amount of timber to be harvested during the next ninety (90) day period or a cash deposit in an amount equal to the entire value of the timber to be harvested

from a legal subdivision or cutting unit to be included in a cutting permit. Permits to cut timber under these provisions shall be issued under rules and regulations adopted by the state board of land commissioners. The right to cut timber under the terms of this act does not accrue until the permit has been issued.

[58-412, added 1985, ch. 254, sec. 3, p. 706; am. 1987, ch. 354, sec. 1, p. 786.]

58-413. TIME IN WHICH TO CUT TIMBER -- EXTENSION OF TIME. The timber cut on lands, where the timber only is purchased, must be cut within the time specified in the contract of sale, but not to exceed fifteen (15) years. The state board of land commissioners shall specify the time within which timber must be cut at the time of sale. If, at the expiration of the contract period named at the time of sale in which the timber must be removed, the purchaser desires further time for the removal of said timber, application may be made to the state board of land commissioners for such extension, giving the legal subdivision or cutting unit upon which such extension is desired, and making satisfactory proof that the timber purchased under the contract has not been cut or removed, and the state board of land commissioners may extend the time from year to year, for a period of not to exceed fifteen (15) years from date of sale, upon payment of such additional interest and extension fees as the board may require. All timber remaining after such period shall be the property of the state.

[58-413, added 1985, ch. 254, sec. 4, p. 707.]

58-414. OTHER STATUTES UNAFFECTED. Nothing in sections [58-411](#) through [58-413](#), Idaho Code, shall be construed as changing or modifying any other statute relative to the sales of timber, but shall be construed as being in addition thereto, and as authorizing the sale of timber on such terms and conditions as provided in sections [58-411](#) through [58-413](#), Idaho Code.

[(58-414) 1907, p. 193, sec. 6; reen. R.C. & C.L., sec. 1603; C.S., sec. 2940; am. 1925, ch. 84, sec. 1, p. 118; I.C.A., sec. 56-414; am. 1951, ch. 41, sec. 1, p. 51; am. and redesignated from 58-415, 1985, ch. 254, sec. 5, p. 707.]

58-415. MEASURING METHOD USED IN SALE OF STATE-OWNED FOREST PRODUCTS. For sales of forest products from state lands, the state board of land commissioners shall cause the forest products to be measured, in lieu of selling by lump sum based on a cruise, unless in the discretion of the state board of land commissioners it shall be in the interest of the state to use the lump sum method. Acceptable methods of measuring forest products shall include, but are not limited to, weight, scaling, cubing, by the lineal foot, or by the piece.

[(58-415) 1943, ch. 95, sec. 1, p. 190; am. 1949, ch. 163, sec. 1, p. 351; am. 1957, ch. 119, sec. 1, p. 198; am. 1973, ch. 134, sec. 1, p. 251; am. 1974, ch. 17, sec. 71, p. 308; am. 1976, ch. 65, sec. 1, p. 232; am. 1978, ch. 258, sec. 1, p. 563; am. and redesignated from 58-416, 1985, ch. 254, sec. 6, p. 707; am. 2006, ch. 130, sec. 1, p. 381; am. 2007, ch. 50, sec. 1, p. 123.]