

STATE BOARD OF LAND COMMISSIONERS

October 15, 2024

Regular Agenda

Subject

Adoption of Pending Rule, IDAPA 20.04.02 *Rules Pertaining to the Idaho Forestry Act and Fire Hazard Reduction Laws*

Question Presented

Shall the Land Board adopt the pending rule with changes to the proposed rule text for IDAPA 20.04.02?

Background

The Idaho Department of Lands (Department) is responsible for ensuring the reduction of hazardous wildland fuels created by forest products removal. IDAPA 20.04.02 establishes a consistent process for completing and assessing the reduction of hazardous fuels; it also sets bond rates for ensuring hazard reduction and penalties for non-compliant contractors.

Following Executive Order 2020-01, Zero-Based Regulation, this rule chapter is scheduled to be repealed and replaced in 2024 for review during the 2025 legislative session.

The Department received State Board of Land Commissioners (Land Board) approval on August 15, 2023 to enter negotiated rulemaking.

Discussion

The Department's outreach for negotiated rulemaking included the following:

- Published the Notice of Negotiated Rulemaking in the Idaho Administrative Bulletin.
- Created a rulemaking webpage to post documents, scheduling information, and comments.
- Posted meeting information on social media.
- Posted rulemaking notices to Townhall Idaho.
- Emailed draft rules to 197 interested members of the public.
- Posted three draft rules in strikethrough format with reasonable periods of time for public comment.
- Engaged in discussions with Associated Logging Contractors, Idaho Department of Environmental Quality, Idaho Forest Owners Association, and Idaho Forest Industry group members.

The Department held two public negotiated rulemaking meetings with options for in person or virtual participation. Three participants attended the October 10, 2023 meeting in

Coeur d'Alene and no members of the public attended the October 11, 2023 meeting in McCall. There were no public comments provided during the meetings. The comment period ended April 17, 2024. Written comments were received from PotlatchDeltic, the Associated Logging Contractors, Inc., the Department of Environmental Quality, and Riley Stegner and Associates. All comments were addressed with changes to the rule text consistent with statutes and other Department regulations. There are no unresolved issues from the negotiated rulemaking process.

The Notice of Proposed Rulemaking was published in the Idaho Administrative Bulletin, Vol. 24-7 on July 3, 2024. No public hearings were requested or held. There was one written supportive comment from PotlatchDeltic with suggested changes to the rule text. A summary of this comment is included as Attachment 1. Several edits were made to the proposed rule based on the comment received (Attachment 2).

If approved by the Land Board, the Department will submit the Notice of Adoption of Pending Rule (Attachment 3) to the Office of the Administrative Rules Coordinator for the 2025 legislative session.

Recommendation

Adopt the pending rule with changes to the proposed rule text for IDAPA 20.04.02 *Rules Pertaining to the Idaho Forestry Act and Fire Hazard Reduction Laws*.

Board Action

Attachments

1. Summary of Comments on Proposed Rule
2. Pending Rule Text with changes to Proposed Rule
3. Draft Notice of Adoption of Pending Rule with changes

Summary Response to Comments on Proposed Rule
IDAPA 20.04.02, Rules Pertaining to Forest Fire Protection

Comment	Rule Section	Response
<p>PotlatchDeltic appreciates the opportunity to provide comments on the IDL's proposed zero-based regulation negotiated rulemaking documents IDAPA 20.04.01 and IDAPA 20.04.02 pertaining to Forest Fire Protection and the Idaho Forestry Act and Fire Hazard Reduction laws as published in the Idaho Administrative Bulletin on July 3, 2024, Vol. 24-7.</p> <p>In short, we applaud the efforts by IDL staff to thoughtfully consider the public comments received on earlier drafts of these dockets and incorporating that feedback into these latest versions. We believe they largely capture the spirit and intent of the zero-based regulations negotiated rulemaking process and result in a pragmatic product that will provide clear and reasonable guidance for forest landowners and operators.</p> <p>In this latest draft we have one remaining significant concern that we would like to express and remedy. It pertains to language in IDAPA 20.04.02, section 110.01, which currently states:</p> <p>1. <i>Burning.</i> <i>Burning for Forest Operations must be planned, prepared, and executed in a way that protects forest resources and maintains air quality (Title 38, Chapter 13 Idaho Code and IDAPA 20.02.01), provides adequate control of smoke (IDAPA 58.01.01) and avoids violating air quality standards.</i></p>	110.	<p>IDL, in consultation with DEQ, has carefully evaluated this comment and concurs with PotlatchDeltic this portion of both the current and proposed rule verbiage creates uncertainty primarily because of the use of the term "standard." IDL believes the intent of this part of the rule was always to make burners aware that such standards exist and of the potential for their exceedance when burning occurs. The methods for determining relevant air quality values do not support determining if an individual burner has exceeded air quality standards. The relevant air quality parameters referenced in IDAPA 58.01.01 are time-averaged particulate densities that include contributions from all burning in a monitored locale. Exceedance of these standards can trigger a declared air quality advisory. Under an air quality advisory IDAPA 58.01.01 implements stricter requirements for open burning. To retain the original intent of this part of rule, the draft pending rule verbiage has been corrected to state:</p> <p><u>01. Burning.</u> <u>Burning for Forest Operations must be planned, prepared, and executed in a way that protects forest resources and maintains air quality (Title 38, Chapter 13 Idaho Code and IDAPA 20.02.01), controls smoke, and complies with air quality requirements (IDAPA 58.01.01).</u></p>

Comment	Rule Section	Response
<p>We believe the underlined portion of the last sentence in this referenced section is unnecessary and has the potential for broad administrative discretion of interpretation of what burning plans and activities have adequately avoided violating air quality standards. The primary purpose of these rules is to prevent permissible burning activities from violating air quality standards. These rules have been carefully designed in such a way as to best achieve that objective. The inclusion of the underlined language will create a source of uncertainty for landowners and operators who are doing their best to fully comply with the rules and potentially undermine the collaborative efforts of those who participate in the MIAG and MIAG's ability to manage member burn activities. We recommend the underlined portion of the sentence in this latest draft referenced above be removed.</p>		<p>Thus, no new requirements or rules are created by the draft pending rule and existing, relevant statute and rule are referenced for the benefit of the reader. The specific sections of IDAPA 58.01.01 that apply will be referenced in any IDL provided burn plan along with the recommendations for controlling smoke from IDAPA 20.02.01.</p>

20.04.02 – RULES PERTAINING TO THE IDAHO FORESTRY ACT AND FIRE HAZARD REDUCTION LAWS

000. LEGAL AUTHORITY.

~~These rules are~~ This chapter is adopted ~~pursuant to~~under the ~~rulemaking~~legal authority ~~granted in~~of Sections 38-132, ~~and~~ 38-402, ~~58-105, and 67-5201 et seq.,~~ Idaho Code.

(3-18-22)()

001. TITLE AND SCOPE.

~~01. Title.~~ These rules are titled IDAPA 20.04.02, “Rules Pertaining to the Idaho Forestry Act and Fire Hazard Reduction Laws.” ~~and implement the provisions of Title 38, Chapters 1 and 4, Idaho Code. They provide for Hazard Management Agreements and eContracts and provide for burning requirements and Slash Hazard Reduction standards associated with cutting timber or other Forest Products. They also provide for release or continuation of Contractor liability for wildfire suppression costs for commercial forest products.~~

(3-18-22)()

~~02. Scope.~~ These rules implement the provisions of the Idaho Forestry Act and Fire Hazard Reduction Laws.

(3-18-22)

002. -- 009. (RESERVED)

010. DEFINITIONS.

The terms Fire Warden, Forest Land, Forest Products, Person, and State are defined in Section 38-101, Idaho Code. In addition to the definitions set forth in the Idaho Forestry Act and IDAPA 20.04.01, the following definitions apply to these rules:

~~Unless otherwise required by context, as used in these rules:~~ (3-18-22)()

~~01. Agreement.~~ The Certificate of Compliance-Fire Hazard Management Agreement ~~(Department of Lands Form 715) required by~~under Section 38-122, Idaho Code ~~(Fire Management Handbook 715 Att. 1).~~

(3-18-22)()

~~02. Clearance.~~ The Certificate of Clearance (Fire Management Handbook 760 Att. 1), required by law, which states the Contractor has met the terms of Section 38-122, Idaho Code.

()

~~03. Contract.~~ An optional Hazard Management Contract entered into with the Director by any landowner or Operator, under Section 38-404, where the Department assumes the responsibility for management of the fire hazard in exchange for a fee.

()

~~0204. Contract Area.~~ The legal description of the land given on the ~~a~~Agreement or Contract.(3-18-22)()

~~0305. Contractor.~~ The ~~p~~Person who enters into the ~~Certificate of Compliance-Fire Hazard Management Agreement.~~

(3-18-22)()

~~0406. Department.~~ The Idaho Department of Lands.

(3-18-22)()

~~0507. Director.~~ The Director of the Idaho Department of Lands or ~~his authorized representative~~their designee.

(3-18-22)()

~~0608. District.~~ A designated forest protective district under Section 38-110 Idaho Code. (3-18-22)()

~~0709. Fire Line.~~ A ~~line-break in Fuel scraped or~~ dug to mineral soil ~~which is intended~~ to control a fire.()

~~0810.~~ **Fire Warden Management Handbook.** A ~~duly appointed fire warden or deputy~~ policy document which describes procedures and forms the Department uses to administer these rules. (3-18-22)()

~~0911.~~ **Fuel.** Any ~~slash~~ Slash or woody debris that ~~will~~ contributes to the spread or intensity of a wildfire. (3-18-22)()

~~1012.~~ **Fuel Break.** An area in which all ~~slash and dead woody debris have been~~ Fuel is removed or piled and burned. (3-18-22)()

~~1113.~~ **Hazard Points.** A metric used by the Department to compute the fire hazard rating for Slashing Areas based on Hazard Reduction, site characteristics, and other protective measures that may reduce the spread or intensity of a wildfire. ()

~~12.~~ **Hazard Reduction.** The burning or physical reduction of fire hazards by treatment ~~in a manner that to will~~ reduce the spread or intensity ~~and/or spread~~ of a wildfire ~~after treatment is completed.~~ (3-18-22)()

~~1315.~~ **Initial Purchaser or Purchaser.** The first ~~p~~Person, ~~company, partnership, corporation, or association of whatever nature who~~ to purchases a ~~forest~~ Forest ~~p~~Product after it is harvested. (3-18-22)()

~~1316.~~ **Operational Period.** A standard twelve (12) hour fire control shift. (3-18-22)()

~~17.~~ **Prescribed Fire.** The controlled application of fire to wildland fuels, in either their natural or modified state, under conditions of weather, fuel moisture, and soil moisture, that allow the fire to be confined to a predetermined area while producing the intensity of heat and rate of spread required to meet planned objectives. ()

~~1418.~~ **Slash or Slashing.** Brush, severed limbs, poles, tops and/or other waste material incident to such cutting or ~~to the~~ clearing of land, which are four (4) inches and under in diameter. However, ~~for the purpose of these rules and~~ to correspond with standard fire classifications, for these rules, sSlash ~~will~~ only includes ~~material less than or equal to~~ three (3) inches or less in diameter. (3-18-22)()

~~18.~~ **Slashing Areas.** Areas where sufficient flammable material to constitute a menace to life or property remains on the ground after cutting trees or brush preparatory to clearing, or after cutting Forest Products. ()

~~1520.~~ **Slash Load.** Slash resulting from timber harvesting ~~that has occurred~~ under a current ~~a~~Agreement, exclusive of natural mortality. (3-18-22)()

~~16.~~ **State.** The state of Idaho. (3-18-22)

011. ABBREVIATIONS.

~~01.~~ **FMH.** Fire Management Handbook. ()

~~012.~~ -- 029. (RESERVED)

030. CERTIFICATE OF COMPLIANCE-FIRE HAZARD MANAGEMENT AGREEMENT.

~~01.~~ **Contents.** A Certificate of Compliance-Fire Hazard Management Agreement must be obtained ~~by anyone who conducts an operation involving the before any Person may~~ harvesting ~~of forest~~ Forest products ~~Products~~ or potential ~~forest~~ Forest products ~~Products~~. ~~Such~~ The Agreement provides ~~the options of to entering into~~ enter into a ~~contract~~ Contract ~~as provided in under Section 38-404, Idaho Code,~~ or ~~for~~ posting ~~of~~ a cash or surety

bond to the State. The ~~Certificate of Compliance required by Section 38-122, Idaho Code, must be in substantially the same form as Department of Lands Form No. 715 — “Certificate of Compliance Fire Hazard Management Agreement.”~~ Agreement is described in FMH 715.

(3-18-22)()

02. Period of Time. The period ~~set forth within~~ defined by the Agreement is based ~~upon such considerations as~~ on the size of the ~~eContract~~ aArea, the volume of the timber to be harvested, ~~and or~~ the silvicultural objectives of the landowner. ~~However, i~~ In no case may a single Agreement exceed a period of twenty-four (24) months unless the ~~eContractor~~ submits, and the ~~fFire wWarden~~ mutually approves, ~~agree upon a~~ written hazard management plan for the timely abatement of the hazard during a longer period ~~that may exceed twenty-four (24) months.~~ (3-18-22)()

03. Extensions. If ~~the a~~ eContractor cannot meet the standard required to obtain a ~~eClearance~~ eClearance within the period specified ~~above in the Agreement~~, they ~~contractor~~ may apply to the ~~fFire wWarden~~ for an extension. The application must be in writing, received at the Fire district-District office thirty (30) working days before the Agreement expires, and show good reason as to other than financial hardship, why an extension ~~should be given~~ is necessary (other than financial hardship). Prior to the Agreement’s expiration date, The the fFire wWarden will acknowledge receipt of grant or deny the request prior to the expiration of the Agreement with a form from FMH 715. (3-18-22)()

04. Responsibility. The ~~eContractor~~ eContractor named in the Agreement ~~will be~~ is responsible for managing the fire hazard created by the harvesting and will receive the ~~eClearance~~ eClearance if the ~~slash treatment meets standards~~ requirements of Section 120 are met or will carry the liability for suppressing wildfire for five (5) full years following the expiration of the Agreement. (3-18-22)()

031. -- 039. (RESERVED)

040. ADDENDUM TO ~~CERTIFICATE OF COMPLIANCE FIRE HAZARD MANAGEMENT AGREEMENT~~ AGREEMENT FOR PARTIAL HAZARD REDUCTION.
~~In those instances where~~ When a ~~eContractor~~ eContractor ~~indicates an intent~~ intends to only accomplish only the ~~pile, ing~~ ing portion of the total ~~but not burn~~ dispose of or physically treat the sSlash hazard reduction job Load, an addendum to the Agreement must be executed that precisely specifies ~~ing precisely~~ the portion of ~~slash withholding hazard reduction~~ monieys that will be to be refunded. The addendum ~~must be~~ is in substantially the same form ~~as one~~ executed with a form in forms provided by the Department FMH 715-Att. 4. of Lands Form No. 715.1 — “Addendum to Certificate of Compliance Fire Hazard Management Agreement.” (3-18-22)()

041. -- 049. (RESERVED)

050. BOND.

01. Amount of Bond. The bond specified in Section 38-122 ~~and Section 38-404~~, Idaho Code, ~~must~~ will be in the amount of four dollars (\$4) per thousand board feet (MBF), or equivalent measure as shown in Table I below, of ~~forest~~ Forest ~~products~~ Products harvested, and may ~~take the form of be:~~ cash, i surety bond, or irrevocable letter of credit. Surety bonds must be ~~in substantially the same form as~~ on forms provided by the Department of Lands Form No. 707 — “Bond.” (3-18-22)()

02. Rates. Rates and amounts listed in Table I ~~will be~~ are used as a minimum in calculating hazard reduction bonds for Forest products-Products cut from all state and private lands in Idaho.

TABLE I	
PRODUCT	BOND RATE

(1) MBF Measurement	
All Products	\$4.00 MBF
OR	
(2) Other Measurement	
Green pulp, stud timber, etc.	\$2.00 Cord
Lineal Foot Measure	
Utility poles and pilings, all species	\$.014 LF
Stulls, corral poles, cellar timbers, fence rails, round posts	\$.01 LF
Piece Measure	
100 inch bolt material	\$.08 ea.
Split posts	\$.02 ea.
Tree stakes	\$.02 ea.
Shake boards	\$.02 ea.
Ton Measurement	
Green or Dead Pulp, Chips, etc.	\$.70 Ton

(3-18-22)()

03. Exceeding Minimum Bond. The minimum bond rate ~~will is~~ only ~~be~~ exceeded when the landowner or ~~e~~Operator requests that higher rate to accomplish additional ~~hazard~~ Hazard Reduction. (3-18-22)()

051. -- 059. (RESERVED)

060. CONTRACTS WITH FOREST LANDOWNERS OR OPERATORS FOR ASSUMPTION OF HAZARD REDUCTION MANAGEMENT RESPONSIBILITY.

Forest landowners and ~~e~~Operators who engage in ~~commercial timber harvesting operations~~ Forest Operations may enter into an optional ~~eContract Agreement with the Director as provided in Section 38-404, Idaho Code.~~ Under the terms of ~~such an optional the eContract Agreement,~~ the Director may assume all responsibility for the management and reduction of fire hazards ~~to be~~ created in return for a stipulated amount to be paid to the Director ~~by the landowner or operator.~~ ~~Such Any optional eContract Agreement must be in substantially the same form as on forms provided by the~~ Department of Lands Form No. 720 —“Contract for Management, Reduction and/or Removal of Fire Hazards Created by the Harvesting of Timber Within the State of Idaho,” or Department of Lands Form No 725 —“Contract for Management of Fire Hazards Created By the Harvesting of Timber Within the State of Idaho.” (3-18-22)()

061. -- 069. (RESERVED)

070. CONTRACTOR CASH BOND RELEASE TO THE DIRECTOR.

Contractors ~~that who~~ elect, under Section 38-122, Idaho Code, to have hazard reduction money withheld; but ~~who~~ do not intend to dispose of the hazard themselves; must release the withheld monies to the Director ~~of the~~

Department of Lands. ~~Such The~~ release ~~must be in substantially the same form as~~ is on a form in FMH 761-Att. 1.
~~Department of Lands Form No. 761 "Release of Cash Bond Withheld to Assure Slash Disposal."~~ (3-18-22)()

071. -- 079. (RESERVED)

080. ADDED PROTECTION IN LIEU OF HAZARD REDUCTION.

~~As provided in Section 38-401, Idaho Code, F~~ire hazard management methods may include ~~or be limited to the~~
~~taking of~~ additional protective measures in lieu of actual disposal of the ~~slash~~ Slash hazard. Any funds coming into
~~district~~ District hazard management accounts through ~~contract~~ Contract, cash bond release, or forfeiture, may be used
for added protection provided that the expenditure meets specifications outlined in Section 38-401, Idaho Code. ~~(3-18-22)~~ ()

081. -- 089. (RESERVED)

090. DUTIES OF THE INITIAL PURCHASER REQUIREMENTS OF FOREST PRODUCTS.

01. Initial Purchaser. Initial ~~purchasers~~ Purchasers of ~~forest~~ Forest products ~~Products~~, in accordance
~~with Section 38-122, Idaho Code,~~ must withhold, and remit to the State, ~~slash management hazard reduction~~ monies
~~as appropriate for according to the slash management hazard~~ option chosen by the ~~e~~ Contractor in the Agreement.
~~Such The~~ option must be clearly identified on the ~~purchaser's~~ Purchaser's copy of the Agreement. Slash-Hazard
reduction monies withheld in any one (1) calendar month must be remitted to the Director on or before the end of
the next calendar month. ~~Such The~~ remittance ~~must may~~ be ~~in on~~ substantially the same form as Department of
Lands Form No. 740 "Hazard Reduction Payment Record (FMH 705-Att. 2) or in a report with the same
information. " ~~(3-18-22)~~ ()

02. Duty of Initial Purchaser. Initial ~~purchasers~~ Purchasers of ~~forest~~ Forest products ~~Products~~ must
make certain that all ~~e~~ Contractors from whom they purchase ~~forest~~ Forest products ~~Products~~ have obtained a proper
Agreement. ~~(3-18-22)~~ ()

091. -- 099. (RESERVED)

100. INJUNCTION AGAINST FURTHER CUTTING WITHOUT AN AGREEMENT.

Any ~~p~~ Person who cuts timber or other ~~forest~~ Forest products ~~Products~~ of any kind, without ~~having~~ first ~~secured~~
~~obtaining~~ an Agreement, ~~in accordance with Section 38-122, Idaho Code,~~ may be enjoined from ~~continuing~~
~~such further~~ cutting and will be required to immediately dispose of all ~~slash~~ Slash created. If the ~~p~~ Person ~~responsible~~
fails to properly dispose of the ~~s~~ Slash within thirty (30) days after ~~being notified to do so~~ receiving notification, the
State may dispose of the ~~s~~ Slash and ~~such the~~ costs of disposal, plus twenty percent (20%) as a penalty, may be
collected as a prior lien against the ~~Forest products~~ Products harvested. ~~(3-18-22)~~ ()

101. -- 109. (RESERVED)

110. REQUIREMENTS FOR PRESCRIBED FIRE IN FOREST LAND ~~BURNING OF SLASH.~~

01. Burning. Burning for Forest Operations must be planned, prepared, and executed in a way that
protects forest resources and maintains air quality (Title 38, Chapter 13 Idaho Code and IDAPA 20.02.01), controls
smoke, and complies with air quality requirements (IDAPA 58.01.01). ()

02. Burn Plans. Burning within specifically designated blocks or areas of Forest Land at any time
must be conducted under a prescribed burn plan approved by the ~~Fire Warden of the District's~~ Fire Warden in which
the burn occurs. ()

a. For piled Slash burning, the District Fire Warden will provide a burn plan with the Agreement. ()

b. For other burning, the Contractor must submit to the District Fire Warden a detailed prescription
for executing the burn. ()

~~01. Permits. Any burning operation conducted for the purpose of hazard reduction must be in accordance with the law requiring burning permits during the closed fire season.~~

~~03. Burn Crew. A~~ Persons conducting burning operations must have a permit, when required, and sufficient men~~people~~, tools, and equipment on hand to immediately stop the uncontrolled spread of any fire. Burning operations must be planned, prepared and executed in such a manner that forest resources are not damaged and air quality standards are met. (3-18-22)()

~~02. Burn Plan. Burning of specifically designated blocks or areas of forest land for any purpose must be conducted in accordance with a prescribed burn plan approved by the fire warden in whose area of responsibility the burn occurs.~~ (3-18-22)

111. -- 119. (RESERVED)

120. STANDARDS ~~TREATMENT OF~~ FOR HAZARD REDUCTION.

01. Purpose. It is the policy of the State that the fire hazard created by commercial timber harvest be reduced by Slash disposal or physical treatment. This Section provides standards for hHazard rReductionand the release of liability for the contractor who is working under a valid Agreement with the State. (3-18-22)()

02. Reduction of Total Hazard Points. The eContractor's -Forest Operation must achieve a reduce the total hazard-Hazard points Point total charged against the contract area to of five (5) points or less (see Table H)through disposal, treatment and other protective measures on or before the expiration date on the Agreement's expiration date to receive a release of liability against any fires that originate in or pass through any contractSlashing aArea andin order to receive a refund of slash-hazard reduction monies withheld (less three (3) percent for the fire suppression fund, ref. Rule150)-or, to clear any demands that might be made against the surety bond-and to receive a release of liability against any fires that start on or pass through the contract area(as stipulated in Sections 130 and 150). The Fire Warden of the District's Fire Warden, where the Slashing Areas are located, will use Hazard Point values from the Hazard Reduction, site characteristics, and other protective measures tables shown below to compute the Hazard Rating. If the Operating Area has more than one Slashing Area and the Slashing Areas are topographically unique or separated by uncut timber, each Slashing Area may be audited independently. Detailed example Slash Loads and computations are provided in FMH 760. ()

a. Slash Load Technical Specifications. ()

<u>TABLE II – SLASH LOAD TECHNICAL SPECIFICATIONS</u>	
<u>HAZARD RATING (POINTS)</u>	<u>SLASH LOAD</u>
<u>LOW (0-5)</u>	<u>Slash Load does not exceed three (3) ton per acre.</u>
<u>MODERATE (6-10)</u>	<u>Slash Load is between three (3) ton per acre and six (6) ton per acre.</u>
<u>HIGH (11-15)</u>	<u>Slash Load is between six (6) ton per acre and twelve (12) ton per acre.</u>
<u>EXTREME (16-20)</u>	<u>Slash Load is greater than twelve (12) ton per acre.</u>

Slash Loads can be determined by using any standard photo series appropriate for the habitat type represented by the Slashing Area or by using USDA Forest Service General Technical Report INT-16, 1974 (HANDBOOK FOR INVENTORYING DOWNED WOODY MATERIAL). If the Contractor insists upon the latter, sampling intensity will be one (1) sample per two (2) acres through the Slashing Areas in question. The inventory cost is paid by the Contractor. All Slash resulting from the current harvest is included in the inventory except Slash piled and burned by the Contractor before the expiration date of the Agreement or granted extension. ()

b. Contractor Hazard Reduction Methods.

Hazard Point deductions can be assigned proportionate to the acreage completed using the table below. Fire Lines are a minimum width of eighteen (18) inches for hand constructed and ten (10) feet for machine constructed. Machine constructed lines should not exceed twelve (12) feet width. Clear all Fuels for a minimum of eight (8) feet adjacent to handlines. Displace soil to one side and all vegetative debris to the other for machine lines. Place Fuel Breaks and Fire Lines to take advantage of terrain (ridgelines, swales, etc.), manmade or natural barriers (roads, skid trails, escarpments, etc.), and provide optimum fire control effect. Tie lines to an anchor point except through a riparian management zone. ()

<u>Method</u>	<u>DESCRIPTION</u>	<u>HAZARD POINT RANGE</u>
<u>Disposal</u>	<u>Remove, pile and burn, or broadcast burn Slash.</u>	<u>0 to 42</u>
<u>Chipping</u>	<u>Chip Slash with a stationary or mobile chipper.</u>	<u>0 to 42</u>
<u>Crushing or Mastication</u>	<u>Crush Slash with repeated passes of heavy equipment or a mobile masticator. Residual Fuel must not exceed the height and diameter limits for lopping.</u>	<u>0 to 20</u>
<u>Lopping</u>	<u>Cut all material less than three (3) inches in diameter so it does not extend more than twenty (20) inches of the mean height above the ground. Sever all boles greater than three (3) inches in diameter that intersect another bole.</u>	<u>0 to 10</u>
<u>Single Fuel Break</u>	<u>Remove, pile and burn or treat sufficiently all Slash and woody debris for a minimum width of one chain (66 feet).</u>	<u>1 to 5</u>
<u>Single Fire Line</u>	<u>Remove all vegetative material to expose mineral soil.</u>	<u>1</u>
<u>Isolation</u>	<u>Install Fuel Breaks and Fire Lines to divide or isolate Slashing Areas. (See Sub-section 04.a.)</u>	<u>1 to 25</u>

03. Site Characteristics. The Fire Warden will audit the Forest Operation and assign Hazard Points for site characteristics that increase risk of forest damage or threats to life or property. ()

a. Slashing Area Size. Large Slashing Areas will be assigned up to five (5) Hazard Points using the table below. ()

<u>ACRES</u>	<u><40</u>	<u>40-160</u>	<u>161-320</u>	<u>321-480</u>	<u>481-640</u>	<u>>640</u>
<u>PT VALUE</u>	<u>0</u>	<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>

<u>TABLE II - HAZARD CHARACTERISTICS AND OFFSET SLASH LOAD MAXIMUM 20 POINTSRATING-TECHNICAL SPECIFICATIONS</u>	
<u>RATING (POINTS)</u>	<u>ADJECTIVE DESCRIPTIONSLASH LOAD</u>

LOW (0-5)	Slash Load does not exceed three (3) ton per acre. Associated with low harvest volumes per acre such as selection cutting, light commercial thinning, sanitation/salvage operations, tree length skidding with tops and limbs and little or no breakage. Slash is broken up; slash is in many islands over the operating area.
MODERATE (6-10)	Slash Load is greater than three (3) ton per acre but less than six (6) ton per acre. Rating can be lowered by Fire Warden determination. Operation types similar to those listed above except that harvest volume per acre is higher or utilization standards are lower, or timber has higher proportion of unusable top and crown (commonly associated with partial cutting in second growth stands of mixed timber). Most diameter limit cutting falls in this category. Slash is distributed with some clear or very light areas intermingled with heavy islands of slash over the operating area, slash is not continuous.
HIGH (11-15)	Slash Load is greater than six (6) ton per acre but less than twelve (12) ton per acre. Rating can be lowered by Fire Warden determination. Usually associated with regeneration harvest methods such as shelterwood, seed tree and most clearcuts, or any partial cut with a high harvest volume per acre. Slash is nearly continuous through the operating area frequently with heavier islands intermingled with light continuous slash.
EXTREME (16-20)	Slash Load is greater than twelve (12) ton per acre. Rating can be lowered by Fire Warden determination. Any operation with very high cut volume, and/or low utilization standards, and/or many slashed or broken stems. Slash is continuous over the operating area with few light areas.
TECHNICAL SPECIFICATIONS	
LOW (0-5)	Slash load less than or equal to 3 inch diameter materials not to exceed 3.0 tons/acre.
MODERATE (6-10)	Slash load less than or equal to 3 inch diameter materials greater than 3.0 tons/acre but less than 6.0 tons/acre.
HIGH (11-15)	Slash load less than or equal to 3 inch diameter materials greater than 6.0 tons/acre but less than 12.0 tons/acre.
EXTREME (16-20)	Slash load less than or equal to 3 inch diameter materials exceeds 12.0 tons/acre.

b. Slashing Area Aspect and Slope. The Fire Warden will determine the predominant aspect and slope of each Slashing Area and assign up to ten (10) Hazard Points using the table below. ()

<u>ASPECT</u>	<u>PERCENT SLOPE</u>					
	<u>0-10</u>	<u>11-20</u>	<u>21-30</u>	<u>31-40</u>	<u>41-50</u>	<u>>50</u>
<u>N to NE</u>	<u>0</u>	<u>0</u>	<u>1</u>	<u>2</u>	<u>4</u>	<u>5</u>
<u>E or NW</u>	<u>0</u>	<u>0</u>	<u>1</u>	<u>3</u>	<u>6</u>	<u>7</u>
<u>W or SE</u>	<u>0</u>	<u>1</u>	<u>2</u>	<u>5</u>	<u>8</u>	<u>9</u>
<u>S to SW</u>	<u>1</u>	<u>2</u>	<u>4</u>	<u>7</u>	<u>9</u>	<u>10</u>

c. Pre-existing Slash. Any Slashing Area that has Slash from a previous operation, which has occurred within in the last five (5) years, will be assigned up to two (2) Hazard Points. ()

d. Location. A Slashing Area's proximity to structures, highways, and recreational areas will be assigned up to five (5) Hazard Points using the table below. ()

<u>PROXIMITY</u>	
<u>330 feet</u>	<u>5</u>
<u>660 feet</u>	<u>4</u>
<u>990 feet</u>	<u>3</u>
<u>1320 feet</u>	<u>2</u>
<u>2640 feet</u>	<u>1</u>

04. Other Protective Measures. The Fire Warden can consider other protective measures associated with a Forest Operation by reducing Hazard Points for division or isolation of Slashing Areas, access control, and availability of water for firefighting as follows: ()

a. Isolation. The Fire Warden can reduce Hazard Points using the table below if Fuel Breaks or Fire Lines are used to subdivide Slashing Areas into smaller areas and/or isolate Slashing Areas from other forest stands; the maximum deduction is twenty-five (25) Hazard Points. ()

<u>ACTIVITY</u>	<u>FUEL BREAK ONLY</u>	<u>FIRE LINE ONLY</u>	<u>BOTH</u>
<u>Slashing Areas are subdivided:</u>			
<u>A. Partial division of Slashing Area</u>	<u>1-5</u>	<u>1</u>	<u>1-6</u>
<u>B. Slashing Area divided into 2 areas</u>	<u>6-10</u>	<u>2</u>	<u>6-12</u>
<u>C. Slashing Area divided into 3 to 5 areas</u>	<u>11-15</u>	<u>3</u>	<u>11-18</u>
<u>D. Slashing Area divided into 6 or more areas</u>	<u>16-20</u>	<u>4</u>	<u>16-25</u>
<u>OR</u>			
<u>Slashing Areas are isolated from adjacent stands:</u>			
<u>A. One third of Slashing Area boundaries isolated</u>	<u>1-5</u>	<u>1</u>	<u>1-6</u>
<u>B. Two thirds of Slashing Area boundaries isolated</u>	<u>6-10</u>	<u>2</u>	<u>6-12</u>
<u>C. All Slashing Area boundaries isolated</u>	<u>11-15</u>	<u>3</u>	<u>11-18</u>

b. Access Control. The Fire Warden can deduct from the Hazard Point sum for each Slashing Area One (1) Hazard Point if a locked gate system controls road access on all secondary roads to the Operating Area and the Slash on the main road is disposed of or treated. Two (2) Hazard Points can be deducted if -the system controls all roads into the Operating Area. ()

c. Water Supply. The Fire Warden can deduct Hazard Points from the Hazard Point sum for each Slashing Area for water availability. The supply must provide at least ten thousand (10,000) gallons in any one (1) Operational Period during the fire season. Water supplies accessible to fire engines within one (1) road mile or to helicopter buckets within three (3) air miles are eligible. ()

i. One (1) Hazard Point can be deducted for availability to engines only or to helicopters only. ()

ii. Two (2) Hazard Points can be deducted for availability to engines and helicopters. ()

iii. Two (2) Hazard Points can be deducted for availability to engines or helicopters and the supply self-replenishes every Operational Period. ()

iv. Three (3) Hazard Points can be deducted for availability to engines and helicopters and the supply self-replenishes every Operational Period. ()

Slash loads can be determined by using any standard photo series appropriate for the habitat type represented by the contract area, or by using USDA Forest Service General Technical Report INT 16, 1974 (HANDBOOK FOR INVENTORYING DOWNED WOODY MATERIAL). If the contractor insists upon the latter, sampling intensity will be one (1) point per two (2) acres through the area in question. The inventory cost is paid by the contractor. All slash made available as a result of the current harvest will be included in the inventory except that slash that has been piled and will be burned by the contractor before the expiration date on the Agreement or such extensions granted by the fire warden.

SITE FACTORS—MAXIMUM 10 POINTS						
ASPECT	PERCENT SLOPE					
	0-10	11-20	21-30	31-40	41-50	>50
N-NE	0	0	1	2	4	5
E,NW	0	0	1	3	6	7
W,SE	0	1	2	5	8	9
S-SW	1	2	4	7	9	10

UNIT SIZE — MAXIMUM 5 POINTS						
ACRES	<40	40-160	161-320	321-480	481-640	>640
PT VALUE	0	1	2	3	4	5

OTHER FACTORS—MAXIMUM 7 POINTS	
Pre-existing slash from operations in the past five years	0-2
Proximity to structures, highways and recreational areas (e.g., parks, established campgrounds, etc.).	Add Points

330 feet	5
660 feet	4
990 feet	3
1320 feet	2
2640 feet	1

In applying offset points to large, complex contract areas, or contract areas with highly variable hazard characteristics, hazard offset techniques must first be applied toward that portion of the contract area which will do the most to reduce the hazard by optimizing fire control effects.

HAZARD OFFSETS <u>REDUCTION (ALL POINTS ARE DEDUCTIONS)</u>		
ALL POINTS ARE DEDUCTIONS		
DISPOSAL	Piling and Burning, Broadcast-Burning, etc.	0-42
If disposal reduces slash load in the contract area to <3 tons, deduct hazard points to five (5) or less. If disposal does not reduce slash load to that level, points should be <u>assigned as a proportion of the proportionate to area treated</u> . For example, if twenty-five percent (25%) of the area is dozer piled and the piles burned, but the slash load in the contract area still exceeds three (3) tons, twenty-five percent (25%) of the total points charged against the job should be deducted. However, if the disposal effectively isolates the untreated portion of the slash or is otherwise placed to optimize fire control effects the proportion of points deducted may be increased to an amount to be determined by the district fire warden.		
MODIFICATION:	Chipping	0-42
	Crushing	0-20
	Lopping	0-10
Lopping standards: All material less than three (3) inches in diameter will be cut so that it does not extend more than twenty (20) inches of the mean height above the ground. In addition, all boles greater than three (3) inches in diameter intersecting another bole will be completely severed. <u>Points are assigned proportionate to area treated.</u>		
Assign points as a proportion of the contract area treated.		
ISOLATION	Fuel Breaks	0-20
To qualify as a fuel break, all slash and available fuels (Ref. Subsection 010.10) must be removed, or piled and burned, or treated sufficiently to prevent a fire from carrying through the area, for a minimum width of one chain (66 feet). In addition, the <u>Pbreaks must be placed to take advantage of terrain, manmade or natural barriers and to provide for optimum fire control effect.</u>		
	Fire Lines	0-5

~~All vegetative material must be removed to expose mineral soil. Minimum width of dozer All excavated lines must be the width of the dozer blade with have all dirt soil pushed in one direction displaced to one side and all vegetative debris to the other. Handlines must be eighteen (18) inches wide; additionally, all fuels must be cleared for eight (8) feet. Lines must be tied to an anchor point except that they are not required to be built through a riparian management zone. In addition, the lines must be placed to take advantage of terrain, manmade or natural barriers, and to provide for optimum fire control effect. Maximum points allowed only if combined with an approved fuel break.~~

ASSIGNING POINTS FOR ISOLATION

~~Isolation techniques will usually be used to break the area into subunits or isolate the area from adjacent stands. Hazard offsets can be deducted for both if, in the opinion of the fire warden, both objectives are met, and the total isolation points do not exceed 25 offset points.~~

ACTIVITY	FUEL BREAK ONLY	FIRE LINE ONLY	BOTH
Isolates contract area into subunits:			
_____ A. _____ Partial isolation or incomplete units	1-5	1	1-6
_____ B. _____ Complete isolation of area into 1 to 2 subunits	6-10	2	6-12
_____ C. _____ Complete isolation of area into 3 to 5 subunits	11-15	3	11-18
_____ D. _____ Complete isolation of area into 6 or more subunits	16-20	4	16-25
OR			
Isolates contract area from adjacent stands:			
_____ A. _____ One third of the contract area boundary isolated	1-5	1	1-6
_____ B. _____ Two thirds of the contract area boundary isolated	6-10	2	6-12
_____ C. _____ Entire contract area boundary isolated	11-15	3	11-18
ACCESS CONTROL	0-2		
Locked gate system controls access on all secondary roads with slash treated on main road			1
Locked gate system controls all road access into unit			2
AVAILABILITY OF WATER			0-3
The water supply must provide water availability for engines within one road mile of operating area or within three air miles for helicopter bucket use. The water supply must be sufficient to supply 10,000 gallons in an operational period during the fire season.			
Water supply for engine only or helicopter only (capacity 10,000 gallons during fire season).			1
Water supply for engine and helicopter (capacity 10,000 gallons) or; for engine or helicopter and which replenishes itself every operational period.			2

~~Water supply for engine and helicopter which replenishes itself every operational period.~~

3

(3-18-22)

121. -- 129. (RESERVED)

130. LIABILITY FOR THE COST OF FIRE SUPPRESSION.

01. State Liability. ~~With the exception of~~ Except for cases of negligence on the part of the landowner, ~~e~~Operator, or their agents, liability for the cost of suppressing fires that originate ~~on-in~~ or pass through a ~~s~~Slashing ~~a~~Area remains with the State if the Contractor executes one of the following alternatives ~~is executed by the contractor:~~ (3-18-22)()

a. The ~~contract~~ Slashing aAreas ~~is-are~~ covered by a Certificate of Compliance-Fire Hazard Management Agreement and all hazard reduction money payments are current or a proper bond is in place. (3-18-22)()

b. The ~~e~~ Contractor treats the ~~s~~Slash in accordance with the standards outlined in ~~the~~Section 120; ~~Table H~~ within the ~~time period~~ period specified ~~on-in~~ the Agreement or approved extensions. (3-18-22)()

c. The landowner or ~~e~~Operator elects to enter into a ~~contract~~ Contract with the State for management of the ~~s~~Slash and release from liability ~~of for~~ fire suppression costs as described in Section 060. ~~in accordance with Section 38-404, Idaho Code.~~ (3-18-22)()

02. Contractor Liability. Should the ~~e~~Contractor choose ~~not to~~ not treat the ~~s~~Slash or not enter into a ~~contract~~ Contract with the State in accordance with ~~Subsection 130.01~~ Section 060, the ~~contractor, in addition to forfeiting any applicable bond,~~ Contractor is liable for fire suppression costs for all fires that originate ~~on-in~~ or pass through the ~~e~~Contractor's ~~s~~Slashing ~~a~~Areas and must forfeit any applicable bond. The ~~e~~Contractor retains the full liability for five (5) years from the time the Agreement or any extension ~~thereof~~ expires, unless a ~~e~~Clearance has been issued. (3-18-22)()

03. Failure to Treat. Any ~~e~~Contractor who ~~fails to treat the fire hazard as outlined in~~ is liable under Subsection 130.02, is liable for the actual costs of suppressing any wildfire that ~~may occur~~ originates on-in or passes through ~~the the~~ Slashing aAreas covered by their ~~individual or separate~~ Agreements for an amount up to two hundred fifty thousand dollars (\$250,000) per Agreement, but no more than one million dollars (\$1,000,000); for separate Agreements with different liable Contractors, the actual costs of suppression up to one million dollars (\$1,000,000) will be shared by the Contractors prorated on the Contract Area acreage of those Agreements. ~~If the same wildfire occurs on or passes through several areas covered by separate agreements or if several Agreements cover the same area, the contractor is liable for the actual cost of suppression up to one million dollars (\$1,000,000). If a wildfire occurs on or passes through an area covered by separate Agreements with different contractors, the actual cost of suppression up to one million dollars (\$1,000,000) will be shared by the contractors prorated on acreage included in their Agreements.~~ (3-18-22)()

04. Fees. Upon payment of the fees ~~set forth~~ listed in Table III, the State will assume liability for the cost of suppressing fires that originate ~~on-in~~ or pass through the ~~C~~contract AArea.

TABLE III - ADDITIONAL FEE TO TRANSFER LIABILITY BY HAZARD POINTS	
POINTS	RATE
6-10	\$1.00/MBF

11-20	\$2.00/MBF
21-30	\$3.00/MBF
>30	\$4.00/MBF

~~Additional fee~~ rates for measurement units other than the board foot measurement unit are available upon request from any Department of ~~Lands~~ office. (3-18-22)()

05. Additional Fee. If the ~~e~~Contractor is unable to reduce the ~~h~~Hazard ~~p~~Points on a ~~C~~contract ~~A~~area to the standards required for a ~~e~~Clearance, but has completed some ~~h~~Hazard ~~r~~Reduction work, ~~that the e~~Contractor can discharge the remainder of ~~his-the~~ hazard obligation by returning a portion of ~~his-the~~ bond to the ~~Fire district~~ District and paying an additional fee to transfer liability. Use the following formula: [One (1) minus (the ~~acceptable low hazard point rating or of five (5)~~ divided by the residual, or untreated ~~hazard-Hazard pointsPoints~~) times the ~~bond rate~~] multiply that ratio times the slash rate. This dollar amount ~~should is~~be multiplied by the total volume removed from the ~~C~~contract ~~A~~area: ~~and A~~added to ~~that the total volume times~~ the additional fee to transfer liability (from Table III (for the untreated hazard) ~~points, from Table III~~) times the total volume. When this amount is paid to the State the ~~Agreement contract area~~ can be cleared. ~~Which can also be~~This computation is expressed as:

$(1-(5/U)) * B * V + (A*V)$ = Formula to transfer liability for a partially completed job.

Where:

U = Untreated or residual hazard points

B = Bond rate (usually \$4.00 MBF) Ref. Section 050, Table I

A = Additional fee to transfer liability, Table III

V = Total volume removed from the ~~e~~Contract ~~a~~Areas

(3-18-22)()

131. -- 139. (RESERVED)

140. CERTIFICATE OF CLEARANCE.

~~Anyone who has entered into an Agreement must apply in writing to the Director for a Clearance. The Certificate of Clearance is the instrument used to certify~~ies that one (1) of the following situations exists: ()

01. ~~that h~~Hazard ~~r~~Reduction ~~has been was~~ accomplished ~~in accordance with~~to the standards in Section 120.; ()

02. An additional fee was paid per Subsection 130.05; or ()

03. The Contractor entered into a ~~e~~Contract with the Director per Section 060 to ensure hazard management. ()

~~For Subsections 140.01 and 140.02, a contract entered into with the Director to ensure hazard management, or an additional fee has been paid. Anyone who has been issued an Agreement for the cutting of any forest product or potential forest product and who has met standards outlined in Section 120, or has made payment for hazard reduction under a contract with the Director, as provided in Section 38-404, Idaho Code, or has paid an additional fee in accordance with Section 38-122, Idaho Code, must apply in writing to the Director for a Certificate of Clearance. W~~within thirty (30) days ~~after of~~ receipt of ~~such written the~~ request ~~for a Certificate of Clearance, the~~ Director will ~~cause inspect~~ the ~~requested area and issue the Clearance if the applicable requirements were met covered by the request to be inspected. If it is found that the fire hazard has been properly disposed of, the Director will issue a Certificate of Clearance. The Certificate of Clearance must be substantially the same form as Department of Lands Form No. 760 "Certificate of Clearance."~~ (3-18-22)()

141. -- 149. (RESERVED)

150. FIRE SUPPRESSION AND FOREST PRACTICES ASSESSMENT.

01. ~~Withholding~~**Withheld Hazard Reduction Money.** An amount of three percent (3%) of the ~~slash management bond~~ rate (twelve cents (\$.12)/MBF) ~~will be~~**is withheld from** ~~assessed against~~ all ~~slash management monies~~**hazard reduction money** received and dedicated to suppression of wildfires on ~~f~~**Forest** ~~L~~**lands**. For harvest from private land, an additional amount not to exceed three percent (3%) of the ~~slash management bond~~ rate (twelve cents (\$.12)/MBF) ~~can be~~**is withheld from** ~~assessed against~~ ~~slash management monies~~**hazard reduction money** received and ~~will be~~**is** dedicated to Forest Practices support on ~~forest~~**Forest** ~~lands~~**lands**. (3-18-22)()

02. ~~Assessment Costs~~**Surety Bond or Credit.** ~~Fire suppression assessment~~**Assessment** costs on ~~Forest~~**Operations** covered by surety bond or irrevocable letter of credit or other form of bond is paid at the rate specified in Subsection 150.01. (3-18-22)()

151. -- 159. (RESERVED)

160. PRELOGGING CONFERENCE AND ~~_~~**AGREEMENT**~~HAZARD REDUCTION~~**MANAGEMENT CONTRACT.**

Pre-logging conferences ~~and hazard reduction agreements~~ are encouraged. ~~_, however, if~~**The** ~~hazard~~**Hazard** ~~reduction~~**Management** ~~agreements~~**Contract** will be canceled or modified if significant operational changes occur during the **Forest Operation** ~~harvesting of forest products or potential forest products~~. (3-18-22)()

161. -- 999. (RESERVED)

IDAPA 20 – IDAHO DEPARTMENT OF LANDS
20.04.02 - RULES PERTAINING TO THE IDAHO FORESTRY ACT AND FIRE HAZARD
REDUCTION LAWS

DOCKET NO. 20-0402-2301
NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and the Idaho State Board of Land Commissioners and is now pending review by the 2025 Idaho State Legislature and must be approved by concurrent resolution of the Legislature to go into effect, in accordance with Section 67-5224(2)(c), Idaho Code. The pending rule will become final and effective July 1, 2025 after approval.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 58-104(6) and 58-105, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule:

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in the July 3, 2024 [Idaho Administrative Bulletin, Vol. 24-7, pages 172-186](#).

110. REQUIREMENTS FOR PRESCRIBED FIRE IN FOREST LAND ~~Burning Of Slash.~~

01. Burning. Burning for Forest Operations must be planned, prepared, and executed in a way that protects forest resources and maintains air quality (Title 38, Chapter 13 Idaho Code and IDAPA 20.02.01), controls smoke, and complies with air quality requirements (IDAPA 58.01.01).

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Brooke Heasty at bheasty@idl.idaho.gov.

DATED this 15th day of October, 2024.

Joshua J. Harvey
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