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**IDAPA 20
TITLE 02
CHAPTER 06**

20.02.06 - ADMINISTRATION OF IDAHO'S REFORESTATION LAW

000. -- 009. (RESERVED).

010. DEFINITIONS.

For purposes of these rules, unless otherwise indicated herein by express term or by context, the term means:

(2-12-85)

01. Board. The Idaho State Board of Land Commissioners or its authorized representative(s).

(2-12-85)

02. D.B.H. Diameter breast high - a measurement taken four and one-half (4.5) feet above the ground line outside the bark on the uphill side of a standing tree, or at the same point on a downed or felled tree.

(2-12-85)

03. Department. The Idaho Department of Lands.

(2-12-85)

04. Director. The director of the Idaho Department of Lands or his authorized representative(s).

(2-12-85)

05. Forest Products or Forest Materials. Any logs, poles, posts, cordwood, pulpwood or other timber products.

(2-12-85)

06. Legal Description. The method of describing tracts of lands as used by the U.S. General Land Office Survey with subdivisions to a minimum of two and one-half (2.5) acres or government lots, including a description of the section, township, range and meridian.

(2-12-85)

07. Petition. A standardized form provided by the department of lands upon which requests for designation will be submitted.

(2-12-85)

08. Tree Size Classes:

(7-1-93)

a. Seedling. A young established tree one (1) foot or more in height and up to nine-tenths (0.9) inches DBH in size, suitable and reasonably expected to grow into the sapling size class.

(2-12-85)

b. Sapling. A tree one (1) to four and nine-tenths (4.9) inches DBH suitable and reasonably expected to grow into the pole size class.

(2-12-85)

c. Poles. A tree five (5) to ten and one-half (10.5) inches DBH, suitable and reasonably expected to grow into merchantable timber.

(2-12-85)

d. Merchantable Timber. Trees ten and six-tenths (10.6) inches DBH or larger that are saleable.

(2-12-85)

09. Domestic Purposes. Forest products that are used by the reforestation landowner on his own property. Forest products used under this provision shall not be sold, traded or bartered in any manner.

(2-12-85)

011. -- 014. (RESERVED).

015. INTRODUCTION.

Reforestation Act of 1929. The Reforestation Act of 1929 was enacted to encourage and promote reforestation of denuded forest lands and to protect the growth of new forests. The Act provides for a special designation of privately-owned forest land to minimize taxes until time of harvest. Uses not detrimental to reforestation are allowed, and the State Board of Land Commissioners is empowered to make rules and regulations for administration of the Act. Intent to Encourage Reforestation. It is the intent of the State Board of Land Commissioners to encourage the reforestation

of all cut-over and burned-over forest lands and to protect growing timber, thereby perpetuating the State's forest resources. To execute the State Board of Land Commissioner's purpose, policy and responsibilities as provided in Title 38, Chapter 2, Idaho Code, these rules are hereby promulgated. (2-12-85)

016. -- 019. (RESERVED).

020. APPLICATION FOR ENROLLMENT.

01. Completion of Petition Form. The landowner, whether individual, copartnership, corporation or association shall file in any office of the department on a department petition form a verified petition requesting designation of the described lands as reforestation lands. The conditions contained in the petition are the following: (2-12-85)

- a.** The petitioner must be the owner of the subject lands. (2-12-85)
- b.** A legal description must be included that describes the lands in legal subdivisions and states the forest protective district(s) in which the lands are located. (2-12-85)
- c.** By reason of their location, topography and geological formation, the lands must be valuable for the purpose of growing forests and the petitioner must desire to hold the lands for reforestation purposes. (2-12-85)
- d.** All persons holding encumbrances against the lands, if any, must join in the petition. (2-12-85)
- e.** There must be no delinquent taxes against the lands or, if any, they shall be paid in full within thirty (30) days after the petition is granted. (2-12-85)
- f.** Compliance with such reasonable rules and regulations as may be prescribed from time to time by the board for the care, protection and development of commercial forests. (2-12-85)
- g.** Compliance with all applicable laws and the rules and regulations of the board when cutting and removing timber from the lands or in the use of the lands. (2-12-85)
- h.** Payment, each year, of the petitioner's proper share of the cost of protecting the lands from fire hazard and compliance with all applicable laws. (2-12-85)
- i.** The public shall have the right to camp, hunt, and fish on the lands, subject only to the same laws, rules and regulations that govern like activities on timber lands not designated as "reforestation lands." (2-12-85)
- j.** Payment of the costs of publishing notices, recording, and other necessary expenses. (2-12-85)
- k.** No legal subdivisions shall be included for the purpose of avoiding or delaying the payment of taxes that would become due and payable on the lands or any part thereof if not designated as "reforestation lands." (2-15-85)
- l.** A statement of the value, if any, that the lands, or any legal subdivision thereof have for grazing or other purposes and that such grazing or other purposes are and will not be detrimental to reforestation. (2-15-85)
- m.** A statement of whether or not the owner intends to use the lands for grazing or other purposes. (2-15-85)

021. -- 029. (RESERVED).

030. DETERMINATION OF ELIGIBILITY.

01. Public Hearing. Upon the filing of the petition the board shall set a time and place for a public hearing that shall be within six (6) months from the date of filing. (2-15-85)

a. Notice of the hearing shall be given to the owner and the board of county commissioners of each county in which the lands are located by mailing a copy of the notice to the owner and to the county auditor and ex officio clerks of the county commissioners at least thirty (30) days before the date of hearing. (2-15-85)

b. The notice shall be published in two (2) consecutive issues of a newspaper of general circulation published in each county in which the lands are located, the first publication to be at least thirty (30) days before the date of hearing. If no newspaper is published in any county in which the lands are located, notice shall be published in a newspaper having general circulation within the county or counties. (2-15-85)

c. The notice shall specify the time and place of the hearing, a legal description of the lands by legal subdivisions as described in the petition, and the forest protective district(s) in which the lands are located. (2-15-85)

02. Field Examination. The director shall make a field examination of the proposed lands prior to the hearing date. A report shall be prepared describing the lands and suitability for forest production. The report shall include the following items: (2-15-85)

a. A general type map and/or aerial plat delineating, the net acreage of forest land. (2-15-85)

b. A description of the general size and condition of the forest stands including the volume of merchantable timber. (2-15-85)

c. A statement of the lands' suitability for grazing. If there is evidence that grazing by livestock is currently occurring, an approved woodland grazing management plan must be furnished by the owner which states that grazing will not conflict with reforestation. (2-15-85)

d. A recommendation of approval or denial of the petition for designation as "reforestation lands." (2-15-85)

03. Review Process. After the hearing on the petition and the filing of the record and transcript, the board shall consider the petition at their next regular meeting. If the board finds from the verified petition and evidence presented that the lands are qualified and suitable for growing timber, it shall make and enter an order granting the request of the petitioner. (2-15-85)

04. Record of Designation. The director shall record all designated reforestation lands in his office and shall furnish this information to the county auditor which shall serve as notice to the county assessor of the designation of these lands as reforestation lands and the method of taxation. (2-15-85)

031. -- 039. (RESERVED).

040. ASSESSED VALUATION.

01. Reforestation Value. (2-15-85)

a. All lands designated as "reforestation lands" shall be assessed for the purpose of taxation at one dollar (\$) per acre which is declared to be the value thereof. If at anytime it should be determined that any of the "reforestation lands" shall have a reforestation value for taxation purposes in excess of one dollar (\$) per acre, then it is necessary and just that such excess value be and the same is hereby exempted from taxation. (2-15-85)

b. Nothing contained in this rule or in Section 38-211, Idaho Code, shall prevent the assessment and taxation under general tax laws of all buildings or improvements on the lands, or assessment for uses other than reforestation. (2-15-85)

02. Other Values. (2-15-85)

a. The board shall determine if the "reforestation lands" or any legal subdivision thereof have a value for grazing or other purposes, not detrimental to reforestation, which is in addition to the value of the land for reforestation purposes. If the board determines that there is an additional value, such additional value shall be

assessed for taxation for the state, county, city, school district and other purposes, exclusively by the State Tax Commission. (2-15-85)

b. The director shall send a certified copy of the board's findings and orders to the State Tax Commission by the fourth Monday of April of each year covering the preceding year. The State Tax Commission shall prepare and transmit certified statements of the assessments made to the county auditor at the same time and in the same manner he uses for statements of other property assessed by the State Tax Commission. (2-15-85)

041. -- 049. (RESERVED).

050. HARVESTING OF FOREST PRODUCTS.

01. Exemption. Only those forest products used for domestic purposes by the owner shall be exempt for taxation purposes. (2-15-85)

02. Notice and Bond. (2-15-85)

a. No person shall cut any forest products from "reforestation lands," except for domestic purposes by the owner, until thirty (30) days after the owner has filed with the board a notice, on the department's form, of his intention to cut timber giving the legal description of the lands and the estimated amount of volume to be harvested. In addition, the owner shall provide a bond in the amount of twelve and one-half percent (12 1/2%) of the estimated stumpage value to be harvested. The stumpage value by species shall be based upon the previous years certified values. (2-15-85)

b. The owner shall give a bond executed by a surety company authorized to do business in the state. The county in which the timber is being harvested shall be named as beneficiary of the bond, and the bond shall be conditioned on the yield tax being promptly paid when due. The bond shall be released by the county when the yield tax has been paid. (2-15-85)

03. Report of Cut. Whenever the whole, or any part, of the forest crop from land designated as "reforestation land" shall have been cut, the owner of such lands shall, on or before the second Monday of January of the year following said cutting, report to the board and the assessor of the county in which such lands are located the total amount and amount by species and product of such timber or other forest crop cut during the preceding calendar year, in units of measure in conformity with the usage for which the cutting was made, together with a description by governmental legal subdivisions of the lands upon which the same were cut. (2-15-85)

a. The county assessor of the county in which the reforestation lands are located may object to the report of the amount of forest products or forest materials harvested by filing such objection in writing with the board within sixty (60) days of receipt of the report. The board shall have the report checked by an actual cruise of the stumpage cut. The determination of the board as to the amount cut shall be final. The owner and the county shall each pay one-half (1/2) the expense of the cruise. (2-15-85)

b. The county may file a written request with the board to have all logs scaled before sawing. The board shall appoint a scaler, and a report of his findings shall be furnished to the county. The total expense of the scaling shall be the responsibility of the county. (2-15-85)

c. If the owner, or any person cutting timber by permission of the owner intentionally makes a false or incorrect report of the amount of forest products cut, or the amount of species thereof to avoid paying the yield tax, the owner or person shall be liable to the county for triple the amount of the yield tax payable on such forest products omitted from the report. (2-15-85)

04. Determination of Yield Tax. A yield tax equal to twelve and one-half percent (12 1/2%) of the value of the forest products cut shall be determined by the director based on the full current stumpage rates for the products species and volume cut. (2-15-85)

a. The board shall certify the amount of yield tax due within ninety (90) days after receipt of the report of cut, or if the report is objected to by the county assessor under Rule Subsection 050.03.a., within sixty (60)

days after completion of the cruise of the stumpage cut. (2-15-85)

b. The full current stumpage rates shall be current stumpage values in the same or similar marketing areas as the timber that was cut. These stumpage values shall be the average for the full reporting year. When adequate current values are lacking, the director may use time adjusted values. (2-15-85)

c. The director shall use the following appraisal methods for determining the stumpage values: (2-15-85)

i. Comparable timber sales: state; federal; private. (2-15-85)

ii. Residual Value Appraisal: U.S. Forest Service Regional Timber Appraisal Handbook; Department of Lands Timber Management Procedures Manual; delivered log appraisal. (2-15-85)

d. The director may use adjustments in the comparable timber sale appraisal method to reflect the relationship between the comparable sales values and the reforestation timber being appraised. (2-15-85)

e. Stumpage values that are negative shall be disregarded in the calculations of the yield tax. (2-15-85)

f. The director may allow road development costs to be deducted from the gross stumpage value when such roads are necessary to remove the timber. (2-15-85)

g. The standards for roads shall be the following: (2-15-85)

i. Main Haul Roads; sixteen (16) foot wide with turnouts; outsloped for drainage with metal culverts where necessary; the cut slope shaped to three-fourths to one (3/4:1); slash windrowed at the toe of fill slope. (2-15-85)

ii. Spur and Secondary Roads: twelve (12) foot wide with turnouts; outsloped for drainage; the cut slope shaped to three-fourths to one (3/4:1); slash windrowed at the toe of fill slope. (2-15-85)

h. Road construction costs shall be estimated by the appraiser using average costs for the area being appraised. Average cost figures, such as those provided by the U.S. Forest Service, may be used. (2-15-85)

i. Where road construction across lands not designated as reforestation lands are necessary to remove the reforestation timber, the cost of such roads shall be prorated based on the acres served by the road in each parcel. (2-15-85)

j. The director shall allow a reduction in the value of merchantable trees left as seed trees under Rule Subsection 090.02 below, to reflect the higher cost involved in removing the seed trees at a later date. (2-15-85)

051. -- 059. (RESERVED).

060. ALLOWABLE USES.

01. Grazing. Grazing of "reforestation lands" shall be permitted upon approval of the owner's woodland grazing management plan, provided grazing does not conflict with reforestation. (2-15-85)

02. Residential Subdivisions. Residential subdivisions shall be permitted, provided that such use does not conflict with reforestation. (2-15-85)

061. -- 069. (RESERVED).

070. CANCELLATION OF DESIGNATION.

01. Involuntary Cancellation. The board shall have the right to cancel the designation of any

“reforestation lands” if it determines that the landowner is not complying with the provisions of the reforestation act because of: (2-15-85)

- a. Agricultural production such as forage, hay, dryland or irrigated pasture and/or annual or perennial crop production. (2-15-85)
- b. Residential or commercial development which is detrimental to reforestation. (2-15-85)
- c. Any other use of the lands that may preclude the growth of forest trees for timber production. (2-15-85)
- d. “Reforestation lands” being exchanged to the state of Idaho or to the United States of America. (2-15-85)

02. Taxation. If the cancellation of designation of “reforestation lands” occurs prior to expiration of the fifty (50) year contract period, the tax to be paid shall be the difference between the taxes paid thereon while under the provisions of the Reforestation Law and the taxes paid during the same period of time on similar lands and timber in the same county, which was assessed and taxed under the general laws of the state of Idaho. (2-15-85)

03. Director's Report. The director shall conduct a field inspection and prepare a report that shall include: (2-15-85)

- a. A land description and the acreage of the tract involved. (2-15-85)
- b. A narrative discussion of the land and timber conditions, including the amount of merchantable timber. (2-15-85)
- c. A statement verifying and describing a use detrimental to reforestation. (2-15-85)
- d. A statement of the tax due. (2-15-85)
- e. A verification of designation as “reforestation lands” from the official record. (2-15-85)
- f. A recommendation to cancel or to retain the reforestation designation. (2-15-85)

04. Review Process. The director shall notify the affected landowner by mail of the director’s decision concerning cancellation and if the director recommends cancellation, the director shall provide the landowner with a form upon which the landowner may request or waive a hearing. If the landowner fails to request or waive a hearing within thirty (30) days after receipt of the above form, it shall be conclusively presumed that a hearing has been waived. (2-15-85)

a. If a hearing has been waived under Rule Subsection 070.04 above, or if the director’s recommendation is for retention of the designation as reforestation lands, the board will act upon the director’s report and recommendation without a hearing. (2-15-85)

b. If a hearing is requested, the director shall, within thirty (30) days following receipt of the request for a hearing, set a date for a board hearing; the hearing date to be within sixty (60) days following receipt of the request. The board may appoint a hearing officer to make findings of fact, conclusions of law and a recommended order to the board who shall make a final order. The board shall notify the landowner, the county and the State Tax Commission of its decision and the amount of tax due, if any. (2-15-85)

05. Appeal Process. Pursuant to Idaho Code, Section 38-218, the landowner or any taxing district affected thereby may, within ninety (90) days after an order is made and entered by the board, appeal the decision to the district court of the county in which the lands, or any part thereof, are situated. (2-15-85)

06. Voluntary Cancellation. The board may, upon request of the affected landowner, cancel the designation of any “reforestation lands” which, by reason of changed conditions, have become more valuable for

purposes other than reforestation, subject to the limitations of Rule Subsection 070.07. The taxes owed upon cancellation shall be computed as in Rule Subsection 070.02. (2-15-85)

07. Limitation on Cancellation. The board shall not cancel the reforestation designation under Rules Subsections 070.01 or 070.06 if the result would be the payment of a tax that is less than the yield tax that would be due and payable if the reforestation designation was not cancelled. (2-15-85)

071. -- 079. (RESERVED).

080. RENEWAL OF DESIGNATION.

At the expiration of fifty (50) years the contract may be renewed by mutual consent of the then landowner and the board, provided the conditions of Rule Section 020 above can still be met. Renewal shall be done by a letter of agreement and addendum to the original contract. (2-15-85)

081. -- 089. (RESERVED).

090. EXPIRATION OF DESIGNATION.

01. Taxable Volume. (2-15-85)

a. If the landowner does not renew the contract at the time of expiration, all standing merchantable timber on the "reforestation lands" shall be subject to the twelve and one-half percent (12 1/2%) yield tax. (2-15-85)

b. The volume of standing merchantable timber shall be estimated by a timber cruiser jointly agreed upon by the board and the landowner. If they fail to agree, a committee of three (3) cruisers shall be selected as follows: one (1) by the landowner, one (1) by the board, which two (2) cruisers shall agree upon a third cruiser. The estimates of this committee or a majority thereof shall be final. Expenses of cruising shall be borne equally by the owner and the state. (2-15-85)

02. Seed Trees. When it is determined in the timber cruise under Rule Subsection 090.01.a. above, that merchantable trees are necessary as a seed source to promote and enhance reproduction, the director shall allow ten (10) seed trees per acre. The volume per acre shall be determined by the average volume per tree but in no case shall exceed two thousand five hundred (2,500) board feet per acre. (2-15-85)

03. Taxable Value. After determination of the merchantable volume by the cruiser(s), the cruiser(s) shall prepare a report to the director of the products, species, volume, size and condition of the timber. The report shall indicate the merchantable volume in trees ten and six-tenths (10.6) inches DBH and larger and the seed tree volume. The director shall determine the value of this material based on procedures described in Rule Subsection 050.04 and calculate the twelve and one-half percent (12 1/2%) yield tax based on this value. The board shall certify to the respective county treasurers the amount of merchantable timber on said lands, the value thereof and the amount of yield tax thereon within ninety (90) days after the contract expiration date. (2-15-85)

091. -- 999. (RESERVED).

NOTICE OF CUTTING AND BOND AGREEMENT (Sample Form)

(Name of individual, association, copartnership or corporation)

1. That _____ is a(n) _____
(individual, association, copartnership or corporation)

hereby files notice of intention of harvesting merchantable timber from lands hereinafter described, approved and designated as "reforestation lands," and hereby respectfully represents:

whose principal place of business or post office address is _____,
County of _____, State of _____.

2. That said lands are situated within the County of _____, State of Idaho,
and are more particularly described as follows, to-wit:

3. The estimated volume of timber to be harvested is _____.

4. A surety bond in the amount of _____, which was determined by the
department to be twelve and one-half percent (12 1/2%) of the value of merchantable timber to be
harvested, shall be held by the County of _____ until the yield tax has been paid in full.

DATED, this _____ day of _____, 20__.

Petitioner and Owner

Sample Form

P E T I T I O N
TO DESIGNATE CERTAIN LANDS AS "REFORESTATION LANDS"
UNDER IDAHO CODE TITLE 38, CHAPTER 2
TO THE STATE BOARD OF LAND COMMISSIONERS, BOISE, IDAHO

(Name of individual, association, copartnership, or corporation)

hereby files _____ verified petition to have the lands
(his/its)

hereinafter described, approved and designated as "reforestation
lands," and hereby respectfully represents:

A. 1. That _____ is a(n) _____
(individual) (association, copartnership or corporation)

whose principal place of business or post office address is _____,
County of _____, State of _____.

2. That the said _____
is the owner of the lands hereafter described.

3. That said lands are situated within the County of _____, State of Idaho, within the
_____ Forest Protective District, and are more particularly described as follows, o-wit:

B. 1. That by reason of their location, topography and Geological formation, said owner believes said lands are

chiefly valuable for the purpose of growing forests and that said owner desires to hold the same for reforestation purposes.

C. 1. That the names and post office addresses of the parties holding encumbrances against said lands are as follows:

NAME	POST OFFICE ADDRESS
_____	_____
_____	_____
_____	_____

2. That said parties holding encumbrances against said lands have joined in the petition herein.

3. That there are _____ delinquent taxes against
(No. or dollar amount)

said lands, being for the year(s) _____.

4. That if there are delinquent taxes, said delinquent taxes will be paid in full within thirty (30) days after the petition herein has been granted.

D. 1. That the owner herein will comply with such reasonable Rules and regulations as may be prescribed from time to time by the State Board of Land Commissioners for the care, protection and development of commercial forests.

E. 1. That in cutting and removing timber from said lands or in the use of the lands, said owner will comply with all general laws of the state applicable thereto and the rules and regulations of the State Board of Land Commissioners.

F. 1. That said owner will pay, each year, his proper share of the cost of protecting said lands from fire hazard and will comply with all laws applicable thereto.

G. 1. That the public shall have the right to camp, hunt, and fish on said lands, subject only to the same laws, rules and regulations which govern like activities on timber lands not designated as "reforestation lands."

H. 1. That the owner herein desires said lands to come under the provisions of this Act and to be approved and designated as "reforestation lands," and will pay the costs of publishing notices, recording and other necessary expenses as determined by said board.

I. 1. That at the time of filing said verified petition said lands described therein, and no legal subdivisions thereof, have timber thereon of commercial value, and that no legal subdivisions of such property have been included in said petition for the purpose of avoiding or delaying the payment of taxes which would become due and payable on said lands or any part thereof, if not designated as "reforestation lands."

J. 1. That said owner herein states that said lands, or any legal subdivision thereof have _____
(if no value, insert No.)
value for grazing or other purposes (specify other purpose(s), if any), which grazing or other purposes are and will not be detrimental to reforestation.

2. That the owner herein does _____ desire to use said
(not)

lands for grazing purposes or other purposes (specify other purposes, if any.)

WHEREFORE, the owner herein asks that the petition herein be allowed and that the said lands and the whole thereof herein before described be approved and designated as reforestation lands.

Petitioner and Owner

VERIFICATION TO BE USED BY INDIVIDUAL

STATE OF IDAHO)

)

)

ss.

County of _____)

_____, being first duly sworn, upon oath, deposes and says that he is the petitioner herein and is the owner of the lands described in said petition; that he has read the above and foregoing petition, knows the contents thereof, and that the facts therein stated are true as he verily believes.

Subscribed and sworn to before me this _____ day
of _____, 20____.

Notary Public, for Idaho
Residing at _____, Idaho

VERIFICATION TO BE USED BY CORPORATION OR COPARTNERSHIP

STATE OF IDAHO

)

)

County of _____)

ss.

_____, being first duly

sworn, upon oath, that _____

(name of corporation or copartnership)

is the petitioner herein and the owner of the lands described in

said petition; that he is the _____

(president or secretary of corporation or copartnership)

of _____

(name of corporation or co-partnership)

and makes this verification and makes this verification

for and on behalf of said _____

(corporation or copartnership)

that he has read the above and foregoing petition, knows the contents thereof, and that the facts therein stated are true as he verily believes.

Subscribed and sworn to before me this _____ day

of _____, 20____.

Notary Public for Idaho,
Residing at _____, Idaho

Sample Form

REQUEST OR WAIVER OF HEARING

State Board of Land Commissioners
Room 121
State Capitol Building
Boise, Idaho 83720

Gentlemen:

I have reviewed the report of use and recommendation that the following described lands be withdrawn from the reforestation classification:

My signature hereon certifies that I WAIVE A HEARING before the State Board of Land Commissioners as provided in Idaho Code, Section 38-217, and agree to the redesignation.

Witness Owner(s)

Date

Date

My signature hereon certifies that I DESIRE A HEARING before the State Board of Land Commissioners as provided in Idaho Code, Section 38-217.

Witness Owner(s)

Date

Date

Return this copy to:

Department of Lands
P.O. Box 670
Coeur d'Alene, ID 83814
ATTN: Chief, Bureau of Private Forestry

Date

At the expiration of fifty (50) years the contract may be renewed by mutual consent of the then landowner and the board, provided the conditions of Rule 2 above can still be met. Renewal shall be done by a letter of agreement and addendum to the original contract.

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