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**IDAPA 20
TITLE 02
CHAPTER 14**

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

000. LEGAL AUTHORITY.

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

(5-8-09)

001. TITLE AND SCOPE.

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

(5-8-09)

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

(5-8-09)

002. WRITTEN INTERPRETATION.

The Idaho Department of Lands maintains written interpretations of its rules which may include, but may not be limited to, written procedures manuals and operations manuals, Attorney General formal and information opinions, and other written guidance, which pertain to the interpretation of the rules of this chapter. Copies of the procedures manuals and operations manuals, Attorney General opinions and other written interpretations, if applicable, are available for public inspection and copying at the Director’s Office of the Idaho Department of Lands, 300 North 6th Street, Suite 103, Boise, Idaho.

(5-8-09)

003. ADMINISTRATIVE APPEALS.

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

(5-8-09)

004. INCORPORATION BY REFERENCE.

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

(5-8-09)

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

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

(5-8-09)

01. Address. The office is located at 300 North 6th Street, Suite 103, Boise, Idaho.

(5-8-09)

02. Office Hours. Open from 8 a.m. to 5 p.m., Monday through Friday, except legal holidays.

(5-8-09)

03. Mailing Address. Idaho Department of Lands, P.O. Box 83720, Boise, Idaho 83720-0050.

(5-8-09)

04. Telephone and Fax. The telephone number is 208-334-0200 and the fax number is 208-334-2339.

(5-8-09)

006. PUBLIC RECORDS ACT COMPLIANCE.

This rule is subject to and in compliance with the provisions of Sections 9-337, et seq., Idaho Code. (“Public Records Act”). All records related to this chapter are public records except to the extent such records are, by law, exempt from disclosure.

(5-8-09)

007. -- 009. (RESERVED)

010. DEFINITIONS.

- 01. Board.** The Idaho State Board of Land Commissioners. (5-8-09)
- 02. Cable Yarding.** Transportation of forest products from stump to road by means of a suspended, powered cable system. (5-8-09)
- 03. Cedar.** Western Red Cedar (*Thuja plicata*). (5-8-09)
- 04. Cedar Pole.** A segment or portion of a western red cedar tree that can be manufactured into a utility pole meeting current ANSI Specifications. (5-8-09)
- 05. Contract.** Timber sale contract in a form prescribed by the Department. (5-8-09)
- 06. Department.** The Idaho Department of Lands. (5-8-09)
- 07. Development Credits.** A stumpage credit received by the purchaser for the construction or reconstruction of roads, bridges, or other permanent improvements. (5-8-09)
- 08. Director.** The director of the Idaho Department of Lands or his authorized representative. (5-8-09)
- 09. Extreme Circumstances.** Catastrophic circumstances including, but not limited to, fire, downed timber due to a wind event, flood, earthquake, destruction of a purchaser's milling facilities or equipment by fire, or milling operation shut down due to a court order related to compliance with state or federal environmental laws. (5-8-09)
- 10. Forest Products.** Marketable forest materials. (5-8-09)
- 11. Ground-Based Yarding.** Transportation of forest products from stump to road using tractors, forwarders, or rubber-tired skidders. (5-8-09)
- 12. Length.** The length of a pole in five (5) foot increments. (5-8-09)
- 13. Measurement.** Weight, length, board foot volume, cubic volume, or any other means or procedure for determining quantity of forest products. (5-8-09)
- 14. Net Appraised Value.** The minimum estimated sale value of the forest products after deducting the development credit. (5-8-09)
- 15. Net Sale Value.** The final sale bid value of the forest products after deducting the development credit. (5-8-09)
- 16. Pulp.** Any portion of a tree that does not meet the sawlog merchantability specifications of thirty-three and one-third percent (33 1/3%) net scale. (5-8-09)
- 17. Purchaser.** A successful bidder for forest products from a state sale who has executed a timber sale contract. (5-8-09)
- 18. Roads.** Forest access roads used for the transportation of forest products. (5-8-09)
- 19. Scaling.** Quantitative measurement of logs or other forest products by a log rule. (5-8-09)
- 20. Scribner Decimal "C" Board Foot Measure.** The measurement of forest products in accordance with the log rule described in Title 38, Chapter 12, Idaho Code, and the rules promulgated thereunder. (5-8-09)
- 21. State.** The State of Idaho. (5-8-09)
- 011. ABBREVIATIONS.**

01. **ANSI.** American National Standards Institute. (5-8-09)

02. **IDAPA.** Idaho Administrative Procedures Act. (5-8-09)

03. **MBF.** Thousand Board Feet. (5-8-09)

012. -- 018. (RESERVED)

019. FIREWOOD AND OTHER PERSONAL USE PRODUCT PERMITS.

Forest product permits for personal use will be sold on a charge basis. The Director shall determine permit rates and maximum permit values. (3-4-11)

020. DIRECT SALES.

The sale of forest products without advertisement may be authorized by the Director if the net appraised value does not exceed the maximum value established by the Board. This type of sale is to be used to harvest isolated or by-passed parcels of timber of insufficient value and volume to justify a salvage sale (refer to Rule Section 021). The direct sale shall not be used when two (2) or more potential purchasers may be interested in bidding on the forest products offered for sale. The initial duration of a direct sale shall be six (6) months with a provision for one six (6) month extension. The purchaser shall furnish an acceptable performance bond in the amount of thirty percent (30%) of the sale value with a minimum bond of one hundred dollars (\$100). Advance payment will be required and all sales will be on a lump sum basis. (3-4-11)

021. SALVAGE SALES.

Salvage sales shall not exceed the net appraised value and volume established by the Board and are intended to be used in the harvesting of timber which, in the opinion of the Director, is of insufficient quality and/or quantity to support a timber sale (refer to Rule Section 022). The contract requirements for salvage sales shall be the same as for timber sales. (5-8-09)

022. TIMBER SALES.

Timber sales exceed the net appraised value or volume for salvage sales established by the Board. (5-8-09)

023. (RESERVED)

024. SALE OF CEDAR POLES.

01. Requirements for Cedar Poles. If a proposed sale area contains at least one hundred fifty (150) cedar poles in a density of at least five (5) poles per acre on ground based yarding areas and at least ten (10) poles per acre on cable yarding areas, the pole quality cedar shall be reserved and sold separately as a pole sale or as a separate product sort in a delivered products sale. Pole quality cedar in areas with a lower density of poles may be offered as poles. (3-4-11)

02. Maximum Amount of Sawlogs. Sawlogs and other forest products shall not exceed fifty percent (50%) of the total sale volume, excluding materials generated through the construction of roads and development sites. (5-8-09)

03. Poles within Sawlog Sale. If any area within a proposed timber sale contains two hundred fifty (250) cedar poles or more in a density of at least ten (10) poles per acre, the poles shall be reserved for a pole-quality cedar sale or sold as a separate product sort in a delivered products sale. (3-4-11)

04. Length Appraisal. Cedar poles shall be appraised by length and bid on a lineal foot basis. The conversion table set out below shall be used to establish the corresponding board foot volume. (5-8-09)

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

Pole Length	Board Feet Each*		Pole Length	Board Feet Each*
30'	50		80'	595

Pole Length	Board Feet Each*		Pole Length	Board Feet Each*
35'	70		85'	736
40'	101		90'	792
45'	161		95'	892
50'	239		100'	929
55'	261		105'	1113
60'	304		110'	1132
65'	418		115'	1420
70'	462		120'	1475
75'	512			
* Based on Scribner Decimal "C" board foot measure				

(5-8-09)

06. Bidding Limited to Cedar. When cedar represents eighty percent (80%) or more of the total appraised value, bidding shall be limited to cedar poles and cedar sawlogs only. (5-8-09)

07. Purchaser's Option. The purchaser may opt to remove cedar as poles, sawlogs, and products or as sawlogs and products. Such choice shall be made at the completion of the auction. If the purchaser opts to manufacture the cedar as poles, the poles and sawlog material shall be removed at bid prices (lineal foot basis for poles and MBF basis for sawlogs). Pole-quality cedar trees containing thirty (30) foot cedar poles may be harvested as poles or sawlogs at the purchaser's discretion unless such trees are designated reserve. If the purchaser elects to manufacture cedar poles as sawlogs, the bid values of cedar poles and cedar sawlog material shall be weighted by volume to determine the selling value for all cedar sawlogs. (5-8-09)

025. POLE SPECIFICATIONS.

Poles will conform to current ANSI Specifications and Dimensions for Wood Poles unless agreed otherwise by contract. (5-8-09)

026. ANNUAL SALES PLAN.

The Department will prepare an annual sales plan which will describe the timber sales to be offered for sale during the forthcoming fiscal year. The plan will be based on recommended annual harvest volumes utilizing inventory data, local stand conditions, special management problems, and economic factors. The plan will be presented to the Board for approval annually and upon approval made available to all interested parties. The plan may be altered to respond to changing market conditions or to expedite the sale of damaged or insect-infested forest products. Each individual timber sale will be submitted to the Board for approval prior to advertisement. (5-8-09)

027. -- 030. (RESERVED)

031. TIMBER SALE AUCTIONS.

01. Requirements. Timber, Salvage, and Delivered Products sales shall be sold at public auction. (3-4-11)

02. Requirements for Bidding. (5-8-09)

a. Bidders shall present a bid deposit in a form acceptable to the State in the amount of ten percent (10%) of the net appraised value. (5-8-09)

b. Bidders shall not be delinquent on any payments to the State at the time of sale. (5-8-09)

c. Bidders shall not be a minor as defined in Section 32-101, Idaho Code. (5-8-09)

d. Foreign corporations, as defined in Section 30-1-106, Idaho Code, shall procure a certificate of authority to do business in Idaho to be eligible to bid on and purchase State timber. (5-8-09)

032. INITIAL DEPOSIT AND BONDS.

01. Initial Deposit. The initial deposit (ten percent (10%) of net sale value) shall be paid in cash and shall be retained by the state as a cash reserve for the duration of the contract; the purchaser shall not be entitled to any interest earned thereon. All or a portion of the initial deposit may be applied to charges as the contract nears completion. Any remaining initial deposit shall be forfeited in the event the contract is terminated without being completed. (3-4-11)

02. Performance Bond. A bond of sufficient amount for carrying out in good faith all applicable laws and all the terms and conditions imposed by the Board and the sale contract or fifteen percent (15%) of the net sale value of the forest products (whichever is greater) shall be executed within thirty (30) days from the date of sale and prior to execution of the contract. Failure to perform on the contract may result in forfeiture of all or a portion of the performance bond. (3-4-11)

03. Guarantee of Payment. Prior to cutting of any forest products, the purchaser shall provide a bond acceptable to the Department as assurance of payment for products to be cut and/or removed during the next ninety (90) days. Guarantee of payment on delivered product sales shall be as determined by the Department. This bond is in addition to the required initial deposit. Failure to make full and timely payment as per contract terms may result in forfeiture of all or a portion of the guarantee of payment. (3-4-11)

033. -- 040. (RESERVED)

041. STUMPAGE AND INTEREST PAYMENT.

A stumpage summary of forest products measured during the prior month and a statement of account will be prepared by the Department and forwarded to the purchaser monthly. The statement shall include interest computed from the date of sale to the date of the billing at a rate specified in the contract. The purchaser shall make payments within thirty (30) days of the end of the billing period or the payment shall be considered delinquent. Interest will not be charged on delivered product sales. (3-4-11)

042. TIMBER SALE CANCELLATION.

It is the purchaser's responsibility to initiate cancellation by submitting such request in writing to the respective supervisory area office. When all contractual requirements have been completed, final payments have been received, all load tickets have been accounted for, and a written request for cancellation has been received by the Department, any credit balances and all cash bonds will be returned and/or transferred to other timber sale accounts within forty-five (45) days, as requested by the purchaser. (3-4-11)

043. PREMATURE TIMBER SALE TERMINATION.

01. Request. A timber sale purchaser may, for reasons of hardship, make written request to terminate a timber sale contract before harvesting is completed. In such cases, the Board will determine if a hardship exists and if the contract should be terminated. (5-8-09)

02. Termination Policy. (5-8-09)

a. The Board may authorize premature termination of any sale under any terms considered reasonable and appropriate. Any remaining amount of the ten percent (10%) initial deposit will be retained in full and applied towards assessed damages and may not be used as payment for forest products cut and/or removed. Assessed damages in excess of the initial deposit will be applied against the performance bond. (3-4-11)

b. The following damages will be assessed by the Board for premature sale terminations. (3-4-11)

i. The Board will seek payment of the value of the overbid for the uncut residual volume. For example, if white pine had been bid up by five dollars (\$5) per thousand board feet over the appraised price and there are one hundred thousand (100,000) board feet of white pine remaining on the sale area, the purchaser will be assessed five hundred dollars (\$500) upon termination. (3-4-11)

ii. The Board will seek payment of the accrued stumpage interest due the endowed institutions based on the interest rate specified in the contract and calculated on all remaining volume from the date of sale to the date the Board approved termination of the contract. (3-4-11)

iii. The Board will seek payment for any credits given for developments that remain incomplete at the time of termination. (3-4-11)

iv. The Board will seek payment for estimated Department costs associated with reoffering the timber sale. (3-4-11)

v. The Board may also seek payment for other expenses including, but not limited to, legal costs and Department staff time. (3-4-11)

c. If logging has occurred on the sale, the purchaser must complete the units that have been partially logged according to contract standards and complete all development work as specified in the contract to the extent of allowances that have been credited to the purchaser. (5-8-09)

d. The purchaser who has terminated a timber sale contract will not be eligible to rebid that particular sale unless specifically authorized to do so by the Board. (5-8-09)

044. -- 999. (RESERVED)

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