

Idaho Department of Lands

IDAPA 20.02.01 – Rules Pertaining to the Idaho Forest Practices Act

Docket No. 20-0201-2601

Negotiated Rulemaking Summary

Members of the public participated in the Department’s negotiated rulemaking process by attending the meetings and submitting written comments.

This rulemaking was initiated by a petition from the Farm Bureau Federation in 2025. In December of 2025 the Land Board directed the Department to enter rulemaking specifically to address §38-1304(1)(f). Their expectation is that the new rules be clear and concise to specifically address the requirements of the statute.

Key information considered by the Department included applicable state statute, related administrative rules, suggestions provided by the Department’s managing foresters, feedback received from Idaho Forest Practices Advisory Committee (FPAC) members, and information provided by stakeholders and the public.

Oral comments were provided by Kristy Tucker of Rayonier, Gretchen Lech of Manulife, Gary Hess and Russ Hendricks, Vice President of Government Affairs, Idaho Farm Bureau Federation.

Written comments were received from the Idaho Department of Fish and Game, Russ Hendricks and Peter Stegner, Principal with Riley Stegner and Associates.

The Department thoroughly reviewed and considered all comments received during the negotiated rulemaking process; IDL developed informative and comprehensive responses to sets of similar, relevant, summary comments. The following conclusions were reached as a result of the negotiated rulemaking process.

Commentor	Comment	Response
Kristy Tucker Rayonier and Peter Stegner, Riley Stegner and Associates	Standalone rule section 38-1304, so A is rule 30, B is rule 40, C is rule 50, D is rule 50, E is rule 70. Should F not have its own rule and 80?	The Idaho Department of Lands (Department) adopted this recommendation
Gary Hess	Include the definition for timely Salvage into the rule and not have it stand alone	The Department adopted this recommendation of incorporating the draft definition of timely salvage within the revised draft rule.

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Idaho Farm Bureau Federation by Russ Hendricks	Farm Bureau submitted written "Draft Timber Rule v1 0526" 030.09.a Purpose and intent	The Department did not adopt this recommendation. The purpose of this rulemaking is to implement Idaho Code § 38-1304(1)(f) (statute), not to incorporate or interpret federal executive orders, federal agency memoranda, or other federal authorities. Including references to documents that may change over time could unnecessarily complicate administration of the rule and extend beyond the statutory authority granted by the Idaho Legislature. The Department concluded that a concise rule focused on the statutory requirements is more appropriate.
	030.09.b. Applicability	The Department did not adopt this recommendation. Idaho code 38-1304(1)(f) establishes when the salvage rule applies based on ownership and acreage. Expanding applicability to specific federal programs or cooperative agreements is unnecessary to implement the statute and could create confusion regarding the Department's regulatory authority over federal activities. Good Neighbor Authority and Shared Stewardship already have legal and administrative authority to conduct treatments, and it is presumed that any future authorities that would become

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		available to agencies would also come with appropriate legal authority
	030.09 b Applicability (cont): Require the Department to mandate timely salvage to the maximum extent authorized by law	The Department did not adapt this recommendation because Idaho Code 38-1304 (1)(f) directs the Board to adapt rules providing for timey salvage while considering specified factors. The statute does not require mandatory salvage in every circumstance. Furthermore, the Idaho Forest Practice Act does not provide the Department with authority to compel salvage operations on federal lands, nor does it establish an enforcement mechanism for such a requirement.
	030.09.c Definitions	The Department retained only the definitions necessary to administer rule. Additional definitions were not incorporated because they introduce concepts that are not required by statute and could unintentionally broaden the scope or interpretation of the rule beyond legislative intent. The Idaho Forest Practices Act currently has a definition of Salvage in 38-1303 (16) DEFINITIONS. "Salvage" means the timely removal of dead and dying

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		timber or timber that is threatened by insects, disease or such physical elements as fire, windthrow, or extremes of weather, and where the removal of such timber will help contain insect or disease outbreaks, aid in the prevention of wildfire, or, over the long term, help protect such resources and values as wildlife, water, soils or air quality. Priority areas for mitigation treatments are defined by the Idaho Forest Action Plan which is updated at least every ten years and reviewed every five. This is available on the IDL website and is therefore defined. Although we believe timely salvage is adequately defined in statute and rule, we do agree that "public safety" should be an addressed
	030.09.d. – Mandatory salvage	The Department did not adopt this recommendation the proposed mandatory salvage policy or rebuttable presumption provision because they exceed the scope of Idaho Code 38-1304 (1)(f) The statute directs the Board to adopt rules addressing the timely salvage of dead, dying, or threatened timber when practicable; it does not establish a mandatory salvage requirement or create legal rebuttable presumptions regarding when salvage must occur. Instead, it requires consideration of economic values, immediate costs, and long-term forest resource values.

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		Adding mandatory salvage requirements and rebuttable presumptions would alter the scope of the statute. The Department concluded the adopted draft rule implements the statute by establishing factors to be considered in determining whether timely salvage is feasible. The department will recognize the professional judgement of appropriate staff to evaluate risks to resources and potential long-term consequences.
	030.09.e Utilization of Federal Authorities	The Department partially adopted this recommendation because these activities involved federal administrative process rather than implementation of the Idaho Forest Practices Act. The rulemaking is intended to implement state law and is not the appropriate mechanism to direct or regulate federal agency procedures. The Department concluded the adopted draft rule appropriately implements the statute by establishing factors for evaluating whether timely salvage is feasible while allowing land managers to utilize existing state and federal authorities, where appropriate, under their legal authorities without including those authorities into the draft rule. These authorities are also likely to change overtime.

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	030.09.f Coordination with Federal Agencies –	The Department supports continued coordination with federal, Tribal, and local partners through existing programs and agreements. However, these activities are operational and administrative functions that do not need to be specifically defined in rule. Existing programs, including Good Neighbor Authority and Shared Stewardship, already provide mechanisms for interagency coordination.
	030.09.g Evaluation Criteria	The Department has evaluated recommendations to expand the criteria. The criteria will appropriately expand upon Idaho Code 38-1304(1)(f) which identifies the specific factors that rules developed under this section must consider: (1) the economic value of the timber to be salvaged, (2) the immediate costs of salvage efforts, and (3) the long-term costs to forest resources and values associated with insect, disease, or fire conditions that might otherwise be controlled through salvage operations. The Department concluded that these statutory criteria provide the appropriate framework for evaluating timely salvage decisions. However, some have been incorporated within the rule to consider the

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		long-term costs to forest resources and values.
	030.09.h Rebuttable presumption of Economic Feasibility	The Department did not adopt the recommendation of rebuttable presumption of economic feasibility. The statute requires consideration of the economic value of the timber to be salvaged, the immediate costs of salvage efforts, and the long-term impacts to forest resources and values associated with insect, disease, or fire conditions. It does not establish a presumption that lands require timely salvage unless the land managers demonstrate otherwise. A rebuttable presumption of economic and operational feasibility would shift the burden of proof by presuming that salvage is appropriate unless sufficient evidence is presented to overcome that presumption. This would effectively require the land managers to prove that timely salvage is not feasible rather than evaluating each situation based on the factors established in the draft rule and statute. The Department believes that the statute intended feasibility to be determined through consideration of the site-

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		specific conditions and the factors established in the rule, rather than through a legal presumption.
	030.09.i Expedited Implementation	The text of both the statute and rule specify timely, further definition of timely is redundant. Where appropriate the Department will participate in planning processes used by partner state agencies and will encourage rapid and efficient use of available procedures and authorities. However, the Department has no authority to require federal agencies to implement their processes. The Department also determined that adopting these provisions would require Department participation in virtually all planning, consultation and contracting functions of federal agencies. Such responsibilities would substantially increase the Department's workload and fiscal costs beyond the scope of the statute and the Department's available resources. The Department may develop internal guidance and administrative procedures as necessary without stating those activities in rule. Such administrative functions are more appropriately addressed through Department policy than through administrative rule.

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	030.09. j Severability	The Department did not adopt this recommendation because a severability provision is not needed to implement the purpose of this rule. The rule is intended to establish standards for the timely salvage of dead, dying, or threatened timber. A severability provision does not change how the rule is implemented or administered and is not necessary to carry out the requirements of the statute.
Riley Stegner and Associates	A distinct section would improve clarity and appropriately recognize timely salvage as an important forest health and resource-management requirement.	The Department adopts this recommendation. After consideration of comments received the Department agrees that a distinct section for the rule makes sense.
	If the intent is to connect the feasibility standard to the salvage decision considerations, then we recommend one additional clarification. The rule should expressly state that the three factors listed under "Salvage decisions shall consider"—the economic value of the timber to be salvaged, the immediate costs of salvage efforts, and the long-term costs to forest resources and values—are considerations used in determining whether salvage is "feasible."	The Department agrees with this recommendation and will retain the language that defines the feasibility standard of salvage.

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	This clarification would help ensure consistent implementation of the rule.	
Idaho Department of Fish and Game	IDFG believes that the current Forest Practices Act already possesses the adequate and appropriate language to address the proposed intent of the new rule. The addition of this new language may hamper the Department's ability to manage IDFG public lands and caused conflict with the new draft rule, as proposed.	The Department acknowledges IDFG's position, but we are obligated by petition and Land Board direction to draft rules to be in compliance with 38-1304(1)(f).
Idaho Department of Fish and Game	1. Clarify the conditions that trigger salvage	The Department has not adopted the recommendation to clarify the conditions for triggering salvage. The draft rule reflects the terminology adopted by the legislature. The decision regarding whether salvage is appropriate remains the responsibility of the managing agency and will continue to rely upon their professional judgement and forest management objectives.
Idaho Department of Fish and Game	2. Preserve professional judgement	The Department agrees that decisions regarding timely salvage should consider site-specific conditions and the unique circumstances of each stand. However, the Department did not adopt the

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		recommendation to add additional rule language stating professional judgment but did revise the draft rule factors to be considered in determining whether timely salvage is feasible rather than requiring salvage in every circumstance. Those factors - including the economic value of the timber, the immediate costs of salvage efforts, the long-term impacts to forest resources and values, and site-specific operational constraints—require the land manager to evaluate the conditions present at each stand before determining whether timely salvage is feasible. The Department determined this approach preserves the flexibility needed to make informed, site-specific decisions while implementing the requirements of the statute.
Idaho Department of Fish and Game	3. Recognize the Diverse Missions of the Idaho's Public Lands and Species Managers	The Department agrees that public land management agencies, including federal agencies, have different statutory missions and responsibilities. However, we believe it is unnecessary to state that in rule.
Idaho Department of Fish and Game	4. Recognize Multiple Forest Resource Values	The Department agrees that timely salvage decisions should recognize the multiple forest resources values present on state and federal lands. To address this concern, the revised draft rule includes consideration of the long-term impacts to forest resource and values, including forest health, wildlife habitat,

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		biodiversity, soil productivity, watershed health, water quality, long-term health and productivity when determining whether timely salvage is feasible. The Department believes these provisions provide sufficient recognition of multiple forest resource values while implementing the requirements of the statute.
Idaho Department of Fish and Game	5. Recognize the Ecological values of dead wood	The Department agrees with recommendation for recognizing the ecological value of dead wood. The Department added to a provision in the draft rule: iii. the long-term costs to all forest resources and values, including but not limited to, forest health, wildlife habitat, soil productivity, air quality and ecosystem functions, associated with insect and disease or fire conditions that might otherwise be controlled by the salvage operations.
Idaho Department of Fish and Game	6. Recognize Operational Realities	The Department agrees that operational realities should be considered when determining whether timely salvage is feasible. To address this concern, the draft rule establishes factors to be considered, including the economic value of the timber, the immediate costs of salvage efforts, site-specific operational constraints, and the long-term impacts to forest resources and values. The Department determined these factors provide sufficient flexibility to evaluate the operational conditions unique to each site

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		while implementing the requirements of statute. Therefore, the Department did not adopt additional rule language.
Idaho Department of Fish and Game	IDFG Recommended Language for Proposed Rules:	The Department adopted some of the suggested language. We believe that the concerns of the IDFG have been addressed in the revised draft rule.
Idaho Department of Fish and Game	010. Definitions (ADD)	The Department agreed that additional clarity regarding timely salvage was appropriate. Based on another oral comment submitted to the Department in Coeur d'Alene public meeting, the Department decided to incorporate it into the rule. Rather than keeping a separate definition, the Department revised the purpose statement and operative provisions for the rule to clarify how timely salvage is to be implemented, including consideration of economic value, long-term protection of forest resources and values, operational and economic feasibility, and site-specific conditions. The Department determined that the revised draft rule provides sufficient clarity and no separate definition was necessary.