

Proposed Draft Rule

Idaho Department of Lands

Timber Harvesting – Timely Salvage of Dead, Dying, or Threatened Timber

030.09 – Timely Salvage of Dead, Dying, or Threatened Timber

030.09.a. Purpose and Intent.

The purpose of this rule is to implement Idaho Code Section 38-1304(f), promote active forest management, reduce the risk of catastrophic wildfire, protect the health, safety, welfare, and economic security of the citizens of Idaho, and provide for the timely salvage logging of dead, dying, damaged, or threatened timber to the maximum extent authorized under state and federal law.

This rule shall be implemented consistent with:

1. Idaho Code Section 38-1304(f);
2. Federal authorities authorizing expedited forest management, wildfire risk reduction, emergency response, and salvage operations;
3. Executive Order 14225, Immediate Expansion of American Timber Production;
4. Secretary of Agriculture Memorandum 1078-006, Increasing Timber Production and Designating an Emergency Situation on National Forest System Lands;
5. Applicable emergency authorities under the Infrastructure Investment and Jobs Act (IIJA), Healthy Forests Restoration Act (HFRA), National Environmental Policy Act (NEPA), Endangered Species Act (ESA), and related federal laws;
6. The Governor of Idaho's Executive Order supporting increased active forest management, expansion of Good Neighbor Authority, utilization of Shared Stewardship agreements, wildfire risk reduction, and expedited implementation of forest health projects.

The Board finds that:

- i. Catastrophic wildfire, insect infestation, disease outbreaks, hazardous fuel accumulation, and widespread tree mortality constitute threats to the health, safety, welfare, infrastructure, natural resources, watersheds, wildlife habitat, and economic stability of the State of Idaho;
- ii. Delay in the removal or treatment of dead, dying, diseased, insect-infested, fire-damaged, windthrown, or otherwise threatened timber increases wildfire intensity and severity, increases suppression costs, reduces future forest productivity, degrades watersheds and wildlife habitat, and threatens adjacent state, federal, tribal, and private lands;

- iii. Active forest management and timely salvage operations are necessary to reduce fuel loading, improve forest resilience, preserve economic value, protect communities and critical infrastructure, and mitigate future wildfire risks;
- iv. The State of Idaho possesses independent authority and responsibility to protect the health, safety, and welfare of its citizens from conditions that materially increase catastrophic wildfire risk;
- v. The Board intends this rule to maximize the use of all available state and federal authorities permitting expedited salvage logging, active forest management, emergency actions, hazardous fuels reduction, and associated forest health activities.

030.09.b. Applicability.

- 1. This rule applies to:
 - a. Non-private forest ownerships consisting of single contiguous forest ownerships greater than two thousand (2,000) acres in size;
 - b. Activities conducted by, through, or in coordination with the Idaho Department of Lands under Good Neighbor Authority agreements, Shared Stewardship agreements, stewardship contracting authorities, cooperative agreements, memoranda of understanding, or other state or federal forest management authorities;
 - c. Forest health and wildfire mitigation activities occurring on federal lands where the State of Idaho participates, coordinates, funds, assists, reviews, consults, or otherwise engages in project planning or implementation.

- 2. Nothing in this rule shall:
 - a. Require salvage operations on private lands against the wishes of the private landowner;
 - b. Be construed to supersede federal law;
 - c. Limit the authority of the Department to pursue additional active forest management or wildfire mitigation activities authorized under state or federal law.

030.09.c. Definitions.

For purposes of this rule:

- 1. “Salvage logging” means the harvest, removal, or treatment of dead, dying, damaged, diseased, insect-infested, fire-damaged, windthrown, hazardous, or otherwise threatened timber for purposes including, but not limited to:
 - a. Reducing wildfire risk;
 - b. Mitigating insect or disease spread;

c. Protecting watersheds, infrastructure, communities, ingress and egress routes, or other forest resources;

d. Recovering economic value;

e. Improving forest resilience or stand conditions;

f. Facilitating reforestation or restoration.

2. “Threatened timber” includes timber reasonably determined to be at elevated risk of mortality, loss, or hazardous condition due to wildfire, insect infestation, disease, drought, windthrow, storm damage, hazardous fuel accumulation, or other physical elements.

3. “Timely salvage” means implementation of salvage activities within a timeframe reasonably necessary to:

a. Preserve economic value;

b. Reduce or prevent increased wildfire hazard;

c. Reduce spread of insects or disease;

d. Protect public health, safety and private property;

e. Prevent avoidable long-term degradation of forest resources or forest productivity.

4. “Priority areas” means areas identified by the Department or cooperating agencies as requiring additional wildfire mitigation, fuel reduction, or forest health protections, including but not limited to:

a. Wildland-urban interface areas;

b. Municipal watersheds;

c. Critical infrastructure corridors;

d. High-risk ingress and egress corridors;

e. Areas identified within state or federal forest action plans, wildfire risk maps, or forest health assessments.

030.09.d. Mandatory Salvage Policy.

1. The Department shall require the timely salvage logging of dead, dying, damaged, diseased, insect-infested, fire-damaged, windthrown, hazardous, or otherwise threatened timber to the maximum extent authorized under state and federal law.

2. There shall be a rebuttable presumption in favor of salvage operations where:

- a. Failure to act would materially increase wildfire risk, hazardous fuel accumulation, insect infestation, disease spread, watershed degradation, infrastructure risk, or threats to public safety and/or private property;
- b. Salvage operations would reasonably preserve economic value or reduce future suppression, restoration, or forest management costs;
- c. Delayed action would substantially diminish operational feasibility or future treatment effectiveness.

3. The Department shall prioritize salvage operations where inaction would create substantial opportunity costs associated with:

- a. Increased wildfire intensity or severity;
- b. Future suppression expenditures;
- c. Loss of commercial timber value;
- d. Forest conversion or long-term productivity loss;
- e. Threats to communities, infrastructure, or municipal watersheds;
- f. Insect or disease expansion onto adjacent lands.

4. Salvage operations shall not be unreasonably delayed where applicable emergency authorities, categorical exclusions, expedited consultation procedures, emergency determinations, or streamlined environmental review authorities are available under federal law.

030.09.e. Utilization of Federal Authorities.

- 1. The Department shall maximize, advocate for, coordinate, and facilitate the use of all applicable federal authorities permitting expedited forest management, salvage operations, hazardous fuels reduction, wildfire mitigation, and associated forest health activities.
- 2. Such authorities include, but are not limited to:
 - a. Good Neighbor Authority;
 - b. Shared Stewardship agreements;
 - c. Stewardship contracting authorities;
 - d. Tribal Forest Protection Act authorities;
 - e. Emergency Situation Determinations under the Infrastructure Investment and Jobs Act;
 - f. Healthy Forest Restoration Act authorities and categorical exclusions;

- g. National Environmental Policy Act categorical exclusions, emergency procedures, emergency actions, and streamlined review authorities;
- h. Emergency consultation procedures under the Endangered Species Act;
- i. Emergency and programmatic consultation procedures under the National Historic Preservation Act;
- j. Emergency procedures under the Clean Water Act;
- k. Emergency contracting, expedited procurement, direct hire, grant, agreement, and implementation authorities;
- l. Other federal authorities permitting expedited planning, approval, implementation, or treatment of salvage logging, fuels reduction, or forest health projects.
 - 3. The Department shall coordinate with federal agencies to ensure utilization of the broadest available categorical exclusions, emergency authorities, expedited consultation procedures, and streamlined permitting mechanisms authorized under federal law.
 - 4. Where federal law permits discretionary use of expedited procedures or categorical exclusions, the Department shall advocate for their use to the maximum extent reasonably practicable.
 - 5. The Department shall prioritize projects in priority areas that are achievable through emergency authorities or categorical exclusions where such use would reduce delay while maintaining compliance with applicable law.

030.09.f. Coordination With Federal Agencies.

- 1. The Department shall coordinate with the United States Forest Service, Bureau of Land Management, tribal governments, local governments, fire protection entities, and other cooperating agencies to increase the pace and scale of:
 - a. Salvage logging;
 - b. Hazardous fuels reduction;
 - c. Forest restoration;
 - d. Mechanical thinning;
 - e. Reforestation;
 - f. Watershed restoration;
 - g. Hazard tree removal;
 - h. Wildfire mitigation activities.

2. The Department shall seek to expand and utilize:
 - a. Good Neighbor Authority agreements;
 - b. Shared Stewardship agreements;
 - c. Cross-boundary forest health projects;
 - d. Cooperative implementation agreements;
 - e. Expedited planning and implementation partnerships.
3. In areas designated as high wildfire risk, insect or disease risk, or forest health concern, the Department may recommend or coordinate supplemental treatment activities adjacent to salvage areas, including:
 - a. Mechanical thinning;
 - b. Fuels reduction;
 - c. Prescribed burning;
 - d. Fuel breaks;
 - e. Reforestation;
 - f. Hazard tree removal;
 - g. Watershed stabilization;
 - h. Other active management activities authorized by law.
4. The Department may utilize state or federal forest health maps, wildfire risk maps, Forest Action Plans, emergency declarations, or other scientific and operational assessments to prioritize project areas.

030.09.g. Evaluation Criteria.

In evaluating salvage operations, the Department shall consider:

1. The economic value of timber proposed for salvage;
2. The immediate costs, operational feasibility, and implementation timeline of salvage operations;
3. Long-term costs and benefits to forest resources and values;
4. The extent to which salvage operations reduce wildfire risk, hazardous fuel accumulation, insect infestation, disease spread, or threats to public safety;

5. Potential impacts to watersheds, wildlife habitat, infrastructure, municipal water supplies, or adjacent lands;
6. The opportunity costs associated with delayed or foregone treatment;
7. Availability of federal emergency authorities, categorical exclusions, expedited consultation procedures, or other streamlined implementation authorities;
8. Proximity to priority areas;
9. Cross-boundary benefits to state, federal, tribal, or private lands.

030.09.h. Rebuttable Presumption of Economic Feasibility.

1. There shall be a rebuttable presumption that salvage operations are economically and operationally justified where:
 - a. Long-term wildfire mitigation benefits are substantial;
 - b. Forest health conditions are likely to materially worsen absent treatment;
 - c. Salvage operations reduce reasonably foreseeable future suppression or restoration costs;
 - d. Delayed action is likely to materially reduce future economic value or treatment effectiveness.
2. The presumption established in this section may be rebutted upon written findings by the Department demonstrating that:
 - a. Salvage would create greater long-term damage to forest resources than leaving the timber untreated;
 - b. Operational conditions make implementation infeasible under existing authorities;
 - c. Applicable federal law prohibits or materially restricts implementation;
 - d. Immediate environmental or public safety risks clearly outweigh expected forest health or wildfire mitigation benefits.

030.09.i. Expedited Implementation.

1. The Department shall seek to reduce avoidable delays in planning, permitting, consultation, contracting, implementation, and administration of salvage and forest health projects.
2. To the maximum extent authorized by law, the Department shall require:
 - a. Expedited project planning;
 - b. Streamlined environmental review;
 - c. Accelerated consultation procedures;

- d. Emergency implementation authorities;
- e. Expedited contracting and procurement;
- f. Concurrent review and coordination processes;
- g. Rapid implementation following disturbance events.

- 3. The Department may develop guidance, interagency agreements, procedures, or prioritization frameworks to implement this rule.

030.09.j. Severability.

If any provision of this rule or its application to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the rule which can be given effect without the invalid provision or application, and to this end the provisions of this rule are severable.