

Negotiated Rulemaking Summary

IDAPA 20.02.14 – Rules for Selling Forest Products on State-Owned Endowment Lands

Docket No. 20-0214-2201

The Idaho Department of Lands (IDL) initiated this rulemaking in compliance with Executive Order 2020-01: Zero-Based Regulation with the goal of simplifying and streamlining the rules for increased clarity and ease of use.

This administrative rule establishes a consistent process for selling forest products from state endowment lands by setting minimum requirements for timber sale auctions, initial deposits and bonding, stumpage and interest payment, and timber sale cancellation and termination.

Negotiated rulemaking was approved by the State Board of Land Commissioners (Land Board) on January 18, 2022. The Notice of Intent to Promulgate Rules – Zero-Based Regulation Negotiated Rulemaking was published in the Idaho Administrative Bulletin on March 2, 2022.

Stakeholder Outreach

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 at <https://www.idl.idaho.gov/rulemaking/docket-20-0214-2201>
- Issued a press release
- Emailed 71 industry representatives
- Posted on social media

Negotiated Rulemaking Public Meetings

Two public meetings were held in April 2022 to discuss the draft rule changes:

- **4/5/2022: Public meeting in Coeur d'Alene (and Zoom)**
 - Six participants
 - Affiliations: PotlatchDeltic, Stella-Jones Corporation, Sun Mountain Lumber
- **4/6/2022: Public meeting in Lewiston (and Zoom)**
 - Eight participants
 - Affiliations: Clearwater Paper, Idaho Forest Group, Stella-Jones Corporation, Woodgrain Inc.

Summarized comments from the meetings are explained in the table below.

Table 1. Response to Comments on Draft Negotiated Rule at Public Meetings

Oral Comment	Rule Section	Response
Is IDL going to increase the direct sale limit to 200 MBF? <i>Ryan Dickison 4/5/2022</i>	020	The department will maintain the 100 MBF set in Land Board policy.

Oral Comment	Rule Section	Response
Does IDL have any language in their timber sale contract that requests written cancellation? <i>Ryan Dickison 4/5/2022</i>	042	There is no specific language in our contracts about the cancellation process. The first sentence in Section 042 states written request is required to initiate cancellation. This matches IDL's procedure.
Definition 010.04 mentions road improvements but not "roads construction" – could this be misunderstood that construction might not be included in the rule? <i>Mike Reggear 4/6/2022</i>	010.04	IDL agrees. Changed draft rule to mention road construction and improvements.
Is the direct sale value set at 100 or 200 MBF? Is the \$15K limit going to be increased. <i>Mitch Reggear 4/6/2022</i>	020	The Idaho statute is 200 MBF with a 100 MBF Land Board policy. The department will maintain the \$15K value set in Land Board policy.
Recommend keeping "forthcoming fiscal year" in the rule text. <i>Mike Reggear 4/6/2022</i>	026	Added language, "Department's annual sales plan" to the rule text. The Land Board's Timber Sale Public Involvement Policy states the IDL presents this plan for approval at the April Land Board meeting.

No Written Comments

The department did not receive any written comments on the draft rules. The comment period was March 2 to May 11, 2022.

Concluding Negotiated Rulemaking

With no issues left unresolved, the department concluded the negotiated rulemaking process and submitted the rule changes for publication as a proposed rule in the September 7, 2022, edition of the Idaho Administrative Bulletin.

Key documents from the rulemaking record, including the proposed rule in legislative format to allow the reader to easily identify changes, are available at <https://www.idl.idaho.gov/rulemaking/docket-20-0214-2201/>.

Summary of Rule Changes

Some minor changes to the initial draft were made from comments at the meetings, internal discussions, and as recommended by the Deputy Attorney General to improve clarity and ease of use.

The draft rule text, posted to the rulemaking website on May 17, 2022, had some internal discussion about removing the incorporation by reference section. Section 002 Incorporation by Reference is removed in the proposed rule as the current rule text does not reference any external document. (The rule text that referenced the external document was removed in the 2016/2017 rulemaking for IDAPA 20.02.14.)

The regulatory burden has been reduced by decreasing both the total word count (-19%) and the number of restrictive words (-11%) in the proposed rule. No changes were made that change the context of the previous rule.