

Rulemaking Meeting Dates: October 10 and October 11, 2023

Deadline for written comments on this draft: February 22, 2024

20.04.02 – RULES PERTAINING TO THE IDAHO FORESTRY ACT AND FIRE HAZARD REDUCTION LAWS

000. LEGAL AUTHORITY.

~~These rules are~~ This chapter is adopted ~~pursuant to~~ under the ~~rulemaking-legal~~ authority ~~granted in~~ of Sections 38-132 and 38-402, 58-105, and 67-5201 et seq., Idaho Code.

~~(3-18-22)~~()

001. TITLE AND SCOPE.

~~01. Title.~~ These rules are titled IDAPA 20.04.02, “Rules Pertaining to the Idaho Forestry Act and Fire Hazard Reduction Laws.” ~~and implement the provisions of Title 38, Chapters 1 and 4, Idaho Code. They provide for Hazard Management Agreements and eContracts, and set standards for reduction of the fire hazard resulting from commercial timber harvest, and detail release of Contractor liability for fire suppression costs on completed operations for commercial forest products.~~ (3-18-22)()

~~02. Scope.~~ These rules implement the provisions of the Idaho Forestry Act and Fire Hazard Reduction Laws. (3-18-22)

002. -- 009. (RESERVED)

010. DEFINITIONS.

The terms Fire Warden, Forest Land, Forest Products, Person, Slashing Areas, and State are defined in Section 38-101, Idaho Code. In addition to the definitions set forth in the Idaho Forestry Act, the following definitions apply to these rules: ~~Unless otherwise required by context, as used in these rules:~~ (3-18-22)()

~~01.~~ **01. Agreement.** The Certificate of Compliance-Fire Hazard Management Agreement ~~(Department of Lands Form 715) required by~~ pursuant to Section 38-122, Idaho Code (Fire Management Handbook 715 Att. 1). (3-18-22)()

~~02.~~ **02. Clearance.** The Certificate of Clearance (Fire Management Handbook 760 Att. 1), required by law, which states the Contractor has met the terms of Section 38-122, Idaho Code. ()

~~03.~~ **03. Contract.** An optional Hazard Management Contract entered into with the Director by any landowner or operator, pursuant to Section 38-404, where the Department assumes the responsibility for management of the fire hazard in exchange for a fee. ()

~~02034.~~ **02034. Contract Area.** The legal description of the land given on the ~~a~~ Agreement or Contract. (3-18-22)()

~~03045.~~ **03045. Contractor.** The ~~landowner, operator, or p~~ Person who enters into the ~~Certificate of Compliance-Fire Hazard Management Agreement or Contract.~~ (3-18-22)()

~~04056.~~ **04056. Department.** The Idaho Department of Lands. (3-18-22)()

~~05067.~~ **05067. Director.** The Director of the Idaho Department of Lands or ~~his authorized representative~~ their designee. (3-18-22)()

~~06078.~~ **06078. District.** A designated forest protective district under Section 38-110 Idaho Code. (3-18-22)()

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- ~~07089.~~ **Fire Line.** A ~~line break in fuel scraped or~~ dug to mineral soil ~~which is intended~~ to control a fire. ()
- ~~080910.~~ **Fire Warden Management Handbook.** A ~~duly appointed fire warden or deputy~~ policy document which describes procedures and forms the Department uses to administer these rules. (3-18-22) ()
- ~~09101.~~ **Fuel.** ~~S~~Any slash or woody debris that ~~will~~ contributes to the spread or intensity of a wildfire. (3-18-22) ()
- ~~10112.~~ **Fuel Break.** An area in which all slash and dead woody debris ~~have been~~ is removed or piled and burned. (3-18-22) ()
- ~~11123.~~ **Hazard Points.** A metric used by the Department to compute the fire hazard rating for Slashing Areas based on Hazard Reduction, site characteristics and other protective measures that may reduce the spread or intensity of a wildfire. ()
- ~~134.~~ **Hazard Reduction.** The burning or physical reduction of fire hazards by treatment ~~in a manner that to will~~ reduce the ~~spread or~~ intensity ~~and/or spread~~ of a wildfire ~~after treatment is completed.~~ (3-18-22) ()
- ~~12145.~~ **Initial Purchaser or Purchaser.** The first ~~p~~Person, ~~company, partnership, corporation, or association of whatever nature who~~ to purchase a forest product after it is harvested. (3-18-22) ()
- ~~13.~~ **Operational Period.** A standard twelve (12) hour fire control shift. (3-18-22)
- ~~14156.~~ **Slash or Slashing.** Brush, severed limbs, poles, tops and/or other waste material incident to such cutting or ~~to the~~ clearing of land, which are four (4) inches and under in diameter. However, ~~for the purpose of these rules and~~ to correspond with standard fire classifications, ~~for these rules~~ slash ~~will~~ only includes material ~~less than or equal to~~ three (3) inches ~~or less~~ in diameter. (3-18-22) ()
- ~~167.~~ **Slashing Area.** An area where sufficient flammable material constitutes a menace to life or property remains on the ground after cutting trees or brush, preparatory to clearing, or after cutting Forest Products. ()
- ~~15178.~~ **Slash Load.** Slash resulting from timber harvesting ~~that has occurred~~ under a current ~~a~~Agreement, exclusive of natural mortality. (3-18-22) ()
- ~~16.~~ **State.** The state of Idaho. (3-18-22)
- 011. ABBREVIATIONS**
- ~~01.~~ **FMH.** Fire Management Handbook. ()
- 012. -- 029. (RESERVED)**
- 030. CERTIFICATE OF COMPLIANCE-FIRE HAZARD MANAGEMENT AGREEMENT.**
- 01. Contents.** A Certificate of Compliance-Fire Hazard Management Agreement must be obtained by anyone who conducts an operation involving the harvesting of ~~forest~~ Forest products ~~Products~~ or potential ~~forest~~ Forest products ~~Products~~. ~~Such~~ The Agreement provides ~~the options of to entering into~~ enter into a ~~contract~~ Contract.

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as provided in ~~per~~ Section 38-404, Idaho Code, or ~~for~~ posting of a cash or surety bond to the State. The ~~Certificate of Compliance required by Section 38-122, Idaho Code, must be in substantially the same form as~~ Agreement form may be found in Department of Lands Form No. 715 —“Certificate of Compliance Fire Hazard Management Agreement.” FMH 715. (3-18-22)()

02. Period of Time. The period ~~set forth within~~ defined by the Agreement is based ~~upon such considerations as on~~ the size of the ~~eContract~~ aArea, the volume of the timber to be harvested, ~~and or~~ the silvicultural objectives of the landowner. ~~However, i~~In no case may a single Agreement exceed a period of twenty-four (24) months unless the ~~eContractor~~ submits and the ~~Fire w~~Warden ~~mutually approves~~ agree upon a written hazard management plan for the timely abatement of the hazard during a longer period ~~that may exceed twenty four (24) months.~~ (3-18-22)()

03. Extensions. If ~~the a~~ eContractor cannot meet the standard required to obtain a ~~eClearance~~ eClearance within the period specified ~~above in the Agreement,~~ they ~~contractor~~ may apply to the ~~Fire w~~Warden for an extension. The application must be in writing, received at the Fire district ~~District~~ office thirty (30) working days before the Agreement expires, and show good reason ~~as to other than financial hardship,~~ why an extension ~~should be given is~~ necessary (other than financial hardship). The ~~Fire w~~Warden will acknowledge receipt of the request prior to the expiration of the Agreement. (3-18-22)()

04. Responsibility. The ~~eContractor~~ eContractor named in the Agreement ~~will be is~~ responsible for managing the fire hazard created by the harvesting and will receive the ~~eClearance~~ eClearance if the ~~s~~Slash treatment meets standards or will carry the liability for suppressing wildfire for five (5) full years following the expiration of the Agreement. (3-18-22)()

031. -- 039. (RESERVED)

040. ADDENDUM TO ~~CERTIFICATE OF COMPLIANCE FIRE HAZARD MANAGEMENT AGREEMENT~~ AGREEMENT FOR PARTIAL HAZARD REDUCTION.
~~In those instances where~~ When a ~~eContractor~~ eContractor ~~indicates an intent intends~~ to only accomplish ~~only the pile, ing~~ portion of the total but not burn ~~dispose of or physically treat the s~~Slash hazard reduction job ~~Load,~~ an addendum to the Agreement must be executed ~~that precisely specifies~~ ing precisely the portion of slash withholding money ~~that will be to be~~ refunded. The addendum ~~must be is~~ in substantially the same form ~~as on~~ executed with a form in forms provided by the Department FMH 715 Att. 4. of Lands Form No. 715.1 —“Addendum to Certificate of Compliance Fire Hazard Management Agreement.” (3-18-22)()

041. -- 049. (RESERVED)

050. BOND.

01. Amount of Bond. The bond specified in Section 38-122 ~~and Section 38-404,~~ Idaho Code, ~~must will~~ be in the amount of four dollars (\$4) per thousand board feet (MBF), or equivalent measure as shown in Table I below, of ~~forest~~ Forest ~~products~~ Products harvested, and may ~~take the form of be:~~ cash, ~~;~~ surety bond, ~~;~~ or irrevocable letter of credit. Surety bonds must be ~~in substantially the same form as~~ on forms provided by the Department ~~of Lands Form No. 707~~ —“Bond.” (3-18-22)()

02. Rates. Rates and amounts listed in Table I ~~will be are~~ used as a minimum in calculating hazard reduction bonds for Forest products ~~Products~~ cut from all state and private lands in Idaho.

TABLE I	
PRODUCT	BOND RATE

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(1) MBF Measurement All Products	\$4.00 MBF
OR	
(2) Other Measurement Green pulp, stud timber, etc.	\$2.00 Cord
Lineal Foot Measure Utility poles and pilings, all species	\$.014 LF
Stulls, corral poles, cellar timbers, fence rails, round posts	\$.01 LF
Piece Measure	
100 inch bolt material	\$.08 ea.
Split posts	\$.02 ea.
Tree stakes	\$.02 ea.
Shake boards	\$.02 ea.
Ton Measurement	
Green or Dead Pulp, Chips, etc.	\$.70 Ton

(3-18-22)()

03. Exceeding Minimum Bond. The minimum bond rate ~~will is~~ only be exceeded when the landowner or operator requests that higher rate to accomplish additional ~~hazard~~ Hazard Reduction. (3-18-22)()

051. -- 059. (RESERVED)

060. CONTRACTS WITH FOREST LANDOWNERS OR OPERATORS FOR ASSUMPTION OF HAZARD REDUCTION MANAGEMENT RESPONSIBILITY.

Forest landowners and operators who engage in timber harvesting operations may enter into an optional ~~eContract Agreement with the Director as provided in Section 38-404, Idaho Code.~~ Under the terms of ~~such an optional~~ the eContract Agreement, the Director may assume all responsibility for the management and reduction of fire hazards ~~to be~~ created in return for a stipulated amount to be paid to the Director by the landowner or operator. ~~Such Any optional eContract Agreement must be in substantially the same form as on forms provided by the Department of Lands Form No. 720 "Contract for Management, Reduction and/or Removal of Fire Hazards Created by the Harvesting of Timber Within the State of Idaho," or Department of Lands Form No 725 "Contract for Management of Fire Hazards Created By the Harvesting of Timber Within the State of Idaho."~~

061. -- 069. (RESERVED)

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070. CONTRACTOR CASH BOND RELEASE TO THE DIRECTOR.

Contractors ~~that who~~ elect, under Section 38-122, Idaho Code, to have hazard reduction money withheld; but ~~who~~ do not intend to dispose of the hazard themselves; must release the withheld monies to the Director ~~of the Department of Lands. Such~~ The release must be in substantially the same form as is on a form in FMH 761-Att. 1, Department of Lands Form No. 761—“Release of Cash Bond Withheld to Assure Slash Disposal.”

071. -- 079. (RESERVED)

080. ADDED PROTECTION IN LIEU OF HAZARD REDUCTION.

~~As provided in Section 38-401, Idaho Code, F~~ fire hazard management methods may include ~~or be limited to the taking of~~ additional protective measures in lieu of actual disposal of the ~~slash~~ Slash hazard. Any funds coming into ~~district~~ District hazard management accounts through ~~contract~~ Contract, cash bond release, or forfeiture; may be used for added protection provided that the expenditure meets specifications outlined in Section 38-401, Idaho Code. ~~(3-18-22)~~ ()

081. -- 089. (RESERVED)

090. DUTIES OF THE INITIAL PURCHASER REQUIREMENTS OF FOREST PRODUCTS.

01. Initial Purchaser. Initial ~~purchase~~ Purchasers of ~~forest~~ Forest products Products, in accordance with ~~Section 38-122, Idaho Code,~~ must withhold, and remit to the State, ~~slash~~ Slash management monies as appropriate for the ~~slash~~ Slash management option chosen by the ~~e~~ Contractor in the Agreement. ~~Such~~ The option must be clearly identified on the ~~purchase~~ Purchaser's copy of the Agreement. Slash monies withheld in ~~any~~ one (1) calendar month must be remitted to the Director on or before the end of the next calendar month. ~~Such~~ The remittance ~~must~~ may be ~~in on~~ substantially the same form as Department of Lands Form No. 740—“Hazard Reduction Payment Record (FMH 705-Att. 2) or in a report with the same information.

~~(3-18-22)~~ ()

02. Duty of Initial Purchaser. Initial ~~purchase~~ Purchasers of ~~forest~~ Forest products Products must make certain that all ~~e~~ Contractors from whom they purchase ~~forest~~ Forest products Products have obtained a proper Agreement. ~~(3-18-22)~~ ()

091. -- 099. (RESERVED)

100. INJUNCTION AGAINST FURTHER CUTTING WITHOUT AN AGREEMENT.

Any ~~p~~ Person who cuts timber or other ~~forest~~ Forest products Products of any kind, without having first secured an Agreement, ~~in accordance with Section 38-122, Idaho Code,~~ may be enjoined from ~~continuing such~~ further cutting and will be required to immediately dispose of all ~~slash~~ Slash created. If the ~~p~~ Person ~~responsible~~ fails to properly dispose of the ~~s~~ Slash within thirty (30) days after ~~being notified to do so~~ receiving notification, the State may dispose of the ~~s~~ Slash and ~~such~~ the costs of disposal, plus twenty percent (20%) as a penalty, may be collected as a prior lien against the ~~Forest~~ products Products harvested. ~~(3-18-22)~~ ()

101. -- 109. (RESERVED)

110. BURNING OF SLASH FOR HAZARD REDUCTION.

01. Burning. Burning operations must be planned, prepared, and executed in a way that forest resources are not damaged and air quality standards are met. ()

02. Burn Plans. Burning within specifically designated blocks or areas of Forest Land for any purpose must be conducted with a prescribed burn plan approved by the ~~Fire Warden of the District's~~ Fire Warden in which the burn occurs. ()

01. Permits. Any burning operation conducted for the purpose of hazard reduction must be in ()

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~~accordance with the law requiring burning permits during the closed fire season.~~

03. Burn Crew. ~~A~~ Persons conducting burning operations must have a permit, when required, and sufficient men~~people~~, tools and equipment on hand to immediately stop the uncontrolled spread of any fire. ~~Burning operations must be planned, prepared and executed in such a manner that forest resources are not damaged and air quality standards are met.~~ (3-18-22)()

02. Burn Plan. ~~Burning of specifically designated blocks or areas of forest land for any purpose must be conducted in accordance with a prescribed burn plan approved by the fire warden in whose area of responsibility the burn occurs.~~ (3-18-22)

111. -- 119. (RESERVED)

120. STANDARDS ~~TREATMENT OF~~FOR HAZARD REDUCTION.

01. Purpose. ~~It is the policy of the State, under 38-401, Idaho Code, that the fire hazard created by commercial timber harvest be reduced by Slash disposal or physical treatment. The Department is authorized by law pursuant to 38-401, Idaho Code, to consider other protective measures in lieu of complete Hazard Reduction.~~ ~~To~~ This Section provides standards for ~~Hazard Reduction; it also and and references Department the procedures (using Hazard Points) for computing a lowered risk of forest damage reduced determining forest damage risk and threats to life or property (using Hazard Points) from other considerations ing despite site characteristics and mitigation factors detailed in FMH 7xx untreated Slash~~ release of liability for the contractor who is working under a valid Agreement with the State. (3-18-22)()

02. Reduction of Total Hazard Points. ~~The Contractor's Slashing Area must reduce receive a Hazard Rating of Low the total hazard points charged against the contract area to five (5) points or less (see Table II) on or before the expiration date on the Agreement's expiration date to receive a release of liability against any fires that originate on or pass through the contract Slashing a Area and in order to receive a refund of slash monies withheld (less three (3) percent for the fire suppression fund, ref. Rule the assessment stipulated in Section 150) or; to clear any demands that might be made against the surety bond and to receive a release of liability against any fires that start on or pass through the contract area. The Fire Warden of the District's Fire Warden, where the Slashing Area is located, will use FMH XXX Hazard Points to compute the Hazard Rating.-~~

TABLE II - HAZARD CHARACTERISTICS AND OFFSET SLASH LOAD MAXIMUM 20 POINTS RATING TECHNICAL SPECIFICATIONS	
RATING (POINTS)	ADJECTIVE DESCRIPTION SLASH LOAD
LOW (0-5)	Slash Load does not exceed three (3) ton per acre. Associated with low harvest volumes per acre such as selection cutting, light commercial thinning, sanitation/salvage operations, tree length skidding with tops and limbs and little or no breakage. Slash is broken up; slash is in many islands over the operating area.
MODERATE (6-10)	Slash Load is greater than between three (3) ton per acre but less than and six (6) ton per acre. Rating can may be lowered by at the Fire Warden's determinaiscretion. Operation types similar to those listed above except that harvest volume per acre is higher or utilization standards are lower, or timber has higher proportion of unusable top and crown (commonly associated with partial cutting in second growth stands of mixed timber). Most diameter limit cutting falls in this category. Slash is distributed with some

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	clear or very light areas intermingled with heavy islands of slash over the operating area, slash is not continuous.
HIGH (11-15)	Slash Load is greater than between six (6) ton per acre but less than and twelve (12) ton per acre. Rating can may be lowered at the Fire Warden's discretion by Fire Warden determination. Usually associated with regeneration harvest methods such as shelterwood, seed tree and most clearcuts, or any partial cut with a high harvest volume per acre. Slash is nearly continuous through the operating area frequently with heavier islands intermingled with light continuous slash.
EXTREME (16-20)	Slash Load is greater than twelve (12) ton per acre. Rating can may be lowered by at the Fire Warden's determination discretion. Any operation with very high cut volume, and/or low utilization standards, and/or many slashed or broken stems. Slash is continuous over the operating area with few light areas.
TECHNICAL SPECIFICATIONS	
LOW (0-5)	Slash load less than or equal to 3 inch diameter materials not to exceed 3.0 tons/acre.
MODERATE (6-10)	Slash load less than or equal to 3 inch diameter materials greater than 3.0 tons/acre but less than 6.0 tons/acre.
HIGH (11-15)	Slash load less than or equal to 3 inch diameter materials greater than 6.0 tons/acre but less than 12.0 tons/acre.
EXTREME (16-20)	Slash load less than or equal to 3 inch diameter materials exceeds 12.0 tons/acre.

Slash loads can be determined by using any standard photo series appropriate for the habitat type represented by the contract area, or by using USDA Forest Service General Technical Report INT 16, 1974 (HANDBOOK FOR INVENTORYING DOWNED WOODY MATERIAL). If the contractor insists upon the latter, sampling intensity will be one (1) point per two (2) acres through the area in question. The inventory cost is paid by the contractor. All slash made available as a resulting of from the current harvest will be included in the inventory except that slash that has been piled and will be burned by the contractor before the expiration date on the Agreement or such extensions granted by the fire warden.

SITE FACTORS – MAXIMUM 10 POINTS						
ASPECT	PERCENT SLOPE					
	0-10	11-20	21-30	31-40	41-50	>50
N-NE	0	0	1	2	4	5
E,NW	0	0	1	3	6	7
W,SE	0	1	2	5	8	9
S-SW	1	2	4	7	9	10

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UNIT SIZE – MAXIMUM 5 POINTS						
ACRES	<40	40-160	161-320	321-480	481-640	>640
PT VALUE	0	1	2	3	4	5

OTHER FACTORS – MAXIMUM 7 POINTS	
Pre-existing slash from operations in the past five years	0-2
Proximity to structures, highways and recreational areas (e.g., parks, established campgrounds, etc.).	Add Points
330 feet	5
660 feet	4
990 feet	3
1320 feet	2
2640 feet	1

~~In applying offset points to large, complex contract areas, or contract areas with highly variable hazard characteristics, apply hazard offset techniques must first be applied toward that portion of the contract area which will do the most to reduce the hazard the most by optimizing fire control effects.~~

TABLE II - HAZARD OFFSETS REDUCTION (ALL POINTS ARE DEDUCTIONS)		
ALL POINTS ARE DEDUCTIONS		
DISPOSAL	Piling and Burning, Broadcast Burning, etc.	0-42
<p>If disposal reduces slash Slash load <u>Load</u> in the contract <u>Slashing area</u> Area to <less than <u>3 tons</u>, deduct Hazard <u>P</u> points to five (5) or less. If disposal does not reduce slash <u>Slash load</u> Load to that level, points should be <u>are</u> assigned as a proportion of the <u>proportionate to</u> area treated. For example, if twenty-five percent (25%) of the area is dozer piled and the piles burned, but the slash load in the contract area still exceeds three (3) tons, twenty-five percent (25%) of the total points charged against the job should be deducted. However, if the disposal effectively isolates the untreated portion of the slash or is otherwise placed to optimize fire control effects the proportion of points deducted may be increased to an amount to be determined by the district fire warden <u>Fire Warden</u>.</p>		
MODIFICATION:	Chipping	0-42
	Crushing	0-20
	Lopping	0-10

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<p>Lopping standards: Cut aAll material less than three (3) inches in diameter will be cut so that it does not extend more than twenty (20) inches of the mean height above the ground. Completely sever In addition, all boles greater than three (3) inches in diameter that intersecting another bole will be completely severed. Points are assigned proportionate to area treated.</p> <p>Assign points as a proportion of the contract area treated.</p>		
ISOLATION	Fuel Breaks	0-20
<p>To qualify as a fFuel bBreak, remove, pile and burn, or treat sufficiently all slash and available fuels for a minimum width of one chain (66 feet) (Ref. Subsection 010.10) must be removed, or piled and burned, or treated sufficiently to prevent a fire from carrying through the area, for a minimum width of one chain (66 feet). In addition, the Place breaks must be placed to take advantage of terrain, manmade or natural barriers, and to provide for optimum fire control effect.</p>		
	Fire Lines	0-5
<p>Remove Aall vegetative material must be removed to expose mineral soil. Minimum width of dozer All excavated lines must be the width of the dozer blade with have all dirt soil pushed in one direction displaced to one side and all vegetative debris to the other. Handlines must be eighteen (18) inches wide; additionally, with all fuels cleared must be cleared for eight (8) feet. Tie Lines must be tied to an anchor point except that they are not required to be built through a riparian management zone. In addition, Place the lines must be placed to take advantage of terrain, manmade or natural barriers, and to provide for optimum fire control effect. Maximum points deductions allowed are received only if combined with an approved fFuel bBreak.</p>		

ASSIGNING POINTS FOR ISOLATION			
Isolation techniques will usually be used to break the area into subunits or isolate the area from adjacent stands. Hazard offsets can be deducted for both if, in the opinion of the fire warden <u>Fire Warden</u> , both objectives are met, and the total isolation points do not exceed 25 offset points.			
ACTIVITY	FUEL-BREAK-ONLY	FIRE-LINE-ONLY	BOTH
Isolates contract area into subunits:			
— A. — Partial isolation or incomplete units	4-5	4	4-6
— B. — Complete isolation of area into 1 to 2 subunits	6-10	2	6-12
— C. — Complete isolation of area into 3 to 5 subunits	11-15	3	11-18
— D. — Complete isolation of area into 6 or more subunits	16-20	4	16-25
OR			
Isolates contract area from adjacent stands:			
— A. — One third of the contract area boundary isolated	4-5	4	4-6

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— B. — Two thirds of the contract area boundary isolated	6-10	2	6-12
— C. — Entire contract area boundary isolated	11-15	3	11-18
ACCESS CONTROL	0-2		
Locked gate system controls access on all secondary roads with slash treated on main road			4
Locked gate system controls all road access into unit			2
AVAILABILITY OF WATER			0-3
The water supply must provide water availability for engines within one road mile of operating area or within three air miles for helicopter bucket use. The water supply must be sufficient to supply 10,000 gallons in an operational period during the fire season.			
Water supply for engine only or helicopter only (capacity 10,000 gallons during fire season).			4
Water supply for engine and helicopter (capacity 10,000 gallons) or; for engine or helicopter and which replenishes itself every operational period.			2
Water supply for engine and helicopter which replenishes itself every operational period.			3

~~Slash #Loads can be determined by using any standard photo series appropriate for the habitat type represented by the Slashing Area or by using USDA Forest Service General Technical Report INT-16, 1974 (HANDBOOK FOR INVENTORYING DOWNED WOODY MATERIAL). If the Contractor insists upon the latter, sampling intensity will be one (1) sample per two (2) acres through the area in question. The inventory cost is paid by the Contractor. All Slash resulting from the current harvest is included in the inventory except Slash piled and burned by the Contractor before the Agreement's or Fire Warden granted extension's expiration date on the Agreement or extensions granted by the Fire Warden.~~

~~(3-18-22)()~~

121. -- 129. (RESERVED)

130. **LIABILITY FOR THE COST OF FIRE SUPPRESSION.**

01. **State Liability.** ~~With the exception of~~ **Except for** cases of negligence on the part of the landowner, operator, or their agents, liability for the cost of suppressing fires that originate on or pass through a ~~s~~Slashing-a Area remains with the State if ~~the Contractor executes~~ one of the following alternatives ~~is executed by the contractor:~~ ~~(3-18-22)()~~

a. The ~~contract~~ Slashing a Area is covered by a Certificate of Compliance-Fire Hazard Management Agreement and all hazard money payments are current or a proper bond is in place. ~~(3-18-22)()~~

b. The ~~e~~ Contractor treats the ~~s~~Slash in accordance with the standards outlined in ~~the~~ Section 120, Table II within the ~~time period~~ **period** specified ~~on~~ **in** the Agreement or approved extensions. ~~(3-18-22)()~~

c. The landowner or operator elects to enter into a ~~contract~~ **Contract** with the State for management of the ~~s~~Slash and ~~release from~~ liability ~~of for~~ fire suppression costs ~~as described in Section 060. in accordance with Section 38-404, Idaho Code.~~ ~~(3-18-22)()~~

02. **Contractor Liability.** Should the ~~e~~Contractor choose ~~not to~~ **not** treat the ~~s~~Slash or not enter into a

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~~contract~~ Contract with the State in accordance with ~~Subsection 130.01~~ Section 060, the ~~contractor, in addition to forfeiting any applicable bond,~~ Contractor is liable for fire suppression costs for all fires that originate on or pass through the ~~eContractor's sSlashing aArea and must forfeit any applicable bond.~~ The ~~eContractor~~ Contractor retains the full liability for five (5) years from the time the Agreement or any extension ~~thereof~~ expires, unless a ~~eClearance has been~~ is issued.

(3-18-22)()

03. Failure to Treat. Any ~~eContractor~~ Contractor who ~~fails to treat the fire hazard as outlined in~~ is liable under Subsection 130.02, is liable for the actual costs of suppressing any wildfire that ~~may occur~~ originates on or passes through ~~the the Slashing aAreas~~ covered by their ~~individual or separate~~ Agreements for an amount up to two hundred fifty thousand dollars (\$250,000) per Agreement, but no more than one million (\$1,000,000); for separate Agreements with different liable Contractors, the actual costs of suppression up to one million (\$1,000,000) will be shared by the Contractors prorated on the Contract Area acreage of those Agreements. If the same wildfire occurs on or passes through several areas covered by separate agreements or if several Agreements cover the same area, the contractor is liable for the actual cost of suppression up to one million dollars (\$1,000,000). If a wildfire occurs on or passes through an area covered by separate Agreements with different contractors, the actual cost of suppression up to one million dollars (\$1,000,000) will be shared by the contractors prorated on acreage included in their Agreements.

(3-18-22)()

04. Fees. Upon payment of the fees ~~set forth~~ listed in Table III, the State will assume liability for the cost of suppressing fires that originate on or pass through the ~~econtract~~ Contract ~~A~~ area.

TABLE III - ADDITIONAL FEE TO TRANSFER LIABILITY BY HAZARD POINTS	
POINTS	RATE
6-10	\$1.00/MBF
11-20	\$2.00/MBF
21-30	\$3.00/MBF
>30	\$4.00/MBF

~~Additional~~ Fee rates for measurement units other than ~~the~~ board foot ~~measurement~~ unit are available upon request from any Department ~~of Lands~~ office.

(3-18-22)()

05. Additional Fee. If the ~~eContractor~~ Contractor is unable to reduce the ~~hHazard pPoints~~ on a ~~Ccontract~~ Contract ~~A~~ area to the standards required for a ~~eClearance~~ Clearance, but has completed some ~~hHazard rReduction~~ work, ~~that the eContractor~~ can discharge the remainder of ~~his the~~ hazard obligation by returning a portion of ~~his the~~ bond to the ~~Fire district District~~ and paying an additional fee to transfer liability. Use the following formula: [One (1) minus (the ~~acceptable Low hazard point rating or of five (5)~~ divided by the residual, or untreated ~~hazard~~ Hazard pointsPoints)] ~~times the slash rate~~ multiply that ratio times the slash rate. This dollar amount ~~should is~~ be multiplied by the total volume removed from the ~~Ccontract~~ Contract ~~A~~ area and ~~A~~ added to ~~that the total volume times~~ the additional fee to transfer liability ~~(from Table III (for the untreated hazard) points, from Table III) times the total volume.~~ When this amount is paid to the State the ~~Ccontract~~ Contract ~~A~~ area can be cleared. ~~Which can also be~~ This computation is expressed as:

$$(1-(5/U)) * B * V + (A*V) = \text{Formula to transfer liability for a partially completed job.}$$

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Where:

U = Untreated or residual hazard points

B = Bond rate (usually \$4.00 MBF) Ref. Section 050, Table I

A = Additional fee to transfer liability, Table III

V = Total volume removed from the ~~eContract~~ ~~aAreas~~

~~(3-18-22)~~()

131. -- 139. (RESERVED)

140. CERTIFICATE OF CLEARANCE.

~~Anyone who has entered into an Agreement must apply in writing to the Director for a Clearance. The Certificate of Clearance is the instrument used to certify~~ies that one (1) of the following situations exists: ()

~~01. that a~~01. Hazard Reduction has beenwas accomplished in accordance with the standards in Section 120; ()

~~02. An additional fee was paid per Subsection 130.05; or~~ ()

~~03. The Contractor entered into a eContract with the Director per Section 060 to ensure hazard management.~~ ()

~~For Subsections 140.01 and 140.032, a contract entered into with the Director to ensure hazard management, or an additional fee has been paid. Anyone who has been issued an Agreement for the cutting of any forest product or potential forest product and who has met standards outlined in Section 120, or has made payment for hazard reduction under a contract with the Director, as provided in Section 38-404, Idaho Code, or has paid an additional fee in accordance with Section 38-122, Idaho Code, must apply in writing to the Director for a Certificate of Clearance. Within thirty (30) days after of receipt of such written the request for a Certificate of Clearance, the Director will cause inspect the requested area and issue the Clearance if the requirements of Section 120 or Subsection 130.05, respectively, were met covered by the request to be inspected. If it is found that the fire hazard has been properly disposed of, the Director will issue a Certificate of Clearance. The Certificate of Clearance must be substantially the same form as Department of Lands Form No. 760 "Certificate of Clearance." (3-18-22)~~()

141. -- 149. (RESERVED)

150. FIRE SUPPRESSION AND FOREST PRACTICES ASSESSMENT.

~~01. Withholding. An amount of three percent (3%) of the slash management rate (twelve cents (\$0.12)/MBF) will be is withheld from all slash management monies received and dedicated to suppression of wildfires on forest lands. For harvest from private land, an additional amount not to exceed three percent (3%) of the slash management rate (twelve cents (\$0.12)/MBF) can be is withheld from slash management monies received and will be is dedicated to Forest Practices support on forest Forest lands Lands.~~ (3-18-22)()

~~02. Assessment Costs. Fire suppression assessment costs on operations covered by surety bond or irrevocable letter of credit or other form of bond is paid at the rate specified in Subsection 150.01.~~ (3-18-22)()

151. -- 159. (RESERVED)

160. PRELOGGING CONFERENCE AND ~~AGREEMENT~~HAZARD REDUCTION~~MANAGEMENT~~CONTRACT.

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Pre-logging conferences ~~and hazard reduction agreements~~ are encouraged, ~~however, the~~ ~~hazard~~ Hazard reduction Management agreements ~~Contract~~ will be canceled or modified if significant operational changes occur during the timber harvesting ~~of forest products or potential forest products~~ operation ~~contract~~. (3-18-22)()

161. -- 999. (RESERVED)

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