

STATE BOARD OF LAND COMMISSIONERS

October 15, 2024

Regular Agenda

Subject

Adoption of Pending Rule, IDAPA 20.04.02 *Rules Pertaining to the Idaho Forestry Act and Fire Hazard Reduction Laws*

Question Presented

Shall the Land Board adopt the pending rule with changes to the proposed rule text for IDAPA 20.04.02?

Background

The Idaho Department of Lands (Department) is responsible for ensuring the reduction of hazardous wildland fuels created by forest products removal. IDAPA 20.04.02 establishes a consistent process for completing and assessing the reduction of hazardous fuels; it also sets bond rates for ensuring hazard reduction and penalties for non-compliant contractors.

Following Executive Order 2020-01, Zero-Based Regulation, this rule chapter is scheduled to be repealed and replaced in 2024 for review during the 2025 legislative session.

The Department received State Board of Land Commissioners (Land Board) approval on August 15, 2023 to enter negotiated rulemaking.

Discussion

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.
- Posted meeting information on social media.
- Posted rulemaking notices to Townhall Idaho.
- Emailed draft rules to 197 interested members of the public.
- Posted three draft rules in strikethrough format with reasonable periods of time for public comment.
- Engaged in discussions with Associated Logging Contractors, Idaho Department of Environmental Quality, Idaho Forest Owners Association, and Idaho Forest Industry group members.

The Department held two public negotiated rulemaking meetings with options for in person or virtual participation. Three participants attended the October 10, 2023 meeting in

Coeur d'Alene and no members of the public attended the October 11, 2023 meeting in McCall. There were no public comments provided during the meetings. The comment period ended April 17, 2024. Written comments were received from PotlatchDeltic, the Associated Logging Contractors, Inc., the Department of Environmental Quality, and Riley Stegner and Associates. All comments were addressed with changes to the rule text consistent with statutes and other Department regulations. There are no unresolved issues from the negotiated rulemaking process.

The Notice of Proposed Rulemaking was published in the Idaho Administrative Bulletin, Vol. 24-7 on July 3, 2024. No public hearings were requested or held. There was one written supportive comment from PotlatchDeltic with suggested changes to the rule text. A summary of this comment is included as Attachment 1. Several edits were made to the proposed rule based on the comment received (Attachment 2).

If approved by the Land Board, the Department will submit the Notice of Adoption of Pending Rule (Attachment 3) to the Office of the Administrative Rules Coordinator for the 2025 legislative session.

Recommendation

Adopt the pending rule with changes to the proposed rule text for IDAPA 20.04.02 *Rules Pertaining to the Idaho Forestry Act and Fire Hazard Reduction Laws*.

Board Action

A motion was made by Superintendent Critchfield that the Land Board adopt the pending rule with changes to the proposed rule text for IDAPA 20.04.02 *Rules Pertaining to the Idaho Forestry Act and Fire Hazard Reduction Laws*. Attorney General Labrador and Controller Woolf both seconded the motion. The motion carried on a vote of 4-0.

Attachments

1. Summary of Comments on Proposed Rule
2. Pending Rule Text with changes to Proposed Rule
3. Draft Notice of Adoption of Pending Rule with changes

