



Idaho Forest Owners Association
P.O. Box 1257
Coeur d'Alene, ID 83816-1257
info@idahoforestowners.org
www.idahoforestowners.org

January 10, 2020

Mr. David Groeschl
State Forester
Idaho Department of Lands
3284 W Industrial Loop
Coeur d'Alene, ID 83815-6021

Dear Mr. Groeschl:

I am writing today on behalf of the Board of Directors of the Idaho Forest Owners Association (IFOA) to document an agreement reached between the Idaho Department of Lands and IFOA regarding the Idaho Forest Practices Act Streamside Tree Retention Rule commonly referred to as the Shade Rule.

The Shade Rule was one of the agency administrative rules which was not reauthorized at the end of the 2019 Idaho Legislative session and, as a result, it is receiving negative pressure from landowner organizations such as the Idaho Farm Bureau. While some organizations would like to do away with this policy altogether, this is not an approach that IFOA supports. Forest landowners recognize that the Shade Rule is important in protecting water quality. Shade over streams protects fish habitat as well as reducing runoff, and IFOA supports some version of shade protection as part of the Forest Practices Act.

At a meeting on Tuesday, January 7, 2020, between IFOA representatives Fred Omodt, J. Frank Morado, G. Kirk David, and Madeline David, and Idaho Department of Lands officials, the following two part agreement was reached.

- (1) IFOA supports the reauthorization of the existing Idaho Forest Practices Act Streamside Tree Retention or Shade Rule.
- (2) The Idaho Department of Lands commits to initiating a negotiated rule-making process in the spring of 2020 with the goal of rewriting the existing Shade Rule to make the language of the Rule more understandable and more easily implemented as well as providing for greater flexibility in dealing with individual landowner situations. The Idaho Forest Owners Association will have an active role in redefining a new, more equitable Shade Rule as part of this process.

It is our goal to represent the best interests of our membership in this process of setting rules that govern best forest practices in the state of Idaho, but we are also committed to protecting Idaho's forest resources and water quality. We look forward to the opportunity to work with the Idaho Department of Lands to create a new Shade Rule which will allow us to meet both of these goals.

Sincerely,

A handwritten signature in cursive script that reads "M. E. Newsam Banks". The signature is written in dark ink and is positioned below the word "Sincerely,".

Marrion E. Newsam Banks
Executive Vice President
208-755-8168

DIRECTOR'S OFFICE
300 N 6th Street Suite 103
PO Box 83720
Boise ID 83720-0050
Phone (208) 334-0200
Fax (208) 334-5342



DUSTIN T. MILLER, DIRECTOR
EQUAL OPPORTUNITY EMPLOYER

STATE BOARD OF LAND COMMISSIONERS
Brad Little, Governor
Lawrence E. Denney, Secretary of State
Lawrence G. Wasden, Attorney General
Brandon D Woolf, State Controller
Sherri Ybarra, Sup't of Public Instruction

January 13, 2020

Idaho Forest Owners Association (IFOA)
PO Box 1257
Coeur D Alene, ID 83816-1257

via e-mail: info@idahoforestowners.org

RE: FPA Shade Rule

Dear IFOA Members:

On Tuesday, January 7, 2020, several IFOA Board members met with IDL Staff to discuss the Idaho Forest Practices Act (FPA) Shade Rule and the results of the Shade Effectiveness Study. During the January 7th meeting, IFOA Board members expressed a desire to simplify the current Shade Rule to make it easier to understand and implement.

The current Shade Rule was adopted and approved in 2014 by the Idaho Legislature. This rule was developed through an extensive negotiated rulemaking process with significant input and involvement by many stakeholders, including small private forest landowners who belong to your organization. Many of those involved in this multi-year process felt that the new Shade Rule struck an important and appropriate economic, operational, and biological balance.

After passage of the Shade Rule, Idaho Department of Lands (IDL) worked with the Idaho Department of Environmental Quality (DEQ) and the University of Idaho (UI) to implement a Shade Effectiveness Study to compare the modeled and measured (actual) changes in shade when applying the two Shade Rule options across different forest types. The preliminary results of this shade study were presented by UI and DEQ at the December 5, 2019 Forest Practices Advisory Committee (FPAC) meeting.

The Forest Practices Advisory Committee (FPAC) will meet again on January 30, 2020 to begin reviewing rules to bring forward to the April 21, 2020 Land Board for approval to enter the rules promulgation process. As we discussed during our meeting, one of the goals during the 2020 negotiated rulemaking process will be to simplify the existing Shade Rule. IDL will work with FPAC and interested stakeholders over the next three months to draft language that simplifies the rule while still maintaining the modeled and validated basis for the rule.

The rules promulgation process will provide opportunity for all interests to participate in negotiating a final proposed rule that simplifies the Shade Rule while maintaining the rule's scientific basis.

IFOA Board Members – FPA Shade Rule
January 13, 2020
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Thank for your support and participation as we work through this process. I appreciate the open dialogue and encourage your continued engagement.

Sincerely,

A handwritten signature in blue ink that reads "Craig Foss". The signature is fluid and cursive, with the first name "Craig" and the last name "Foss" clearly legible.

Craig Foss
Division Administrator

Cc: Dustin Miller, Director
David Groeschl, Deputy Director

DEPT. OF LANDS

JAN 15 2020

BOISE, IDAHO



January 15, 2020

The Honorable Marc Gibbs
Chairman
House Resources & Commerce Committee
Idaho State House of Representatives
Idaho Statehouse (EW40)

The Honorable Lee Heider
Chairman
Senate Resources & Environment Committee
Idaho State House of Senate
Idaho Statehouse (WW55)

RE: Idaho Department of Lands Streamside Tree Retention Rule ("Shade Rule") pending before your Committee

Members of the House Resources & Commerce Senate Resources & Environment Committees:

PotlatchDeltic owns approximately 628,000 acres of timberlands and has two manufacturing facilities in North Idaho, which combined contribute over 410 jobs. We write concerning the Idaho Department of Lands' (IDL) Streamside Tree Retention Rule, or "Shade Rule", that is currently pending before the House Resources & Commerce Committee.

PotlatchDeltic strongly opposes the repeal of the existing Shade Rule and has significant concerns with potential consequences of a repeal of the rule and the important benefits and protections it provides. We serve on the Forest Practices Advisory Committee to the board (FPAC) and have been involved in the rule's development during the negotiated rulemaking process and the implementation of the Shade Rule since its approval by the Idaho Legislature in 2014. We continue to be part of the FPAC and actively work to recommend changes to FPA rules. We feel strongly that the preferred alternative to address concerns is by rule modification through the knowledgeable and robust stakeholder FPAC forum.

It is our experience that we have been able to more efficiently and effectively manage forestlands under the current Shade Rule than under the past streamside tree retention rule. Just as important, we support the need for the rule as a highly credible, research-based method to ensure Idaho's compliance with the federal Clean Water Act statutes. In short, Idaho's Shade Rule provides important protections for forest landowners and fish. This rule is essential to maintaining the productivity of Idaho's soil and water.

Repeal of this important rule would result in significant policy, litigation, and water quality consequences.

Thank you for your consideration.

Sincerely,

A handwritten signature in blue ink, appearing to read "Anna E. Torma".

Anna E. Torma
Vice President Public Affairs

Subject: Please Support the Idaho Forest Practices Act "Shade Rule"

January 16, 2020

To: Marc Gibbs, Chairman, & Members of the House Resources & Commerce Committee,
Lee Heider, Chairman & Members of the Senate Resources & Environment Committee

I am a non-industrial forestland owner in Boundary County, and my family has owned our 122 acres for over 33 years. We are good stewards of the land and manage our forests for timber production. Our forestland has been a certified Tree Farm since 1988 and it has several streams running through it.

I have been a member of the Idaho Forest Owners Association (IFOA) for over 30 years and served on the Board of Directors for IFOA for 12 years (1997 – 2012). I am a graduate professional forester and have worked for 45 years in the woods of north Idaho and northwestern Montana. I have always worked and, still work today, on private forestlands.

I am a committee member on the Idaho Forest Practices Advisory Committee (FPAC) representing the "Small Woodland Owners". I have served on FPAC now for 13 years. This committee oversees the Idaho Forest Practices Act and is actively involved with keeping these rules current and practical. One of FPAC's goals is to not become like Washington or California -- where forest regulations are burdensome, expensive, complicated and impractical. FPAC keeps this in mind with everything we do. All FPAC meetings are open to the public and we constantly take public comment on all forestry issues.

We have always had a Shade Rule in Idaho along Class 1 streams (since 1974). This rule protects water quality and provides the private landowner several options as to how to manage their streamside forest. The last revision was in 2014 and it took 10 years of discussion, research, debate, and compromise to get it done. The 2014 revision is better, but not perfect. Streams in north Idaho are extremely variable due to forest types, elevation, aspect, stream orientation, existing streamside vegetation, hydrologic features, topography, etc. With this difficult revision, we did our best possible in keeping the rule pertinent and applicable to all conditions. We will continue to improve the Shade Rule over time as better science becomes available.

As a practicing professional forester, I know that the current shade rule is a good balance. It allows for forest management while providing adequate protection to Class 1 streams. Please do not repeal the Shade Rule. To do so will cause havoc in our forests and courts. The proper way to make change, if needed, is to allow FPAC to do its work as it has for the past 40+ years.

Best regards,



Kennon McClintock

65 McClintock Road

Moyie Springs, Idaho 83845

208-267-7064



687 W Canfield Ave Ste 100

Coeur d'Alene, ID 83815

IDFG.com

208.255.3200

January 17, 2020

The Honorable Marc Gibbs
Chairman
House Resources & Commerce Committee
Idaho State House of Representatives
Idaho Statehouse (EW40)

The Honorable Lee Heider
Chairman
Senate Resources & Environment Committee
Idaho State House of Senate
Idaho Statehouse (WW55)

RE: Idaho Department of Lands Streamside Tree Retention Rule ("Shade Rule")

Dear Members of the House Resources & Commerce Senate Resources & Environment Committees:

Idaho Forest Group (IFG) operates 6 wood manufacturing facilities in Idaho and manages 67,000 acres of forestlands. IFG contributes roughly 1,000 jobs and employs nearly 2,000 logging and hauling contractors in northern Idaho. We produce over a billion board feet of lumber a year putting IFG in the top ten softwood producers in North America. We work with a broad spectrum of forest landowners including the State, the federal government, and a wide variety of private owners. We are writing in support of the Idaho Department of Lands' (IDL) Streamside Tree Retention Rule, or "Shade Rule", that is currently pending before the House Resources & Commerce Committee.

Our company strongly opposes the repeal of the existing Shade Rule. We have significant concerns with consequences that may manifest from repealing the rule and the important protections it provides. We were involved in the development of the Shade Rule during the negotiated rulemaking process and have been implementing it on private and public forestland since its approval by the Idaho Legislature in 2014. We have found the current Shade Rule to be workable and provides several options to landowners to ensure compliance.

Just as important, we support the need for the rule as a highly credible, research-based method to ensure Idaho's compliance with the federal Clean Water Act statutes. In short, Idaho's Shade Rule provides important protections for forest landowners and fish. This rule is essential to maintaining the productivity of Idaho's soil and water which will support our industry long into the future. Reducing or eliminating this rule may also jeopardize the reputation of the forest products industry, which is already highly scrutinized.

IFG recommends that the Idaho Legislature approve the current rule that was previously adopted by the Legislature in 2014. We also advise that IDL move to rule-making in 2020 to address ongoing concerns. Repeal of this important rule could result in significant policy, litigation, and water quality consequences. Thank you for your consideration on this very important issue.

Sincerely,

Tom Schultz, V.P. Resources & Governmental Affairs



January 20, 2020

Members of the Senate Resources & Environment Committee:
700 W Jefferson Street
Boise, ID 83702

Subject: Idaho Power, Rocky Mountain Power and the Idaho Consumer-Owned Utilities Association Oppose Removal of “Shade Rule”

Members of the Senate Resources & Environment Committee:

Thank you for the opportunity to express our concerns about the proposed removal of the Forest Practices Act Streamside Tree Retention Rule or “Shade Rule” from Idaho rules. We are concerned about this proposed elimination of the “Shade Rule” as it could have significant detrimental financial and environmental effects on Idaho investor owned and consumer-owned utility rate-payers who are citizens of Idaho.

As an example, recent regulatory requirements associated with the relicensing Idaho Power Company’s (IPC) Hells Canyon Complex require IPC to enhance and protect miles of stream side vegetation as water temperature mitigation. Most of the water temperature conditions that IPC is required to mitigate are the result of warm water flowing into its reservoirs. Actions that further degrade streamside vegetation conditions in the Snake River Basin would serve to increase the cost and regulatory risks to IPC and its customers. Even very small changes in temperature could have a significant effect. IPC is currently required to spend hundreds of millions of dollars to mitigate a temperature issue that averages only a couple of degrees for a 2-week period out of the entire year. Very small changes in temperature can have substantial financial impacts to rate-payers. In fact, mitigating this very small temperature standards exceedance is the most costly water quality mitigation required of IPC as part of the Hells Canyon Complex relicensing.

In addition to temperature mitigation that investor owned utilities are undergoing and may undergo in future relicensing efforts across the state, elimination of the shade rule may also place additional burden on consumer-owned utilities. Consumer-owned utilities partner with Bonneville Power Administration to invest in salmon mitigation. These efforts may be impacted by increased water temperatures due to reduced presence of streamside shade.

In summary, Idaho Power, Rocky Mountain Power and the Idaho Consumer-Owned Utilities Association do not support the proposed elimination of to the “Shade Rule” from Idaho rules as it would result in substantially more risk to Idaho’s rate-payers.

We appreciate your public service to the State of Idaho and your consideration of the implications of removing the Forest Practices Act Streamside Tree Retention Rule from Idaho rules.