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September 25, 2013

Craig Foss, Forestry Assistance Bureau Chief  
Archie Gray, Forest Practices Act Program Manager  
Idaho Department of Lands  
3284 W. Industrial Loop  
Coeur d'Alene, ID 83815-6021

**RE: Comment on Proposed Rulemaking for Streamside Tree-Retention (Shade Rule)**

Dear Sirs,

Idaho Forest Owners Association (IFOA), representing forest landowners with ownerships of only a few acres or up to thousands of acres in Idaho (an aggregate of millions of acres), has previously been asked and been afforded to comment on the negotiation within the Idaho Forest Practices Act Advisory Committee (IFPAAC) for a revision of the current “shade rule” (refer to IFOA letters of 1/8/13 and 6/25/13).

IFOA understands that the existing Forest Practices Act (FPA) “shade rule” has been problematic for enforcement to maintain target shade levels on fish bearing streams. IFOA agrees with the Idaho Department of Lands’ (IDL) desire to develop a rule that is measurable, more easily administered, and scientifically defensible.

IFOA’s Directors and many members still have the following concerns regarding the proposed rule as presented in IDAPA Docket No. 20-0201-1301 on September 4, 2013:

1. Landowners want to maintain the ability to properly manage all of their land, including the Stream Protection Zones (SPZ) on Class 1 streams. Family forest owners are motivated by a strong stewardship ethic and do not desire to inflict deleterious impacts to any of their ownership, particularly the streams. Forestland owners desire the ability to manage their SPZs to *prevent* insect, disease, and fire from occurring in this zone and to *salvage* trees when a natural catastrophic event occurs. IFOA feels it is *very* important for landowners to have active and adaptive management opportunities to keep their forests healthy and productive. A required Relative Stocking (RS) of 60 is an exceptionally conservative measure to provide shade. An RS of 55 is identified as full canopy closure. As the majority of natural stands in Idaho do not exceed this level, a RS of 60 (which, according to the “Tepley” report submitted to IFPAAC during their research, is already a declining forest) would typically not allow any harvesting prior to the onset of destructive

influences on the forest. A RS of 50 would, in many cases, allow some minimal harvesting to maintain forest health and allow regeneration (new trees) to occur.

2. For RS determination in the SPZ, the proposed Rule treats all streams as if they are 10 feet wide. A very large percentage of family forest owners have Class 1 streams much smaller than 10 feet wide on their properties. A RS needed to shade a 2 foot wide stream is obviously less than for 10 feet. This reality calls for a rule which includes delineations of average stream width (e.g., 1'–4.0', 4.1 –7.0', and 7.1'–10') with appropriately adequate RS requirements (percentage of the current 10-foot model?) for each category.

3. The proposed Rule metrics depend heavily on streamside modeling using a small data set. Since models can only reasonably determine averages by using a limited amount of variables, surrogates – such as number of trees for shade, and shade for water temperature – result in a wide range of results in that estimation. It is well known that many, many specific onsite vegetative and topographic conditions contribute to the effective shade on a stream. There are several inexpensive and scientifically valid field tools (Solar Pathfinder being only one of the best) available for actual shade percentage measurement. IFOA would be in favor of a rule that allows for *actual* onsite measurements of shade rather than a difficultly modeled approximate guess.

4. Another concern is that a landowner be able to correctly understand and apply the rule themselves, or have assistance available through the IDL from a Private Forestry Specialist (PFS). We sincerely desire that adequate assistance from a full complement of local IDL PFS will be available to interpret the RS measurement requirements. IFOA does *not* support a rule that *effectively* requires a landowner to additionally hire a consulting forester to determine what can legally be harvested. If a landowner marks timber within the SPZ for removal, they need assurance that upon request, a PFS will review the SPZ on the ground *prior* to harvest to avoid a violation. Small woodland owners *want* to “do the right thing”. We understand that field testing of this methodology has been problematic for IDL, but we would like to see substantive progress toward a guidance document that provides the layman a simple and clear explanation of the work required.

5. Since this comment letter is directed through you to the IFPAAC, we would appreciate it if IFPAAC's agenda included advising the State Forester, and thus the Idaho Board of Land Commissioners, of the inequity of requiring *only* forestland owners to bear the responsibility for cooling streams to temperatures said to be desirable for healthier fish populations. Idaho forestland owners are being targeted by the Environmental Protection Agency and Idaho Department of Environmental Quality (IDEQ) to substantially restrict the proper management of their land and forest resources. Idaho forestland owners will not be compensated for these further restrictions to their land - restrictions that are providing a public benefit (clean, cool water) and other public ecological services. Other landowners (commercial, residential, recreational, agricultural, etc.) who have Class 1 streams on their property are not subject to the same requirements. The 2012 IDEQ quadrennial audit showed that there are a few problems on private forestlands, and obviously there are many shade problems on other forestland and non-forestland ownership types. If this shade rule is mandated for good habitat, is it not incumbent for *all* ownerships along fish-bearing streams – and not just Category 6 or 7 (forest) land uses – to

contribute to the attainment of this public good? Selective use of economic disincentives to forestland management drives the unintended consequence of conversion out of that use, to the detriment of Idaho's forest industry *and* natural resource habitats. We feel it is appropriate and would appreciate this concern being communicated to the Land Commissioners through IFPAAC, as well as our similar citizen efforts in that regard.

IFOA requests that IDL and IFPAAC continue to gather authentic streamside data and find accurate methods to implement reasonable Forest Practices Act rules for the protection and benefit of Idaho's many natural resources and an economy that depends on sustainable management and utilization. IFOA stands ready to assist in those efforts, and feels this may result in a workable solution, if the concerns outlined above are adequately addressed.

Representing IFOA Directors and Idaho family forest landowners,



**Dale Dimico**  
**Vice President**  
**Idaho Forest Owners Association**