



STATE OF IDAHO  
DEPARTMENT OF  
ENVIRONMENTAL QUALITY

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C.L. "Butch" Otter, Governor  
Curt Fransen, Director

June 26, 2013

Ms. Ara Andrea  
Service Area Regulatory Program Manager  
Idaho Department of Lands  
3284 Industrial Loop  
Coeur d'Alene, Idaho 83815  
[aandrea@idl.idaho.gov](mailto:aandrea@idl.idaho.gov)

Dear Ms. Andrea:

Subject: Idaho Proposed Shade Rule, Docket No. 20-0201-1303

The Department of Environmental Quality (DEQ) appreciates the opportunity to comment on the Idaho Department of Lands (IDL) proposed stream protection shade rule. DEQ understands this has been an arduous and lengthy process, and we share IDL's interest in developing a shade rule that is both protective of shade and implementable in the field.

DEQ supported the proposed rule as drafted and presented at the public rulemaking on Wednesday, June 12, in Boise. DEQ felt riparian shade and resulting stream temperatures were protected, based on modeling work done by both the IDL contractor and the US Environmental Protection Agency (EPA). Both modeling efforts demonstrated that shade could be maintained at levels less than 100% Relative Stocking (RS) and still protect water temperature. The proposed rule provides for some riparian management in two different options (0-25/25-75 feet or 0-50/50-75 feet) with minimum RS targets in each option. DEQ felt the proposed rule was an improvement over the current rule, which calls for maintaining 75% of existing shade, as the proposed rule set a minimum RS or floor for shade.

This was the situation until the Wednesday rulemaking, where a member of the public in attendance asked IDL if the rule allowed for independent application of the inner and outer zones in both options or concurrently. IDL affirmed it allowed for independent application. This might have been a failure on the part of DEQ, as we believed the rule and both options worked together, wherein a minimum RS in one zone affected the other. However, it was made clear by IDL that they were independent and that the minimum RS in one would not preclude options in the other. This being the case, it would be possible to take the outer option down to its minimum RS even if the inner and most critical zone was below its minimum RS level.

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It's possible that this situation could occur and the resulting shade loss would be less than currently maintaining 75% of existing shade. DEQ recommends IDL consider making the two zones work simultaneously. In this way we can be certain that the intent of the rule is to protect and maintain riparian shade and resulting water temperatures as modeled.

Lastly, DEQ asks IDL to support follow-up monitoring to ensure the rule, based on modeling, is having the desired results in terms of shade and water temperature. This might require our two agencies to conduct monitoring outside of the quadrennial Forest Practice audits. If you have any questions please feel free to call me at (208) 373-0570.

Sincerely,



Michael McIntyre  
Surface Water Program Manager

MJM:ls

c: Don Zaroban, DEQ  
Leigh Woodruff, EPA, Boise  
Dave Powers, EPA, Portland