

Negotiated Rulemaking Meeting Notes, 04/29/2021

Name of Negotiated Rulemaking: Rules Pertaining to the Idaho Forest Practices Act (IDAPA 20.02.01)

Docket number: 20-0201-2101

Location: Orofino, Idaho and teleconference/web conference

Date/Time: Thursday, April 29, 2021 – 6:02 p.m. to 7:10 p.m. PT

Attendees: See sign-in sheets

Facilitated by: Gary Hess, Regulatory/Stewardship Program Manager, Idaho Department of Lands

This is the third of 4 scheduled meetings during the public comment period April 7 – May 7, 2021.

Craig Foss, Archie Gray, and Gary Hess of the Idaho Department of Lands (IDL) presented on participation guidance, rulemaking, and a summary of rule change recommendations, which prompted the following discussion.

Questions about the rulemaking process:

Dan Brown: Are there other opportunities for the FPAC (Forest Practices Advisory Committee) to engage aside from a scheduled meeting after the initial public comment period? Do they review and advise on public comments and the responses?

Archie Gray: There is nothing in the process to say that FPAC couldn't convene to discuss and reply to submitted comments. That is not what we are doing right now.

Dan Brown: It seems that FPAC has historically agreed on the importance of maintaining the higher stocking in the inner zone, as supported by the science. I was surprised that IDL was making a decision on the shade rule that they weren't going to consider that and I was wondering if FPAC members had an opportunity to weigh in on that. We think it is a pretty significant departure from the science that serves as the base of the rule and I expect some of the FPAC members would feel that way as well.

Archie Gray: The current draft rule was presented to them and discussed at length. It is the result of many months of work by the FPAC to craft a better solution. It is not a surprise to them; it is what the FPAC voted on as the proposed starting point for the negotiated rule process.

Bob Smathers: How do I submit comments?

Archie Gray: You can visit our public rulemaking page and click on a link to an online form. Or, you can submit comments to rulemaking@idl.idaho.gov as well. You should expect an automatic reply acknowledging that your comments have been received.

Dan Brown: I know our comments were received, because they have been posted on the website, but I do not recall getting the acknowledgment email.

Archie Gray: Thank you. It may have gone to your junk or spam folder. You should get a response.

Questions and comments pertaining to Class I stream tree retention:

Bob Smathers: I am here representing the views of the Farm Bureau Forestry Committee. I left the official comments at my office. I will be submitting those written comments in the next

few days. One topic raised in a recent meeting is that the current draft shade rule is a one size fits all approach for northern Idaho over all habitat types. There is a lot of variability in Northern and Central Idaho, with many habitat types. They would like to see more consideration for this variability in the shade rule retention requirements. The other point is that there should be more weight given to riparian vegetation in the shade zone. [Bob presented and sited data and conclusions from two studies regarding stream temperature and fish resilience.] A 1970 study in western Oregon looked at clearcut and patchcut situations where the sites were burned to the stream post-harvest. Temperatures were monitored in the two years prior to harvest and each year until six years after harvest. It found stream temperature increased significantly in the first year and began to recover in year two. By year six, temperature was at record low levels. Since trees were not regenerated that quickly, the impact of shade was the result of other streamside vegetation. A laboratory based study by the Sustainable Ecosystems Institute (ECI) in 2000, demonstrated the ability of fish to moderate the effects of extreme temperature conditions in streams. It acknowledged the risks to salmon and trout associated with stream temperature, but concluded salmon and trout have physiological and behavioral mechanisms that resist death at high and low temperatures. The first study supports this conclusion, because stream temperatures reached 80 degrees for up to 6 hours without observed fish mortality. Another conclusion of the ECI study was that temperature extremes warm enough to kill salmonids really are not achieved in the Pacific Northwest. [Bob provided these studies to the IDL for review.]

Craig Foss: Thanks a lot Bob. And thanks for stepping to the camera so that we could all hear what you had to say.

Dan Brown: One of the things you talked about on the call last time was how the current stocking levels in the inner zone could lead to competition induced mortality and I think you were planning on sharing that information with folks interested in the rulemaking. I have been looking into that as a follow-up. Most of the competition induced mortality limits are based on relative density and you use relative stocking so could you help define that relationship between the relative stocking level and the relative density levels that are typically used in the literature to designate the competition induced mortality thresholds.

Gary Hess: Either in the 2013 or 2014 paper that Mark Telpy and his colleagues published is where he refers to the Relative Stocking of 55 as the onset of competition induced mortality.

Dan Brown: Thanks, Gary. I think that is the same paper where he implies that RS 55 is pretty important for producing the large wood. I think in that paper he says beneath that level, there is not a lot of supply of the large wood. I am not certain and I would have to go back and look at that.

Gary Hess: As would I.