

May 7, 2021

Mr. Gary Hess
Regulatory and Stewardship Program Manager
Forestry and Fire Division
Idaho Department of Lands
3284 W Industrial Loop
Coeur d'Alene, Idaho, 83815

RE: IDAPA 20.02.01 - Negotiated Rulemaking

Dear Mr. Hess:

As a private forest landowner, I appreciate the opportunity to provide public comment regarding the Idaho Department of Lands intention to promulgate forest practice rules during the negotiated rulemaking period. The proposed rule revisions are intended to update and simplify the rule, to promote understanding and compliance, while maintaining or enhancing water-quality protection.

As a professional land manager and forestland owner of over 1,900 acres of Idaho timberland in North Central Idaho I commend your revised rule set simplifying the language and clarifying some of the terminology of the established rule set. For the most part, the revision to IDAPA 20.02.01 seems to have resulted in minimal impact to private forestland owners in Idaho.

One place of concern is the oversight of allowing for a waiver of the rule set to be considered. Blanket application of the current Class I rules along all streams is inherently problematic as it doesn't allow for consideration of topographical stream location or for the consideration of the economic impact to the landowner. Preservation of stream characteristics to provide habitat conducive to fish species may create unintended consequences to the landowner without any method of economic recovery and an annual cost burden, taxes, that is unsustainable due to the loss of economic return.

Current rule set allows for a variance subject to an approved mitigation plan. The variance option does not allow the landowner to harvest below the Class I rule parameters whereas a Waiver of the rule could. Other agencies both Idaho State and Federal have decreed that harvesting timber below the designated stocking level within the SPZ is a long-term detriment to the stream without consideration of the burden imposed on the landowner. By allowing a Waiver of the rules, subject to a plan that allows for the Stream to meet Class I criteria over a defined time duration, landowners could have the option to utilize their forest land to provide economic returns while maintaining stream habitat conducive to fish.

I propose that IDL add a Waiver process specific to the tree stocking requirement along Class I streams to allow for the harvest in excess of 20% of the timber stocked within the 150-foot Stream Protection Zone.

Another, issue that is of concern is the new rule 040.02.eii, mandating that Culverts 30" and larger must now "armor the inlet or use a flared inlet structure". This will add significant costs to the purchase cost and installation of these culverts for private forest landowners. I am not aware of any significant documentation that relates to why this should be required on all culvert installations throughout the State. I do not agree that this requirement should be included in the FPA revisions.

It seems that IDL is imposing a "one size fits all" rule for the Class I Shade rule and Culvert Design. These rules, as currently proposed, do not recognize diversity of topography and terrain. In addition, IDL and the State of Idaho does not recognize the economic costs that will be borne by landowners in following these rules. Without a method of cost recovery either via harvest or a reduction in their property tax basis this rule set as currently proposed should not be adopted. To remedy these two issues, I request that methods to waive the Class I Stream Side Protection and Culvert Design rules subject to a remediation plan, be included in the revised ruleset or a method for the reduction in tax burden be considered, for the economic costs borne by private landowners subject to these rules.

Thank you for the opportunity to provide comment.

Sincerely,

A handwritten signature in black ink, appearing to read "Mike Reggear", written over a light blue rectangular background.

Mike Reggear
Private Landowner, Clearwater Co.
542 Loeth Rd
Orofino, ID 83544
mreggear@orofino-id.com