



RILEY STEGNER AND ASSOCIATES

January 8, 2020

Mark Boyle
Smoke Management Supervisor
DEQ Coeur d'Alene Regional Office
2110 Ironwood Parkway
Coeur d'Alene, ID 83814
paula.wilson@deq.idaho.gov

RE: DEQ Preliminary draft rule - Rules for the Control of Air Pollution in Idaho/prescribed burning,
Docket No. 58-0101-1901

Dear Mr. Boyle:

Thank you for the opportunity to comment on the Idaho Department of Environmental Quality's (DEQ) preliminary draft rule regarding the DEQ Negotiated Rulemaking - Rules for the Control of Air Pollution in Idaho/prescribed burning, Docket No. 58-0101-1901.

First, we would like to commend DEQ's decision to pause the preliminary draft rule process to allow for coordination with the Idaho Department of Lands (IDL), the lead agency currently regulating prescribed fire operations in Idaho. While we do agree with the position articulated by the Idaho Department of Lands (IDL) on November 25, 2019, that the interagency cooperation was productive and resulted in an improved understanding of prescribed fire on the landscape, we continue to have significant concerns about the revised preliminary draft rule. We believe the current MT/ID Airshed Group system is effective, and we have concerns about fundamental rationales for new regulations on prescribed fire. However, we remain committed to working cooperatively with DEQ during this rulemaking process.

Perhaps most concerning about the current rule is not what is *in* the draft—although we do have specific concerns as outlined below—but what is *not* in the rule. As was discussed at the November 25 meeting, DEQ envisions a guidance document in which much of the important policy details will be contained. A proposed guidance document or manual presents serious challenges as it appears other State agencies, impacted stakeholders, and the Idaho Legislature would have limited opportunities to participate in and inform policies regarding prescribed fire. We strongly request DEQ provide adequate public, State agency, and legislative input on any public policies that may impact the regulated community by including them in the negotiated rulemaking process.

Other aspects of the rule are also concerning due to either 1) Vagaries about how additional requirements will be implemented; and 2) Lack of adequate definitions.

- 1) In particular, the rule mandates training and recertification for burners, but does not provide information on what kind of training would be required, how burners would obtain certification, and penalties for failure to conform to such regulations. The rule also contemplates “[a]dditional smoke management factors necessary for the Department to make a burn decision” without identifying any specific conditions that would impact burning operations. Additionally, the rule

mentions compliance through electronic-based systems that are not accessible to many areas of rural Idaho where much of prescribed fire takes place.

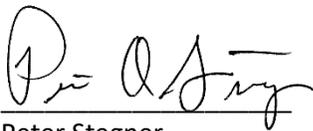
- 2) Regarding lack of adequate definitions, among other provisions, the rule adds additional reporting requirements that are vaguely defined and likely difficult to implement in the field. The rule divides burners into categories through “large” and “small” volume pile burning parameters that would either be difficult to identify on the ground or arbitrary in certain burn operations. Finally, the rule does not seem to discriminate between broadcast and pile burning in a meaningful enough way to provide burners with the understanding of how slash remediation as required by Idaho statute would fit into the new regulatory matrix.

As we are still reviewing the rule and its potential impacts, the above concerns are not exhaustive, and we will likely have more input in subsequent comment periods. Moreover, as we have mentioned in previous comments, the preliminary draft rule would make sweeping changes to the current management operations for all forestland owners in Idaho—including current members of the MT/ID Airshed Group. Such substantial changes without clearly defined, fundamental rationales for new regulations on prescribed fire, based on facts and data describing the problem, is in itself an administrative overreach. The MT/ID Airshed Group works. This rule should not impact that process in any way.

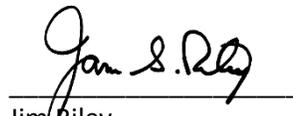
We write on behalf of Bennett Lumber Products Inc., Hancock Forest Management, Idaho Forest Group, Molpus Woodlands Group, PotlatchDeltic Corporation (also represented by Risch Pisca), and Stimson Lumber Company. These companies collectively manage over 1 million acres of commercial forestland in Idaho.

Thank you for allowing us to comment on the preliminary draft rule.

Sincerely,



Peter Stegner
Principal
Riley Stegner and Associates



Jim Riley
Principal
Riley Stegner and Associates