



# DEPARTMENT of the INTERIOR

## news release

### Fish and Wildlife Service

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#### FISH AND WILDLIFE SERVICE PROPOSES SPECIAL RULE EASING REGULATORY BURDEN ON TIMBER HARVEST ON NON-FEDERAL LAND

The Interior Department's U.S. Fish and Wildlife Service (Service) today announced a proposal to ease timber harvest restrictions currently imposed on private, Tribal, and other non-Federal forestlands to protect the northern spotted owl in Washington and California.

"The President's Forest Plan and the expected benefits from our habitat conservation planning initiative have provided a firm foundation for the conservation needs of the spotted owl. We can now move forward with a proposed rule that provides non-Federal landowners in the Pacific Northwest with four things: certainty regarding the use of their land, special relief for small landowners, the minimization of social and economic impacts from owl conservation, and positive incentives for voluntary owl conservation," said George Frampton, Assistant Secretary for Fish and Wildlife and Parks. "With its focus on relief for small- and mid-sized landowners and its consistency with the goals of the Federal Forest Plan, today's announcement is another key piece of the puzzle for resolving the spotted owl wars in the Pacific Northwest," said Frampton.

"Today's action is a perfect example of how we can use the built-in flexibility of the Endangered Species Act to solve problems for private landowners," he said. "By using the law's flexibility we can preserve the region's rich natural heritage and promote a sustainable economy."

Frampton said today's action also fulfilled President Clinton's Forest Plan goal of easing restrictions on certain non-Federal lands. The Forest Plan called for the development of a new rule once plans were made to improve management of Federal lands.

"I am very pleased that the Department of the Interior has begun to address the unique problems facing small woodlot and land owners under the Endangered Species Act. For too long, small woodlot owners have felt left out of the debate over the spotted owl," said Nels Hanson, executive director, Washington Farm and

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Forestry Association. "The Secretary is to be commended for supporting a small landowner exemption in the 4(d) rule. While the devil is in the details and we will most certainly push for the largest exemption possible, this is a very positive first step."

"This proposed rule is the final step in the Northwest Forest Plan. It would allow State and private land managers to put in place their own habitat conservation plans on non-federal lands, and harvest restrictions could be relaxed when appropriate. That is the balance we have been working toward for the past two years," said Sen. Patty Murray (D-Washington). "I am encouraged that President Clinton and Secretary Babbitt are working to provide relief for private landowners, timber workers, mills and communities in the Northwest."

"I believe this holds great promise for private landowners who have lived under tremendous uncertainty for far too long," said Congressman Norm Dicks (D-Tacoma). "When President Clinton announced details of the Forest Plan, he promised to help private property owners, and to make up for the loss of timber supply from federal lands. This proposed rule holds the promise of real relief."

"Based on our understanding, the rule appears to be a reasonable first step in creating cooperation between the federal government and private forest owners because it recognizes the needs of private property owners in addressing the spotted owl issue," said W. Henson Moore, president of the American Forest and Paper Association.

Currently, "takings" restrictions are imposed in all of the owl's range. The Service's proposed rule uses a provision of the ESA known as "section 4(d)" to impose this "takings" prohibition only where the Service finds it to be necessary and advisable. Thus, under the rule, the incidental take of spotted owls in the course of timber harvest and related activities on specified non-federal lands in Washington and California will not be prohibited. The proposal does not apply to Oregon in deference to the State's desire to develop an "Oregon alternative" to the Service's proposal. For the interim, the spotted owl in Oregon would remain fully protected from incidental take under the prohibitions established at the time of its original listing in June of 1990.

The proposal:

- (1) Establishes the first small landowner exemption ever under the ESA. Landowners in Washington and California with less than 80 acres of forestland generally would be exempt from incidental take prohibitions;

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- (2) Lifts the prohibition against "incidental take" of owls from timber harvest activities over large portions of non-Federal lands in Washington and in most of the Klamath province in California. The proposal would only require the maintenance of the closest 70 acres of suitable habitat around an owl site center in these areas.
- (3) Retains current incidental take restrictions in six key "Special Emphasis Areas" (SEAs) in the State of Washington where non-Federal lands still play an important and essential role for the conservation and recovery of the owl.
- (4) Provides an expedited and streamlined process for resolving owl conservation conflicts for persons owning up to 5,000 acres of lands within Special Emphasis Areas in the State of Washington.
- (5) Proposes to work cooperatively with the State of California in a planning process for four potential "California Conservation Planning Areas" (CCPAs) in northern California where special measures are needed to conserve owls. In addition to small landowner relief provided immediately for these four CCPAs, the proposed rule would provide the opportunity for additional incidental take relief to be granted through California's Natural Community Conservation Planning Act process.
- (6) Launches a new voluntary and innovative owl habitat enhancement program designed to provide incentives for private forestland owners to undertake conservation activities for owls. This program would target landowners who are not currently affected by harvest restrictions for an owl but are worried that such restrictions might be applied at some point in the future. By entering into a cooperative conservation agreement with the Fish and Wildlife Service, to enhance or maintain spotted owl habitat for the life of the agreement, the landowner would be shielded from any future incidental take restrictions for the owl.

The Service published a notice of its intent to issue regulations easing restrictions on "incidental take" on non-Federal lands in December 1993 and received more than 8,500 public comments. The concept of easing restrictions on non-Federal lands is consistent with the President's Forest Plan, which assumed that Federal lands should contribute more to the conservation needs of the spotted owl than should non-Federal lands.

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### Washington State

The proposal would relax "incidental take" restrictions for over 5.3 million acres on non-Federal conifer covered forest lands in the State of Washington. These areas are in the range of the spotted owl in the Washington Lowlands province; portions of the western and eastern Cascades provinces; and the northern, eastern, and southern portions of the Olympic Peninsula province. Timber harvest operators in this area would be required to maintain 70 acres of the closest suitable habitat around owl sites but would otherwise be relieved from prohibitions against the incidental take of spotted owls.

Incidental take restrictions would be retained in six proposed "Special Emphasis Areas." These Special Emphasis Areas, or SEAs, include the western portion of the Olympic Peninsula, the Finney Block area, the I-90 corridor, the Mineral Block area, the Siouхан Creek area, and the Columbia Gorge/White Salmon areas. These areas generally were chosen to complement the Federal Forest Plan by filling in gaps in protection where the Federal land base alone was inadequate to provide for the conservation of the owl.

The Service also proposes a "Local Option Conservation Planning" program in Washington to provide a streamlined "short form" Habitat Conservation Planning process for non-Federal landowners who own 80 to 5,000 acres of forestland within a Special Emphasis Area. This option would allow small- to medium-sized landowners to negotiate expedited agreements with the Service to grow or maintain owl dispersal habitat in the Special Emphasis Area. Individual or adjacent multiple landowners could take advantage of this option and could achieve broader conservation objectives, reduce administrative costs, and cover multiple species. This option would not apply to suitable owl habitat within Special Emphasis Areas that are essential for producing owls necessary for providing demographic support for owls in adjacent Federal reserves.

### California

The proposed rule would relieve incidental take restrictions in most of the Klamath Province and for small landowners in the remainder of northern California, except for the 70 acres of closest suitable habitat near owl site centers.

Additional relief would be provided for four other areas of northern California if conservation planning for spotted owls is successfully completed under California's Natural Communities Conservation Planning program. These regions are the California Cascades, Coastal, Hardwood, and Wells Mountain-Bully Choop regions.

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The proposed rule also provides a "safe harbor" of certainty for landowners by clearly delineating what will not be considered an incidental take of a spotted owl. The proposal would guarantee landowners who retain at least 40 percent suitable owl habitat within the home range of an owl after harvest that under no circumstances would they be liable for the "incidental take" of an owl should it nevertheless occur despite their best efforts to avoid harm.

The proposal also offers a major new incentives program to non-Federal landowners to restore and enhance degraded or destroyed spotted owl habitat, or to maintain existing suitable owl habitat, without being penalized if their conservation efforts subsequently attract spotted owls. This program would be targeted at forestland owners who do not currently have their lands affected by incidental take restrictions for an owl but who are fearful that such restrictions could be imposed in the future if an owl subsequently ventures onto their property. The present wave of "panic cutting" in the Pacific Northwest is prompted by the fear of future regulatory restrictions. This new program, which would be administratively extended to Oregon as well as to Washington and California, would provide landowners who labor under no current owl restrictions the equivalent of an insurance policy against the effects of any future owl restrictions. These assurances would be in exchange for owl habitat restoration, enhancement, or maintenance activities on the part of the non-Federal landowners.

The proposed rule will be published shortly in the Federal Register. Public comments will be accepted for 90 days and should be addressed to: Regional Director, U.S. Fish and Wildlife Service, 911 NE. 11th Avenue, Portland, Oregon 97232-4181. The Fish and Wildlife Service will also issue a draft environmental impact statement (EIS) within two months in support of this proposed rule. The public comment period for the draft rule will then be extended to coincide with the closing date for public comments on the draft EIS.