

CALIFORNIA FOREST PRACTICE RULES

Game determines that Peregrines have shown a tolerance to hauling activity in the past, hauling on existing roads that normally receive use during the critical period within the buffer zone is permitted.

(e) The following requirements shall apply to helicopter logging during the critical period.

(1) For the Bald Eagle, helicopter yarding within one-quarter mile radius of the nest tree is prohibited. Helicopter yarding between one-quarter and one-half mile of the nest tree is permitted when timber operations are conducted so that helicopter yarding gradually approaches the one-quarter mile radius limit.

(2) For the Golden Eagle and Northern Goshawk, helicopter yarding within one-quarter mile radius of the nest is prohibited.

(3) For the Osprey, helicopter yarding within one-quarter mile radius of the nest is prohibited between April 15 and June 15.

(4) For the Peregrine Falcon, helicopter yarding is prohibited within one-half mile of the nest.

919.4, 939.4, 959.4 Non-listed Species [All Districts]

Where significant adverse impacts to non-listed species are identified, the RPF and Director shall incorporate feasible practices to reduce impacts as described in 14 CCR 898.

919.5, 939.5, 959.5 Alternatives [All Districts]

The RPF may propose alternatives to the requirements of this chapter, and the Director may approve such alternatives provided all of the following conditions are met:

(a) The RPF develops the alternative in consultation with the Department of Fish and Game.

(b) The Director consults with the Department of Fish and Game and makes findings that the alternative conforms to (c), below, prior to approving the alternative.

(c) The alternative will provide protection for nesting birds and their nesting sites equal to or greater than the protection that would be afforded by the application of the normal rules set forth in this chapter.

919.9, 939.9 Northern Spotted Owl [Coast, Northern]

Every proposed timber harvesting plan, NTMP, conversion permit, Spotted Owl Resource Plan, or major amendment located in the Northern Spotted Owl Evaluation Area or within 1.3 miles of a known northern spotted owl activity center outside of the Northern Spotted Owl Evaluation Area shall follow one of the procedures required in subsections (a)-(g) below for the area within the THP boundary as shown on the THP map and also for adjacent areas as specified within this section. The submitter may choose any alternative (a)-(g) that meets the on-the-ground circumstances. The required information shall be used by the Director to evaluate whether or not the proposed activity would result in the "take" of an individual northern spotted owl.

When subparagraphs (a), (b), (c) or (f) are used, the Director, prior to approval of a THP, shall consult with an SOE and conduct an independent review. An SOE may aid the RPF in fulfilling the requirements within subdivision (g). The SOE may make written recommendations regarding whether the retained habitat configuration and protection measures proposed in the THP will prevent a take of the owl.

In consultation with the SOE, the Director may adjust standards established by this section based on site specific circumstances in a manner which is consistent with information collected on owl behavior in California, and the prohibitions of the Federal Endangered Species Act.

(a) If the project proponent requests preliminary review of the proposed operation or Spotted Owl Resource Plan prior to filing, the proponent shall consult with an SOE to evaluate whether the proposed operation would result in the taking of an individual northern spotted owl. This evaluation is preliminary to and separate from the final "take" determination to be made under 14 CCR § 919.10 [939.10]. In making that evaluation:

(1) The SOE shall apply the criteria set forth in 14 CCR § 919.10 [939.10].

(2) The SOE may request that the submitter provide additional information which the SOE finds necessary to evaluate if a "take" would occur, provided that the SOE states the type of information needed, the purpose of the information, and the level of accuracy necessary to meet the stated purpose.

(3) If the SOE concludes that no prohibited taking would occur, the SOE shall inform the submitter as soon as practicable and shall document the decision and the information which was relied upon by the SOE in the above evaluation. Reference data shall be readily available for the Director's review upon

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request;

(4) If the SOE concludes that the proposed timber operation or Spotted Owl Resource Plan would result in a taking, he or she shall inform the submitter as soon as practicable and shall comply with 14 CCR § 919.10(c) [939.10(c)] within 10 working days of making this determination.

(5) Requests for pre-filing consultation shall be handled in the order in which received.

(b) The RPF shall include the following information:

(1) On a planimetric or topographic map of a minimum scale of 1:24,000, provide the following:

(A) The location and acreage of owl habitat. This information shall be shown for the area within the boundary both as it exists before and after timber operations. The Director shall determine if timber typing maps may qualify as showing owl habitat.

(B) Identify any adjoining owl habitat by type within .7 miles of the boundary.

(C) When mapping functional owl nesting, roosting, and foraging habitat, include additional information which helps define those areas such as: location of topography features, riparian vegetation, hardwood component, water, potential nest and roost sites, and potential suitable forage areas.

(D) All known owl observations, identified by location and visual or nonvisual confirmation within 1.3 miles of the boundary. This information shall be derived from the landowners and RPF's personal knowledge, and from the Department of Fish and Game's spotted owl data base.

(2) Discussion on how functional characteristics of owl habitat will be protected in terms of the criteria stated within 14 CCR § 919.10 subsections (a) and (b) [939.10 subsections (a) and (b)].

(3) As adjacent landowners permit and from other available information, a discussion of adjacent owl habitat up to .7 mile from the proposed boundary and its importance relative to the owl habitat within the boundary.

(4) Describe any proposals for monitoring owls or owl habitat which are necessary to insure their protection. Monitoring is not required for approval.

(5) Discussion of any known owl surveys that have been conducted within 1.3 miles of the THP boundary. Include the dates, results and methodologies used if known.

(6) A proposed route that will acquaint the SOE and other reviewers with the important owl habitat.

(7) Attach aerial photos of the area, if available. (Aerial photos are not required.)

(c) Where certification is made by the RPF and adequate records are kept showing that owl surveys were conducted sufficient to demonstrate the absence of owls from an area, the THP will be reviewed on a high priority basis. The THP shall contain verification that:

(1) The surveys have been conducted throughout the area within .7 miles of the boundary in accordance with the USFWS approved protocol ("Protocol For Surveying Proposed Management Activities That May Impact Northern Spotted Owls"; USFWS; March 17, 1992).

(2) The surveys were conducted during the current or immediately preceding survey period as prescribed by the previously cited USFWS approved protocol.

(3) The surveys reveal no nest sites, activity centers or owl observations in the area surveyed; and

(4) The surveys reveal no activity center or repeated observations indicating the presence of mates and/or young within 1.3 miles of the boundary based on a review of the landowner's and RPF's personal knowledge and the Department of Fish and Game's spotted owl data base.

(d) If the plan submitter proposes to proceed under an "incidental taking" permit or any other permit covering the northern spotted owl issued by the U.S. Fish and Wildlife Service or the Department of Fish and Game, the submitter shall supply a copy of the permit upon the Department's request.

(e) If the submitter proposes to proceed pursuant to the outcome of a discussion with the U.S. Fish and Wildlife Service, the submitter shall submit a letter prepared by the RPF that the described or proposed management prescription is acceptable to the USFWS.

(f) If:

(1) the submitter's proposed operations were reviewed by a SOE under 14 CCR § 919.9, subsection(a) [939.9, subsection(a)]; and

(2) the SOE recommended minimum modifications to the proposed operations which would be necessary to bring the impacts to a level at which no "take" would occur and the submitter has adopted those recommendations; and

(3) the proposed operations remain substantially the same as the operations which the SOE reviewed, the submitter shall provide a copy of the recommendations made by the SOE and the submitter

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shall explain how the proposed operations comply with those recommendations.

(g) Where an activity center has been located within the plan boundary or within 1.3 miles of that boundary, the RPF shall determine and document in the plan: (i) activity center-specific protection measures to be applied during timber operations and (ii) owl habitat, including habitat described in (1)-(5) below, that will be retained after the proposed operations are completed:

(1) Within 500 feet of the activity center the characteristics of functional nesting habitat must be maintained. No timber operations shall be conducted in this area during the northern spotted owl breeding season unless reviewed and approved by the Director as not constituting a take. Timber operations may be conducted in this area outside the breeding season if appropriate measures are adopted to protect nesting habitat.

(2) Within 500-1000 feet of the activity center, retain sufficient functional characteristics to support roosting and provide protection from predation and storms. No timber operations shall be conducted in this area during the breeding season unless reviewed and approved by the Director as not constituting a take.

(3) 500 acres of owl habitat must be provided within a .7 mile radius of the activity center, unless an alternative is reviewed and approved by the Director as not constituting a take. The 500 acres includes the habitat retained in subsections (1) and (2) above and should be as contiguous as possible. Less than 50% of the retained habitat should be under operation in any one year, unless reviewed and approved by the Director as not constituting a take.

(4) 1336 total acres of owl habitat must be provided within 1.3 miles of each activity center, unless an alternative is reviewed and approved by the Director as not constituting a take. The 1336 acres includes the habitat retained within subsections (1)-(3) above.

(5) The shape of the areas established pursuant to subsections (1) and (2) shall be adjusted to conform to natural landscape attributes such as draws and streamcourses while retaining the total area required within subsections (1) and (2) above.

§ 919.10 [939.10] Take of Northern Spotted Owl.

The Director shall apply the following criteria to the information provided by the plan submitter and obtained during the review period to make a finding as to whether the timber operations, as proposed, will "take" an individual northern spotted owl.

(a) The Director shall determine that the proposed habitat modification would result in "harm" to an individual spotted owl if any of the following conditions exist.

(1) Feeding habits would be significantly impaired because prey base or ability to catch prey would be adversely altered;

(2) Breeding success would be significantly impaired because of a reduction in surrounding owl habitat before the young have had an opportunity to successfully disperse from their nesting site;

(3) Nesting behavior would be significantly impaired because the nest site or adjoining area up to 500 feet from the nest site would be adversely altered; or

(4) Sheltering (which includes roosting, feeding, and nesting) would be significantly impaired because the ability to escape predators, survive severe weather, or find appropriate microclimates would be adversely altered.

(b) The Director shall determine that an individual northern spotted owl would be "harassed" by the proposed timber operations if there is a likelihood that any of the following conditions exist:

(1) Feeding habits would be significantly disrupted because the prey base or the ability to catch prey would be impaired;

(2) Breeding success would be significantly disrupted;

(3) Nesting behavior would be significantly disrupted because activities would be conducted within 500 feet of a nest site; or

(4) Sheltering (which includes roosting, nesting, or feeding) would be significantly disrupted because the ability to escape predators, survive severe weather, find appropriate microclimates would be adversely altered.

(c) If the Director concludes that the proposed operations will result in a taking of the owl, he/she shall provide the plan submitter with the following information:

(1) The reasons for the determination, including an analysis of the factors set forth in this section;

(2) The information which was relied upon and which was instrumental in making the