

CalForests' Draft Proposed Regulations

Text of Specific Regulatory Language Proposed

Section 749.8, Title 14, California Code of Regulations, is added to read:

749.8 Incidental Take of Northern Spotted Owl (*Strix occidentalis caurina*) During Candidacy Period

This regulation authorizes the taking of Northern Spotted Owl (*Strix occidentalis caurina*), subject to certain terms and conditions, during the species' candidacy under the California Endangered Species Act (Fish and Game Code, Section 2050 et seq.).

(a) Take Authorization.

The Commission authorizes the take of Northern Spotted Owl during the candidacy period subject to the terms and condition herein.

(1) Forest Practices and Timber Harvest.

Incidental take of Northern Spotted Owl is authorized for otherwise lawful timber operations. For purposes of this authorization, an otherwise lawful timber operation shall mean a timber operation authorized or otherwise permitted by the Z'Berg Nejedly Forest Practice Act (Pub. Resources Code Section 4511 et seq.), the Forest Practice Rules of the Board of Forestry, which are found in Chapters 4, 4.5, and 10 of Title 14 of the California Code of Regulations, or other applicable law. The Z'Berg Nejedly Forest Practice Act and Forest Practice Rules can be found at the following website:

http://www.fire.ca.gov/resource_mgt/downloads/2013_FP_Rulebook_with_Tech_RuleNo1.pdf.

(2) Vegetation Management to Prevent or Reduce Wildland Fire.

Incidental take of Northern Spotted Owl is authorized for otherwise lawful vegetation or fuels management activities necessary to reduce hazardous fuels and prevent or reduce the risk of catastrophic wildland fires. For purposes of this authorization, an otherwise lawful vegetation or fuels management activity shall mean an activity to reduce hazardous fuels and prevent or reduce the risk of catastrophic wildland fires authorized or otherwise permitted by the Z'Berg Nejedly Forest Practice Act (Pub. Resources Code Section 4511 et seq.), the Forest Practice Rules of the Board of Forestry, which are found in Chapters 4, 4.5, and 10 of Title 14 of the California Code of Regulations, or other applicable law.

(3) Wildland Fire and Fire Response.

CalForests' Draft Proposed Regulations

Take of Northern Spotted Owl incidental to otherwise lawful wildland fire response and suppression activities is authorized.

(4) Management, Monitoring, and Research Activities.

Incidental take of Northern Spotted Owl is authorized relative to survey, monitoring, and research activities approved or supported by the U.S. Fish and Wildlife Service or the Department.

(b) Application of the California Environmental Quality Act.

Consistent with the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code), if a state or local agency determines that an activity identified in subdivision (a) will result in a significant impact on Northern Spotted Owl, the agency should not approve the activity as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant impact on Northern Spotted Owl (See Pub. Resources Code Section 21002). Measures or project changes required as part of a state or local agency authorization to address significant impacts on Northern Spotted Owl may include measures to conserve the species, including avoidance or preservation of habitat attributes relied on by the species. Voluntary measures to aid in the conservation of Northern Spotted Owl shall also be encouraged.

(c) Reporting.

Any person, individual, organization, or public agency for which incidental take of Northern Spotted Owl is authorized pursuant to subdivision (a), shall report observations and detections of Northern Spotted Owl, including take, to the Department of Fish and Game on a semi-annual basis during the candidacy period. Observations, detections, and take of Northern Spotted Owl pursuant to this subdivision for the previous six months shall be reported by the first day of March and the first day of September, respectively, during the candidacy period for Northern Spotted Owl. Observations, detections, and take shall be reported pursuant to this subdivision to the Department of Fish and Game, Wildlife Branch, Attn: NSO Observations, 1812 Ninth St., Sacramento, CA 95814, or by email submission to owlobs@wildlife.ca.gov. Information reported to the Department pursuant to this subdivision shall include as available: a contact name; the date and location (GPS coordinate preferred) of the observation, detection, or take; and details regarding the animal(s) observed.

(d) Additions, Modification or Revocation.

(1) Incidental take of Northern Spotted Owl from activities not addressed in this section may be authorized during the candidacy period by the Commission pursuant to Fish and Game Code Section 2084, or by the Department on a case-by-case basis pursuant to Fish and Game Code Sections 2080.1, 2081, 2835, or other authority

CalForests' Draft Proposed Regulations

provided by law.

- (2) The Commission may modify or repeal this regulation in whole or in part, pursuant to law, if it determines that any activity or project may cause jeopardy to the continued existence of Northern Spotted Owl.

NOTE: Authority cited: Sections 200, 202, 240 and 2084, Fish and Game Code. Reference: Sections 200, 202, 240, 2080, 2084 and 2085, Fish and Game Code.

draft