

be where the adoption of final matrix or AMA harvest prescriptions could result in the incidental take of an owl whose site center is located within a Forest Plan reserve or Congressionally reserved or Administratively withdrawn areas. In such a case, the incidental take restrictions would continue to apply for at least two more years, pending review of the status of owls in affected reserve or withdrawn areas.

For Tribal forest lands in Washington and California, the Service proposes to lift the Federal prohibition against the incidental take of the spotted owl except for harvest activities within the immediate 70 acres around a site center. Timber harvests conducted in accordance with Tribal resource regulations would not be subjected to any additional Federal prohibitions against incidental take of the owl.

Additionally, the Service proposes to include a "sunset" provision that would lift the incidental take restrictions within an SEA or CCPA once the owl conservation goals for that area are achieved. The Service also proposes to provide a "safe harbor" of certainty for harvest activities within SEAs or CCPAs where more than 40 percent suitable owl habitat would be retained after harvest within an owl's median annual home range. In those instances where the "safe harbor" provision would apply, landowners would not be subject to a take prohibition violation under any circumstances should an incidental take of an owl nevertheless occur despite the landowner's efforts to avoid take. The "safe harbor" provision would not apply, however, to any timber harvest activities within the closest 70 acres of suitable owl habitat surrounding an owl site center regardless of the percentage of suitable owl habitat left within an owl's median annual home range.

In addition, the proposal sets out a new approach to provide incentives to non-Federal landowners to restore or enhance degraded spotted owl habitat, or to maintain existing suitable owl habitat, without being penalized if their conservation efforts subsequently attract spotted owls.

### Definitions

As used in this proposed rule:

"Activity center" means the closest 70 acres of suitable habitat around the nest tree of a pair of owls or around the primary roost of a non-nesting pair or territorial single owl (see "site center").

"Adaptive management area" means the ten landscape units that were adopted in the April 13, 1994, Record of Decision for development and testing of technical and social approaches to

achieving specific ecological, economic, and other social objectives.

"Administratively withdrawn area" means lands that are excluded from planned or programmed timber harvest under current agency planning documents or the preferred alternative for draft agency planning documents.

"California Conservation Planning Area (CCPA)" means areas in which the State of California Resources Agency could conduct planning for spotted owls under the auspices of the California Natural Communities Conservation Planning Act (CNCCPA) of 1991.

"Congressionally reserved area" means those lands with Congressional designations that preclude timber harvest, as well as other Federal lands not administered by the Forest Service or Bureau of Land Management, including National Parks and Monuments, Wild and Scenic Rivers, National Wildlife Refuges, and military reservations.

"Conservation" as defined in the Endangered Species Act generally means the use of all methods and procedures that are necessary to bring any endangered or threatened species to the point at which the measures provided pursuant to the Act are no longer necessary.

"Demographic support" refers to the effects on a population from a combination of births and deaths such that the net result is a stable or increasing population. For the spotted owl this would occur through provision and maintenance of: (1) Both suitable and dispersal habitat to support individual owls; (2) small clusters or larger groups of successfully breeding owls; and (3) the successful interaction and movement between individuals and pairs.

"Dispersal" refers to movements through all habitat types by: (1) juvenile spotted owls from the time they leave their natal area until they establish their own territory; (2) non-territorial single spotted owls; or (3) displaced adults searching for new territories.

"Dispersal habitat" means forest stands with adequate tree size, structure, and canopy closure to provide—(1) cover for dispersing owls from avian predators; and (2) foraging opportunities during dispersal events.

"Federal reserve" or "Forest Plan reserve" means those Federal lands delineated in the April 13, 1994, Record of Decision in which programmed timber harvest is not allowed and is otherwise severely limited. There are two types of reserves—late-successional reserves, which are designed to produce contiguous blocks of older forest stands, and riparian reserves, which consist of

protected strips along the banks of rivers, streams, lakes, and wetlands which act as a buffer between these water bodies and areas where timber harvesting is allowed.

"Habitat Conservation Plan" (HCP) means an agreement between the U.S. Fish and Wildlife Service and either a private entity, local or county government or State under section 10(a)(1)(B) of the Act that specifies conservation measures that would be implemented in exchange for a permit that would allow the incidental take of a listed species.

"Home range" means the area a spotted owl uses and traverses in the course of normal activities in fulfilling its biological needs during the course of its life span.

"Incidental Take" means any taking otherwise prohibited, if such taking is incidental to, and not the purpose of, the carrying out of an otherwise lawful activity.

"Matrix" means those Federal lands generally available for programmed timber harvest which are outside of the Congressionally reserved and Administratively withdrawn areas, Federal reserves and adaptive management areas as delineated in the Standards and Guidelines adopted in the April 13, 1994, Record of Decision.

"Province" or "Physiographic Province" means one of twelve geographic areas throughout the range of the northern spotted owl which have similar sets of biological and physical characteristics and processes due to effects of climate and geology which result in common patterns of soils and broad-scale vegetative communities.

"Record of Decision" means the April 13, 1994, *Record of Decision for Amendments to Forest Service and Bureau of Land Management Planning Documents Within the Range of the Northern Spotted Owl* (USDA/USDI 1994).

"Site Center" means the actual nest tree of a pair of spotted owls or the primary roost of a non-nesting pair or territorial single owl.

"Special Emphasis Area (SEA)" means one of six specific areas in the State of Washington where the Service has determined that it would be necessary and advisable to continue to apply broad protection from incidental take to support conservation efforts for the spotted owl.

"Suitable Habitat" means those areas with the vegetative structure and composition that generally have been found to support successful nesting, roosting, and foraging activities of a territorial single or breeding pair of spotted owls. Suitable habitat is