



**DEPARTMENT OF
NATURAL RESOURCES**

Forest Practices Division
1111 Washington St SE
Olympia, WA 98504

360-902-1400
FPD@DNR.WA.GOV
WWW.DNR.WA.GOV

MEMORANDUM

DATE: April 19, 2024

TO: Forest Practices Board

FROM: Karen Zirkle, Forest Regulation Policy and Services Assistant Division Manager

SUBJECT: Update: Northern Spotted Owl Safe Harbor Agreement

This memo serves as an update to the Board. The proposed Safe Harbor Agreement is an element of the Forest Practices Board's continued efforts to provide landowners with voluntary conservation incentives and assurances regarding threatened and endangered species. This course was recommended by the Board's northern spotted owl implementation team, which the Board formed as part of a 2008 settlement agreement between conservation interests, the timber industry, and the state. The implementation team found that strategic additions of spotted owl habitat can make meaningful contributions to the conservation of the species.

DNR proposed entering into and administering the programmatic Safe Harbor Agreement for the Northern Spotted Owl for any forestland owner to the legislature in both the 2022 and 2023 Legislative sessions. In 2023 Senate Bill 5390 was passed authorizing DNR to enter into an agreement with the US Fish and Wildlife Service (USFWS) in accordance with the Endangered Species Act,

DNR staff has been working with USFWS to ensure the agreement language and the Environmental Assessment, in compliance with NEPA, were complete and ready for submittal. However, late last fall DNR was informed that the USFWS would be revising the regulations concerning the issuance of Enhancement of Survival (which a safe harbor agreement is) and Incidental Take Permits under the Endangered Species Act. Although there were no further details at the time, DNR decided to submit our agreement application before the end of the year to avoid potential changes to the regulations impacting the timeline. The application was received by the USFWS December 28, 2023.

The change in rule will be effective May 13, 2024, and because we do not have a signed agreement, DNR's application will be impacted. According to the USFWS the intent of the revised regulations are to "simplify the requirements for enhancement of survival permits by combining safe harbor agreements and candidate conservation agreements

with assurances into one agreement type; and incorporate portions of our five-point policies for safe harbor agreements, candidate conservation agreements with assurances, and habitat conservation plans into the regulations to reduce uncertainty...”¹

We are working with the point of contact at USFWS region office to understand our next steps and move forward. DNR's existing legislative authorization still applies and DNR does not plan to seek additional authorization. These changes have delayed our timeline and at this point we do not have an estimate when DNR could receive a signed agreement and therefore when future rulemaking to allow enrollment of landowners could start.

As this process continues and in anticipation of a future rulemaking DNR staff will continue to provide updates and add this to the Board's workplan.

If you have any questions feel free to contact me at karen.zirkle@dnr.wa.gov.

¹ Sources: <https://www.federalregister.gov/documents/2024/04/12/2024-07602/endangered-and-threatened-wildlife-and-plants-enhancement-of-survival-and-incident-take-permits>