

Office of the Secretary by referencing CC Docket No. 94-102.

For further information, contact Won Kim at (202) 418-1310, Wireless Telecommunications Bureau, Policy Division.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018-AD20

Endangered and Threatened Wildlife and Plants; Proposed Special Rule for the Conservation of the Northern Spotted Owl on Non-Federal Lands

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of Availability of the Draft Environmental Alternatives Analysis for the Proposed Special Rule for the Conservation of the Northern Spotted Owl on Non-Federal Lands and Extension of Public Comment Period on the Proposed Special Rule.

SUMMARY: The Service has prepared a Draft Environmental Alternatives Analysis (EAA) for the proposed special rule for the conservation of the northern spotted owl on non-Federal lands in California and Washington. The proposed special rule was published in the Federal Register on February 17, 1995 (60 FR, No. 33, Page 9484). The implementing regulations for threatened wildlife generally incorporate the prohibitions of Section 9 of the Endangered Species Act (Act) of 1973, as amended, for endangered wildlife, except when a "special rule" promulgated pursuant to Section 4(d) of the Act has been issued with respect to a particular threatened species. At the time the northern spotted owl, *Strix occidentalis caurina*, (spotted owl) was listed as a threatened species in 1990, the Fish and Wildlife Service (Service) did not promulgate a special Section 4(d) rule and, therefore, all of the Section 9 prohibitions, including the "take" prohibitions, became applicable to the species. Subsequent to the listing of the spotted owl, a Federal Late-Successional and Old-growth (LSOG) forest management strategy (Plan) was developed and then formally adopted on April 13, 1994, in a Record of Decision (ROD) that amended land

management plans for Federal forests in northern California, Oregon, and Washington. Although this proposed rule refers to the Federal LSOG forest strategy as the "Forest Plan", it is noted that the strategy is not a stand-alone management plan but rather effected a series of amendments to Forest Service and Bureau of Land Management planning documents. In recognition of the significant contribution the Plan does make toward spotted owl conservation and management, the Service proposed a special rule, pursuant to Section 4(d) of the Act, to replace the blanket prohibition against incidental take of spotted owls with a narrower, more tailor-made set of standards that reduce prohibitions applicable to timber harvest and related activities on specified non-Federal forest lands in Washington and California.

The Service seeks comments from the interested public, agencies, and interest groups on the Draft EAA and for its proposed 4(d) rule. The comment period for the proposed rule has been extended repeatedly since the proposed rule's publication in February of 1995, and will be extended one more time to coincide with the end of the public comment period on the Draft EAA.

DATES: Comments from all interested parties must be received by April 8, 1996.

ADDRESSES: Comments and materials concerning this Draft Environmental Alternatives Analysis and the proposed rule should be sent to Mr. Michael J. Spear, Regional Director, Region 1, U.S. Fish and Wildlife Service, 911 N.E. 11th Avenue, Portland, Oregon 97232-4181. The complete file for this proposed rule will be available for public inspection, by appointment during normal business hours, at the U.S. Fish and Wildlife Service, Office of Technical Support for Forest Resources, 333 S.W. 1st Avenue, 4th Floor, Portland, Oregon 97204, (503/326-6218).

FOR FURTHER INFORMATION CONTACT: Mr. Curt Smitch, Assistant Regional Director, Region 1, U.S. Fish and Wildlife Service, 3704 Griffin Lane S.E., Suite 102, Olympia, Washington 98501, (206/534-9330); or Ron Crete, Office of Technical Support for Forest Resources, 333 S.W. 1st Avenue, Portland, Oregon 97232-4181, (503/326-6218).

SUPPLEMENTARY INFORMATION: The Service has prepared a draft document called an Environmental Alternatives Analysis (EAA) that describes and analyzes the potential environmental effects of the proposed special rule and six alternatives for the conservation of the northern spotted owl on non-Federal

lands in Washington and California. Each alternative would revise to varying degrees the Federal prohibitions and exceptions regarding the incidental take of spotted owls on non-Federal lands in California and Washington. The proposed rule, analyzed in the Draft EAA as Alternative 3, was published in the Federal Register on February 17, 1995 (60 FR, No. 33, Page 9484). The new document was prepared as a draft EAA rather than as a draft Environmental Impact Statement (EIS) because in the 1995 Rescissions Act signed in July of 1995, Congress specifically exempted the Service from preparing an EIS under the National Environmental Policy Act (NEPA) for this action. While not subject to the provisions of NEPA as a matter of law, the Draft EAA nevertheless follows the same general format and addresses the same range of issues as is generally found in a draft EIS.

The Service believes that it is important to seek public comment on the environmental analysis it has conducted on the various alternative approaches to this proposed action. Therefore, a 45-day comment period is provided.

The implementing regulations for threatened wildlife generally incorporate the prohibitions of Section 9 of the Endangered Species Act (Act) of 1973, as amended, for endangered wildlife, except when a "special rule" promulgated pursuant to Section 4(d) of the Act has been issued with respect to a particular threatened species. When the northern spotted owl, *Strix occidentalis caurina*, (spotted owl) was listed as a threatened species in 1990, the Fish and Wildlife Service (Service) did not promulgate a special 4(d) rule. Therefore, all of the Section 9 prohibitions for endangered species were made applicable to the spotted owl throughout its range, including the prohibitions against "take" that apply to endangered species under the Act.

Subsequent to the listing of the spotted owl, a new Federal forest management strategy was developed and proposed by the Forest Ecosystem Management Assessment Team (FEMAT), which was established by President Clinton following the April 2, 1993, Forest Conference, in Portland, Oregon. FEMAT outlined those options in the report, *Forest Ecosystem Management: An Ecological, Economic, and Social Assessment*, which drew heavily upon previous scientific studies conducted on the northern spotted owl. On July 1, 1993, the President identified "Option 9" in the FEMAT Report as the preferred alternative for managing

Federal LSOG forests in northern California, Oregon, and Washington.

The Final Supplemental Environmental Impact Statement on FEMAT was completed in February 1994, and the Record of Decision was signed on April 13, 1994. This process culminated in the formal administrative adoption of Alternative 9 as the President's Forest Plan. This Plan was viewed as providing a firm foundation for the conservation needs of the spotted owl, especially in light of the net addition of approximately 600,000 acres of Federal forest lands to protected reserve status between its original formulation in the FEMAT Report and the Record of Decision.

Despite enhanced owl protection under the final Forest Plan, however, the Service believed that some supplemental support from non-Federal forest lands remained necessary and advisable for owl conservation in certain parts of the range of the owl.

The Service published a Notice of Intent (NOI) in the Federal Register (58 FR, Page 69132) on December 29, 1993, to issue a 4(d) rule on the spotted owl, and sent out a mailer advising the public of its intention to prepare an Environmental Impact Statement (EIS) on the proposal. In response, the Service received and evaluated more than 8,500 public comments. Taking these comments into consideration, and based upon additional analyses, the Service subsequently proposed a special rule that would reduce the prohibition against incidental take of spotted owls in the course of timber harvest and related activities on specified non-Federal forest lands in Washington and California.

The Service did not include Oregon within the geographic scope of the proposed special rule at the request of the Oregon Congressional delegation. The Service was asked to wait for state officials and private landowners to develop an alternative owl conservation strategy for the state. By excluding Oregon altogether from the proposed special rule, the Service retained for Oregon the original level of protection against take for the owl established when the species was listed on June 26, 1990.

Although the release of this Draft EAA represents another important milestone in the development of a 4(d) rule for the northern spotted owl, the Service wants to reiterate that the ability to finalize such a rule, providing relief to non-Federal landowners, is directly dependent upon the continued strength

of the President's Forest Plan, as well as the continued viability of the assumptions underlying that Plan. Should litigation or legislative enactments ultimately nullify key elements of the Forest Plan, the Service would have to reassess its ability to finalize any 4(d) rule.

The Draft EAA is being mailed to all persons who previously requested a copy. A 35 page Executive Summary also is available by calling (503) 326-6218. The document, including all maps, tables, charts, and graphs, is available on the Internet's World Wide Web at <http://www.rl.fws.gov/4deaa/welcome.html>.

Dated: February 15, 1996.

Michael J. Spear,

Regional Director, U.S. Fish and Wildlife Service, Region 1, Portland, Oregon.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 642

[I.D. 021496A]

Caribbean Fishery Management Council; Public Hearing

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Public hearing; request for comments.

SUMMARY: The Caribbean Fishery Management Council (Council) will convene one public hearing on alternatives for closed areas to protect spawning aggregations of red hind in an area off Mayaguez, PR.

DATES: Written comments will be accepted on or before March 15, 1996. The public hearing will be on March 7, 1996, from 7 p.m. to 10 p.m.

ADDRESSES: Written comments should be sent to and copies of the document with the alternatives to be considered are available from Miguel A. Rolón, Executive Director, Caribbean Fishery Management Council, 268 Muñoz Rivera Ave., Suite 1108, San Juan, PR 00918. The hearing will be held at the Joyuda Plaza Hotel, Cabo Rojo, PR.

FOR FURTHER INFORMATION CONTACT: Miguel A. Rolón, (809) 766-5926; Fax (809) 766 6239.

SUPPLEMENTARY INFORMATION:

Background

The Council will be holding a public hearing on alternatives for closed areas to protect the spawning aggregations of the red hind grouper during the period December 1 through February 28 of each consecutive year. The current regulation that implements the Fishery Management Plan for the Shallow Water Reefish Fishery of Puerto Rico and the U.S. Virgin Islands (FMP) establishes a closed area off Mayaguez, PR to protect the spawning grounds of this species of grouper. Recent information obtained by the Council indicates that the fish aggregations are taking place in other sites outside the present closed area. The Council will be considering alternatives to the closed area that could be more effective in protecting the red hind spawning aggregations while causing less burden to fishers.

The following alternatives will be considered: (1) No action. Keep the same area of seasonal closure (Amendment 2 of the FMP, 1993), (2) close an area of 1 1/2 miles (2.41 kilometers (km)) radius around "Buoy 8." The area will be closed to all fishing from December 1 to February 28 of each year, (3) close an area of 1 1/2 miles (2.41 km) radius around "Buoy 6." The area will be closed to all fishing from December 1 to February 28 of each year; (4) close an area of 1 1/2 miles (2.41 km) radius centered around a buoy to be deployed in the area known as "El Bajo de Sico" to all fishing between December 1 and February 28 of each year, and (5) close all three areas mentioned above to all fishing between December 1 and February 28 of each year.

Special Accommodations

These meetings are physically accessible to people with disabilities. For more information or requests for sign language interpretation and/or other auxiliary aids, please contact Miguel A. Rolón at (809) 766-5926 (see **ADDRESSES**) at least 5 days prior to the meeting date.

Dated: February 15, 1996.

Richard W. Surdi,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

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