

20230, Appointment Expires: 12/31/10.

Sivaraj Shyam-Sunder (C) (alternate),  
Director, Building and Fire Research  
Laboratory, National Institute of  
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Appointment Expires: 12/31/10.

Dated: August 19, 2008.

**James M. Turner,**

*Deputy Director, National Institute of  
Standards and Technology Department of  
Commerce.*

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## DEPARTMENT OF INTERIOR

### Fish and Wildlife Service

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**RIN 0648-XI26**

#### **Availability of a Draft Environmental Impact Statement and Habitat Conservation Plan, and Receipt of Applications for Incidental Take Permits**

**AGENCY:** Fish and Wildlife Service,  
Interior; National Marine Fisheries  
Service, National Oceanic and  
Atmospheric Administration,  
Commerce

**ACTION:** Notice of availability, receipt of  
applications.

**SUMMARY:** This notice advises the public that the Oregon Department of Forestry (ODF), has submitted applications to the U.S. Fish and Wildlife Service (FWS) and the National Marine Fisheries Service (NMFS) for incidental take permits (Permit(s)) pursuant to the Endangered Species Act of 1973, as amended (ESA). As required by the ESA, ODF has also prepared a Habitat Conservation Plan (Plan) designed to minimize and mitigate any such take of endangered or threatened species. The Permit applications are related to forest management and timber harvest activities on the Elliott State Forest in Coos and Douglas Counties, Oregon. The FWS and NMFS (together, the Services) are co-lead agencies in this effort.

The Permit applications include the proposed Plan and a draft Implementation Agreement (IA). The Services also announce the availability of a draft Environmental Impact Statement (DEIS) for the proposed action.

The Services are requesting comments from the public on the Permit applications, the Plan, the IA, and DEIS, all of which are available for review. The Services are furnishing this notice to allow other agencies and the public an opportunity to review and comment on these documents. All comments received will become part of the public record and will be available for review pursuant to the ESA. For locations to review the documents, please see the SUPPLEMENTARY INFORMATION section below. A 90-day comment period, rather than a standard 60-day comment period, is being provided to allow the public sufficient time to comment on the draft documents.

**DATES:** All comments must be received no later than November 20, 2008.

**ADDRESSES:** All written comments should be addressed to: Lee Folliard, U.S. Fish and Wildlife Service, 2600 SE 98<sup>th</sup> Avenue, Suite 100, Portland, OR 97266, facsimile: (503) 231-6195; or Chuck Wheeler, National Marine Fisheries Service, 2900 NW Stewart Parkway, Roseburg, OR 97470-1274, facsimile: (541) 957-3386. Comments may also be submitted by e-mail to [ElliottHCP@fws.gov](mailto:ElliottHCP@fws.gov) or [ElliottStateForest.nwr@noaa.gov](mailto:ElliottStateForest.nwr@noaa.gov). In the subject line of the email include the identifier Elliott State Forest HCP EIS.

**FOR FURTHER INFORMATION CONTACT:** For further information or to receive copies of the documents on CD ROM, please contact Lee Folliard at (503) 231-6179; or Chuck Wheeler, (541) 957-3379.

#### **SUPPLEMENTARY INFORMATION:**

##### **Availability of Documents**

Copies of the draft documents are available for public inspection and review, by appointment, at the above addresses during normal business hours or by requesting copies on CD ROM by contacting the Services (see FOR FURTHER INFORMATION section above). The documents are also available on the Internet at <http://www.fws.gov/oregonfwo/ToolsForLandowners/HabitatConservationPlans/> or at the following offices or libraries:

Oregon Department of Forestry, 2600 State Street, Building C, Salem, OR 97310

Oregon Department of Forestry, 63612 Fifth Road, Coos Bay, OR 97420

Oregon State Library, 250 Winter Street NE, Salem, OR 97301-3950

Coos Bay Public Library, 525 Anderson Avenue, Coos Bay, OR 97420

North Bend Public Library, 1800 Sherman Avenue, North Bend, OR 97459

Douglas County Library, 1409 NE Diamond Lake Boulevard, Roseburg, OR 97470.

#### **Background**

Section 9 of the ESA and Federal regulations prohibits the taking of a species listed as endangered or threatened. The term take is defined under the ESA to mean harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. Harm is defined to include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding, and sheltering.

Section 10(a) of the ESA and its implementing regulations specify the requirements for issuance of permits to non-Federal parties for the take of listed species. Any proposed take must be incidental to, and not the purpose of, otherwise lawful activities, must not appreciably reduce the likelihood of the survival and recovery of the species in the wild, and must minimize and mitigate the impact of such take to the maximum extent practicable. FWS regulations governing permits for threatened and endangered species are promulgated in 50 CFR 13.21. NMFS regulations governing permits for threatened and endangered species are promulgated at 50 CFR 222.307.

The Elliott State Forest encompasses approximately 93,000 acres of state-owned forestlands in Coos and Douglas Counties in Oregon's Coast Range. ODF manages the Elliott State Forest out of its Coos District Office, located in Coos Bay. The action area for this proposal focuses on a mostly contiguous block of land approximately 18 miles long from north to south, and about 16 miles wide from west to east. An additional 4,000 acres, scattered tracts in Coos, Douglas, and Curry Counties, were originally included as part of the action area, but have been removed from the proposal by the applicant.

The Elliott State Forest is managed in accordance with the 1994 Elliott State Forest Management Plan (FMP). ODF currently holds a section 10(a)(1)(B) Permit for potential incidental take of the northern spotted owl on the Elliott State Forest; the Permit and associated Plan went into effect in 1995. ODF is proposing to manage the forest according to a revised FMP that would go into effect concurrently with the proposed Plan. Some of the proposed forest management activities have the potential to affect the northern spotted owl, as well as other species subject to protection under the ESA, including the

marbled murrelet (*Brachyramphus marmoratus*) and Oregon Coast coho salmon (*Oncorhynchus kisutch*). As a result, ODF prepared a new, 50-year Plan, based on the revised FMP that would address incidental take of all these listed species, as well as 15 unlisted species (covered species). This new Plan forms the basis of ODF's current Permit applications, and is the proposed action in the Services' DEIS.

The Permit application ODF submitted to the FWS addresses the potential take of northern spotted owl and marbled murrelet, which are listed as threatened under the ESA. Unlisted species under FWS's jurisdiction included in ODF's application, and which would receive incidental take allowance should they be listed during the term of the Plan, are the bald eagle (*Haliaeetus leucocephalus*), northern goshawk (*Accipiter gentilis*), olive-sided flycatcher (*Contopus borealis*), western bluebird (*Sialia mexicana*), coastal cutthroat trout (*Oncorhynchus clarki clarki*), Pacific lamprey (*Lampetra tridentatus*), river lamprey (*Lampetra ayresii*), brook lamprey (*Lampetra richardsoni*), fisher (*Martes pennanti*), southern torrent salamander (*Rhyacotriton variegates*), red-legged frog (*Rana aurora*), and coastal tailed frog (*Ascaphus truei*). The fisher is currently a candidate for listing under the ESA.

The Permit application ODF submitted to the NMFS addresses the potential take of Oregon Coast coho salmon (*Oncorhynchus kisutch*), which is listed as threatened under the ESA. Unlisted species under NMFS's jurisdiction included in ODF's application, and which would receive incidental take allowance should they be listed during the term of the Plan, are Chinook salmon (*Oncorhynchus tshawytscha*), chum salmon (*Oncorhynchus keta*), and steelhead trout (*Oncorhynchus mykiss*).

Activities that ODF is proposing for Permit coverage include:

1. Mechanized timber harvest;
2. Forest product transportation;
3. Road and landing construction, use, maintenance, and abandonment;
4. Site preparation and tree planting (excluding use of herbicides);
5. Site Fertilization;
6. Silvicultural practices;
7. Fire suppression;
8. Aquatic habitat restoration;
9. Rock pit development; and
10. Other management activities, including vertebrate control and harvesting of minor forest products, and
11. Research and monitoring.

The Services formally initiated an environmental review of the project

through publication of a Notice of Intent to prepare an Environmental Impact Statement in the **Federal Register** on May 9, 2005 (70 FR 24450). That notice also announced a public scoping period during which interested parties were invited to provide written comments expressing their issues or concerns relating to the proposal, and to attend public scoping meetings held in Roseburg, North Bend, and Salem, Oregon.

Based on public scoping comments, the Services prepared a DEIS to analyze the effects of alternatives on the human environment. Alternative 2 in the DEIS is described as implementation of ODF's Plan, FWS issuance of a Permit for northern spotted owl, marbled murrelet, and other unlisted species, and NMFS issuance of a Permit for Oregon Coast coho salmon, and other unlisted species, should they become listed during the term of the Plan. Two other alternatives are analyzed in the DEIS: Alternative 1, No-Action, under which ODF would continue operating under the existing FMP and incidental take permit for northern spotted owls only; and, Alternative 3, Increased Stream Buffers and Intensive Forestry, under which ODF would manage approximately one-half of the action area on a short rotation (40–50 years), and the remainder of the lands would be designated conservation areas around core areas and riparian buffer areas.

Note that at the time the Notice of Intent was published for this project (70 FR 24450), Oregon Coast coho salmon was proposed for ESA listing as a threatened species. The Notice of Intent indicated that ODF was expected to submit a Permit application to NMFS for incidental take of Oregon Coast coho salmon, and three unlisted fish species under NMFS' jurisdiction, should they become listed in the future. NMFS has since determined that the Oregon Coast coho salmon does warrant listing as a threatened species (73 FR 7816).

This notice is provided pursuant to ESA and the National Environmental Policy Act of 1969, as amended. The Services will evaluate the applications, associated documents, and comments submitted thereon to determine whether the applications meet the requirements of the ESA and National Environmental Policy Act. The Services are particularly interested in comments pertaining to the application requirements under 50 CFR 17.22(b)(1). These include whether the Plan: provides complete descriptions of the activities under which the incidental taking of covered species is likely to occur; describes the impacts to covered species individuals that will likely result from the incidental taking;

outlines the steps ODF will take to monitor, minimize, and mitigate such impacts for each covered species and the available funding to implement such steps over the term of the Permits; and, describes alternative actions to such taking and the reasons why such alternatives are not proposed to be utilized. As part of evaluating whether the permit issuance criteria are met, the Services specifically seek comment on whether the minimization and mitigation measures are being undertaken to the maximum extent practicable. In addition, the FWS is seeking comment on the assumptions regarding how suitable habitat is being defined for all the covered species, as well as assumptions about the development of those species habitat over time.

The Services will revise the DEIS in a Final Environmental Impact Statement (FEIS). The Services decision of whether to issue Permits will be made upon completion of the FEIS and the associated Record of Decision.

Dated: June 26, 2008.

**David Patte,**

*Acting Regional Director, Fish and Wildlife Service, Region 1, Portland, Oregon.*

Dated: August 13, 2008.

**Angela Somma,**

*Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.*

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**BILLING CODES 4310–55-S, 3510–22-S**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**RIN 0648–XJ77**

### Marine Mammals; File No. 774–1847–03

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

**ACTION:** Notice; issuance of permit amendment.

**SUMMARY:** Notice is hereby given that NMFS Southwest Fisheries Science Center, Antarctic Marine Living Resources Program (Rennie Holt, Ph.D., Principal Investigator), 8604 La Jolla Shores Drive, La Jolla, CA 92037 has been issued an amendment to Scientific Research Permit No. 774–1847–02.

**ADDRESSES:** The amendment and related documents are available for review upon written request or by appointment in the following office(s):