

1 **“Northern Spotted Owl Take Avoidance Pathways and Habitat Definition Updates,**  
2 **2023”**

3 **Title 14 of the California Code of Regulations (14 CCR):**

4 **Division 1.5, Chapter 4, Subchapters 1, 4 and 5,**

5 **Subchapter 1, Abbreviations and Definitions, Article 9 – Wildlife Protection**

6 **Practices, and Article 9 – Forest Insect and Disease Protection Practices**

7  
8 **§ 895.1. Definitions.**

9 The definitions contained in the Z'berg-Nejedly Forest Practice Act of 1973 as amended  
10 (commencing with PRC § 4511) shall apply to this chapter, as well as the following  
11 definitions, unless the context clearly requires otherwise.

12 ...

13 **“Activity Center”** means a known northern spotted owl site documented from  
14 detections, pursuant to the USFWS document “Protocol For Surveying Proposed  
15 Management Activities That May Impact Northern Spotted Owls” revised ~~March 17,~~  
16 1992 January 9, 2012, hereby incorporated by reference.

17 (a) An Activity Center is established by:

18 (1) Resident Single Status is established by:

19 (A) The presence or response of a single owl within the same general area on  
20 three or more occasions within a breeding season, with no response by an owl of  
21 the opposite sex after a complete survey;

22 (B) Multiple responses over several years (i.e., two responses in year one (1)  
23 and one response in year 2, from the same general area).

1 (2) Pair Status Unknown is where the presence or response of two birds of the  
2 opposite sex is detected but pair status cannot be determined and where at least  
3 one member must meet the resident single requirements.

4 (3) Pair Status wherein a male and female are heard and/or observed (either  
5 initially or through their movement) in proximity (less than one-quarter mile apart)  
6 to each other on the same visit; or a male takes a mouse to a female; or a female  
7 is detected on the nest; or one or both adults are observed with young.

8 (4) Unoccupied Status where no responses have been obtained from a  
9 previously identified northern spotted owl Activity Center after three (3) years of  
10 survey, barring other evidence to the contrary.

11 An Activity Center with unoccupied status will not be considered an Activity Center  
12 when it has been evaluated and a determination made by the Director. The  
13 determination shall be based upon available information on survey history, habitat  
14 conditions within the home range, and changes to habitat that may have occurred since  
15 the northern spotted owl site was first identified.

16 ...

17 **“Functional Nesting Habitat”** ~~means habitat with a dominant and codominant tree~~  
18 ~~Canopy closure of at least 40% and a total Canopy (including Dominant, Codominant,~~  
19 ~~and Intermediates) of at least 60%. Usually the stand is distinctly multi-layered with an~~  
20 ~~average stem Diameter in dominant, codominant conifers, and hardwoods > 11” d.b.h.~~  
21 ~~The stand usually consists of multi-specied trees (including hardwoods) of mixed sizes.~~  
22 ~~All nests, Snags, down logs, and decadent trees shall also be considered as part of the~~  
23 ~~habitat. Nesting substrates are provided by broken tops, cavities, or platforms such as~~  
24 ~~those created by a hawk or squirrel nest, mistletoe broom, or accumulated debris. Owls~~

1 are known to occasionally nest in less than optimal habitat. Nesting areas may also be  
2 associated with topographical relief and aspect which alter microclimates.

3  
4 **“Functional Roosting Habitat”** during the territorial season consists of stands where  
5 average stem Diameter is  $> 11$ ” d.b.h. among dominant and codominant trees.

6 Hardwood and conifers provide an average of at least 40% Canopy closure but the  
7 stand can have a high degree of variability. Stand size and configuration must be  
8 sufficient to provide multiple perch sites which are suitable for protection from various  
9 environmental conditions including wind, heat, and precipitation.

10  
11 **“Functional Foraging Habitat”** is dependent on the presence and availability of prey  
12 on the forest floors or in the Canopy; presence of accessible perching limbs; and  
13 adjacency to stands with Canopy closures  $> 40\%$ . Average stem Diameter is usually 6”  
14 d.b.h. for hardwoods and  $> 11$ ” d.b.h. for conifers among dominant, codominant, and  
15 the total overhead Canopy closure, including intermediate trees, is at least 40%. Where  
16 overall Canopy closure is  $> 80\%$ , forage habitat is limited to areas with ample flight  
17 space below limbs and among stems. Habitat between 40% and 25% must be verified  
18 by local information.

19 ...

20 **“Northern Spotted Owl Habitat”** means Type A, B, or C Owl Habitat or those areas  
21 with Functional Foraging Habitat, Functional Nesting Habitat, and Functional Roosting  
22 Habitat which support the owl’s biological needs for breeding, sheltering, and/or feeding.  
23 An area of habitat could have characteristics which support all of the Functional needs  
24 for nesting, roosting, and foraging or combination of those functions. Because owls are  
25 known to occasionally inhabit less than optimal forest structure, local information can be

1 used to justify the modification of Functional habitat definitions. Plans may use regional  
2 information consistent with guidance provided by the listing agency(s) or Director, or  
3 may propose alternative standards based upon substantial site-specific information for  
4 review and approval by the Director.

5  
6  
7 **“Type A Owl Habitat”** means ~~timber stands that have as a minimum the following~~  
8 ~~characteristics for live-tree structure.~~

9 1. ~~Canopy Layers: The stand has two distinct tiers or is multi-layered with~~  
10 ~~dominant conifers greater than 120 feet tall (trees greater than 90 feet tall on~~  
11 ~~poor sites, less than site III, and for some montane tree Species). Conifers or~~  
12 ~~hardwoods dominate the Canopy layers less than 120 feet tall.~~

13 2. ~~Canopy Closure: The Canopy closure of conifers greater than 120 feet tall (or~~  
14 ~~greater than 90 feet tall on poor sites, less than Site III, and for some montane~~  
15 ~~tree Species) averages greater than 40 percent and not less than 20 percent.~~  
16 ~~The total Canopy closure for all trees, conifers or hardwoods, is greater than 60~~  
17 ~~percent.~~

18 3. ~~Large Trees: The density of conifers greater than 35 inches d.b.h. averages~~  
19 ~~more than nine stems per acre and not less than six stems per acre and includes~~  
20 ~~a component of trees with sparse, broken, or dead tops.~~

21 4. ~~Medium Trees: The density of conifers or hardwoods 18 to 35 inches d.b.h.~~  
22 ~~averages more than 15 stems per acre and not less than 8 stems per acre.~~

23 5. ~~Small Trees: The density of conifers or hardwoods less than 18 inches d.b.h.~~  
24 ~~averages more than 50 stems per acre and not less than 20 stems per acre.~~

1 ~~“Type B Owl Habitat” means timber stands that have as a minimum the following~~  
2 ~~characteristics for live tree structure.~~

3 ~~1. Canopy Layers: Moderately to strongly two-tiered or multi-layered with~~  
4 ~~dominant conifers greater than 100 feet tall (greater than 70 feet tall on poor~~  
5 ~~sites, less than site III, and for some montane tree Species). Conifers or~~  
6 ~~hardwoods dominate the Canopy layers less than 100 feet tall.~~

7 ~~2. Canopy Closure: The Canopy closure of conifers greater than 100 feet tall (or~~  
8 ~~greater than 70 feet tall on poor sites, less than site III, and for some montane~~  
9 ~~tree Species) averages greater than 40 percent and not less than 20 percent.~~

10 ~~The total closure for all trees, conifers or hardwoods, is greater than 60 percent.~~

11 ~~3. Large Trees: The density of conifers greater than 35 inches d.b.h. averages~~  
12 ~~more than six stems per acre and not less than two stems per acre.~~

13 ~~4. Medium Trees: The density of conifers or hardwoods 18 to 35 inches d.b.h.~~  
14 ~~averages more than 25 stems per acre and not less than 20 stems per acre.~~

15 ~~5. Small Trees: The density of conifers or hardwoods less than 18 inches d.b.h.~~  
16 ~~averages more than 50 stems per acre and not less than 20 stems per acre.~~

17 ~~“Type C Owl Habitat” means timber stands that have as a minimum the following~~  
18 ~~characteristics for live tree structure.~~

19 ~~1. Canopy Layers: Uniform to moderately layered with dominant conifers or~~  
20 ~~hardwoods 50 to 100 feet although low numbers of emergent trees greater than~~  
21 ~~100 feet tall may be present.~~

22 ~~2. Canopy Closure: The Canopy closure of conifers or hardwoods 50 to 100 feet~~  
23 ~~tall averages greater than 40 percent and not less than 20 percent. The total~~  
24 ~~Canopy closure for all trees, conifers or hardwoods, is greater than 60 percent.~~

1 ~~3. Large Trees: The density of conifers greater than 35 inches d.b.h. averages~~  
2 ~~less than six stems per acre and may be absent.~~

3 ~~4. Medium Trees: The density of conifers or hardwoods 18 to 35 inches d.b.h.~~  
4 ~~averages more than 15 stems per acre, but may be absent.~~

5 ~~5. Small Trees: The density of conifers or hardwoods less than 18 inches d.b.h.~~  
6 ~~averages more than 160 stems per acre and not less than 50 stems per acre.~~

7 ~~The average d.b.h. for all trees in the stand, including small, medium, and large~~  
8 ~~trees is greater than 10 inches.~~

9 ...

10 Note: Authority cited: Sections 4551, 4551.5, 4553, 4561, 4561.5, 4562, 4562.5, 4562.7  
11 and 4591.1, Public Resources Code. Reference: Sections 4511, 4512, 4512.5, 4513,  
12 4521.3, 4523, 4524, 4525, 4525.3, 4525.5, 4525.7, 4526, 4526.5, 4527, 4527.5, 4528,  
13 4551, 4551.5, 4561, 4562, 4562.5, 4562.7, 4583.2, 4584, 4591.1 4597.1, 21001(f),  
14 21080.5, 21083.2 and 21084.1, Public Resources Code; CEQA Guidelines Appendix K  
15 (printed following Section 15387 of Title 14 Cal. Code of Regulations), Laupheimer v.  
16 State (1988) 200 Cal.App.3d 440; 246 Cal.Rptr. 82; and Joy Road Area Forest and  
17 Watershed Association, v. California Department of Forestry & Fire Protection, Sonoma  
18 County Superior Court No. SCV 229850.

19 \*\*\*

## 20 **§919.9. Northern Spotted Owl**

21 Every proposed timber harvesting Plan, NTMP, WFMP, conversion permit, Spotted Owl  
22 Resource Plan, or major amendment located in the Northern Spotted Owl Evaluation  
23 Area or within 1.3 miles of a known northern spotted owl Activity Center outside of the  
24 Northern Spotted Owl Evaluation Area shall follow one of the procedures required in  
25 subsections (a)-(gd) below for the area within the THPPlan boundary as shown on the

1 ~~THP~~Plan map and also for adjacent areas as specified within this section. The submitter  
2 may choose any alternative (a)-(gd) that meets the on-the-ground circumstances. The  
3 required information shall be used by the Director to evaluate whether or not the  
4 proposed activity would result in the "take" of an individual northern spotted owl.

5  
6 When subparagraphs (a), ~~(b), (c) or (f)~~ is used, the Director, prior to approval of a  
7 ~~THP~~Plan, shall consult with an SOE and conduct an independent review. An SOE may  
8 aid the RPF in fulfilling the requirements within subdivision (gd). The SOE may make  
9 written recommendations regarding whether the retained habitat configuration and  
10 protection measures proposed in the ~~THP~~Plan will prevent a take ~~of the owl~~.

11  
12 In consultation with the SOE, the Director may adjust standards established by this  
13 section based on site specific circumstances in a manner which is consistent with  
14 information collected on owl behavior in California, and the prohibitions of the Federal  
15 Endangered Species Act.

16 (a) If the project proponent requests preliminary review of the proposed operation or  
17 Spotted Owl Resource Plan prior to filing, the proponent shall consult with an SOE to  
18 evaluate whether the proposed operation would result in the taking of an individual  
19 northern spotted owl. This evaluation is preliminary to and separate from the final "take"  
20 determination to be made under 14 CCR § 919.10. In making that evaluation:

21 (1) The SOE shall apply the criteria set forth in 14 CCR § 919.10.

22 (2) The SOE may request that the submitter provide additional information which  
23 the SOE finds necessary to evaluate if a "take" would occur, provided that the  
24 SOE states the type of information needed, the purpose of the information, and  
25 the level of accuracy necessary to meet the stated purpose.

1 (3) If the SOE concludes that no prohibited taking would occur, the SOE shall  
2 inform the submitter as soon as practicable and shall document the decision and  
3 the information which was relied upon by the SOE in the above evaluation.

4 Reference data shall be readily available for the Director's review upon request;

5 (4) If the SOE concludes that the proposed Timber Operation or Spotted Owl  
6 Resource Plan would result in a taking, he or she shall inform the submitter as  
7 soon as practicable and shall comply with 14 CCR § 919.10(c) within 10 working  
8 days of making this determination.

9 (5) Requests for pre-filing consultation shall be handled in the order in which  
10 received.

11 ~~(b) The RPF shall include the following information:~~

12 ~~(1) On a planimetric or topographic map of a minimum scale of 1:24,000, provide~~  
13 ~~the following:~~

14 ~~(A) The location and acreage of Owl Habitat. This information shall be shown for~~  
15 ~~the area within the boundary both as it exists before and after Timber Operations.~~  
16 ~~The Director shall determine if timber typing maps may qualify as showing Owl~~  
17 ~~Habitat.~~

18 ~~(B) Identify any adjoining Owl Habitat by type within .7 miles of the boundary.~~

19 ~~(C) When mapping functional owl nesting, roosting, and foraging habitat, include~~  
20 ~~additional information which helps define these areas such as: location of~~  
21 ~~topography features, Riparian vegetation, hardwood component, water, potential~~  
22 ~~nest and roost sites, and potential suitable forage areas.~~

23 ~~(D) All known owl observations, identified by location and visual or nonvisual~~  
24 ~~confirmation within 1.3 miles of the boundary. This information shall be derived~~



1 from the landowners and RPF's personal knowledge, and from the CDFW's  
2 spotted owl data base.

3 (2) Discussion on how Functional characteristics of Owl Habitat will be protected  
4 in terms of the criteria stated within 14 CCR § 919.10 subsections (a) and (b).

5 (3) As adjacent landowners permit and from other available information, a  
6 discussion of adjacent Owl Habitat up to .7 mile from the proposed boundary and  
7 its importance relative to the Owl Habitat within the boundary.

8 (4) Describe any proposals for monitoring owls or Owl Habitat which are  
9 necessary to insure their protection. Monitoring is not required for approval.

10 (5) Discussion of any known owl surveys that have been conducted within 1.3  
11 miles of the THP boundary. Include the dates, results and methodologies used if  
12 known.

13 (6) A proposed route that will acquaint the SOE and other reviewers with the  
14 important Owl Habitat.

15 (7) Attach aerial photos of the area, if available. (Aerial photos are not required.)

16 (c) Where certification is made by the RPF and adequate records are kept showing that  
17 owl surveys were conducted sufficient to demonstrate the absence of owls from an  
18 area, the THP will be reviewed on a high priority basis. The THP shall contain  
19 verification that:

20 (1) The surveys have been conducted throughout the area within .7 miles of the  
21 boundary in accordance with the USFWS approved protocol ("Protocol For  
22 Surveying Proposed Management Activities That May Impact Northern Spotted  
23 Owls"; U.S. Fish and Wildlife Service; March 17, 1992)

24 (2) The surveys were conducted during the current or immediately preceding  
25 survey period as prescribed by the previously cited USFWS approved protocol.

1 ~~(3) The surveys reveal no Nest Sites, Activity Centers or owl observations in the~~  
2 ~~area surveyed; and~~

3 ~~(4) The surveys reveal no Activity Center or repeated observations indicating the~~  
4 ~~presence of mates and/or young within 1.3 miles of the boundary based on a~~  
5 ~~review of the landowner's and RPF's personal knowledge and the Department of~~  
6 ~~Fish and Wildlife's spotted owl data base.~~

7 ~~(db) If the Plan submitter proposes to proceed under an "incidental taking" Incidental~~  
8 ~~Take Permit, Safe Harbor Agreement, participation in a Habitat Conservation Plan, or~~  
9 ~~any other permit covering the northern spotted owl issued by the USFW or the CDFW,~~  
10 ~~the submitter shall supply a copy of the permit upon the Department's request.~~

11 ~~(ec) If the submitter proposes to proceed pursuant to the outcome of a discussion with~~  
12 ~~the U.S. Fish and Wildlife Service, the submitter shall submit a letter prepared by the~~  
13 ~~RPF that the described or proposed management prescription is acceptable to the~~  
14 ~~USFWS.~~

15 ~~(f) If:~~

16 ~~(1) the submitter's proposed operations were reviewed by a SOE under 14 CCR~~  
17 ~~§ 919.9, subsection (a); and~~

18 ~~(2) the SOE recommended minimum modifications to the proposed operations~~  
19 ~~which would be necessary to bring the Impacts to a level at which no "take"~~  
20 ~~would occur and the submitter has adopted those recommendations; and~~

21 ~~(3) the proposed operations remain substantially the same as the operations~~  
22 ~~which the SOE reviewed, the submitter shall provide a copy of the~~  
23 ~~recommendations made by the SOE and the submitter shall explain how the~~  
24 ~~proposed operations comply with those recommendations.~~

1 (gd) Where an Activity Center has been located within the Plan boundary or within 0.7  
2 miles (within the range of coast redwood) or 1.3 miles (outside of the range of coast  
3 redwood) of that boundary, the RPF shall determine and document in the Plan: (i)  
4 Activity Center-specific protection measures to be applied during Timber Operations  
5 and (ii) Northern Spotted Owl Habitat which meets the standards of the appropriate  
6 region Owl Habitat, including habitat described in (1)-(5) below, that will be retained  
7 after the proposed operations are completed to avoid take consistent with guidance  
8 provided by the listing agency(s) or Director, or (iii) propose alternative take avoidance  
9 standards based upon substantial site-specific information for review and approval by  
10 the Director.

11 ~~(1) Within 500 feet of the Activity Center the characteristics of Functional Nesting~~  
12 ~~Habitat must be maintained. No Timber Operations shall be conducted in this~~  
13 ~~area during the Northern Spotted Owl Breeding Season unless reviewed and~~  
14 ~~approved by the Director as not constituting a take. Timber Operations may be~~  
15 ~~conducted in this area outside the breeding season if appropriate measures are~~  
16 ~~adopted to protect nesting habitat.~~

17 ~~(2) Within 500-1000 feet of the Activity Center, retain sufficient Functional~~  
18 ~~characteristics to support roosting and provide protection from predation and~~  
19 ~~storms. No Timber Operations shall be conducted in this area during the~~  
20 ~~breeding season unless reviewed and approved by the Director as not~~  
21 ~~constituting a take~~

22 ~~(3) 500 acres of Owl Habitat must be provided within a .7 mile radius of the~~  
23 ~~Activity Center, unless an alternative is reviewed and approved by the Director as~~  
24 ~~not constituting a take. The 500 acres includes the habitat retained in~~  
25 ~~subsections (1) and (2) above and should be as contiguous as possible. Less~~

1 ~~than 50% of the retained habitat should be under operation in any one year,~~  
2 ~~unless reviewed and approved by the Director as not constituting a take.~~  
3 ~~(4) 1336 total acres of Owl Habitat must be provided within 1.3 miles of each~~  
4 ~~Activity Center, unless an alternative is reviewed and approved by the Director as~~  
5 ~~not constituting a take. The 1336 acres includes the habitat retained within~~  
6 ~~subsections (1)-(3) above.~~

7 ~~(5) The shape of the areas established pursuant to subsections (1) and (2) shall~~  
8 ~~be adjusted to conform to natural landscape attributes such as draws and~~  
9 ~~streamcourses while retaining the total area required within subsections (1) and~~  
10 ~~(2) above.~~

11  
12 Note: Authority cited: Section 4551, Public Resources Code. Reference: Sections 4513,  
13 4551.5, 4582.75, 4583 and 4597, Public Resources Code; and 50 CFR 17.11.

14 \*\*\*

### 15 **§939.9. Northern Spotted Owl**

16 Every proposed timber harvesting Plan, NTMP, WFMP, conversion permit, Spotted Owl  
17 Resource Plan, or major amendment located in the Northern Spotted Owl Evaluation  
18 Area or within 1.3 miles of a known northern spotted owl Activity Center outside of the  
19 Northern Spotted Owl Evaluation Area shall follow one of the procedures required in  
20 subsections (a)-(gd) below for the area within the THPPlan boundary as shown on the  
21 THPPlan map and also for adjacent areas as specified within this section. The submitter  
22 may choose any alternative (a)-(gd) that meets the on-the-ground circumstances. The  
23 required information shall be used by the Director to evaluate whether or not the  
24 proposed activity would result in the “take” of an individual northern spotted owl.

1 When subparagraphs (a), ~~(b), (c) or (f)~~ are is used, the Director, prior to approval of a  
2 THPPlan, shall consult with a SOE and conduct an independent review. A SOE may aid  
3 the RPF in fulfilling the requirements within subdivision (gd). The SOE may make  
4 written recommendations regarding whether the retained habitat configuration and  
5 protection measures proposed in the THPPlan will prevent a take ~~of the owl~~.

6  
7 In consultation with the SOE, the Director may adjust standards established by this  
8 section based on site specific circumstances in a manner which is consistent with  
9 information collected on owl behavior in California, and the prohibitions of the Federal  
10 Endangered Species Act.

11  
12 (a) If the Project proponent requests preliminary review of the proposed operation or  
13 Spotted Owl Resource Plan prior to filing, the proponent shall consult with a SOE to  
14 evaluate whether the proposed operation would result in the taking of an individual  
15 northern spotted owl. This evaluation is preliminary to and separate from the final “take”  
16 determination to be made under 14 CCR § 939.10. In making that evaluation:

17 (1) The SOE shall apply the criteria set forth in 14 CCR § 939.10;

18 (2) The SOE may request that the submitter provide additional information which  
19 the SOE finds necessary to evaluate if a “take” would occur, provided that the  
20 SOE states the type of information needed, the purpose of the information, and  
21 the level of accuracy necessary to meet the stated purpose.

22 (3) If the SOE concludes that no prohibited taking would occur, the SOE shall  
23 inform the submitter as soon as practicable and shall document the decision and  
24 the information which was relied upon by the SOE in the above evaluation.

25 Reference data shall be readily available for the Director's review upon request;

1 (4) If the SOE concludes that the proposed Timber Operation or Spotted Owl  
2 Resource Plan would result in a taking, he or she shall inform the submitter as  
3 soon as practicable and shall comply with 14 CCR § 939.10(c) within 10 working  
4 days of making this determination.

5 (5) Requests for pre-filing consultation shall be handled in the order in which  
6 received.

7 ~~(b) The RPF shall include the following information:~~

8 ~~(1) On a planimetric or topographic map of a minimum scale of 1:24,000, provide~~  
9 ~~the following:~~

10 ~~(A) The location and acreage of Owl Habitat.~~

11 ~~This information shall be shown for the area within the boundary both as it exists~~  
12 ~~before and after Timber Operations. The Director shall determine if timber typing~~  
13 ~~maps may qualify as showing Owl Habitat.~~

14 ~~(B) Identify any adjoining Owl Habitat by type within .7 miles of the boundary.~~

15 ~~(C) When mapping Functional owl nesting, roosting, and foraging habitat, include~~  
16 ~~additional information which helps define these areas such as: location of~~  
17 ~~topography features, Riparian vegetation, hardwood component, water, potential~~  
18 ~~nest and roost sites, and potential suitable forage areas.~~

19 ~~(D) All known owl observations, identified by location and visual or nonvisual~~  
20 ~~confirmation within 1.3 miles of the boundary. This information shall be derived~~  
21 ~~from the landowner's and RPF's personal knowledge, and from the CDFW~~  
22 ~~spotted owl data base.~~

23 ~~(2) Discussion on how Functional characteristics of Owl Habitat will be protected~~  
24 ~~in terms of the criteria stated within 14 CCR § 939.10 subsections (a) and (b).~~

1 ~~(3) As adjacent landowners permit and from other available information, a~~  
2 ~~discussion of adjacent Owl Habitat up to .7 miles from the proposed boundary~~  
3 ~~and its importance relative to the Owl Habitat within the boundary.~~

4 ~~(4) Describe any proposals for monitoring owl or Owl Habitat which are~~  
5 ~~necessary to insure their protection. Monitoring is not required for approval.~~

6 ~~(5) Discussion of any known owl surveys that have been conducted within 1.3~~  
7 ~~miles of the THP boundary. Include the dates, results and methodologies used if~~  
8 ~~known.~~

9 ~~(6) A proposed route that will acquaint the SOE and other reviewers with the~~  
10 ~~important Owl Habitat.~~

11 ~~(7) Attach aerial photos of the area, if available. (Aerial photos are not required).~~

12 ~~(c) Where certification is made by the RPF and adequate records are kept showing that~~  
13 ~~owl surveys were conducted sufficient to demonstrate the absence of owls from an~~  
14 ~~area, the THP will be reviewed on a high priority basis. The THP shall contain~~  
15 ~~verification that:~~

16 ~~(1) The surveys have been conducted throughout the area within .7 miles of the~~  
17 ~~boundary in accordance with USFWS approved protocol ("Protocol For~~  
18 ~~Surveying Proposed Management Activities That May Impact Northern Spotted~~  
19 ~~Owls"; U.S. Fish and Wildlife Service; March 17, 1992).~~

20 ~~(2) The surveys were conducted during the current or immediately preceding~~  
21 ~~survey period as prescribed by the previously cited USFWS approved protocol.~~

22 ~~(3) The surveys reveal no Nest Sites, Activity Centers or owl observations in the~~  
23 ~~area surveyed; and~~

24 ~~(4) The surveys reveal no Activity Center or repeated observations indicating the~~  
25 ~~presence of mates and/or young within 1.3 miles of the boundary based on a~~

1 review of the landowner's and RPF's personal knowledge and the CDFW spotted  
2 owl database.

3 (db) If the Plan submitter proposes to proceed under an "incidental taking" Incidental  
4 Take Permit, Safe Harbor Agreement, participation in a Habitat Conservation Plan, or  
5 any other permit covering the northern spotted owl issued by the USFWS or the CDFW,  
6 the submitter shall supply a copy of the permit upon the Department's request.

7 (ec) If the submitter proposes to proceed pursuant to the outcome of a discussion with  
8 the U.S. Fish and Wildlife Service, the submitter shall submit a letter prepared by the  
9 RPF that the described or proposed management prescription is acceptable to the  
10 USFWS.

11 (f) If:

12 ~~(1) the submitter's proposed operations were reviewed by a SOE under 14 CCR~~  
13 ~~§ 939.9, subsection (a); and~~

14 ~~(2) the SOE recommended minimum modifications to the proposed operations~~  
15 ~~which would be necessary to bring the impacts to a level at which no "take"~~  
16 ~~would occur and the submitter has adopted those recommendations; and~~

17 ~~(3) the proposed operations remain substantially the same as the operations~~  
18 ~~which the SOE reviewed, the submitter shall provide a copy of the~~  
19 ~~recommendations made by the SOE and the submitter shall explain how the~~  
20 ~~proposed operations comply with those recommendations.~~

21 (gd) Where an Activity Center has been located within the Plan boundary or within 0.7  
22 miles (within the range of coast redwood) or 1.3 miles (outside of the range of coast  
23 redwood) of that boundary, the RPF shall determine and document in the Plan: (i)  
24 Activity Center-specific protection measures to be applied during Timber Operations  
25 and (ii) Northern Spotted Owl Habitat which meets the standards of the appropriate



1 region Owl Habitat, including habitat described in (1)-(5) below, that will be retained  
2 after the proposed operations are completed to avoid take consistent with guidance  
3 provided by the listing agency(s) or Director, or (iii) propose alternative take avoidance  
4 standards based upon substantial site-specific information for review and approval by  
5 the Director.

6 ~~(1) Within 500 feet of the Activity Center the characteristics of Functional Nesting~~  
7 ~~Habitat must be maintained. No Timber Operations shall be conducted in this~~  
8 ~~area during the Northern Spotted Owl Breeding Season unless reviewed and~~  
9 ~~approved by the Director as not constituting a take. Timber Operations may be~~  
10 ~~conducted in this area outside the breeding season if appropriate measures are~~  
11 ~~adopted to protect nesting habitat.~~

12 ~~(2) Within 500-1000 feet of the Activity Center, retain sufficient Functional~~  
13 ~~characteristics to support roosting and provide protection from predation and~~  
14 ~~storms. No Timber Operations shall be conducted in this area during the~~  
15 ~~breeding season unless reviewed and approved by the Director as not~~  
16 ~~constituting a take.~~

17 ~~(3) 500 acres of Owl Habitat must be provided within a .7 mile radius of the~~  
18 ~~Activity Center, unless an alternative is reviewed and approved by the Director as~~  
19 ~~not constituting a take. The 500 acres includes the habitat retained in~~  
20 ~~subsections (1) and (2) above and should be as contiguous as possible. Less~~  
21 ~~than 50% of the retained habitat should be under operation in any one year,~~  
22 ~~unless reviewed and approved by the Director as not constituting a take.~~

23 ~~(4) 1336 total acres of Owl Habitat must be provided within 1.3 miles of each~~  
24 ~~Activity Center, unless an alternative is reviewed and approved by the Director as~~  
25

1 not constituting a take. The 1336 acres includes the habitat retained within  
2 subsections (1) (3) above.

3 (5) The shape of the areas established pursuant to subsections (1) and (2) shall  
4 be adjusted to conform to natural landscape attributes such as draws and  
5 streamcourses while retaining the total area required within subsections (1) and  
6 (2) above.

7  
8 Note: Authority cited: Section 4551, Public Resources Code. Reference: Sections 4513,  
9 4551.5, 4582.75, 4583 and 4597, Public Resources Code; and 50 CFR 17.11.