

**RCW 76.09.500 Programmatic safe harbor agreement for the northern spotted owl—Department's authority—Rule making—Review of decisions.**

(1) The legislature finds that the federal government has established programs under the endangered species act, 16 U.S.C. Sec. 1539(a)(1)(A), that seek to provide regulatory incentives for private and other nonfederal property owners to recruit, enhance, or maintain habitats for species that are or may become listed as threatened or endangered. These activities are designed to enhance the propagation or survival of the affected species and provide assurance to participating landowners that their future land management activities would not be subject to the endangered species act's restrictions as long as they adhere to the terms of the programmatic safe harbor agreement. The legislature aims to encourage these programs in the forested environment, as they accomplish multiple desirable goals for multiple parties.

(2) The legislature recognizes the value of voluntary, incentive-based programs to nonfederal forestland owners to support the northern spotted owl, and finds that this section will facilitate participation in these programs if they can be made more accessible and streamlined. The federal agencies administering the endangered species act have developed programs under 16 U.S.C. Sec. 1539(a)(1)(A) whereby administrative authorities over species enhancement activities are transferred to state agencies under a programmatic permit, under which the department would enroll participants, issue certificates of inclusion, and facilitate program implementation and compliance. Therefore, the legislature intends for these incentive-based programs to be available to nonfederal landowners consistent with the board's process.

(3) The department may enter into and administer a programmatic safe harbor agreement for the northern spotted owl for any forestland owner. Participation in this agreement by forestland owners is strictly voluntary and at the sole discretion of the landowner. The department shall consult with and rely upon technical assistance from the department of fish and wildlife regarding habitat assessments of candidate parcels and implementation of the programmatic safe harbor agreement. The department and the department of fish and wildlife shall enter into and maintain an interagency agreement to ensure implementation of the state's obligations under the safe harbor agreement and to ensure the department of fish and wildlife's technical expertise is available to support the safe harbor agreement.

(4) In administering the programmatic safe harbor agreement for the northern spotted owl described in subsection (3) of this section, the department has all authority necessary to successfully administer the federal permit, monitor compliance with the terms of certificates of inclusion, suspend or terminate landowner participation from the program, and provide all other landowner technical assistance as is needed to facilitate program implementation. For the purposes of administering the safe harbor agreement, the department must be able to access candidate parcels to ensure program eligibility or compliance.

(5) The board may adopt or amend its rules, if necessary, to implement the programmatic safe harbor agreement for the northern spotted owl described in this section.

(6) Decisions of the department to issue certificates of inclusion or to suspend or terminate a landowner's participation in

the program may be reviewed in the same manner as forest practices applications under RCW 76.09.205.

(7) The provisions of this section are subject to the availability of amounts appropriated for this specific purpose. [2023 c 119 § 1.]