

July 22, 2022

M E M O R A N D U M

To: Forest Practices Board

From: WDFW and the Marbled Murrelet Wildlife Working Group

Subject: Briefing document to the Washington Forest Practices Board on Forest Practices Rules for Marbled Murrelet and Stakeholder Assessment: Process, Findings, and Recommendations

The Marbled Murrelet was listed as a federally Threatened Species in Washington, Oregon, and California under the US Endangered Species Act in 1992. The Washington Forest Practices Board (FPB, or Board) adopted permanent Forest Practices Rules for protection of Marbled Murrelets effective August 22, 1997. Important elements of the new rules included protection of known occupied Marbled Murrelet sites and a requirement to survey forest stands containing potential Marbled Murrelet habitat prior to any proposed forest practices.

In February 2017, the Washington State Fish and Wildlife Commission approved the Washington Department of Fish and Wildlife (WDFW) recommendation to up-list the Marbled Murrelet from state threatened to state endangered, defined as “seriously threatened with extinction throughout all or a significant portion of its range within the state” (WAC 220-610-110, Section 2.4). With this status change, the Board requested an assessment of the Forest Practices (FP) Rules for Marbled Murrelet to determine whether non-federal habitat is being adequately protected and if any rule amendments, changes, or clarifications are warranted. The main objective of the FP Rules for Marbled Murrelet is to identify and avoid forest practice activities that are likely to have a significant adverse impact on the species (WAC 222-10-042).

Marbled Murrelet status in Washington. The Marbled Murrelet (*Brachyramphus marmoratus*) is a small seabird that ranges the coast of North America from Alaska to southern California. It is unique among seabirds, using marine environments for feeding and terrestrial inland mature forests for nesting. Both are essential habitats for survival and reproduction. In Washington, murrelets occupy and forage in near-shore marine waters year-round. During the breeding season (March to September), birds fly inland up to 55 miles daily to provision their nests in the branches of mature and old conifer forests. Females lay a single egg each nesting attempt. The Washington population has been declining about 3.9% each year since 2001.

Wildlife Work Group Process. After the 2017 up-listing of the Marbled Murrelet to state endangered, the Board supported the WDNR and WDFW recommendation that WDFW initiate a Marbled Murrelet FP Rules assessment involving stakeholders. In February 2018, WDFW convened 7 stakeholders for a Marbled Murrelet Wildlife Working Group (MM WWG) representing Washington Association of Counties, Washington Forest Protection Association, Washington Farm Forestry Association, Washington Conservation Caucus, U.S. Fish and Wildlife Service, WDNR, and WDFW. The MM WWG purpose was to evaluate rule effectiveness in identifying and protecting murrelet habitat, identify ambiguous rule language, develop needed implementation guidance, add new language clarifications, and then deliver consensus-based recommendations that balance conservation needs and economic viability of the timber industry to the Board for consideration. The Board recognized the role of the MM WWG and supported the group’s efforts. Marbled Murrelet WWG (MM WWG) meetings commenced in September of 2018.

MM WWG Objectives. The MM WWG formulated a Charter and a list of Assessment Objectives:

1. Review the species’ stressors which have led to a continued decline of the MM population in Washington.
2. Review and assess the potential contributions of non-Federal lands regulated under the FP rules.
3. Identify which habitat components are presumed necessary for forested areas to be considered potential habitat (state) or occupied habitat.
4. Review the definition of FP “suitable marbled murrelet habitat” and Critical Habitat (State) for murrelets.

5. Refine #3 and #4 as needed using best available science.
6. Evaluate and identify those proposed FP rules for murrelet in relation to “suitable marbled murrelet habitat” and Critical Habitat (state).
7. Make recommendations for changes to affected current rules.
8. Timeline for development of the recommendations.

Evaluation, Findings and Recommendations. Rule language and implementation concerns were identified and documented by the MM WWG. Technical information was provided/shared by any group member, discussed, and considered by the group to determine if or how it may inform a rule change. As a result, the MM WWG is providing consensus recommendations to the Board. If consensus could not be reached on a topic, the differences are described and recorded in the report. Recommendations and the rationale for each proposal are explained in detail in the report.

These recommended rule changes enhance avoidance of impacts on a federally listed species, reduce regulatory requirements for forest managers, and benefit the conservation of the species. Best available science was utilized to update, simplify, or clarify rule ambiguities to improve operational efficiencies:

WAC 222-10-042 Marbled murrelet. SEPA Guidance- proposed rule language

WAC 222-12-090 (Board Manual 14)- proposed rule language

WAC 222-16-010 General Definitions for proposed rule language changes

“Suitable marbled murrelet habitat” proposed rule language

“Marbled murrelet nesting platform” proposed rule language

“Occupied marbled murrelet site” proposed rule language

WAC 222-16-080 Critical habitats (state) of threatened and endangered species. (1) (h) (v). proposed rule language

WAC 222-16-080 (1)(h)(vi)- Proposed clarification to rule language

WAC 222-30-065 Proposed clarification to rule language

It is the intent of WDFW, informed and supported by the MM WWG, to request rule making based on this work. Please consider this letter of information and intent at the August FPB meeting. The report of the Marble Murrelet WWG findings and recommendations will be submitted for formal review and presented at the November 2022 FPB meeting.

Respectfully,



Tom O'Brien, WDFW Ecosystem Services Division Manager