

ORDER – WILDLIFE HABITAT AREAS 2-303 to 2-306, 2-308, 2-309 & 2-316

This Order is given under the authority of sections 9(2) and 10(1) of the *Government Actions Regulation* (B.C. Reg. 582/2004) (GAR).

1. The delegated decision maker, being satisfied that
 - i. the following area contains habitat that is necessary to meet the habitat requirements for Marbled Murrelet (*Brachyramphus marmoratus*); and
 - ii. the habitat requires special management that is not otherwise provided for under GAR or another enactment;orders that
 - a) the areas shown in the map set out in the attached Schedule A (2-303 to 2-306, 2-308, 2-309, 2-316) and contained in the wildlife habitat areas (WHAs) spatial layer stored in the Geographic Warehouse (WHSE_WILDLIFE_MANAGEMENT.WCP_WILDLIFE_HABITAT_AREA_POLY) are established as WHAs for Marbled Murrelet. The centre point of the line on the attached Schedule A is what establishes the WHAs; and
 - b) if there is a discrepancy between the areas shown in the map set out in the attached Schedule A and the WHA spatial layer stored in the Geographic Warehouse (WHSE_WILDLIFE_MANAGEMENT.WCP_WILDLIFE_HABITAT_AREA_POLY), the areas as detailed in the WHA spatial layer will take precedent.
2. The delegated decision maker, being satisfied that
 - i. the general wildlife measures (GWMs) described below are necessary to protect and conserve the habitat of Marbled Murrelet; and
 - ii. GAR or another enactment does not otherwise provide for that protection or conservation;orders that
 - a) the GWMs outlined in Schedule 1 are established for WHAs 2-303 to 2-306, 2-308, 2-309, 2-316.
3. Pursuant to section 7(3) of the *Forest Planning and Practices Regulation* a person required to prepare a forest stewardship plan is exempt from the obligation to prepare results or strategies in relation to the objective set out in section 7(1) of the *Forest Planning and Practices Regulation* for Marbled Murrelet in the Sea to Sky Natural Resource District.
4. The GWMs outlined in Schedule 1 do not apply for the purposes of exploration, development and production activities when these activities have been authorized for the purpose of subsurface resource exploration, development or production by the *Mineral Tenure Act*, the *Coal Act*, or the *Geothermal Resources Act*.

Definitions:

Words and expressions not defined in this Order have the meaning given to them in the *Forest and Range Practices Act* (FRPA) and the regulations made under it, unless context indicates otherwise.

incursion means new timber harvesting or road construction that is located within a wildlife habitat area boundary where no harvesting or road building is otherwise permitted to occur.

productive forest area means forest included as either contributing, partial contributing or non-contributing as per timber supply review 2 planning

Director, means the Director of Resource Management, Ministry of Forests, Lands & Natural Resource Operations (FLNR), South Coast Region

traditional and cultural activities is as defined in the *Free Use Permit Regulation*.

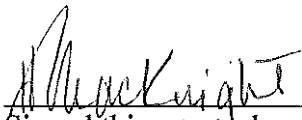
Schedule 1 – General Wildlife Measures*Access, timber harvesting and silviculture*

1. No primary forest activities are permitted.
2. GWM 1 does not apply if:
 - a. it is necessary to create guyline tiebacks for timber harvesting outside of a WHA boundary;
 - b. trees felled in accordance with GWM 2 a) are retained on-site to function as coarse woody debris, unless the felled tree poses a forest health risk; or
 - c. cutting of trees is for the purposes of traditional and cultural activities, as authorized under a Free Use Permit.
3. No pesticide use is permitted, except for:
 - a. using *Bacillus thuringiensis var kurstaki* for the control of western spruce budworm;
 - b. using beetle pheromones for the control of bark beetles; and
 - c. using herbicides to control invasive plants or noxious weeds, if applied by:
 - i. stem injection, cut and paint, foliar wipe or other direct plant application; or
 - ii. spot spraying individual plants or a cluster of plants if direct plant application is not practicable.
4. Where primary forest activities are planned immediately adjacent to any WHA with >30 ha productive forest area, GWM 1 does not apply to the area of an incursion along the WHA boundary if:

- a. the incursion is required to provide for a logical harvesting boundary or a logical road or trail location that utilizes a physical feature or administrative boundary;
- b. the area of the incursion, or multiple incursions cumulatively, do not exceed:
 - i. 1 ha of productive forest area in WHAs with >30 ha and ≤50 ha productive forest area; or
 - ii. 2 ha of productive forest area in WHAs with >50 ha to ≤100 ha productive forest area; or
 - iii. 3 ha or 1% of productive forest area, whichever is greater, in WHAs with >100 ha productive forest area;
- c. the incursion exceeds 0.5 ha, and the area of the incursion is replaced with an equivalent or greater area of equal or better habitat contiguous to the WHA such that there is no net loss; and the incursion does not affect the intent or integrity of the WHA; and
- d. the incursion as per GWM 4 a) or b), and any replacement habitat as per GWM 4 c) are provided to the Director (via ESRI shape files) prior to the commencement of primary forest activities associated with the incursion.

Recreation

- 5. Do not develop sites, trails, facilities or structures for recreational purposes.



Signed this 15th day of April, 2014

Heather MacKnight, Regional Executive Director, South Coast Region
Ministry of Forests, Lands and Natural Resource Operations

Appendix 1:

The following information is provided by the Ministry of Environment and FLNR as background information and support to the Order establishing WHAs 2-303 to 2-306, 2-308, 2-309 & 2-316. This appendix is not part of the Order.

1. **Activities to which the Order does not apply:** Section 2(2) of the *Government Actions Regulation* states

An Order under any of sections 5 to 15 does not apply in respect of

(a) any of the following entered into before the Order takes effect:

(i) a cutting permit;

(ii) a road permit;

(iii) a timber sale licence that does not provide for cutting permits;

(iv) a forestry licence to cut issued by a timber sales manager under section 47.6 (3) of the *Forest Act*;

(v) subject to subsection (3), a minor tenure,

(b) a declared area,

(c) areas described in section 196 (1) of the Act, and

(d) areas referred to in section 110 of the *Forest Planning and Practices Regulation* (FPPR).

2. Authority to consider an exemption from these GWMs is provided in section 92(1) of the FPPR, and section 79(1) of the *Woodlot License Planning and Practices Regulation*. An exemption may be provided if the Minister's delegate is satisfied that the intent of the GWM will be achieved or that compliance with the provision is not practicable, given the circumstances or conditions applicable to a particular area.

An exemption application should be submitted to the Minister's delegate with a rationale describing the nature of the problem and options to integrate marbled murrelet conservation with proposed forest and/or range practices. This submission will assist in timely consideration of the matter, and will inform the conditions, if any, of the exemption that may be granted prior to commencement of activities. Upon receipt of a complete exemption application, a determination will normally be made within 14 calendar days of arrival at the FLNR regional office. Incomplete packages will be returned to the proponent for re-submission. A template for exemption requests is available at:
<http://www.env.gov.bc.ca/wld/frpa/index.html>

3. For GWM 1, exemptions would only normally be considered to restore or enhance degraded habitat, as determined by the Director, or for roads or trails where there are no other practicable options.
4. GWM 1 does not apply to road maintenance, road deactivation or brushing within the right-of-way on existing roads or trails in the WHA. These activities should be carried out in a manner that will not affect the intent or integrity of the WHA.

5. The intent of GWM 4 is to facilitate pre-authorized boundary exemptions for those WHAs with >30 ha productive forest area provided that FLNR is notified prior to the incursion taking place. Examples of incursions include a cut-block, road, trail or landing that overlaps a WHA boundary and: a) that the intent of the WHA boundary was to follow a creek/road and in some areas the boundary extends slightly beyond the creek/road due to a GIS mapping error and creates the overlap; or b) unintentional overlap occurs with an engineered primary forest activity that becomes evident when comparing map scales (e.g. 1:20000 vs 1:5000 often at final design stage); or c) *Forest Act* agreement holders can demonstrate that the block, road, trail or landing are located in a logical location and the incursion does not exceed the amount allowed.

In almost all instances the amount of incursion is anticipated to affect a small area. No replacement area is required when the discrepancy is: a) caused by GIS boundary mapping error since the intent of the WHA has not been altered; or b) the cumulative overlap is <0.5 ha. In other situations, the intended result is that where a boundary amendment is suggested by a *Forest Act* agreement holder and when the reduction is measurable (≥ 0.5 and ≤ 3 ha or <1% measured cumulatively in any WHA), it will result in no net loss to habitat in the WHA. Delineation of equal or better marbled murrelet habitat, in quantity and quality, will be required contiguous to the WHA. Any biological assessment to replace habitat should be conducted by a qualified professional with appropriate training and experience for the work being completed. If replacement habitat is required and equal or better habitat is not available contiguous to the WHA in question then the incursion cannot proceed under this GWM.

Boundary amendments meeting the conditions identified in GWM 4 will be periodically reviewed by FLNR and the WHA boundary officially amended under the *Government Actions Regulation*. In any instances where the conditions in GWM 4 cannot be met, proposed primary forest activities will require an exemption as outlined under section 2 in this Appendix.

In addition to reporting incursions to the Director prior to commencement of timber harvesting or road construction as per GWM 4 (d), it is the proponent's responsibility to keep accurate records of each occurrence. Records must also be made available to a government official upon request.

6. Where roads in the WHA are temporary and no longer required, they should be permanently deactivated. Proponents should notify the Director when deactivation of temporary roads is complete.
7. These GWMs do not apply to persons who must comply with the *Worker's Compensation Act* and the regulations under that Act (e.g. danger tree felling as per OH&S Regulation Part 26). Where a GWM cannot be achieved due to a safety concern, a person should consider developing a rationale related to the safety issue. Consistent with section 2(3) of the *Forest Planning and Practices Regulation*, exemptions from these GWMs are not required to meet safety requirements.

