



GOVERNMENT ACTIONS REGULATION ORDER
WILDLIFE HABITAT AREAS
Marbled Murrelet (*Brachyramphus marmoratus*)

Table 1. Wildlife Habitat Area Tag

2-597	2-603	2-608	2-614	2-620	2-628	2-635	2-640	2-645	2-650
2-598	2-604	2-610	2-615	2-622	2-629	2-636	2-641	2-646	2-651
2-599	2-605	2-611	2-616	2-624	2-630	2-637	2-642	2-647	2-652
2-600	2-606	2-612	2-618	2-625	2-632	2-638	2-643	2-648	2-653
2-601	2-607	2-613	2-619	2-627	2-633	2-639	2-644	2-649	

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 nesting habitat requirements of a species at risk – 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) this Order cancels and replaces the Order associated with Wildlife Habitat Area (WHA) 2-003 for Marbled Murrelet that was approved on April 7, 2003 and became effective when grand-parented from the *Forest Practices Code* into GAR and is titled “Order – Wildlife Habitat Area # 2-003”;
 - b) the areas shown in the map set out in the attached Schedule A (and listed in Table 1 above) and contained in the WHA spatial layer stored in the Geographic Warehouse (WHSE_WILDLIFE_MANAGEMENT.WCP_WILDLIFE_HABITAT_AREA_POLY) are established as wildlife habitat areas (see Table 1 above) for Marbled Murrelet. The centre point of the line on the attached Schedule A is what establishes the WHAs; and
 - c) 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 WHAs being established for 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 the 49 WHAs listed in Table 1.
3. Pursuant to section 7(3) of the *Forest Planning and Practices Regulation* the person(s) required to prepare a forest stewardship plan are hereby exempted 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* to the extent that the WHAs (see Table 1 above) address the amount included for Marbled Murrelet in the Notice for the Sunshine Coast Natural Resource District. This exemption applies only to the mature timber harvesting land base “amount of area” specified in point #3 of the Notice.

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.

Traditional and cultural activities are as defined in the *Free Use Permit Regulation* of the *Forest Act*.

Schedule 1 – General Wildlife Measures

Access, timber harvesting and silviculture:

1. Do not harvest timber, except for salvage, in the WHA.
2. Do not construct roads, trails, landings or stream crossings in the WHA.
3. GWM 1 and 2 do not apply if:
 - a) re-construction of the existing road through WHA 2-624 and 2-625 is required to access timber beyond the boundaries of the WHAs;
 - b) it is necessary to create guyline tiebacks (anchors or tailholds) in the WHA for timber harvesting to occur outside of a WHA boundary;
 - c) trees felled in accordance with GWM 3(b) must be retained on-site to function as coarse woody debris, unless the felled tree poses a forest health risk; or
 - d) cutting of trees is for the purposes of traditional and cultural activities, as authorized under a Free Use Permit issued under the *Forest Act*.

Pesticides:

1. Do not use pesticides, except for:
 - a) *Bacillus thuringiensis* var *kurstaki* for the control of western spruce budworm;
 - b) beetle pheromones for the control of bark beetles; or
 - c) 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.



Signed this 19th day of November, 2018

Craig Sutherland, Assistant Deputy Minister, Coast Area

Ministry of Forests, Lands, Natural Resource Operations & Rural Development

Appendix 1:

The following information is provided by the Ministry of Environment and Ministry of Forests, Lands, Natural Resource Operations & Rural Development (FLNRORD) as background information and support to the Order establishing the 49 WHAs listed in Table 1. 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. In this situation, the delegated decision maker may also consider if the exemption affects critical habitat since the federal Recovery Strategy is approved and the province is expected to demonstrate effective protection of that habitat.

An exemption application should be submitted to the Minister's delegate (FLNRORD, Director of Resource Management) for the region that the WHA is located with a rationale describing the nature of the problem and options to integrate Marbled Murrelet habitat conservation with proposed forest 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 FLNRORD regional office. Incomplete packages will be returned to the proponent for re-submission.

3. The minister responsible for the *Wildlife Act*, or their delegate, may amend a WHA order, including the legal boundaries designated in the order. The delegated decision maker for minor boundary amendments is the Director Resource Management, FLNRORD. Minor boundary amendment request applications are submitted to a FLNRORD regional biologist familiar with the WHA. Once an agreement has been reached on the location of the new boundary to the extent possible, the boundary amendment request is submitted to the Director Resource Management for that region with the necessary supporting information. The delegated decision

maker for major boundary amendments remains the Deputy Minister, FLNRORD. Major boundary amendments are submitted by the regional biologist to FLNRORD Victoria staff who will bring the proposed change to the Deputy Minister, FLNRORD. The delegated decision maker may also consider if the exemption affects critical habitat since the federal Recovery Strategy is approved and the province is expected to demonstrate effective protection of that habitat.

The boundary amendment application must include a rationale describing the nature of the problem and any options to integrate Marbled Murrelet habitat conservation measures with the proposed boundary, digital map files of the current boundary, and digital map files for the proposed boundary. This submission will assist in timely consideration of the matter, and will inform the conditions (e.g., replacement area), if any, of the boundary amendment that may be considered prior to amending the order. Determination and notification will generally be made within 30 days of receipt of a complete application. Incomplete packages will be returned to the proponent for re-submission.

4. For GWM 1 and 2, exemptions would only normally be considered to restore or enhance degraded habitat, as determined by the Director of Resource Management, South Coast Natural Resource Region, FLNRORD; or for roads, trails or stream crossings where there are no other practicable options.
5. GWM 2 does not apply to road or stream crossing maintenance, deactivation or brushing within the right-of-way on existing roads or stream crossings in the WHA. These activities should be carried out in a manner that will not affect the intent or integrity of the WHA.
6. Anyone required to implement this Order should also be aware of potential overlap between these WHAs and other wildlife Orders (e.g., grizzly bear WHA Orders) or *Land Act* Orders (i.e. Old Growth Management Areas) and that there may be different GWMs or objectives that apply. If this occurs, it will be important to apply the most conservative GWM or objective for the overlapping area.
7. Where roads in the WHA are temporary and no longer required, they should be permanently deactivated. Proponents should notify the Director of Resource Management, South Coast Natural Resource Region, FLNRORD when deactivation of temporary roads is complete.
8. 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 and keep it on file to be made available to a government official upon request. Consistent with section 2(3) of the FPPR, exemptions from these GWMs are not required to meet safety requirements.