

State Forests Program Operational Policy

Marbled Murrelet Operational Policies	Number: 1.1.0	
	Effective Date: January 1, 2005	
	Revision: 1.1	Page: Page 1 of 9
Authorizing Signature:		Division Chief
Database Keywords: T & E; threatened and endangered species; marbled murrelet; disturbance; take avoidance;		

1.1.1.0 Purpose

This policy describes the reasonable and prudent measures the State Forests Program will use to avoid direct take of marbled murrelets, and minimize the risk of any potential take incidental to management practices conducted for the purpose of actively achieving a variety of resource values on lands managed by the Oregon Department of Forestry (ODF). The Forest Management Plans describe other management actions implemented by the State Forests Program that are expected to provide additional benefits for marbled murrelet habitat.

1.1.2.0 Goals

The State Forests Program's goals for applying the policies and standards that follow are to:

- 2.1 Minimize the disruption of reproductive activities;
- 2.2 In marbled murrelet occupied sites, maintain habitat suitable for successful nesting.

1.1.3.0 Policy Statements and Standards

It is the policy of the State Forests Program to avoid direct take of marbled murrelets and minimize the risk of any potential take incidental to its management by applying the following policies and standards:

Identifying Survey Needs

- 3.1 Identify potential habitat (defined in 7.11) that is within or adjacent (defined in 7.1) to an operation or activity following procedure 1.1.P1.1.
- 3.2 Require surveys of potential habitat on lands managed by the State Forests Program, or adjacent federal lands, only for the following activities:
 - 3.2.1 Planned harvest operations that contain potential habitat.
 - 3.2.2 Planned harvest operations that do not contain potential habitat but are adjacent to the potential habitat.
 - 3.2.3 Other activity(s) that may have impacts on potential habitat and so require the Unit Forester to consult with the Area Biologist. See procedure 1.1.P1.2 for examples of other activities that may require surveys.
- 3.3 Grant survey waivers when determined appropriate, following procedure 1.1.P1.2. Document and retain decisions to waive survey requirements, and the associated protection measures recommended.

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Conducting Surveys

- 3.4 Coordinate survey activities across districts, and develop and administer appropriate personal services contracts as detailed in procedure 1.1.P2.1.
- 3.5 Conduct surveys applying the following standards:
 - 3.5.1 Establish survey sites that do not exceed 140 acres in size, and require only potential habitat within the site to be surveyed.
 - 3.5.2 Distribute survey stations throughout all survey sites, with at least one survey station for every 30 acres.
 - 3.5.3 Conduct a minimum of five visits per year for two consecutive years at all sites.
 - 3.5.4 Conduct a minimum of nine visits per year where murrelets have been detected. If murrelets are detected during the first year of survey, conduct a total of 18 visits over two years. If murrelets are detected only during the second year of survey, conduct a minimum of 14 visits over two years.
 - 3.5.5 Conclude surveys when confident that observed behavior is an indication of occupancy, or when no murrelets have been found by the fifth visit of the second year and all survey visits followed the appropriate spacing through the season.
 - 3.5.6 Conduct surveys between May 1 and August 5. Schedule one-half of the visits to a site prior to June 20, and one half after June 20, with at least two visits scheduled during the normal "peak" of murrelet activity, after June 30 and before July 18.
 - 3.5.7 Ensure that regularly scheduled visits are spaced more than six days apart, but not more than 30 days. Where presence is detected at a five visit site, the four additional visits must be separated by at least two days.
 - 3.5.8 Conduct surveys using a certified surveyor (defined in 7.2).
 - 3.5.9 Evaluate survey results consistent with 3.9 and procedure 1.1.P3.2.
- 3.6 When requested by the District, verify subcanopy behavior observed by the State Forests Program and its agents on state forest lands using the following standards and consistent with procedure 1.1.P2.2.
 - 3.6.1 Conduct at least one site visit as soon as possible following the initial observation, but no later than one week following.
 - 3.6.2 Conduct additional survey visits until the subcanopy behavior is re-observed, or four visits in addition to nine protocol visits have occurred during the survey season (total of 13 visits).
 - 3.6.3 Conduct verification surveys using a certified surveyor who was not involved in observing the initial behavior.
 - 3.6.4 When the survey visits required in 3.6.2 were not accomplished and the subcanopy behavior was not re-observed, conduct an additional year of surveys of at least nine visits, or until the subcanopy behavior is re-observed.
 - 3.6.5 Evaluate survey results consistent with policy 3.9 and procedure 1.1.P3.1.

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- 3.7 Accept surveys as valid for a five-year period and up to April 1 of the sixth year once an area has been surveyed to policy standards in 3.5 and murrelet occupancy has not been established. Initiate new surveys prior to conducting or continuing operations after this period.
- 3.8 Use tree climbing in lieu of surveys following procedure 1.1.P2.3, and only after a discussion with the USFWS.

Evaluating Survey Results

- 3.9 Review all survey results by December 31 of the survey season, classify sites, and make recommendations for proposed management activities, according to procedure 1.1.P3.1. Site classifications include occupied, presence, probable absence, not verified, and historic (see Definitions 7.12). Only sites classified as occupied are subject to policies 3.12 through 3.17 (designation of MMMA's and protection of occupied sites).
- 3.10 Document and retain decisions related to the annual review of survey results following procedure 1.1.P3.1.
- 3.11 Evaluate reports of murrelet activity made by a certified surveyor outside of State Forest Program surveys, and that have the potential to affect a harvest-related activity, following procedure 1.1.P3.2.

Designating Marbled Murrelet Management Areas

- 3.12 Design a marbled murrelet management area to maintain habitat suitable for successful nesting around occupied sites prior to operating in the vicinity of such sites following procedure 1.1.P4.1.
- 3.13 Document and retain decisions and related materials regarding MMMA designation consistent with procedure 1.1.P4. The District Forester will approve the MMMA design, and communicate these decisions to the Area Directors and Deputy Division Chief.

Protecting Occupied Sites

- 3.14 Involve an Area Biologist in developing appropriate prescriptions for management proposed in a MMMA, or adjacent to a known occupied site on another landowner consistent with procedure 1.1.P5.1.
- 3.15 The Area Biologist will prepare a biological assessment at Unit Forester request, prior to management activities occurring in a MMMA.
- 3.16 Restrict only the following activities conducted or permitted through written permits by the State Forests Program, and that have the potential to disturb nesting murrelets (See 1.1.G1.5.2). These activities are restricted between April 1 and September 15, unless otherwise stated or the district is under a fire emergency. Restriction distances apply to the likely nesting habitat within the MMMA.
- 3.16.1 Prohibit aircraft conducting work for ODF (including Type I helicopters) from flying within 1320 feet (0.25 miles) of the nesting habitat. Over flights must be greater than 500 feet above the nesting habitat.

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- 3.16.2 Prohibit small aircraft conducting work for ODF, including single engine airplanes and Type II and III helicopters, from flying within 330 feet of the nesting habitat. Over flights must be greater than 500 feet above the nesting habitat.
- 3.16.3 Prohibit timber harvest activities, including the use of chainsaws, yarding, and loading, in or within 330 feet from April 1 through August 5. Allow these activities from August 6 to September 15 only after consultation with the Area Biologist.
- 3.16.4 Prohibit aquatic restoration projects located in or within 330 feet. When the State's in-stream work window conflicts with this restriction, the seasonal restriction will be waived by the Area Biologist, and the activity will be scheduled as late in the murrelet nesting season as possible (reference 1.1.6.8 and 6.9). Also, daily timing restrictions will be applied from April 1 through September 15.
- 3.16.5 Prohibit the hauling of logs, rock, and heavy equipment, or the use of heavy equipment (includes vibratory rollers) on roads that are not commonly used (see definition 7.3) in or within 330 feet from April 1 through August 5. Allow these activities to occur from August 6 to September 15 only after consultation with the Area Biologist.
- 3.16.6 Prohibit the use of explosives associated with rock quarries in or within 1.0 miles, and the use of explosives associated with road construction in or within 0.25 miles. Consult the Area Biologist for restrictions on use of explosives associated with other activities, and for site-specific evaluation of blasting activities.
- 3.16.7 Minimize disturbance from recreational activities that are conducted or permitted through written permits by the State Forests Program (see 1.1.G1.5.2).
- 3.16.8 Allow deviations from these standards only after a site-specific review by the Area Biologist, documentation of recommendations, and the application of recommended restrictions. The Area Biologist will consider site-specific, topographic features and the location of the occupied site when considering deviations from these standards.

Re-evaluating a MMMA

- 3.17 When requested by the District Forester, evaluate the classification of a MMMA to determine continuing protection level using procedure 1.1.P6.1 and the following standards:
 - 3.17.1 Conduct a minimum of five consecutive years of surveys consisting of a minimum of nine survey visits each year and consistent with standards in 3.5.
 - 3.17.2 Evaluate survey results consistent with standards listed in 3.9.
 - 3.17.3 The District Forester will decide whether to change a MMMA to a historic classification, and then obtain signature approval from the Area Director and Deputy Division Chief.

Additional Operational Policies

- 3.18 Communicate with the USFWS when substantive changes to these operational policies occur, or when determined appropriate by the Area and/or Staff Biologist (see 1.1.G1.7).
- 3.19 Hold in confidence site-specific information (draft SFP Policy #**).
- 3.20 Review this policy for currency every three years at a minimum.

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1.1.4.0 Key Parties

District Foresters, Staff and Area Biologists, Staff Biological Specialist, Unit Foresters, T & E Coordinators, Area Directors and Deputy Division Chief.

1.1.5.0 Authorities

- 5.1 ORS 530.050 – Management of lands acquired; power of forester.
- 5.2 ORS 530.490 – Management, control and protection of Common School Forest Lands and Elliott State Forest; easements.
- 5.3 ORS 530.500 – Authority of State Forester in management, protection, utilization and conservation of lands and waters.
- 5.4 ORS 496.004(6)(a)(b) and 496.171 through 496.192 – Threatened or Endangered Species.
- 5.5 OAR 629-035-0000 through 629-035-0110 – Management of State Forest Lands, including the Northwest, Southwest and Elliott State Forest Management Plans.
- 5.6 Common School Forest Land Agreement – A contract between the Oregon State Land Board and Oregon Departments of Forestry and State Lands.

1.1.6.0 References

- 6.1 *Marbled Murrelet Procedures 1.1.P1.0 through 1.1.P6.0 – Identifying Survey Needs, Conducting Surveys, Evaluating Survey Results, Designating a MMMA, Protecting Occupied Sites, Re-evaluating a MMMA Designation.*
- 6.2 *Marbled Murrelet Guidance Document 1.1.G1.0.*
- 6.3 *Sensitive Information Policy* (SFP #**); in draft).
- 6.4 ODF Directive #0-7-0-030 Geographic Information System (GIS).
- 6.5 ODF Directive # ** Annual Operations Planning (in draft).
- 6.6 State Forest Program T & E Handbook.
- 6.7 Federal Endangered Species Act; link: <http://endangered.fws.gov/esa.html>.
- 6.8 *Methods for Surveying Marbled Murrelets in Forests: A Revised Protocol for Land Management and Research* (Pacific Seabird Group Technical Committee, January 2003); link: http://www.pacificseabirdgroup.org/revMAMU_ISP_Jan_03.pdf
- 6.9 *Oregon Guidelines for Timing of In-Water Work to Protect Fish and Wildlife Resources* (Oregon Department of Fish and Wildlife 2000); link: http://www.dfw.state.or.us/ODFWhtml/InfoCntrHbt/0600_inwtrguide.pdf.
- 6.10 *Oregon Aquatic Habitat Restoration and Enhancement Guide* (May 1999), Appendix E, Marbled Murrelets; link: <http://www.oweb.state.or.us/publications/habguide99.shtml>.

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1.1.7.0 Definitions

- 7.1 Adjacent – potential habitat that borders a operation’s boundary or is within 330 feet of the boundary. In addition, potential habitat that is within 330 feet of other potential habitat, creating a condition of contiguity (see 1.1.G1.1, including Appendices B-1 and B-2).
- 7.2 Certified Surveyor – a surveyor that has successfully completed a training program consistent with the marbled murrelet observer training protocol as described in Appendix C of 6.8, and who has documentation to demonstrate that the training was completed within the year.
- 7.3 Commonly used road – a road that receives frequent traffic during the murrelet breeding season, including but not limited to, a mainline road and roads connecting mainline roads. Roads not commonly used may include, but are not limited to, spur roads, and blocked or decommissioned roads.
- 7.4 Disturbance – actions during the breeding season likely to disrupt marbled murrelet reproductive activities.
- 7.5 Marbled Murrelet Management Area (MMMA) – an area designated using established procedure that will be subject to special management considerations for the purpose of maintaining habitat suitable for successful nesting.
- 7.6 Marbled Murrelet Survey Zone – in general, all coniferous forest land within 50 miles of the Coast with the exception of Southwest Oregon where some areas within 50 miles of are excluded based on extrapolation from the *Southwest Oregon Inland Survey Assessment for Marbled Murrelet* (USFS and BLM, 2002). The Marbled Murrelet Survey Zone for State Forest lands is shown in Appendix A-1 of the guidance document (1.1.G1.0).
- 7.7 Nesting Season – April 1 to September 15.
- 7.8 North Coast Survey Zone – an area of the Oregon north coast where murrelets are known to use habitat types with fewer than five platform trees within a 330 foot radius circle, and possibly just a single platform tree in a very young stand. See Appendix A-2 of the guidance document (1.1.G1.0).
- 7.9 Platform tree – any tree having a single platform capable of hosting a nest for a marbled murrelet.
- 7.10 Platform – “a relatively flat surface at least 10 centimeters (four inches) in diameter and 10 meters (33 feet) high in the live crown of a coniferous tree” (Evans et al., 2000). A platform includes the limb and any deformities of, or epiphyte cover growing on, the limb. For instance, a three-inch diameter limb with moss cover that increases the overall diameter to four inches is a platform.
- 7.11 Potential habitat – for survey purposes potential habitat is defined as 1) mature (with or without an old-growth component) and old growth coniferous forests; and 2) younger coniferous forests that have platforms that are within the murrelet survey zone identified in Appendix A-1 of the guidance document (1.1.G1.0). On ODF lands, the following stand criteria will apply:

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7.11.1 Outside the North Coast Survey Zone potential habitat is defined as:

7.11.1.1 Stands within or adjacent to a project area that are at least 60 years old in which at least five trees within a 330 foot radius contain platforms suitable for nesting murrelets;

7.11.1.2 Stands dominated by western hemlock and Sitka spruce that are at least 80 years old; or

7.11.1.3 Stands dominated by Douglas fir that are at least 100 years old.

7.11.2 Within the North Coast Survey Zone potential habitat is defined as:

7.11.2.1 Stands of any age where there is a single suitable platform tree (see G1.1.1)

7.12 Site Classification

7.12.1 Historic -- A site previously designated as a MMMA that has been determined to no longer be occupied by marbled murrelets using established policy and procedure, and considering program guidance.

7.12.2 Not verified -- a site where subcanopy behaviors were observed, but not verified after conducting the requisite number of verification surveys.

7.12.3 Occupied -- A site determined to be occupied by murrelets based on the observation of subcanopy behaviors during State Forests Program surveys and/or verification surveys, or the observation of nest trees, eggshell fragments, or other evidence of murrelet reproductive activities.

7.12.4 Presence -- A site where murrelets were detected, but subcanopy behaviors were not observed. Additional survey effort is required at areas with birds present to determine whether or not a site is occupied.

7.12.5 Probable Absence -- A site where no murrelets were detected after the requisite number of surveys.

7.13 Sub-canopy behaviors – behaviors occurring at or below the forest canopy, and that strongly indicate the site has some importance for breeding, including flying through the canopy, circling below canopy, and landing (see G1.3.1 for further discussion).

7.14 Survey site – the unit by which survey visits are designed and carried out, and the unit to which the requisite number of visits applies; usually limited to not exceeding 140 acres.

7.15 Take – to “harass, harm, pursue, hunt, shoot, wound, kill, trap capture, or collect, or to attempt to engage in any such conduct” related to federal T&E species. The USFWS considers forest-related management activities as having the potential to “harm or harass” federal T&E species.

7.16 Verification survey – a survey that is conducted in addition to State Forests Program survey requirements to confirm observed subcanopy behaviors.

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1.1.8.0 Responsibilities

- 8.1 Area Biologist – determine and document survey needs; grant survey waivers; document decisions to not conduct surveys; advise about special survey requirements; select survey contractor; ensure application of survey standards; assist with verification of subcanopy behavior surveys. Discuss with USFWS about use of tree climbing; document tree climbing recommendations. Responsible for annual survey evaluation procedure (1.1.P3.1); document and retain site classification decisions, including rationale, level of certainty in survey results for occupied sites and others as appropriate, and recommendations for proposed management activities; submit copies to the District Forester and Staff Biologist; summarize survey results. Develop recommendation for addressing evidence of murrelet use found outside of State Forests Program surveys and implement District Forester’s decision. Jointly design MMMA; document design; submit to District Forester. Assist Unit Forester in developing prescriptions for MMMA; prepare biological assessments for operations in MMMA at Unit Forester request. Determine survey site layout for reevaluating a MMMA designation, and develop and document recommendation for adjustments; submit copy of decision to Unit Forester. Communicate with the USFWS; Communicate with the Oregon Department of Fish and Wildlife per 1.1.3.9 , 3.11, 3.12, 3.17and 3.18. Assist Districts as requested.
- 8.2 Area Director – provide signature approval for proceeding with proposed management activities when there has been an occupied, not verified, or historic classification; provide signature approval of a change to an MMMA designation; review MMMA designation decisions.
- 8.3 District Forester – determine whether to use tree climbing in lieu of surveys; approve recommendations for proposed management activities and provide rationale for alternative course of action and document (1.1.3.9); submit copies to Area Director and Deputy Division Chief for approval. Determine and document course of action regarding evaluation of murrelet activity outside SFP surveys. Approve a recommendation to designate a MMMA; document rationale for boundary adjustments to a MMMA; submit copies to Unit Forester and Staff Biologist. Responsible for procedure to evaluate designation of a MMMA (1.1.6.1);” approve change to an MMMA, obtain signature approval from Area Directors and Deputy Division Chief; provide copies to Area and Staff Biologists and Unit Forester.
- 8.4 Staff Biologist – Select survey contractor and review draft and final reports. Review annual survey results; assist with designating occupied sites: when agreement not reached, make final determination regarding the classification of a site; collate survey summaries and coordinate posting of survey summary on internal web site. retain MMMA documentation. Assist in re-evaluating a MMMA Communicate with the USFWS; assist with BAs as requested; consult and advise as requested; and, act as primary contact for interpreting policies, procedures and guidance.
- 8.5 Staff Biological Specialist – select survey contractor; coordinate survey activities among districts, and perform contract administration per procedure(1.1.P2.1). Assist with annual survey evaluation and site classification; manage survey information and shapefiles. Assist with MMMA designations; store digitized MMMA layout information. Assist with BA preparations as requested. Assist with the re-evaluation of MMMA.

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- 8.6 State Forests Deputy Division Chief –provide signature approval for proceeding with proposed management activities when there has been an occupied, not verified, or historic classification; review MMMA designation decisions; provide signature approval of a change to an MMMA designation; review MMMA designation decisions; provide signature approval of a change to an MMMA designation.
- 8.7 State Forests Division Chief – approve this policy, and any future changes.
- 8.8 District T & E Coordinator – responsible for identifying potential habitat procedure (1.1.P1.1). Responsible for verifying subcanopy behavior procedure (1.1.P3.1). Coordinate survey activities and perform contract administration related to surveys on respective districts per 1.1.P2.1. Create shapefiles and submit to Salem biological assistant. Assist with survey evaluations and site classifications; assist with verification surveys of subcanopy behaviors; jointly address evidence of murrelet activity found outside State Forests Program surveys. Assist with designing a MMMA; digitize MMMA layout. Assist with reevaluating a MMMA designation per procedure (1.1.P6.1).
- 8.9 Unit Forester – responsible for granting survey waiver procedure (1.1.P1.2): regarding survey waivers; document modifications/protection measures used when survey waiver granted; ensure surveys are completed prior to management activities. Responsible for tree climbing in lieu of surveys procedure (1.1.P2.3). Collaborate on annual survey evaluation and site classification by providing local expertise on District conditions. Responsible for procedure to designate a MMMA (1.1.P4.1): jointly develop recommendation to designate MMMA's; obtain District Forester approval. Involve area biologist in developing management prescriptions; ensure management prescriptions are implemented and disturbance restrictions are applied. Retain decisions related to activities evaluated outside SFP surveys; initiate biological survey report requests; assist Area Biologist with reevaluation of a MMMA designation; discuss future management of MMMA classified as historic.

1.1.9.0 Revision History

October 29, 2004	1.0	New Document
January 15, 2008	1.1	Updates

1.1.10.0 Procedures

Procedures have been developed to support this policy: 1.1.P1.0 through 1.1.P6.0.