



Frequently Asked Questions about Marbled Murrelet Critical Habitat

What action is the Fish and Wildlife Service taking?

The Service is proposing to revise the 1996 critical habitat designation for the marbled murrelet, a threatened species protected under the Federal Endangered Species Act. The proposed revision would remove approximately 254,070 acres of federal forest land in northern California and Oregon from the 1996 designation of 3,887,800 acres. The revised designation, if finalized, would total 3,633,800 acres.

Why is the Service revising its earlier critical habitat designation for this species?

The Service is proposing to revise the 1996 critical habitat designation based on new survey and mapping information and to better reflect recommendations contained in the 1997 marbled murrelet recovery plan.

What changes are being proposed to the critical habitat designation for the marbled murrelet?

The Service is proposing to remove the critical habitat designation from two areas that do not meet the definition of critical habitat for the species and are not necessary for the conservation of the species. In one area, encompassing about 191,370 acres in northern California and southern Oregon, extensive multiple-year surveys have indicated that marbled murrelets are very unlikely to be using the area. Another area proposed for removal, approximately 62,700 acres in Lane and Douglas counties in Oregon, is further than 35 miles from the Pacific Ocean shoreline. Removing these areas would better conform with the 1997 marbled murrelet recovery plan, by limiting critical habitat to the areas where the majority of known occupied murrelet sites are found. No changes are proposed for the marbled murrelet critical habitat designation in the state of Washington.

How did the Service determine what areas should be proposed for removal from the critical habitat designation for marbled murrelets?

The Service used information available during the prior designation of critical habitat as well as information gathered since then in the areas of California and Oregon where we have proposed to remove the critical habitat designation for the marbled murrelet. Based on this new information, the Service believes these areas no longer meet the definition of critical habitat and are not considered essential to the conservation of the species.

Other previously designated critical habitat for the marbled murrelet is not affected by this proposed revision. All the areas that would be retained as critical habitat for the marbled

murrelet, if this proposal is finalized, are within the geographic range of the species and contain the physical or biological features essential for the conservation of the species.

Where are the areas proposed for removal?

About 110,585 acres are in central and southern Oregon forests and 143,487 acres are in northern California. The table below describes the proposed changes by ownership and county (critical habitat units CA-01-e and CA-10-a overlap into Oregon):

Critical Habitat Unit Name from 1996 Designation	Ownership	Acres Removed	Counties
CA-01d	USFS	19,363	Siskiyou County, CA
CA-01e	USFS	28,168	Del Norte County, CA and Josephine County, OR
CA-10a	USFS	35,935	Siskiyou County, CA and Josephine County, OR
CA-11b	USFS	8,540	Humboldt County, CA
CA-11c	BLM	2,644	Humboldt County, CA
CA-11d	USFS	61,558	Humboldt and Trinity counties, CA
OR-03-c	BLM	146	Benton County, OR
OR-04-e	BLM	6,557	Douglas County, OR
OR-04-f	BLM	20,736	Douglas County, OR
OR-04-g	BLM	2,780	Douglas County, OR
OR-04-i	BLM	25,616	Douglas and Lane counties, OR
OR-04-j	BLM	480	Douglas and Lane counties, OR
OR-06-d	BLM	9,170	Coos and Douglas counties, OR
OR-07-d	USFS	26,524	Curry and Josephine counties, OR
OR-07-f	BLM	1,032	Curry and Josephine counties, OR
OR-07-f	USFS	4,821	Curry and Josephine counties, OR
	TOTALS	254,071	

How would the removal of these areas from the critical habitat designation affect marbled murrelets?

In the areas being proposed for removal in southern Oregon and northern California, extensive surveys have shown that murrelets are highly unlikely to use these areas, therefore they are not likely to be affected by the change, if finalized. In areas of Douglas and Lane counties where murrelets do occur, the BLM would still need to consult with the Service on any action that could potentially affect the species, regardless of whether it was designated critical habitat.

Wherever marbled murrelets occur in Washington, Oregon and California, they are protected as a threatened species under the Endangered Species Act, regardless of a critical habitat designation.

How does the current proposal relate to previous critical habitat actions for the marbled murrelet?

We originally designated critical habitat for the marbled murrelet in Washington, Oregon and California on May 24, 1996 (61 FR 26256). In 1997, we completed a recovery plan for the species. On April 8, 2002, the American Forest Resources Council (AFRC) filed a lawsuit challenging the murrelet critical habitat designation. The Service entered into a settlement agreement on January 13, 2003, to review the critical habitat designation and make any revisions it deemed appropriate. In 2004, we completed a 5-Year Status Review of the species

On September 12, 2006, in response to the settlement agreement with AFRC, we published a proposed revision to critical habitat for the marbled murrelet, which included adjustments to the original designation and proposed several exclusions under section 4(b)(2) of the Endangered Species Act.

On March 6, 2008, the Service published a notice in the *Federal Register* (73 FR 12067) advising the public that the 2006 proposed revision of critical habitat for the marbled murrelet would not be made because of uncertainties regarding the Bureau of Land Management's proposed revisions to its District Resource Management Plans (RMPs) in western Oregon, and that the 1996 final critical habitat rule would remain in effect. This decision constituted completion of our commitment identified in the settlement agreement reached with the American Forest Resource Council.

Why is the Service proposing this revision now?

While uncertainties remain regarding BLM's proposed changes, the Service's new proposed critical habitat revisions are science-based technical clarifications resulting from new information and are unrelated to BLM's decision. These areas would not have been designated as critical habitat in 1996 if the new information and recovery plan had existed then.

What is critical habitat?

Critical habitat designates areas that contain habitat features essential for the conservation of a threatened or endangered species and which may require special management considerations. A designation does not set up a preserve or refuge, and has no specific regulatory impact on landowner actions on private land that do not involve Federal agency funds, authorization, or permits.

Critical habitat is determined after taking into consideration the economic impact it could cause, as well as any other relevant impacts. The Secretary of the Interior may exclude any area from critical habitat if the benefits of exclusion outweigh the benefits of inclusion, as long as the exclusion would not result in the extinction of the species.

How do marbled murrelets benefit from a critical habitat designation?

Critical habitat receives protection under Section 7 of the Endangered Species Act through the prohibition against destruction or adverse modification of critical habitat with regard to actions carried out, funded or authorized by a federal agency or occurring on federal land. In cases where marbled murrelets occur, much of this protection is already occurring as a result of the species being listed as a threatened species. Consultation under Section 7 of the Act does not apply to activities on private or other non-federal lands that do not involve a federal nexus such as funding or permits.

Who will be affected by a critical habitat designation?

Federal agencies are required to consult with the Service on actions they carry out, fund or authorize that might affect critical habitat. It is important to note that in most cases this is already occurring under the section 7 interagency consultation requirements of the Endangered Species Act where listed species occur. Non-federal entities, including private landowners, will only be affected where a federal nexus exists that involves federal funding, permitting or authorization. In most cases, consultation under section 7 of the Endangered Species Act is already occurring where links between activities on private lands and federal funding, permitting or authorization exist and species are present.

Who will not be affected?

A critical habitat designation does not affect non-federal entities when there is not a federal nexus. For example, many activities normally conducted by a landowner or operator of a business not involving federal funding, permitting or authorization would not be affected.

Where can I get more information about today's proposal?

For more information see the proposed rule at www.fws.gov/pacific/ecoservices/mamupch.html