

Dated: August 15, 2007.

**Mitchell Butler,**

*Acting Assistant Secretary for Fish and Wildlife and Parks.*

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## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 17

RIN 1018-AU37; RIN 1018-AU91

#### **Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for the Marbled Murrelet (*Brachyramphus marmoratus*), Designation of Critical Habitat for the Northern Spotted Owl (*Strix occidentalis caurina*), Draft Recovery Plan for the Northern Spotted Owl**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Reopening of comment periods for two proposed revised critical habitat rules and a draft recovery plan.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), announce the reopening of comment periods for three actions that are being promulgated under the Endangered Species Act of 1973, as amended (Act): (1) A proposed revision of critical habitat for the marbled murrelet (*Brachyramphus marmoratus*) and its associated draft economic analysis; (2) a proposed revision of critical habitat for the northern spotted owl (*Strix occidentalis caurina*); and (3) the development of a recovery plan for the northern spotted owl. In order to provide a combined comment period for these three actions, we are reopening the comment periods to allow additional time for interested parties to comment on any or all of these actions. Comments previously submitted need not be resubmitted as they are already part of the public record and will be fully considered in preparation of any critical habitat rule(s) and the recovery plan.

**DATES:** We will accept public comments on any of the above actions until October 5, 2007.

**ADDRESSES:** If you wish to comment, you may submit your comments and materials by any one of several methods:

1. By mail or hand-delivery to Patrick Sousa, Chief, Endangered Species, U.S. Fish and Wildlife Service, Ecological Services, Pacific Regional Office, 911 NE. 11th Avenue, Portland, OR 97232.
2. By electronic mail (e-mail) to: [owl-murrelet@fws.gov](mailto:owl-murrelet@fws.gov). Please see the Public Comments Solicited section below for

other information about electronic filing.

3. By fax to: the attention of Patrick Sousa at (503) 231-6243.

4. Via the Federal eRulemaking Portal at: <http://www.regulations.gov>. Follow the instructions for submitting comments.

#### **FOR FURTHER INFORMATION CONTACT:**

Patrick Sousa, Chief, Endangered Species, Pacific Regional Office, U.S. Fish and Wildlife Service, Ecological Services, 911 NE. 11th Avenue, Portland, OR 97232 (telephone: 503-231-6158; facsimile: 503-231-6243). If you use a telecommunications device for the deaf (TDD), call the Federal Information Relay Service (FIRS) at 800-877-8339.

#### **SUPPLEMENTARY INFORMATION:**

##### **Public Comments Solicited**

We solicit comments on the following three actions:

- (1) Our proposal to revise currently designated critical habitat for the marbled murrelet published in the **Federal Register** on September 12, 2006 (71 FR 53838), and on our associated draft economic analysis of the proposed revision that was made available on June 26, 2007 (72 FR 35025);

- (2) Our proposal to revise currently designated critical habitat for the northern spotted owl published in the **Federal Register** on June 12, 2007 (72 FR 32450); and

- (3) Our draft recovery plan for the northern spotted owl announced in the **Federal Register** on April 26, 2007 (72 FR 20865), including the associated peer review.

We will consider information and recommendations from all interested parties. For the marbled murrelet and northern spotted owl proposed revised critical habitat rules, we particularly seek comments concerning:

- (1) The reasons why we should or should not designate habitat as "critical habitat" under section 4 of the Act (16 U.S.C. 1531 *et seq.*), including whether the benefits of designation would outweigh threats to the species caused by designation such that the designation of critical habitat is prudent;

- (2) Specific information on the amount and distribution of marbled murrelet and/or northern spotted owl habitat, what areas occupied at the time of listing that contain features essential to the conservation of the species should be included in the revised designation and why, and what areas not occupied at the time of listing are essential to the conservation of the species and why;

- (3) Land use designations and current or planned activities in the subject areas

and their possible impacts on proposed revised critical habitat;

- (4) Any foreseeable economic, national security, or other potential impacts resulting from the proposed revised designation, and in particular, any impacts on small entities, and the benefits of including or excluding areas that exhibit these impacts;

- (5) Whether our approach to designating critical habitat could be improved or modified in any way to provide for greater public participation and understanding, or to assist us in accommodating public concerns and comments; and

- (6) Whether the benefits of exclusion in any particular area outweigh the benefits of inclusion under section 4(b)(2) of the Act.

For the proposed marbled murrelet critical habitat revision, we are also interested in comments on the draft economic analysis, including:

- (1) The extent to which the description of economic impacts in the draft economic analysis is complete and accurate;

- (2) The likelihood of adverse social reactions to the designation of revised critical habitat, as discussed in the draft economic analysis, and how the consequences of such reactions, if likely to occur, would relate to the conservation and regulatory benefits of the proposed revised critical habitat designation; and

- (3) Economic data on the incremental effects that would result from designating any particular area as revised critical habitat, since it is our intent to include the incremental costs attributed to the revised critical habitat designation in the final economic analysis.

A draft economic analysis of the proposed revision of critical habitat for the northern spotted owl is not yet available. Public comment will be solicited separately at the time the availability of a draft economic analysis for the proposed northern spotted owl critical habitat revision is published in the **Federal Register**.

For the draft recovery plan for the northern spotted owl, we particularly seek comments concerning:

- (1) The methods used to determine desired habitat percentages listed in Recovery Criterion 4. If recommendations are offered, respondents are asked to explain the scientific foundation supporting their comments;

- (2) The biological need, design and feasibility of attempting to provide connectivity between the Olympic Peninsula and central Washington northern spotted owl populations;

(3) The biological value in identifying owl conservation areas in southwest Washington and northwest Oregon;

(4) Appendix E, which provides examples of how a salvage logging action (Recovery Action 22) may be implemented;

(5) The identified boundaries of the Managed Owl Conservation Areas (option 1 only) and the Conservation Support Areas;

(6) Methods for managing the threat posed by barred owls; and

(7) Ways to create incentives for private land owners and managers to support recovery of the northern spotted owl.

You may submit your comments and material concerning the above actions by any one of several methods (see **ADDRESSES**). If you use e-mail to submit your comments, please include "Attn: RIN 1018-AU37; RIN 1018-AU91" in your e-mail subject header, preferably with your name and return address in the body of your message. If you do not receive a confirmation from the system that we have received your e-mail, contact us directly by calling our Pacific Regional Office at 503-231-6158. Please note that the e-mail address *owl-murrelet@fws.gov* will be closed out at the termination of the public comment period.

Before including your address, phone number, e-mail address, or other personal identifying information in your comments, you should be aware that your entire comments—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Comments and materials we receive, as well as supporting documentation we used in preparing the proposed rules and the draft recovery plan, will be available for public inspection, by appointment, during normal business hours at the Western Washington Fish and Wildlife Office, 510 Desmond Drive, SE., Suite 101, Lacey, WA 98503—

1273 for the marbled murrelet, and at the Oregon Fish and Wildlife Office, 2600 SE. 98th Avenue, Suite 100, Portland, OR 97266 for actions related to the northern spotted owl. Copies of the proposed revised rules for the marbled murrelet and the northern spotted owl, the draft economic analysis for the marbled murrelet, and the draft recovery plan and the associated peer review for the northern spotted owl are available on the Internet at <http://www.fws.gov/pacific/ecoservices/Endangered/index.html> or by request to the Chief of Endangered Species (see **FOR FURTHER INFORMATION CONTACT**).

#### Background

On January 13, 2003, we entered into a settlement agreement with the American Forest Resource Council and the Western Council of Industrial Workers to complete a rulemaking for critical habitat for the marbled murrelet that considers new relevant information. The terms of that agreement, as amended, required that we submit any final regulation revising marbled murrelet critical habitat to the **Federal Register** by August 30, 2007. On September 12, 2006, we published a proposed rule to revise critical habitat for the marbled murrelet in Washington, Oregon, and California (71 FR 53838). On June 26, 2007, we published a notice of the availability of the draft economic analysis; reopened the comment period on the September 12, 2006, proposed rule for 30 days; and amended certain required determinations (72 FR 35025). However, because of unforeseen delays in publishing the June 26, 2007, notice and in light of the final rule's August 30, 2007, due date to the **Federal Register**, we and the American Forest Resource Council mutually agreed to extend the **Federal Register** submission due date for the final rule for 6 months from the August 30, 2007, date. This extension was approved by the court to allow additional time for us to consider all comments received before making a final critical habitat determination for the marbled murrelet. Accordingly, we will submit for publication to the

**Federal Register** any final regulation revising critical habitat for the marbled murrelet by March 1, 2008.

On January 13, 2003, we entered into a settlement agreement with the American Forest Resource Council, Western Council of Industrial Workers, Swanson Group Inc., and Rough & Ready Lumber Company to conduct a rulemaking to consider potential revisions to critical habitat for the northern spotted owl that includes a revised consideration of economic impacts and other relevant aspects of designation. The settlement agreement dates for completion of this review have been extended and currently call for the Service to submit a final revised critical habitat designation for the northern spotted owl to the **Federal Register** by June 1, 2008.

In addition, the Bureau of Land Management published a notice of availability in the **Federal Register** for the Draft Environmental Impact Statement (DEIS) for the Western Oregon Plan Revision on August 10, 2007 (72 FR 45062). With this notice, we are providing a combined comment period for the proposed revised critical habitat designations for the marbled murrelet and northern spotted owl, and the draft recovery plan for the northern spotted owl, to allow additional time for interested parties to comment on any or all of these actions within the context of the Western Oregon Plan Revision DEIS.

#### Authors

The authors of this notice are the staff of the Division of Endangered Species, Pacific Regional Office, U.S. Fish and Wildlife Service.

#### Authority

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.).

Dated: August 24, 2007.

**David M. Verhey,**

*Acting Assistant Secretary for Fish and Wildlife and Parks.*

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