

Agenda Item Summary

BACKGROUND

Staff had intended to ask the Commission to adopt permanent rule amendments today concerning take of wild birds, including nests and eggs. Due to an error in the drafting of the Notice of Proposed Rulemaking, permanent rulemaking action needs to be postponed until the Commission's August meeting. Staff will use the April meeting to brief the Commission on a *temporary rule* that the Director intends to adopt soon after the April meeting.

The purpose of the temporary rule (which is effective for no more than 180 days) is to put the proposed take authority in place now pending permanent rulemaking in August. This is necessary so that persons who register under the federal government's Resident Canada Goose Nest and Egg Registration Site this spring can take nests and eggs. Also, there are no specific provisions in state law or OAR that allow the department to approve or allow the take of migratory birds outside established provisions for hunting. Proposed OARs would support permits issued by the USFWS to USDA-WS.

Under existing law, based on international treaties, the U.S. Fish and Wildlife Service (USFWS) maintains preeminent authority for the take of all migratory birds. Permits to conduct control activities for nuisance resident Canada geese, typically nest and egg destruction but sometimes including lethal take of adults, are issued by the USFWS. When the Oregon Department of Fish and Wildlife (department) receives complaints about nuisance or depredating geese, the complainant is generally referred to the USFWS and U.S. Department of Agriculture-Wildlife Services (USDA-WS). Appropriate permits may be issued by the USFWS authorizing either USDA-WS or the affected party to take control actions. Permitting to USDA-WS for other species of migratory birds also occurs.

Beginning in 2002, the USFWS started an environmental review process in preparation for changing existing practices and regulations for addressing nuisance and depredation issues caused by resident Canada geese. "Resident" is defined as geese that nest or reside in the conterminous states. In a Final Rule and Record of Decision issued August 10, 2006 the USFWS changed the regulations for addressing nuisance and depredation issues caused by resident Canada geese. The new federal regulations authorized control actions that are not allowed under current OARs. Under the proposed rules, control activities would be allowed under limited circumstances.

PUBLIC INVOLVEMENT

The USFWS conducted an extensive public involvement process nationwide in development of the final Resident Goose EIS. The public was notified of the department's proposal for implementing some control programs for resident Canada geese at the August 2007 Commission meeting.

ISSUE 1**Proposed rules to allow control of migratory birds including resident Canada geese consistent with USFWS regulations as limited by OARs****ANALYSIS**

The proposed rules are consistent with the resident goose control actions allowed by the USFWS. The proposed rules are more restrictive than the federal regulations and would limit the situations and areas where resident goose control activities would be allowed.

OPTIONS

This is information only at this point. Unless the Commission gives direction to the contrary, the Director intends to adopt temporary rules on an emergency basis pending a permanent rulemaking decision by the Commission at its August meeting.

**STAFF
RECOMMENDATION**

Informational only. No action requested at this time.

DRAFT MOTION

No action requested at this time.

EFFECTIVE DATE

N/A