

STATE OF CALIFORNIA  
FISH AND GAME COMMISSION  
INITIAL STATEMENT OF REASONS FOR REGULATORY ACTION  
(Pre-publication of Notice Statement)

Amend Section 503  
Title 14, California Code of Regulations  
Re: Crop Damage and Nuisance Canada Geese

- I. Date of Initial Statement of Reasons: November 7, 2007
- II. Dates and Locations of Scheduled Hearings:
  - (a) Notice Hearing: Date: December 7, 2007  
Location: Sacramento, CA
  - (b) Adoption Hearing: Date: February 8, 2008  
Location: San Diego, CA
- III. Description of Regulatory Action:
  - (a) Statement of Specific Purpose of Regulation Change and Factual Basis for Determining that Regulation Change is Reasonably Necessary:

This proposed regulation change would amend Section 503 of Title 14, California Code of Regulations, to provide authorization to control nuisance Canada geese. Section 503 permits the implementation of orders and permits by the Federal government to address agricultural damage by migratory birds, but no where else in regulation does authority exist to provide for management actions to address nuisance or other problems associated with Canada geese.

Fish and Game Code sections 2000 and 3503 prohibit the taking of birds or their parts, including nests and eggs, absent provisions elsewhere in the Fish and Game Code or regulations made pursuant thereto. This proposed change would permit the take of Canada geese, and their nests and eggs to alleviate nuisance and other problems consistent with federal regulations with two proposed restrictions.

Section 355 of the Fish and Game Code authorizes the Commission to adopt regulations pertaining to migratory birds to conform with or further restrict the rules and regulations prescribed pursuant to the Migratory Bird Treaty Act (Act) (16 U.S.C. 703-711).

Canada geese are federally protected by the Act. Regulations governing the issuance of permits to take, capture, kill, possess, and transport migratory birds are authorized by the Act, promulgated in Title 50 Code of Federal Regulations (CFR) parts 13 and 21, and issued by the U.S. Fish and Wildlife Service (USFWS).

According to the USFWS (Federal Register Vol 71 No. 154 pages 45964- 45993) “[i]n recent years, the numbers of Canada geese that nest and/or reside predominantly within the conterminous United States (resident Canada geese) have undergone dramatic growth to levels that are increasingly coming into conflict with people and human activities and causing personal and public property damage, as well as public health concerns, in many parts of the country.”

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“Conflicts between geese and people affect or damage several types of resources, including property, human health and safety, agriculture, and natural resources. Common problem areas include public parks, airports, public beaches and swimming facilities, water-treatment reservoirs, corporate business areas, golf courses, schools, college campuses, private lawns, athletic fields, amusement parks, cemeteries, hospitals, residential subdivisions, and along or between highways.

“Property damage usually involves landscaping and walkways, most commonly on golf courses, parks, and waterfront property. In parks and other open areas near water, large goose flocks create local problems with their droppings and feather litter. Surveys have found that, while most landowners like seeing some geese on their property, eventually, increasing numbers of geese and the associated accumulation of goose droppings on lawns, which results in a reduction of both the aesthetic value and recreational use of these areas, cause many landowners to view geese as a nuisance.

Negative impacts on human health and safety occur in several ways. At airports, large numbers of geese can create a very serious threat to aviation. Resident Canada geese have been involved in a large number of aircraft strikes resulting in dangerous landing/take-off conditions, costly repairs, and loss of human life. As a result, many airports have active goose control programs. Excessive goose droppings are a disease concern for many people. Public beaches in several States have been closed by local health departments due to excessive fecal coliform levels that in some cases have been traced back to geese and other waterfowl. Additionally, during nesting and brood rearing, aggressive geese have bitten and chased people and injuries have occurred due to people falling or being struck by wings.”

There are numerous approaches to addressing goose nuisance and damage problems. Their implementation is dependent on the number of geese, characteristics of the site, time of year, and public perceptions of control techniques. Certain actions do not require special authority: changes to physical characteristics (habitat), hazing, physical deterrents (i.e. fencing or chemical treatments to forage to reduce its palatability). In

some cases in some areas, reducing or eliminating human activities such as feeding or the removal of domestic waterfowl can reduce or eliminate the attractiveness of an area to Canada geese.

If indirect approaches to controlling or reducing nuisance or damage by Canada geese are not effective or feasible, direct population control is often applied. Trapping and relocation can be effective, but are expensive and suitable relocation sites must be available. Relocation has increased potential to spread waterfowl diseases, and testing for these diseases adds to the expense of that technique. Reducing population growth by eliminating recruitment through egg addling (the shaking, oiling, freezing, replacement, or puncturing of eggs) is a common technique and is the method which would be permitted under this proposal. Expanded hunting opportunity, through access or special seasons is often used, but is not feasible in most urban settings. Finally, lethal means of population control can be undertaken by a variety of methods, but in many urban areas this technique is unpopular.

In a Final Rule and Record of Decision issued August 10, 2006 the USFWS issued a Depredation Order for resident Canada geese. This decision contained several parts, but only 3 portions affect the management of nuisance Canada geese in California. These are:

- 1) the Airport Control Order that provides airport managers the authority to control resident geese through: 1) trapping and relocation; 2) nest and egg destruction; 3) trapping and culling; or 4) other methods. Nests and eggs may be destroyed between March 1 and June 30 and other control methods may be used between April 1 and September 15;
- 2) the Nest and Egg Control Order that provides private landowners and managers of public lands the authority to take nests and destroy eggs when necessary to resolve injury to people, property, and/or agricultural crops. Nests and eggs may be destroyed between March 1 and June 30; and,
- 3) the Public Health Control Order that authorizes state wildlife agencies or their agents to conduct direct control activities whenever a direct threat to human health is acknowledged by any Federal, State or local public health agency. Nests and eggs may be destroyed between March 1 and June 30 and other control activities could occur between April 1 and August 31.

Early ornithological records indicate nesting Canada geese occurred primarily in Siskiyou, Modoc and Lassen counties with small numbers in adjacent counties. Due mostly to natural expansion of the geese and the creation of urban landscaping that is favorable to geese; these birds now nest in most counties of California and can be quite numerous throughout the year in localized areas. It is the geese in urbanized areas of the State that create the majority of the nuisance problems. Accordingly, the proposed

regulation would permit, without Department oversight, the take of nests and eggs in counties with large urban centers that were not part of the historic distribution of nesting Canada geese in California. These counties are: Sonoma, Napa, Solano, Marin, Contra Costa, Alameda, San Francisco, San Mateo, Santa Clara, Santa Cruz, San Benito, Monterey, San Luis Obispo, Santa Barbara, Ventura, Los Angeles, Orange and San Diego counties. The take of nests and eggs from these largely urbanized areas will have little impact on state-wide goose populations or on hunting opportunity.

(b) Authority and Reference:

Authority: Section 355, Fish and Game Code. 16USC 703 et seq.

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(c) Specific Technology or Equipment Required by Regulatory Change:

None.

(d) Identification of Reports or Documents Supporting Regulation Change:

Final Environmental Impact Statement: Resident Canada Goose Management, USFWS, 2002.

(e) Public Discussions of Proposed Regulations Prior to Notice Publication:

The 45-day comment period provides adequate time for review of the proposed amendment.

IV. Description of Reasonable Alternatives to Regulatory Action:

(a) Alternatives to Regulation Change:

Complete incorporation of Federal rules.

This alternative would allow, without oversight by the Department, the trapping and relocation of Canada geese from airports. If this technique was used widely, it is expected that the problem of nuisance geese would spread. This alternative would also permit the destruction of nests and eggs of Canada geese throughout the State. In some areas, this may reduce historic, natural populations of geese that are important to recreational hunting. Some oversight of this activity in certain areas of the state is needed.

(b) No Change Alternative:

The no change alternative would prevent actions to reduce the effects of nuisance Canada geese in California because there is no authority elsewhere in regulation to permit now Federally-authorized activities.

(c) Consideration of Alternatives:

In view of the information currently possessed, no reasonable alternative considered would be more effective in carrying out the purposes for which the regulation is proposed, or would be as effective and less burdensome to affected private persons than the proposed regulation.

V. Mitigation Measures Required by Regulatory Action:

The Commission believes the proposed regulatory action is categorically exempt from requirements of the California Environmental Quality Act, Public Resources Code section 21000 et seq. (CEQA). The Commission is not aware of any adverse impacts on the environment that might result from the action, so CEQA will not require consideration of mitigation measures to offset significant adverse environmental effects.

VI. Impact of Regulatory Action:

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

(a) Significant Statewide Adverse Economic Impact Directly Affecting Businesses, Including the Ability of California Businesses to Compete with Businesses in Other States:

The proposed regulations will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. The proposed regulations will contribute to the reduction of economic damage caused by nuisance Canada geese.

(b) Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California:

None.

- (c) Cost Impacts on a Representative Private Person or Business:

The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:

None.

- (e) Other Nondiscretionary Costs/Savings to Local Agencies:

None.

- (f) Programs Mandated on Local Agencies or School Districts:

None.

- (g) Costs Imposed to Any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4:

None.

- (h) Effect on Housing Costs:

None.

## Informative Digest (Policy Statement Overview)

This proposed regulation change would add the control of nuisance Canada geese to the provisions addressing crop damage in Section 503 of Title 14, California Code of Regulations. Existing state regulations do not provide for the take of Canada goose nests or eggs, nor provide for their direct control except as authorized by the Commission under hunting regulations established in Section 502 of Title 14. The Federal government has preeminent authority to manage migratory birds pursuant to the Migratory Bird Treaty Act, and has adopted regulations permitting certain activities in certain parts of the country at specified times to alleviate the effects on humans by Canada geese. Changes in California regulations are necessary to implement these changes in federal rules.

In a Final Rule and Record of Decision issued August 10, 2006 the United States Fish and Wildlife Service issued a Depredation Order for resident Canada geese. This decision contained several parts, but only 3 portions affect the management of nuisance Canada geese in California. These are:

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The proposed regulation would limit the Airport Control Order by requiring authorization by the Department before any trapping and relocation from airports could occur. The proposed regulation would also modify the Nest and Egg Control Order by requiring Department authorization for nest and egg control in all counties except Sonoma, Napa, Solano, Marin, Contra Costa, Alameda, San Francisco, San Mateo, Santa Clara, Santa Cruz, San Benito, Monterey, San Luis Obispo, Santa Barbara, Ventura, Los Angeles, Orange and San Diego. All other control actions identified under for the Pacific Flyway in the Depredation Order of Canada geese would be permitted in California.

Existing language in Section 503 is reformatted for clarity purposes.