

Local Government Environmental Training - 2 April 2008- Corvallis, OR

Biology

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How to Comply with the Migratory Bird Treaty Act (MBTA): ODOT's Strategy

- Illegal to possess, harm, or kill a migratory bird
- Not protected: feral pigeon, house sparrow, European starling, mute swam
- Strict liability law: anyone can be convicted regardless of intent or guilty knowledge
- No incidental take permit
- Harassment is OK if harm does not occur
- Inactive nest destruction/removal is OK
- ODOT MBTA Compliance Strategy
 - MBTA Hwy Division Directive
(http://www.oregon.gov/ODOT/HWY/GEOENVIRONMENTAL/policy_memos.shtml)
 - APHIS Wildlife Services IGA (Inter-Governmental Agreement)
 - USFWS Enforcement Dialogue
 - MBTA Special Purpose Permit
 - Avian Protection Plan
- Peregrine falcon is de-listed and now managed under the MBTA

De-listing of the Bald Eagle and the Bald and Golden Eagle Protection Act (BGEPA)

- Illegal to disturb, harm, or kill bald and golden eagles
- No incidental take permit
- Harassment is illegal
- Neither active nor inactive nests can be destroyed/removed
- ODOT Geo-Environmental Technical Services Bald Eagle Advisory
(http://www.oregon.gov/ODOT/HWY/GEOENVIRONMENTAL/policy_memos.shtml)

What's the Deal with T&E Plants?

- Prohibited actions
 - *State* – on non-private land, one cannot collect, cut, damage, destroy, dig, kill, pick, remove, disturb listed plants
 - *Federal* – on any land, one cannot possess, cut, damage, destroy, dig, remove listed plants
- Consultation trigger
 - *State (ODA)* – action has potential to appreciably reduce the likelihood of survival or recovery of any population of listed plant
 - *Federal (USFWS)* –
 - Federal Nexus – action is likely to affect a listed plant species (BA – Biological Assessment)
 - No Federal Nexus – ditto (HCP – Habitat Conservation Plan)
- Monitoring requirements
 - *State* – state agencies shall identify and assess the number and locations of listed species on their lands in an annual written report to ODA
 - *Federal* – depends on the terms and conditions of the BA or HCP