



Environment
Canada

Environnement
Canada

Canada



Managing the Incidental Take of Migratory Birds

**Presentation to the Canadian Wildlife Directors
Committee**

by B. van Havre

Charlottetown, May 5 2011

Content

- Information about recent shift in focus
- Management approach for incidental take
- Tools under the current regime
 - Avoidance Guidelines
 - Beneficial Management Practices
- Next steps

Context

- Migratory Birds Convention Act (MBCA) and regulations.
 - The prohibition to destroy or disturb migratory bird nests and eggs applies to circumstances of incidental take.
- September 2010: Environment Canada continues to work with a focus on guidelines and BMPs but no longer pursue regulatory amendments.
 - Key factors in decision: stakeholder input and change in EC-wide priorities for regulatory development
- ***The management of Incidental Take of migratory birds continues to be a priority for Environment Canada.***

EC's Objectives for the Management of Incidental Take

- **Reduce risk to migratory birds, nests and eggs & effective conservation**
 - Improve and provide access to information about migratory birds to help with the design of avoidance strategies
 - "Avoidance Guidelines"
 - Promotion of Beneficial Management Practices

Avoidance Guidelines Definitions

- Guidance provided by EC in the general context of migratory bird conservation, in order:
 - to minimize the risk of a threat to birds;
 - to help proponents determine how to take reasonable care to avoid the harm or to manage the risk towards zero; and
 - in some situations, to help stakeholders reach legal conformity relative to a specific prohibition.
- An essential part of a compliance strategy.

Management approach regarding Avoidance Guidelines

- Provide stakeholders with consistent and practical recommendations on reducing the risk of incidentally destroying/disturbing migratory bird nests and eggs or killing/harming migratory birds
 - The conservation and compliance general message or the “**WHY**”
- Provide scientific background information to help implement the advice provided
 - The Key risk **periods** or the “**WHEN**” take is most probable
 - Ex.: key nesting period, migration peaks
 - The Key risk **sites** or the “**WHERE**” take is most probable
 - Ex.: habitat with high nest density, migration corridors
 - The Key risk **factors** or the “**HOW**” take is most probable
 - Ex.: using guy wires, long line fishing gear, type of lighting etc.

Rationale for improving scientific background related to avoidance guidelines

- Avoidance Guidelines should help proponents determine how to take reasonable care to avoid the harm or to manage the risk of activities towards zero
- Under the current approach to Incidental Take management, EC's recommendation to proponent is :
 - “to avoid engaging in potentially destructive activities during “Key-Nesting Periods” in order to reduce the risk of nest destruction”
- Today EC provides basic scientific information relative to defining nesting periods
 - Regionally based
 - Scientific information is based on extreme dates
 - Spatial and temporal variations

Avoidance guidelines – Breeding Periods

How to improve Avoidance Guidelines:

- Adopt nationally consistent guidance
 - Standard protocol
 - Comparable ecological breakdown
 - Considering all migratory bird groups
- Enhance the national data set on nest records to ensure minimum sample size for key period determination
- Develop pilot project to test data processing and production of summary guidance
- Develop species specific guidance for more accurate risk assessment by proponents

Avoidance Guidelines – *An example*

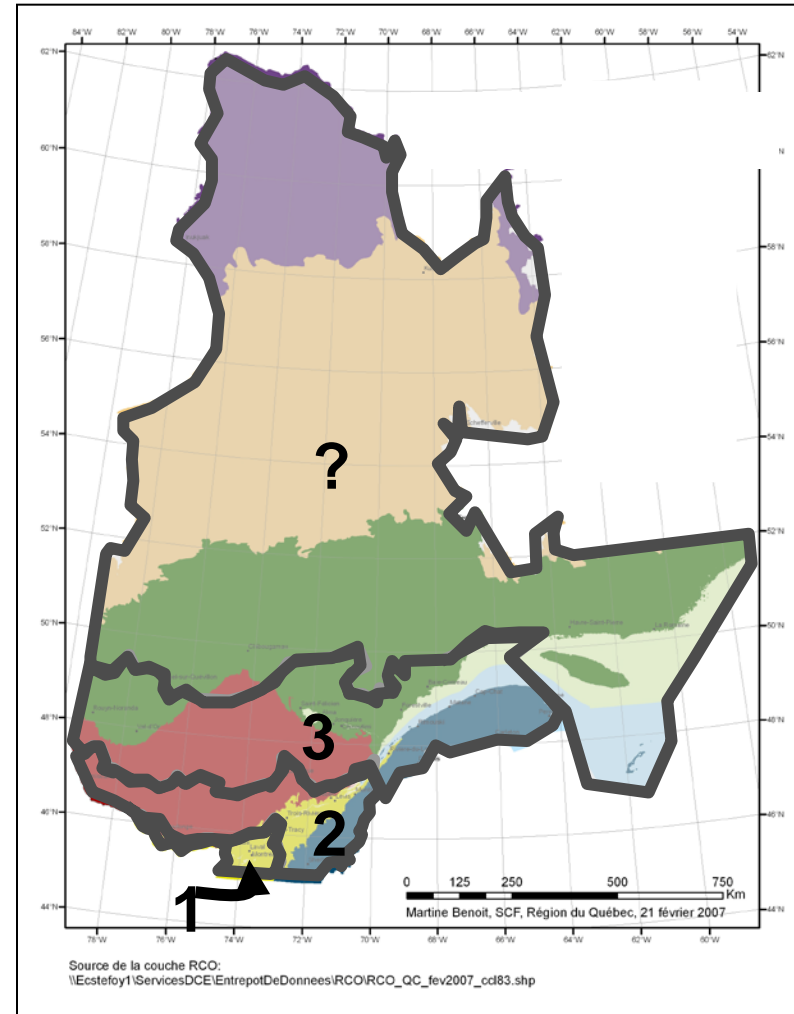
Example of guidance summary under development based on background scientific info from pilot project in QR

Key nesting periods presented as Risk Zones

1: April 15 to August 15

2: April 21 to August 15

3: May 1st to August 15



Other avoidance guidelines

- About disturbance of nests
 - Guidance on how to reduce risk of disturbance
- Key-migration windows
 - Guidelines derived from data of Canadian Migration Monitoring Network (21 stations across Canada)
 - Goal: Inform infrastructure managers of key risk periods to help determine when/how to implement existing mitigation measures (such as published BMPs on best lighting and how to treat glass surfaces)
- Seabirds background information
 - Inform fishery sector of spatial and temporal risk zones relative to seabird distribution and abundance



Avoidance Guidelines Summary

- Publication of general message on EC Web site with summary of general breeding windows provided by EC
- Improved general avoidance guidelines providing more details to better support tailored management decisions
 - Landbird info on migration: 2011
 - Guidance to avoid nest disturbance: 2011
 - Nesting info for all Landbirds: 2012
 - Nesting info for all Waterfowl and Shorebirds: 2013
 - Bycatch information: 2013
 - Nesting info for all birds: 2014

Beneficial Management Practices

- A sub-set of **relevant** and **specific** guidance and methods
 - that could both minimize the risk on birds and/or mitigate any unavoidable impacts on bird, their nest and eggs;
 - generally prepared by stakeholders, or at least readily usable.
- BMPs describe optimal ways of doing things in particular situations and time, they provide benchmarks to strive for. They need to be kept up to date.

BMPs: Key messages

- Conservation of migratory birds in Canada is helped when industries implement a management plan to minimize the risk of impacts and to mitigate any unavoidable impacts on birds, their nests and eggs
- Development of management plans will be optimized by codifying relevant avoidance information and other conservation recommendations into sectoral Beneficial Management Practices

Management approach regarding BMPs (slide 1)

1. Promote voluntary development and implementation of BMPs by stakeholders to address priority conservation actions for migratory birds
 1. make current beneficial practices stand out
 2. identify practices that need to be improved
2. Facilitate development of BMPs
 - Provide access to Environment Canada's:
 - Avoidance Guidelines
 - Conservation priorities (e.g. BCR plans and Recovery strategies)
 - Provide EC's guidance for developing BMPs
 - Generic How to guide

Management approach regarding BMPs (slide 2)

3. Work with provincial resource agencies for the incorporation of migratory bird conservation measures into general land-use management
4. Develop performance framework to assess results achieved by BMP implementation against conservation priorities
 - By linking BMPs and BCR plans

EC's participation to BMP development

EC generally:

- Provides scientific background on Migratory Birds ecology and management needs
- Helps with the interpretation of the recommended objectives and conservation actions (including BCR plans and Migratory Bird Recovery strategies)

And can provide feedback regarding BMP contribution to:

- Minimization of risk of incidental destruction of nests and eggs or harming of birds
- Achieving migratory bird conservation objectives

Stakeholders' interest in BMP development

- A well understood approach by stakeholders
- Stakeholders looking for recognition of their efforts towards migratory birds
- Many want to start working with EC on BMP development for their sector or activity

BMP example

- Bobolinks benefit from lands maintained for haying, but suffer incidental take when haying overlaps with nesting period
 - If haying is delayed too long, harvest loses value
- Need to provide avoidance advice to farmers to minimize risks to birds and nests
- Ontario recent announcement (listing under Endangered Species Act)
 - Investment in conservation measures – EC interested in cooperative work
 - 3 year exemption for farmers (note that MBCA prohibitions remain)
- Need for BMP application to provide solutions for farmers and sustainable Bobolink populations.

BMP development next steps

- EC encourages the use of existing BMPs that support migratory bird conservation and to improve on existing practices
- BCR plans will be the basic source for EC priorities regarding migratory bird conservation
- Ideally wait until BCR plans are completed for EC to engage in supporting BMP development
 - EC's limited resources will need to be targeted to priorities
 - A framework is desirable to help all interested stakeholders

Summary and Next steps

- EC's current focus is on updating Avoidance Guidelines information
- Draft BCR plans currently undergoing technical review.
 - Next step is to discuss plans with interested parties (2011)
 - Final plans to be posted on EC's website
- Develop strategy for supporting development of BMPs by sectors
 - Stakeholder input and general consensus on approach will help

For additional information

- For additional information see:
<http://ec.gc.ca/paom-itmb/default.asp?lang=En&n=FA4AC736-1>

The screenshot shows the Environment Canada website interface. At the top, there are logos for Environment Canada in English and French, and the Canada wordmark. Below this is a green banner with a red maple leaf and the text "Environment Canada www.ec.gc.ca". A navigation bar contains links for Français, Home, Contact Us, Help, Search, and canada.gc.ca. The breadcrumb trail reads: Home > Nature > Migratory Birds > Policy and Regulations > Incidental Take. The main content area is titled "Incidental Take" and is divided into three columns. The left column has a "Nature" header and sub-sections for "Policy and Regulations", "Summary of approach to Incidental take", and "Proactive Disclosure". The middle column contains the main text, which explains that Canada hosts over 500 species of migratory birds and that the Migratory Birds Regulations, 2009, prohibit the harming of these birds and their nests and eggs. It also notes that while the 1994 Convention Act strictly prohibits harming, many birds are still destroyed incidentally through activities like mining, forestry, and urban development. The right column is titled "Current Regulations" and lists links for the Migratory Birds Convention Act, 1994; Migratory Birds Regulations; Migratory Bird Sanctuary Regulations; and Migratory Birds Hunting Regulations, 2009 (Summaries). Below this, under "Recently Passed", it lists "Regulations Amending the Migratory Birds Regulations, Schedule 1" (only available in Adobe Acrobat format - pdf 2.5 MB).

Environment Canada Environment Canada Canada

Environment Canada
www.ec.gc.ca

Français Home Contact Us Help Search canada.gc.ca

Home > Nature > Migratory Birds > Policy and Regulations > Incidental Take

Nature

Policy and Regulations

Summary of approach to Incidental take

Proactive Disclosure

Incidental Take

Canada seasonally hosts over 500 species of migratory birds. Environment Canada develops and implements policies and regulations to ensure the protection of migratory birds, their eggs and their nests.

While the *Migratory Birds Regulations*, under the *Migratory Birds Convention Act, 1994*, strictly prohibit the harming of migratory birds and the disturbance or destruction of their nests and eggs, many are inadvertently destroyed by activities such as mining, forestry and agriculture, electrical generation and transmission, fishing, management of infrastructure, and urban development. This inadvertent destruction is called "incidental take" and is illegal.

As the federal department responsible for the *Migratory Birds Convention Act, 1994*, Environment Canada was proposing to amend the *Migratory Birds Regulations* under the Act to introduce new policy tools to improve our approach to managing incidental take of migratory birds

Current Regulations

- ▶ [Migratory Birds Convention Act, 1994](#)
- ▶ [Migratory Birds Regulations](#)
- ▶ [Migratory Bird Sanctuary Regulations](#)
- ▶ [Migratory Birds Hunting Regulations, 2009 \(Summaries\)](#)

Recently Passed

- ▶ [Regulations Amending the Migratory Birds Regulations, Schedule 1](#) (only available in Adobe Acrobat format - pdf 2.5 MB)

Questions?

- For questions or comments, contact:

Basile van Havre
Director of Population Conservation and Management
Canadian Wildlife Service
Environment Canada
Ottawa ON K1A 0H3
incidentaltake.priseaccessoire@ec.gc.ca