

## **Waterfowl Hunting and Baiting**

Waterfowl and other migratory birds are a national resource protected under the Migratory Bird Treaty Act. Hunting waterfowl is a popular sport in many parts of the country. Federal and State regulations help ensure that these birds continue to thrive while providing hunting opportunities.

Federal baiting regulations define key terms for hunters and land managers, and clarify conditions under which you may legally hunt waterfowl. As a waterfowl hunter or land manager, it is your responsibility to know and obey all Federal and State laws that govern the sport. State regulations can be more restrictive than Federal regulations.

Waterfowl baiting regulations apply to ducks, geese, swans, coots, and cranes.

Federal regulations are more restrictive for waterfowl hunting than for hunting doves and other migratory game birds. You should carefully review the Federal regulations. You may also want to check our information on dove hunting and baiting.

### **What Is Baiting?**

You cannot hunt waterfowl by the aid of baiting or on or over any baited area where you know or reasonably should know that the area is or has been baited.

Baiting is the direct or indirect placing, exposing, depositing, distributing, or scattering of salt, grain, or other feed that could lure or attract waterfowl to, on, or over any areas where hunters are attempting to take them.

A baited area is any area on which salt, grain, or other feed has been placed, exposed, deposited, distributed, or scattered, if that salt, grain, or feed could serve as a lure or attraction for waterfowl.

### **The 10-Day Rule**

A baited area remains off limits to hunting for 10 days after all salt, grain, or other feed has been completely removed. This rule recognizes that waterfowl will still be attracted to the same area even after the bait is gone.

### **Waterfowl Hunting on Agricultural Lands**

Agricultural lands offer prime waterfowl hunting opportunities. You can hunt waterfowl in fields of unharvested standing crops. You can also hunt over standing crops that have been flooded. You can flood fields after crops are harvested and use these areas for waterfowl hunting.

The presence of seed or grain in an agricultural area rules out waterfowl hunting unless the seed or grain is scattered solely as the result of a normal agricultural planting, normal agricultural harvesting, normal agricultural post-harvest manipulation, or normal soil stabilization practice.

These activities must be conducted in accordance with recommendations of the State Extension Specialists of the Cooperative State Research, Education, and Extension Service of the U.S. Department of Agriculture (Cooperative Extension Service).

### **Planting**

A normal agricultural planting is undertaken for the purpose of producing a crop. The Fish and Wildlife Service does not make a distinction between agricultural fields planted with the intent to harvest a crop and those planted without such intent so long as the planting is in accordance with recommendations from the Cooperative Extension Service.

Normal agricultural plantings do not involve the placement of seeds in piles or other heavy concentrations. Relevant factors include recommended planting dates, proper seed distribution, seed bed preparation, application rate, and seed viability.

A normal soil stabilization practice is a planting for agricultural soil erosion control or post mining land reclamation conducted in accordance with recommendations of the Cooperative Extension Service.

Lands planted by means of top sowing or aerial seeding can only be hunted if seeds are present solely as the result of a normal agricultural planting or normal soil stabilization practice (see section on wildlife food plots).

### **Harvesting & Post-Harvest Manipulation**

A normal agricultural harvest is undertaken for the purpose of gathering a crop. In general, the presence of long rows, piles, or other heavy concentrations of grain should raise questions about the legality of the area for waterfowl hunting.

A normal post-harvest manipulation first requires a normal agricultural harvest and removal of grain before any manipulation of remaining agricultural vegetation, such as corn stubble or rice stubble.

To be considered normal, an agricultural planting, agricultural harvesting, and agricultural post-harvest manipulation must be conducted in accordance with recommendations of the Cooperative Extension Service (i.e., planting dates, application rates, etc.). However, the Fish and Wildlife Service will continue to make final determinations about whether these recommendations were followed.

Hunters should be aware that normal harvesting practices can be unique to specific parts of the country. For example, swathing wheat crops is a part of the normal harvesting process recommended by the Cooperative Extension Service in some areas of the upper Midwest. During this process, wheat is cut, placed into rows, and left in the field for several days until it dries. Hunting waterfowl over a swathed wheat field during the recommended drying period is legal. It is illegal to hunt waterfowl over swathed wheat that becomes unmarketable or that is left in the field past the recommended drying period because these situations are not normal harvests.

### **Manipulation of Agricultural Crops**

You cannot legally hunt waterfowl over manipulated agricultural crops except after the field has been subject to a normal harvest and removal of grain (i.e., post-harvest manipulation).

Manipulation includes, but is not limited to, such activities as mowing, shredding, discing, rolling, chopping, trampling, flattening, burning, or herbicide treatments. Grain or seed which is present as a result of a manipulation that took place prior to a normal harvest is bait. For example, no hunting could legally occur on or over a field where a corn crop has been knocked down by a motorized vehicle. Kernels of corn would be exposed and/or scattered.

If, for whatever reason, an agricultural crop or a portion of an agricultural crop has not been harvested (i.e., equipment failure, weather, insect infestation, disease, etc.) and the crop or remaining portion of the crop has been manipulated, then the area is a baited area and cannot be legally hunted for waterfowl. For example, no waterfowl hunting could legally occur on or over a field of sweet corn that has been partially harvested and the remainder mowed.

### **Wildlife Food Plots**

You cannot legally hunt waterfowl over freshly planted wildlife food plots where grain or seed has been distributed, scattered, or exposed because these plots are not normal agricultural plantings or normal soil stabilization practices. Wildlife food plots may be considered a normal agricultural practice, but they do not meet the definition of a normal agricultural planting, harvest, post-harvest manipulation, or a normal soil stabilization practice.

### **Other Agricultural Concerns**

You cannot hunt waterfowl on or over areas where farmers feed grain to livestock, store grain, or engage in other normal agricultural practices that do not meet the definition of a normal agricultural planting, harvest, or post-harvest manipulation.

### **Hunting Over Natural Vegetation**

Natural vegetation is any non-agricultural, native, or naturalized plant species that grows at a site in response to planting or from existing seeds or other propagules.

Natural vegetation does not include planted millet because of its use as both an agricultural crop and a species of natural vegetation for moist soil management. However, planted millet that grows on its own in subsequent years is considered natural vegetation.

If you restore and manage wetlands as habitat for waterfowl and other migratory birds, you can manipulate the natural vegetation in these areas and make them available for hunting.

Natural vegetation does not include plants grown as agricultural crops. Under no circumstances can you hunt waterfowl over manipulated crops prior to a normal harvest. Nor can you hunt waterfowl over manipulated wildlife food plots or manipulated plantings for soil stabilization.

## **Problem Areas**

### **Feeding Waterfowl and Other Wildlife**

Many people feed waterfowl for the pleasure of bird watching. It is illegal to hunt waterfowl in an area where such feeding has occurred that could lure or attract migratory game birds to, on, or over any area where hunters are attempting to take them. The 10-day rule applies to such areas, and any salt, grain, or feed must be gone 10 days before hunting. The use of sand and shell grit is not prohibited.

In some areas, it is a legal hunting practice to place grain to attract some State-protected game species (i.e., white-tailed deer). But these areas would be illegal for waterfowl hunting, and the 10-day rule would apply.

### **Distance**

How close to bait can you hunt without breaking the law? There is no set distance. The law prohibits hunting if bait is present that could lure or attract birds to, on, or over areas where hunters are attempting to take them. Distance will vary depending on the circumstances and such factors as topography, weather, and waterfowl flight patterns. Therefore, this question can only be answered on a case-by-case basis.

### **What is Legal?**

You can hunt waterfowl on or over or from:

- Standing crops or flooded standing crops, including aquatic plants.
- Standing, flooded, or manipulated natural vegetation.
- Flooded harvested croplands.
- Lands or areas where grains have been scattered solely as the result of a normal agricultural planting, harvesting, or post-harvest manipulation.
- Lands or areas where top-sown seeds have been scattered solely as the result of a normal agricultural planting, or a planting for agricultural soil erosion control or post-mining land reclamation.
- A blind or other place of concealment camouflaged with natural vegetation.
- A blind or other place of concealment camouflaged with vegetation from agricultural crops, provided your use of such vegetation does not expose, deposit, distribute or scatter grain or other feed.
- Standing or flooded standing crops where grain is inadvertently scattered solely as the result of hunters entering or leaving the area, placing decoys, or retrieving downed birds. Hunters are cautioned that while conducting these activities, any intentional scattering of grain will create a baited area.

## **What is Illegal?**

Some examples of areas where you cannot hunt waterfowl include:

- Areas where grain or seed has been top-sown and the Cooperative Extension Service does not recommend the practice of top sowing (see section on wildlife food plots).
- Crops that have been harvested outside of the recommended harvest dates established by the Cooperative Extension Service (including any subsequent post-harvest manipulations).
- Unharvested crops that have been trampled by livestock or subjected to other types of manipulations that distribute, scatter, or expose grain.
- Areas where grain is present and stored, such as grain elevators and grain bins.
- Areas where grain is present for the purpose of feeding livestock.
- Freshly planted wildlife food plots that contain exposed grain.
- Croplands where a crop has been harvested and the removed grain is redistributed or “added back” onto the area where grown.
- These examples do not represent an all-inclusive list of waterfowl baiting violations.

## **The Hunter's Responsibility**

As a waterfowl hunter, you are responsible for determining whether your proposed hunting area is baited. Before hunting, you should:

- Familiarize yourself with Federal and State waterfowl hunting regulations.
- Ask the landowner, your host or guide, and your hunting partners if the area has been baited and inspect the area for the presence of bait. Suspect the presence of bait if you see waterfowl feeding in a particular area in unusually large concentrations or displaying a lack of caution.
- Look for grain or other feed in the water, along the shore, and on the field. Pay particular attention to the presence of spilled grain on harvested fields and seeds planted by means of top sowing.
- Confirm that scattered seeds or grains on agricultural lands are present solely as the result of a normal agricultural planting, normal agricultural harvesting, normal agricultural post-harvest manipulation, or normal soil stabilization practice by consulting the Cooperative Extension Service.
- Abandon the hunting site if you find grain or feed in an area and are uncertain about why it is there.

## **Other Responsibilities**

If you prepare lands for hunting, participate in such preparations, or direct such preparations, it is important for you to know and understand what practices constitute baiting. You should know what activities constitute baiting and when lands or other areas would be considered baited before such areas are hunted. If you bait or direct that an area be baited and allow waterfowl hunting to proceed, you risk being charged with an offense that carries significant penalties.

## Overview of Other Regulations

Additional Federal and State regulations apply to waterfowl hunting, including those summarized below.

*Illegal hunting methods.* You cannot hunt waterfowl:

- With a trap, snare, net, rifle, pistol, swivel gun, shotgun larger than 10 gauge, punt gun, battery gun, machine gun, fish hook, poison, drug, explosive, or stupefying substance.
- From a sink box or any other low floating device that conceals you beneath the surface of the water.
- From a motorboat or sailboat, unless you shut the motor off or furl the sail and the vessel is no longer in motion.
- Using live birds as decoys.
- While possessing any shot other than approved nontoxic shot.
- From or by means, aid, or use of any motor vehicle, motor-driven land conveyance, or aircraft (if you are a paraplegic or are missing one or both legs, you may hunt from a stationary car or other stationary motor-driven land vehicle or conveyance).
- Using recorded or electrically amplified bird calls or sounds, or imitations of these calls and sounds.
- With a shotgun that can hold more than three shells, unless you plug it with a one-piece filler that cannot be removed without disassembling the gun.

(The latter two restrictions do not apply during light-geese-only seasons in certain authorized areas of the Central and Mississippi Flyways.)

*Shooting hours.* You cannot hunt waterfowl except during the hours open to shooting.

*Closed season.* You cannot hunt waterfowl during the closed season.

*Daily bag limit.* You can take only one daily bag limit in any one day. This limit determines the number of waterfowl you may legally have in your possession while in the field or while in route back to your car, hunting camp, home, or other destination.

*Wanton waste.* You must make a reasonable effort to retrieve all waterfowl that you kill or cripple and keep these birds in your actual custody while in the field. You must immediately kill any wounded birds that you retrieve and count those birds toward your daily bag limit.

*Tagging.* You cannot put or leave waterfowl at any place or in the custody of another person unless you tag the birds with your signature, address, number of birds identified by species, and the date you killed them.

*Rallying.* You cannot hunt waterfowl that have been concentrated, driven, rallied, or stirred up with a motorized vehicle or sailboat.

Dressing. You cannot completely field-dress waterfowl before taking them from the field. The head or one fully feathered wing must remain attached to the birds while you transport them to your home or to a facility that processes waterfowl.

Dual violation. A violation of a State waterfowl hunting regulation is also a violation of Federal regulations.

Duck stamp. If you are 16 or older, you must carry on your person an unexpired Federal migratory bird hunting and conservation stamp. You must validate your duck stamp by signing it in ink across the face before hunting.

Migratory Bird Harvest Information Program (HIP). Unless exempt from license requirements in the State where you are hunting, you must enroll in the HIP and carry proof of current enrollment while hunting.

Protected birds. Federal law prohibits the killing of non-game migratory birds. Protected birds that you could encounter while waterfowl hunting include songbirds, eagles, hawks, owls, vultures, herons, egrets, and woodpeckers.

Banded birds. Waterfowl hunters are encouraged to report banded birds to the U.S. Fish and Wildlife Service toll-free bird band report hotline at 1-800/327-2263.

#### **Excerpts from Title 50, Code of Federal Regulations, Part 20.21(i)**

No persons shall take migratory game birds:

(i) By the aid of baiting, or on or over any baited area, where a person knows or reasonably should know that the area is or has been baited. However, nothing in this paragraph prohibits:

(1) The taking of any migratory game bird, including waterfowl, coots, and cranes, on or over the following lands or areas that are not otherwise baited areas--

(i) Standing crops or flooded standing crops (including aquatics); standing, flooded, or manipulated natural vegetation; flooded harvested croplands; or lands or areas where seeds or grains have been scattered solely as the result of a normal agricultural planting, harvesting, post-harvest manipulation or normal soil stabilization practice;

(ii) From a blind or other place of concealment camouflaged with natural vegetation;

(iii) From a blind or other place of concealment camouflaged with vegetation from agricultural crops, as long as such camouflaging does not result in the exposing, depositing, distributing or scattering of grain or other feed; or

(iv) Standing or flooded standing agricultural crops where grain is inadvertently scattered solely as a result of a hunter entering or exiting a hunting area, placing decoys, or retrieving downed birds.

(2) The taking of any migratory game bird, except waterfowl, coots and cranes, on or over lands or areas that are not otherwise baited areas, and where grain or other feed has been distributed or scattered solely as the result of manipulation of an agricultural crop or other feed on the land where grown, or solely as the result of a normal agricultural operation.

## **For More Information**

If you have additional questions about waterfowl hunting and the law, contact the nearest U.S. Fish and Wildlife Service law enforcement office or one of the Service's regional law enforcement offices listed below. You should also consult the appropriate State conservation agency to determine what State regulations apply.

CA, HI, ID, NV, OR, WA, GU, AS, CM

U.S. Fish and Wildlife Service  
Office of Law Enforcement  
911 N.E. 11th Avenue  
Portland, Oregon 97232-4181  
Telephone: 503/231-6125

AZ, NM, OK, TX

U.S. Fish and Wildlife Service  
Office of Law Enforcement  
P.O. Box 329  
Albuquerque, New Mexico 87103  
Telephone: 505/248-7889

IL, IN, IA, MI, MN, MO, OH, WI

U.S. Fish and Wildlife Service  
Office of Law Enforcement  
5600 American Blvd, Suite 990  
Bloomington, Minnesota, USA 55437-1458  
Telephone: 612/713-5320

AL, AR, FL, GA, KY, LA, MS, NC, SC, TN, PR, VI

U.S. Fish and Wildlife Service  
Office of Law Enforcement  
1875 Century Blvd, Suite 380  
Atlanta, Georgia 30359  
Telephone: 404/679-7057

CT, DE, DC, ME, MD, MA, NH, NJ, NY, PA, RI, VT, VA, WV

U.S. Fish and Wildlife Service  
Office of Law Enforcement  
300 Westgate Center Drive  
Hadley, Massachusetts 01035  
Telephone: 413/253-8274



CO, KS, MT, NE, ND, SD, UT, WY  
U.S. Fish and Wildlife Service  
Office of Law Enforcement  
P.O. Box 25486-DFC  
Denver, Colorado 80225  
Telephone: 303/236-7540

AK  
U.S. Fish and Wildlife Service  
Office of Law Enforcement  
1011 E. Tudor Road, Room 155  
Anchorage, Alaska 99503-6199  
Telephone: 907/786-3311

Headquarters  
U.S. Fish and Wildlife Service  
Office of Law Enforcement  
4401 N. Fairfax Drive, MS-3000-LE  
Arlington, Virginia 22203  
Telephone: 703/358-1949  
[www.fws.gov/le](http://www.fws.gov/le)  
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