



FLYWAY FEDERATION IS A NON-PROFIT ORGANIZATION FIGHTING FOR RESTORATION AND MODERNIZATION OF THE BAITING REGULATIONS IN THE MIGRATORY BIRD TREATY, TO IMPROVE THE MANAGEMENT OF HUNTING.

OBJECTIVES OF THE PROPOSED POLICY ON BAITING

The following proposed changes aim to:

- 1. Provide the most efficient tools to ensure the conservation and sustainable harvest of migratory birds from Canada, and across North America.**
- 2. Respect the principle of equal opportunity and sharing of the resource for all hunters who wish to participate in the hunting of migratory birds.**
- 3. Maintain general support for the hunting of migratory game birds.**
- 4. Ensure the Regulations are clear, consistent, based on common sense and enforceable.**

BAITING AND THE CURRENT MIGRATORY BIRD REGULATIONS

What is bait, and what is baiting? Bait includes corn, wheat, oats, rice, beans, and any other grain or feed that could attract migratory birds to a specific area. The term Baiting will be used throughout this document to refer to the act of depositing food for the purpose of attracting birds to a specific area for hunting or concentrating birds within a zone of influence. Under the current Regulations, baiting is legal for some areas of the United States, it is inconsistent from state to state, county to county, parish to parish, and from enforcement agents from one to another.

Why impose restrictions on baiting, and supplemental feeding, with restoration and modernization in the Regulations?

Baiting is an activity that is closely regulated under the Regulations and Migratory Bird Treaty, to ensure the conservation and management of migratory birds. Baiting and supplemental feeding concentrates a large number of birds in a specific area. Consequently, it has the potential to result in too many birds being harvested or concentrated by hunters and conservation groups, and to create a situation of unequal access to migratory birds. Concentrating birds also creates a potential habitat for diseases to infect and spread.

Current Bait Restrictions in the Regulations

Allow certain areas to leave unharvested crops standing and flooded, due to conservation programs. Prior to 1998 flooding a non-flood crop prior to the normal harvest / harvest date would have been baiting. The Migratory Bird Treaty Reform 1998 amended and created loop holes through giving states CES "Cooperative Extension Service" the power to govern Agricultural practices on a state level, it was governed on a Federal level by United States Fish and Wildlife Service prior to 1998.

ISSUES WITH THE CURRENT BAITING REGULATIONS AND RECOMMENDATIONS ADDRESSING ISSUES

Issue 1:

Baiting on Conservation Program Acreage. Landowners and Farmers allowed to leave unharvested crops for the purposes of attracting and luring waterfowl to a specific location in the name of conservation. Mostly occurring on private lands but, supplemental feeding is occurring on Federal and State Refuges and conservation areas. This raises the issue of social fairness and equitable access to the resource, as conservation programs grow in popularity, however this has the potential to result in conservation concerns as birds are concentrated, disease and over harvest increases due to the presence of bait. It is un-natural and manipulates the natural migration of migratory birds.

Issue 2:

The Regulations currently allow the intentional flooding of a standing crop for the purpose of attracting and hunting migratory birds within the conservation areas. While this practice was uncommon for many years, it has become the new sport of waterfowl hunting. It results in inconsistency in the prohibitions within the baiting restrictions set out in the Migratory Bird Treaty and The USFWS Migratory Game Bird Regulations. For an example, a hunter cannot legally hunt over an area that has been baited by dumping of grain in water for 10 days or until all presence of grain is gone, but can hunt, where bait is present in an intentionally flooded area where flooding a standing unharvested field of grain. As mentioned previously, the presence of food in a specific area attracts and concentrates a large number of birds. If this specific area is located on private land, or in unhunt-able refuge areas, the opportunity to harvest migratory birds would be limited to a select group of hunters, or a specific area, thereby creating a situation of unequal access to migratory birds among hunters or areas to benefit off of the natural resource. It was proposed and passed in Canada and needs to be proposed and passed here in the United States that any deliberate modification/manipulation of an agricultural crop that is not part of normal agricultural practices should be considered baiting. For example, grain crops (Corn, Wheat, Oats, Barley, Buckwheat, Sunflowers, Millet, Etc.) and Legume crops (Soy beans, Peas, Beans, Etc.) do not require flooding to harvest and therefore any deliberate flooding of these crops would be considered baiting if flooded prior to the harvest. Conversely, Cranberries and Rice require flooding prior to the harvest and would be recognized as a normal agricultural practice and not be considered baiting, **unless left intentionally unharvested after the official USDA harvest date.**

The recommended option for going forward is to prohibit the deliberate modification of an agricultural crop that is not part of the normal agricultural practices for attracting migratory birds for hunting or for any other reason. The USFWS Regulations and the Migratory Bird Treaty would need to be amended reflecting this policy change and would consider the following to be areas where bait has been deposited.

- 1. A standing grain or legume crop that is deliberately flooded to attract or concentrate migratory birds for hunting or any other reasons. (ex. Flooding a non-floodable crop by using water pump, plugging a drain tile, using stop logs, or diverting water onto a field prior to the harvest dates given by USDA.**

2. A crop that is deliberately unharvested, partially harvested, knocked down, or left on the ground, whether flooded or not, for the purpose of attracting migratory birds. (ex. Deliberately unharvesting center rows in a grain field)
3. Grains or legumes that are deliberately deposited on the ground for the purpose of attracting migratory birds. (ex. Deliberately dumping grain in a field)

It is not proposed to prohibit the hunting of migratory birds in an area where bait is present due to normal agricultural practices. Consequently, the Regulations (**would not**) need to consider the following situations as areas where bait has been deposited.

1. A standing crop to be harvested or in the process of being harvesting, as long as before the official USDA harvest dates. (ex. Rice, Corn, Sunflowers etc.)
2. A standing crop that is naturally flooded (ex. Standing corn in a low lying area of a field due to flooding from rain.)
3. A standing crop, left standing due to a natural disaster, Act of God. (ex. Standing rice that has been manipulated un-harvestable due to a hurricane, Standing Corn that has been manipulated un-harvestable due to tornado) **Property would still need approval by USFWS before hunted, for instructions on Act of God crops.**
4. A harvested crop field that is flooded, naturally or deliberately.
5. Crops properly shocked in the field where they grow.
6. Area where grain is scattered solely as a result of normal agriculture or harvesting operations. (ex. Corn split during combining, trampling barley on the headlands of the field, grain spilt from gravity wagon in transit.)
7. A Field where grain crop has grown back naturally, after the field has been subject to its first harvest. (ex. Rice field that has been subject to its first harvest and 2nd crop grows back naturally, 2nd crop or 2nd year millet field that has grown back naturally.)

Proposal completed by Flyway Federation to restore and modernize the Regulations, Fair chase, and the Migratory Bird Treaty for equal opportunity throughout the flyway, and protection of migratory birds to migrate naturally.