

Migratory Bird Hunting and Federal Baiting Regulations

What Illinois Hunters Need to Know

Hunters MAY:

hunt ALL migratory game birds, including waterfowl and coots

hunt over natural vegetation that has been mowed or manipulated in other ways. There is no restriction on when manipulation may occur. In other words, the manipulation may occur before, during or after any season where seeds or grains have been scattered solely as the result of "normal agricultural planting, harvesting, post-harvest manipulation or normal soil stabilization practice." over surface-mined lands being reclaimed where seeds or grains are scattered solely as a result of a "normal soil stabilization practice."

hunt ALL migratory game birds over standing crops, standing flooded crops and flooded harvested croplands.

hunt doves where grain or other feed has been distributed or scattered as the result of the manipulation of an agricultural crop or other feed on the land where grown or as the result of a "normal agricultural operation." The term "normal agricultural operation" applies not just to planting, harvesting and post-harvest manipulation but also other farming practices such as livestock management.

3 use natural vegetation to conceal a blind.

use vegetation from agricultural crops to conceal a blind provided that the crop seed is not exposed, deposited, distributed or

scattered in the process. For example, corn stalks may be used to camouflage a blind as long as the attached ears remain tightly in the husk.

* continue hunting over standing or flooded standing agricultural crops if they inadvertently scatter grain solely as a result of entering or leaving the field, placing decoys or retrieving downed birds.

4 be charged with hunting over bait or a baited area if they "know or reasonably should know" that the area is baited.

* be fined up to \$15,000 and spend 6 months in jail if convicted of hunting over bait or a baited area.

3 be fined up to \$100,000 as an individual or \$200,000 as an organization and spend 1 year in prison if convicted of placing or directing the placement of bait.

With respect to federal prohibitions, hunters MAY NOT:

3) place, expose, deposit, distribute, or scatter salt, grain or other feed that could lure or attract migratory game birds, except crows, to, on or over an area where hunters are attempting to take them.

4 hunt migratory game birds, except crows, with the aid of bait or on or over any baited area.

* hunt over any baited area until all salt, grain or other feed has been completely removed for at least 10 days.

* hunt waterfowl and coots over manipulated planted millet. Planted millet is not considered natural vegetation unless it becomes naturalized and grows (volunteers) on its own in subsequent years.

* hunt waterfowl and coots over seed or grain from manipulated agricultural crops or normal agricultural operations except where seed or grain is present solely as a result of "normal planting, harvesting or post-harvest manipulation" or "normal agricultural soil stabilization practices."

* hunt migratory game birds, other than crows, if the use of vegetation from agricultural crops to conceal a blind exposes, deposits, distributes or scatters grain or other crop seed.

Hunters also should remember that:

* they are responsible for ensuring that the hunting area has not been baited before they start hunting.

* they should physically inspect the field or marsh; question landowners, guides and caretakers; and take other reasonable steps to verify the legality of the hunting area.

* they must know and obey all applicable federal and state hunting regulations.

• when making agricultural determinations,

the Fish and Wildlife Service relies on the official recommendations of state extension specialists of the U.S. Department of Agriculture's Cooperative Extension Service.

Federal :Baiting Regulations-Questions & Answers

How are hunters and others supposed to determine what agricultural and soil stabilization activities are "normal" when the legality of hunting is in question?

The rule defines the three terms ("normal agricultural planting, harvesting or post-harvest manipulation," "normal soil stabilization practice," and "normal agricultural operation") used to describe land-use activities compatible with

hunting different migratory birds in agricultural areas. In each case, those definitions specify that allowable activities are those conducted in accordance with official recommendations of U.S. Department of Agriculture state extension specialists for the particular geographic area. Hunters should remember that recommended agricultural practices may vary from state-to-state, region-to-region within a state,

even from site to site. This approach is not new. The U.S. Fish and Wildlife Service has traditionally relied on state extension specialists to determine the validity of agricultural practices and operations. The new rule incorporates existing Service policy and makes the U.S. Department of Agriculture the official authority for determining what farming activities are or are not "normal" in a given area.

Why did the Fish and Wildlife Service include provisions concerning camouflaging blinds? What use of vegetation is allowed?

Public confusion and misconceptions prompted the Service to address this issue. The rule now makes it clear that hunters can use both natural and agricultural vegetation to camouflage blinds. No restrictions apply when natural vegetation is used. Hunters may, however, only use agricultural plants for camouflage if such use does not expose, deposit, distribute or scatter grain or other feed.

Why did the Fish and Wildlife Service address the issue of the inadvertent scattering of grain?

Many state wildlife agencies and hunters believed that the latitude for misinterpretation of this issue under the former regulations was much too wide. Hunters now have clear assurance that the inadvertent scattering of grain from standing or flooded standing agricultural crops while entering and leaving hunting

areas, placing decoys and retrieving downed birds will not be considered baiting offenses.

Does the rule address the issue of strict liability?

For years, courts in most parts of this country had historically applied a strict liability standard to baiting offenses. Under this standard, law enforcement officers did not have to prove that hunters knew bait was present in order to prove a violation had occurred. However, on Oct. 30, 1998, Public Law 105-312 eliminated strict liability for baiting offenses and instead made it unlawful for anyone to hunt with the aid of bait "if the person knows or reasonably should know that the area is a baited area." The Service has incorporated this "knows or reasonably should know" standard in the baiting regulation to promote public understanding of the law. As in the past, however, hunters are responsible for ensuring that no bait is present (or was present up to 10 days) before they begin hunting. They should thoroughly in-

spect the field or marsh, question landowners and guides, and take other reasonable steps to verify the legality of their hunt.

Did Congress make any other changes with respect to baiting?

Yes. Legislators increased the maximum fine for hunting over bait from \$5,000 to \$15,000. They also made the placement of bait a violation of the Migratory Bird Treaty Act punishable by a fine up to \$100,000 for an individual or \$200,000 for an organization, a prison term of up to one year, or both. In the past, individuals who baited fields were charged with "aiding and abetting," that is, helping someone else commit the crime of hunting over bait. They face stiffer penalties under the new law.

How does the regulation affect Illinois' migratory game bird baiting laws?

Illinois regulations are the same as those of the Fish and Wildlife Service.