

Hunting over Flooded Standing Crop “Corn Pond” – Policy Briefing



Photo: Dennis Werlau/WDFW



Washington Department of
FISH and WILDLIFE

Kyle Spragens
Waterfowl Section Manager, Game Division
Wildlife Program

Policy Briefing

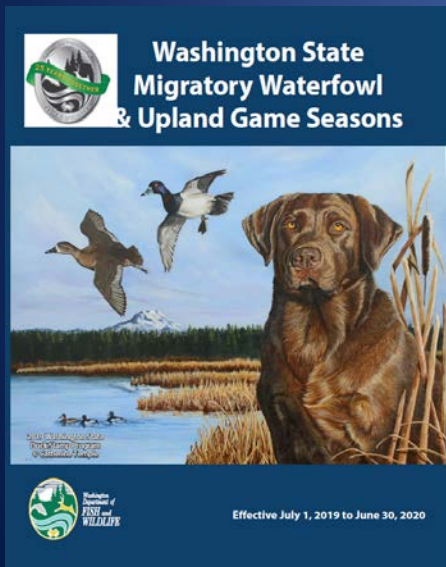
- A review of baiting in Washington related to migratory gamebirds
- Alignment of state regulation and federal law
- Details of WAC 220-416-100: Baiting of Gamebirds – Unlawful
- What is legal?
- What is illegal?
- Waterfowl Advisory Group discussion – Saturday, April 13, 2019

Review of Migratory Birds Baiting Regulation in Washington

- September 2009 - Presentation to the Commission by Department and U.S. Fish and Wildlife Service enforcement agents
- The Commission requested the department align state and federal baiting regulations (CFR 20.11 and 20.21), due to:
 - enforcement problematic,
 - waterfowl hunters confused, and
 - landowners unknowingly in violation of the federal law.
- During the 2012-2015 season setting process, extensive outreach including with farmers by the USFWS highlighted:
 - many farmers were unaware that their planting, harvest, and post-harvest practices constituted illegal baiting of waterfowl.
- April 2012 – Commission adopted WAC 220-416-100 amendments

WAC 220-416-100 = CFR 20.11 and 20.21

Consistent parallel language nationwide due to the shared management responsibilities of migratory birds



- Planting
- Harvesting
- Post-harvest manipulation
- Soil stabilization practice

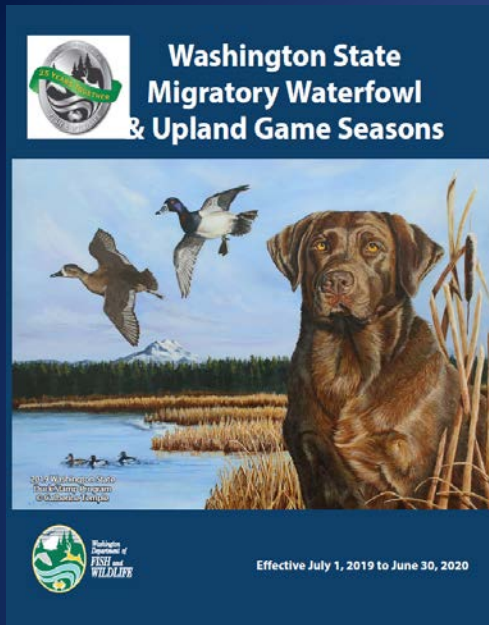


WAC 220-416-100

Baiting of game birds—Unlawful.

Page 48 - Waterfowl Pamphlet:

- It is unlawful to hunt game birds by the aid of baiting, on or over any baited area, or on or over any area posted as an upland bird feeding site, where a person knows or reasonably should know that the area is or has been baited



WAC 220-416-100

Baiting of game birds—Unlawful.

As used in this section, the following definitions apply:

- "Baiting" means the direct or indirect placing, exposing, depositing, distributing or scattering of salt, grain, or other feed that could serve as a lure or attraction for game birds to, on or over areas where hunters are attempting to take them.
- "Baited area" means any area on which salt, grain, or other feed has been placed, exposed, deposited, distributed, or scattered, if that salt, grain, or other feed could serve as a lure or attraction for game birds to, on, or over areas where hunters are attempting to take them. Any such area will remain a baited area for ten days following the complete removal of all such salt, grain, or other feed.

WAC 220-416-100

Baiting of game birds—Unlawful – Cont.

- "Manipulation" means the alteration of natural vegetation or agricultural crops by activities that include, but are not limited to, mowing, shredding, discing, rolling, chopping, trampling, flattening, burning, or herbicide treatments. The term manipulation does not include the distributing or scattering of grain, seed, or other feed after removal from or storage on the field where grown.
- "Natural vegetation" means any nonagricultural, native, or naturalized plant species that grows at a site in response to planting or from existing seeds or other propagules. The term natural vegetation does not include planted millet. However, planted millet that grows on its own in subsequent years after the year of planting is considered natural vegetation.

WAC 220-416-100

Baiting of game birds—Unlawful – Cont.

- "Normal agricultural operation" means a normal agricultural planting, harvesting, postharvest manipulation, or agricultural practice, that is conducted in accordance with official recommendations of State Extension Specialists of the Cooperative Extension Service of the U.S. Department of Agriculture.
- "Normal agricultural planting, harvesting, or postharvest manipulation" means a planting or harvesting undertaken for the purpose of producing and gathering a crop, or manipulation after such harvest and removal of grain, that is conducted in accordance with official recommendations of State Extension Specialists of the Cooperative Extension Service of the U.S. Department of Agriculture.
- "Normal soil stabilization practice" means a planting for agricultural soil erosion control or postmining land reclamation conducted in accordance with official recommendations of State Extension Specialists of the Cooperative Extension Service of the U.S. Department of Agriculture for agricultural soil erosion control.

WAC 220-416-100

Baiting of game birds—Unlawful – Cont.

What is legal?:

- (1) Standing crops, or flooded standing crops (including aquatics); standing, flooded, or manipulated natural vegetation; flooded harvested crop lands; or lands or areas where seeds or grains have been scattered solely as the result of normal agricultural planting, harvesting, postharvest manipulation, or normal soil stabilization practice;
- (2) From a blind or other place of concealment camouflaged with natural vegetation;
- (3) 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
- (4) 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.

WAC 220-416-100

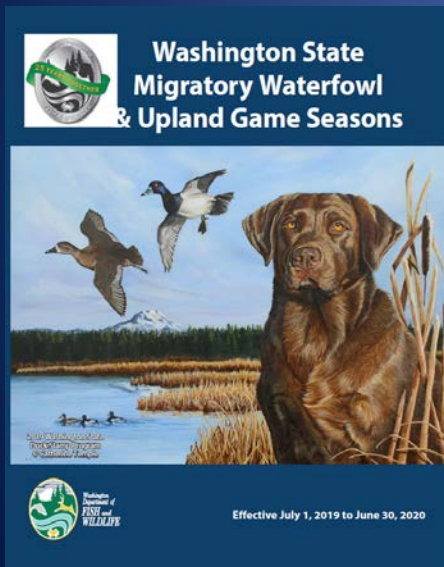
Baiting of game birds—Unlawful – Cont.

What is illegal?:

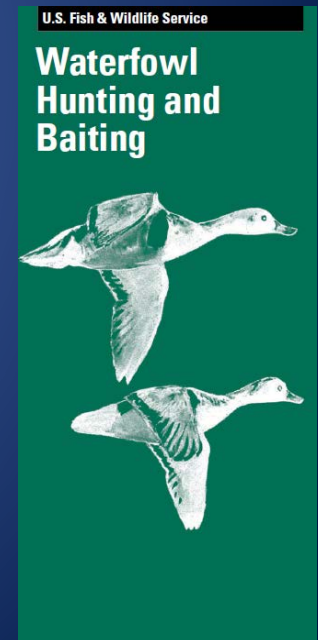
- (1) Unharvested crops that have been trampled by livestock or subjected to manipulations that distribute, scatter or expose grain.
- (2) Areas where grain or seed has been top-sown and the Cooperative Extension Service does not recommend the practice of top sowing, including freshly planted wildlife food plots that contain exposed grain.
- (3) Croplands where a crop has been harvested and removed grain is redistributed or “added back” onto the area where grown.
- (4) Areas where grain is present and stored, such as grain elevators, grain bins, and livestock feeding areas.

WAC 220-416-100 = CFR 20.11 and 20.21

Consistent parallel language nationwide due to the shared management responsibilities of migratory birds



- Planting
- Harvesting
- Post-harvest manipulation
- Soil stabilization practice



Waterfowl Advisory Group

At the April 13, 2019 Waterfowl Advisory Group meeting:



1) State regulation is consistent with federal law, waterfowl hunting over flooded, unharvested crop is legal.

(Vote 14-0 support)

2) That the department should “support a variety of food resources for habitat management, and that best management practices should include food crops and moist soil management”.

(Vote 13-1 support)

3) Any decision should be informed with appropriate data to assess the potential influence these types of practices may be having on waterfowl in Washington.

Questions

Migratory birds must seek a balance of food, water, and refuge along their annual flyway movements, on public and private lands;

“Overall, quality habitat – abundant and available – is unequivocally the most important ecological component affecting populations of waterfowl... Management can, however, be especially effective in synchronizing the abundance, availability, and spatial distribution of food, cover, and water resources to coincide with specific events in the life history of waterfowl.”

(Baldassarre and Bolen 2006)

