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Proposals to Modernize Canada's *Migratory Birds Regulations* to Improve Management of Hunting – Bait Restrictions

PUBLIC CONSULTATION DOCUMENT

Proposals to Modernize Canada's *Migratory Birds* *Regulations to Improve Management of Hunting* – Bait Restrictions

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For more information on migratory birds, please visit Environment and Climate Change Canada's Migratory Birds website: www.ec.gc.ca/nature/default.asp?lang=En&n=FDF836EF-1

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We want to hear from you

AS AN INDIVIDUAL OR ORGANIZATION WITH AN INTEREST IN THE MANAGEMENT OF MIGRATORY BIRD HUNTING, YOUR COMMENTS ARE REQUESTED ON THE PROPOSALS IN THIS DOCUMENT. WE VALUE YOUR FEEDBACK ON THE PROPOSALS AND WOULD APPRECIATE HEARING FROM YOU -- WHETHER YOU AGREE WITH THEM OR NOT.

Overview

The Canadian Wildlife Service of Environment and Climate Change Canada is responsible for the management of migratory bird hunting in Canada.

A revision of the *Migratory Birds Regulations* (hereafter the Regulations) has been underway to respond to issues, concerns and challenges that have been raised over the past 20 years. In spring 2014, Environment and Climate Change Canada held public consultations on proposed changes to the Regulations to improve the management of migratory bird hunting in Canada. This current consultation is a continuation of the revision process and relates specifically to issues associated with baiting and the hunting of migratory birds.

The *Migratory Birds Regulations* can be found at:

laws-lois.justice.gc.ca/eng/regulations/C.R.C., c. 1035/index.html.

Your feedback is essential

We are contacting you directly because of your particular interest in the management of migratory bird hunting. The Canadian Wildlife Service wants to know your thoughts and preferences on the proposed changes and recommendations to ensure that all viewpoints have been considered before the final proposals are drafted.

As you read through this document and prepare your input, we ask that you keep the following questions in mind:

Do you agree with the recommended option being proposed?

- If so, what do you consider the strengths of the option to be?
- If not, why do you disagree with the recommended option?
 - What are your major concerns?
 - What refinements would you suggest?

These questions are by no means exhaustive and are not intended to limit the amount, depth or focus of your feedback. They are simply suggestions to help guide your thinking, and to support us in achieving uniformity and alignment in implementing the feedback we receive.

Please note: Environment and Climate Change Canada will not be able to respond directly to those who submit comments, but please be assured that your input will be carefully considered in the decisions.

Please ensure that Environment and Climate Change Canada receives your comments no later than February 17, 2017:

- By email to: ec.scf-oismiggibiers-cws-miggamebirds.ec@canada.ca; or
- By mail to: Director, Wildlife Management and Regulatory Affairs, Canadian Wildlife Service, Environment and Climate Change Canada, Gatineau, Quebec, Canada K1A 0H3.

Modernization of Canada's *Migratory Birds Regulations* to Improve the Management of Hunting – Bait Restrictions

In 2014, the Canadian Wildlife Service published a consultation document entitled “**Proposals to Modernize Canada's *Migratory Birds Regulations* to Improve Management of Hunting**”. The proposals dealt with issues related to the possession of migratory birds, labeling, transportation, wastage, preservation, as well as other issues raised by hunters, hunter organizations, migratory bird population biologists and enforcement officials.

All of the comments received were carefully considered and the Canadian Wildlife Service is grateful for your participation in the consultation process. However, in reviewing the comments received and proposed solutions, it became apparent that the proposals had not dealt with issues surrounding the use of bait— or food— in a number of situations. The purpose of this document is to describe current issues related to restrictions set out in the Regulations on the use of bait for migratory bird hunting and to present options for addressing those issues.

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 in Canada.
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 public support for the hunting of migratory birds.
4. Ensure the Regulations are clear, consistent, based on common sense and enforceable.

Baiting and the current *Migratory Birds Regulations*

What is bait and what is baiting?

Bait includes corn, wheat, oats or other grain, pulse or any other feed that may 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. Under the current Regulations, baiting is legal in some situations (e.g., depositing bait more than 14 days before the start of any migratory bird hunting season) and illegal in others (e.g., depositing bait during an open hunting season except under authorization from the

Canadian Wildlife Service with written consent from the province or territory and adjacent landowners/lessees).

Why impose restrictions on baiting?

Baiting is an activity that is closely regulated under the Regulations to ensure the conservation and management of migratory birds. Baiting concentrates a large number of birds in a specific area. Consequently, it has the potential to result in too many birds being harvested by hunters and to create a situation of unequal access to migratory birds among hunters.

Current Bait Restrictions in the Regulations

Note: subsection 23(3) of the Regulations provides exemptions for the application of section 14 for the purpose of managing overabundant species and is not considered below.

a. Hunting within 400 metres of bait (subsection 14[1])

Hunting within 400 metres of an area where bait has been deposited is prohibited unless that place has been free of bait for a period of at least seven days. This prohibition seeks to prevent a situation where too many birds are attracted to an area and then harvested by hunters thereby resulting in conservation concerns for some migratory birds. Should conservation concerns arise, overall opportunities for hunting migratory birds would decline due to the need for more conservative management decisions (e.g., lower species-specific bag limits and shortened seasons) compared to the present day. For this reason, hunting within 400 metres of bait is prohibited.

b. Depositing of bait within 14 days of and during an open hunting season for migratory birds (subsection 14[3])

The Regulations prohibit the depositing of bait in an area during the period beginning 14 days before the first day of the open season for that place. The prohibition on depositing bait in that area remains in effect until the day immediately following the last day of the open season for that place¹. This prohibition applies unless the person has an authorization from the Canadian Wildlife Service with written consent from the province and adjacent landowners/lessees. Currently, the Canadian Wildlife Service issues bait authorizations to landowners/land managers to allow them to deposit bait **within 14 days of and during an open hunting season**. However, bait authorizations do not allow hunting within 400 metres of those baited areas.

¹ The depositing of bait more than 14 days before the opening of the hunting season is not a conservation issue because birds are less affected by the presence of bait as it is consumed. It is also not a conservation concern after the hunting season has closed because birds may not be legally harvested during a closed season.

c. Bait and agricultural operations (subsection 14[6])

Under the current Regulations, the following situations are not considered as areas where bait has been deposited:

- standing crops whether flooded or not,
- harvested crop land that is flooded,
- crops properly shocked in the field where they grow (for example, grain that is cut, bound together and stood to dry in a field), and
- areas where grain is scattered solely as a result of normal agricultural or harvesting operations.

Issues with the Current Baiting Regulations and Recommended Options for addressing them

Issue 1: Bait Authorizations

Bait authorizations are issued primarily for the benefit of migratory birds, particularly waterfowl, and people. To date, these authorizations have been issued to only a few landowners across Canada (fewer than 50 annually) mostly occurring on private lands. This raises the issue of social fairness and equitable access to the resource, as a broader group of people have recently expressed an interest in receiving a bait authorization. Issuing a larger number of bait authorizations than it is currently the case, however, has the potential to result in conservation concerns as harvest increases due to the presence of bait (see above). It is proposed to **discontinue the issuance of bait authorizations** as the recommended option going forward (please see Table 1). Consequently, subsection 14(3) of the Regulations would be amended to reflect this policy change.

Issue 2: Bait and Agricultural Operations

The Regulations currently allow the intentional flooding (i.e., **deliberate modification**) of a standing agricultural crop for the purpose of attracting and hunting migratory birds within it (i.e., **not 400 metres from it**). While this practice is uncommon, it does occur. It results in inconsistency in the prohibitions within the bait restrictions set out in subsection 14(1) of the Regulations. For example, a hunter is not allowed to hunt within 400 metres of where bait has been deposited in water, but is allowed to hunt where bait is present in an intentionally flooded standing cornfield. 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, the opportunity to harvest migratory birds would be limited to a select group of hunters, thereby creating a situation of unequal access to migratory birds among hunters.

It is proposed that any **deliberate modification** of an agricultural crop that is **not part of normal recognized agricultural practices** should be considered baiting. For example, grain crops (corn, wheat, oats, barley, buckwheat, sunflowers, millet, etc.) and legume crops (e.g., soy beans, peas, beans, etc.) do not require flooding to grow or harvest and therefore any deliberate flooding of these crops would be considered baiting. Conversely, cranberries require flooding to harvest and therefore this would be recognized as a normal agricultural practice and not be considered baiting.

The recommended option going forward is to **prohibit the deliberate modification of an agricultural crop that is not part of normal recognized agricultural practices for the purpose of attracting migratory birds for hunting** (see Table 2). Subsection 14(6) of the Regulations would be amended to reflect 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 migratory birds for hunting (e.g., flooding a cornfield by using a water pump, plugging a drain tile, using stop logs in a culvert, or diverting water onto the field).
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 for hunting (e.g., deliberately unharvesting the centre rows of a cornfield).
3. Grains or legumes that are deliberately deposited on the ground for the purpose of attracting migratory birds for hunting (e.g., deliberately dumping corn in a field).

It is not proposed to prohibit the hunting of migratory birds in areas where bait is present due to normal recognized agricultural practices. Consequently, the Regulations would not consider the following situations as areas where bait has been deposit:

1. A standing crop to be harvested or in the process of being harvested (e.g., sunflower or cornfield).
2. A standing crop that is naturally flooded (e.g., standing corn left unharvested in a low lying area of a field due to flooding from rain).
3. A harvested crop that is flooded, naturally or deliberately.
4. Crops properly shocked in the field where they grow.
5. Areas where grain is scattered solely as a result of normal agricultural or harvesting operations (e.g., corn spilt during combining, trampling of barley on the headlands of a field, grain spilt from a gravity wagon in transit).

Table 1. Options for addressing issue 1: Bait authorizations used to attract migratory birds for hunting

OPTIONS	PROS	CONS
1. Continue to issue bait authorizations to deposit bait within 14 days of and during an open hunting season <u>AND</u> create nationally consistent guidelines.	<ul style="list-style-type: none"> - Objective 4 achieved. - Hunters who practice this activity continue to do so. 	<ul style="list-style-type: none"> - Objective 1 not met: <ul style="list-style-type: none"> o Government burden increased due to the creation of nationally consistent guidelines; more monitoring and enforcement than previously. o Baiting may become more widespread resulting in increased harvest and potentially resulting in conservation concerns. - Objective 2 not met due to requirement to own or lease land. - Objective 3 not met: <ul style="list-style-type: none"> o Unclear whether provinces or territories would support bait authorizations in their jurisdictions.
2. Discontinue the issuance of bait authorizations (ss. 14[3] of the Regulations is amended).	<ul style="list-style-type: none"> - Objective 1 achieved. - Objective 2 achieved. - Objective 3 achieved. 	<ul style="list-style-type: none"> - Individuals who previously received bait authorizations would no longer be able to deposit bait 14 days before and during an open hunting season. - Removal of bait authorizations from public hunting areas could negatively affect the number of waterfowl hunters that use those areas.
RECOMMENDED OPTION	<ul style="list-style-type: none"> - Objective 4 achieved. 	
3. Remove all bait restrictions in the Regulations, making it legal to deposit bait anytime and hunt near or over bait (s. 14 of the Regulations is amended).	<ul style="list-style-type: none"> - Objective 2 achieved. - Allow those who wish to use bait to harvest migratory birds. 	<ul style="list-style-type: none"> - Objective 1 not met: <ul style="list-style-type: none"> o Conservation objectives may be difficult to achieve for some species; overharvesting of some species may occur. o Government burden increased due to more intensive monitoring of harvest to support management decisions to ensure sustainable harvest. o Reduction in hunting opportunities (e.g., reduced daily bag limit, season length or closed seasons, etc.) may be required to account for increased harvest. - Objective 3 not met: <ul style="list-style-type: none"> o Unclear whether provinces, territories, other countries (United States, Mexico) or the general public would support removal of all bait restrictions.

Recommended option – Option 2

Objectives of the Proposed Policy on Baiting:

1. Provide the most efficient tools to ensure the conservation and sustainable harvest of migratory birds in Canada.
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 public support for the hunting of migratory birds.
4. Ensure the Regulations are clear, consistent, based on common sense and enforceable.

Table 2. Options for addressing issue 2: Bait and agricultural operations for the purpose of hunting migratory birds

OPTIONS	PROS	CONS
1. Allow the hunting of migratory birds within 400 metres of a deliberately modified agricultural crop BUT an authorization would be required.	<ul style="list-style-type: none"> - Hunters who currently practice this activity may continue to do so. 	<ul style="list-style-type: none"> - Objective 1 not met: <ul style="list-style-type: none"> o Government burden increased through the issuance of a new authorization with guidelines; more monitoring and enforcement than previously. o This practice could become more widespread resulting in increased harvest and potentially resulting in conservation concerns. - Objective 2 not met due to requirement to own or lease land. - Objective 3 not met. - Objective 4 not met. <ul style="list-style-type: none"> o Is inconsistent with the recommended option for Issue 1.
2. Prohibit the deliberate modification of an agricultural crop that is not required as part of normal recognized agricultural practices for the purpose of attracting migratory birds for hunting (ss. 14[6] of the Regulations is amended).	<ul style="list-style-type: none"> - Objective 1 achieved. - Objective 2 achieved. - Objective 3 achieved. - Objective 4 achieved. 	<ul style="list-style-type: none"> - Hunters who engage in this activity would no longer be able to continue this practice.
RECOMMENDED OPTION	<ul style="list-style-type: none"> - Objective 4 achieved. - Authorization allows monitoring and facilitates enforcement of the practice. - Allow those who wish to use bait to harvest migratory birds. 	<ul style="list-style-type: none"> - Objective 1 not met. <ul style="list-style-type: none"> o Government burden increased through the issuance of a new authorization with guidelines; more monitoring and enforcement than previously. - Objective 2 not met due to requirement to own or lease land. - Hunters who engage in this activity would no longer be able to continue this practice without an authorization.

Recommended option – Option 2

Objectives of the Proposed Policy on Baiting:

1. Provide the most efficient tools to ensure the conservation and sustainable harvest of migratory birds in Canada.
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 public support for the hunting of migratory birds.
4. Ensure the Regulations are clear, consistent, based on common sense and enforceable.

KEY MESSAGES

The recommended options in this document ensure that the Regulations are consistent in prohibiting the hunting of migratory birds within 400 metres of where bait is present and increase adherence to the principle of equal opportunity and sharing of the resource for all migratory bird hunters.

The recommended options are:

Recommendation #1: Discontinue the issuance of bait authorizations in Canada.

Recommendation #2: Prohibit the deliberate modification of an agricultural crop (modification that is not required as part of normal recognized agricultural practices) for the purpose of attracting migratory birds for hunting.

These propositions would not make any changes to the current Regulations with respect to the use of bait for managing overabundant species (i.e., Snow Goose).

Both of these options will require amending the *Migratory Birds Regulations*.

We want to hear from you

WE VALUE YOUR FEEDBACK ON THE PROPOSALS AND WOULD APPRECIATE HEARING FROM YOU – WHETHER YOU AGREE WITH THEM OR NOT.

Please ensure that Environment and Climate Change Canada receives your comments no later than February 17, 2017:

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- By mail to: Director, Wildlife Management and Regulatory Affairs, Canadian Wildlife Service, Environment and Climate Change Canada, Gatineau, Quebec, Canada K1A 0H3.