

Federal Regulations - Hunting of Migratory Game Birds

The following is a synopsis of Federal Regulations that pertain to the hunting of migratory game birds. Persons requiring more information should go to <http://www.fws.gov/hunting/whatres.html>, where they will find a complete version of 50 CFR Part 20. When State law is different from the following Federal law the hunter must comply with the most restrictive law. Italics are used for emphasis in this synopsis when State law and regulations are more restrictive than Federal regulations.

What terms do I need to understand?

Migratory Birds are birds protected by federal law as a result of treaties signed with other countries. Protected migratory birds are listed in Title 50 Code of Federal Regulations, Section. 10.13. This list includes almost all birds found in the United States with the exception of the house sparrow, feral pigeon (commonly called rock dove), European starling, Eurasian collared-dove, mute swan, and upland game birds (which are protected by state laws).

All migratory birds are protected. However, a subset of migratory birds are classified as migratory game birds and may be hunted in accordance with State and Federal regulations. The list of migratory game birds includes species of ducks, geese (including brant), swans, doves and pigeons, cranes, rails, coots, gallinules and moorhens, woodcock and snipe, if there is an open season. *Note: There is no open season for swans, cranes, harlequin ducks, gallinules, and moorhens in Maryland.*

Daily bag limit means the maximum number of migratory game birds of a single species or combination (aggregate) of species permitted to be taken by one person in any one day during the open season in any one specified geographic area for which a daily bag limit is prescribed.

Aggregate daily bag limit means the maximum number of migratory game birds permitted to be taken by one person in any one day during the open season when such person hunts in more than one specified geographic area and/or for more than one species for which a combined daily bag limit is prescribed. The aggregate daily bag limit is equal to, but shall not exceed, the largest daily bag limit prescribed for any one species or for any one specified geographic area in which taking occurs.

Possession limit means the maximum number of migratory game birds of a single species or a combination of species permitted to be possessed by any one person when lawfully taken in the United States in any one specified geographic area for which a possession limit is prescribed.

Aggregate possession limit means the maximum number of migratory game birds of a single species or combination of species taken in the United States permitted to be possessed by any one person when taking and possession occurs in more than one specified geographic area for which a possession limit is prescribed. The aggregate

possession limit is equal to, but shall not exceed, the largest possession limit prescribed for any one of the species or specified geographic areas in which taking and possession occurs.

Personal abode means one's principal or ordinary home or dwelling place, as distinguished from one's temporary or transient place of abode or dwelling such as a hunting club, or any club house, cabin, tent or trailer house used as a hunting club, or any hotel, motel or rooming house used during a hunting, pleasure or business trip.

Migratory bird preservation facility means:

- (1) Any person who, at their residence or place of business and for hire or other consideration; or
- (2) Any taxidermist, cold-storage facility or locker plant which, for hire or other consideration; or
- (3) Any hunting club which, in the normal course of operations; receives, possesses, or has in custody any migratory game birds belonging to another person for purposes of picking, cleaning, freezing, processing, storage or shipment.

Normal agricultural planting, harvesting, or post-harvest 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 agricultural operation means a normal agricultural planting, harvesting, post-harvest 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 soil stabilization practice means a planting for agricultural soil erosion control or post-mining 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.

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 migratory 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.

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 migratory game birds to, on, or over any areas where hunters are attempting to take them.

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 non-agricultural, 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.

What hunting methods are illegal?

No persons shall take migratory game birds:

- With a trap, snare, net, rifle, pistol, swivel gun, shotgun larger than 10 gauge, punt gun, battery gun, machinegun, fish hook, poison, drug, explosive, or stupefying substance; *Note: Maryland law prohibits the taking of waterfowl with a crossbow.*
- With a shotgun of any description capable of holding more than three shells, unless it is plugged with a one-piece filler, incapable of removal without disassembling the gun, so its total capacity does not exceed three shells. This restriction does not apply during dates States have selected under the Conservation Order for light geese (i.e., greater and lesser snow and Ross's geese) or those selected for the control of resident Canada geese. *Note: In Maryland, hunters may use shotguns capable of holding more than three shot shells during the September Canada goose seasons and the Light Goose Conservation Order Season. For season dates and bag limits see <http://www.dnr.state.md.us/huntersguide/lwfchart.asp>.*
- From or by means, aid, or use of a sinkbox or any other type of low floating device, having a depression affording the hunter a means of concealment beneath the surface of the water;
- From or by means, aid, or use of any motor vehicle, motor-driven land conveyance, or aircraft of any kind, except that paraplegics and persons missing one or both legs may take from any stationary motor vehicle or stationary motor-driven land conveyance;
- From or by means of any motorboat or other craft having a motor attached, or any sailboat, unless the motor has been completely shut off and/or the sails furled, and its progress therefrom has ceased;
- By the use or aid of live birds as decoys; although not limited to, it shall be a violation of this paragraph for any person to take migratory waterfowl on an area where tame or captive live ducks or geese are present unless such birds are and have been for a period of 10 consecutive days prior to such taking, confined within an enclosure which substantially reduces the audibility of their calls and totally conceals such birds from the sight of wild migratory waterfowl;
- By the use or aid of recorded or electrically amplified bird calls or sounds, or recorded or electrically amplified imitations of bird calls or sounds. *Note: In Maryland, it is unlawful to hunt or attempt to hunt waterfowl while in possession of any electronic device which bird calls are conveyed or amplified.* These restrictions do not apply during dates States have selected under the

Conservation Order for Light Geese (i.e., greater and lesser snow and Ross's geese). *Hunters in Maryland may possess and use electronic calls of light geese when participating in the Light Goose Conservation Order Season. For more information on the Light Goose Conservation Order Season go to <http://www.dnr.state.md.us/huntersguide/lwfchart.asp>.*

- By means or aid of any motor driven land, water, or air conveyance, or any sailboat used for the purpose of or resulting in the concentrating, driving, rallying, or stirring up of any migratory bird;
- By the aid of baiting, or on or over any baited area. *Note: In Maryland, it is unlawful to hunt migratory game birds in areas where seed or small grains have been top sown or broadcast on top of the soil, leaving the grain available to feeding birds. Before hunting can occur over areas where seeds or small grains have been top sown or broadcast, all seed must have germinated and growth must have occurred, or the seed must be covered by soil, or completely removed by other means at least 10 days prior to hunting.*

Maryland's baiting regulation is more restrictive than federal regulations. In Maryland's migratory bird baiting regulation it is not necessary for a hunter to know that an area is baited to be in violation. A violation of this regulation is considered a 'strict liability' offense. It is incumbent upon the hunter to take all reasonable steps to ensure that the hunting area is not or has not been baited. The Maryland DNR recommends the following: (1) The hunter should familiarize themselves with normal farming practices in the area (consult with a USDA State Extension Specialist); (2) The hunter should make inquiries of the hunting guide, farmer, and/or landowner regarding the farming practices and any possible baiting on or near the hunting area; (3) The hunter should thoroughly inspect the hunting area prior to hunting. Leave the hunting site if you find grain or feed in an area and are uncertain about why it is there.

It is legal to take migratory game birds including waterfowl and coots, on or over the following lands or areas that are not otherwise baited areas:

- 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. *Note: In Maryland, it is unlawful to hunt migratory game birds in areas where seeds or small grains have been top sown or broadcast on top of the soil, leaving the seed or grain available to feeding birds. Before hunting can occur over areas where seeds or small grains have been top sown or broadcast, all seed must have germinated and growth must have occurred, or the seed must be covered by soil, or completely removed by other means at least 10 days prior to hunting.*
- From a blind or other place of concealment camouflaged with natural vegetation;

- 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
- 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.

It is **legal** to take migratory game birds, **except waterfowl and coots**, 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.

Note: In Maryland, it is unlawful to hunt migratory game birds in areas where seeds or small grains have been top sown or broadcast on top of the soil, leaving the seed or grain available to feeding birds. Before hunting can occur over areas where seeds or small grains have been top sown or broadcast, all seed must have germinated and growth must have occurred, or the seed must be covered by soil, or completely removed by other means at least 10 days prior to hunting.

Wanton waste of migratory game birds No person shall kill or cripple any migratory game bird without making a reasonable effort to retrieve the bird, and retain it in his actual custody, at the place where taken or between that place and either (a) his automobile or principal means of land transportation; or (b) his personal abode or temporary or transient place of lodging; or (c) a migratory bird preservation facility; or (d) a post office; or (e) a common carrier facility.

Non-toxic Shot No person may take ducks, geese (including brant), swans, and coots while possessing shot (either in shotshells or as loose shot for muzzleloading) other than approved non-toxic shot. *Note: In Maryland, no hunter may take rails and snipe while possessing shot (either in shotshells or as loose shot for muzzleloading) other than non-toxic shot approved for waterfowl by the U.S. Fish and Wildlife Service. Further, hunters may not use or possess non-toxic shot larger than size number T (0.20 inches in diameter), shotgun slugs, sabots, or pumpkin balls while hunting waterfowl, coots, rails, and snipe.* For a list of approved non-toxic shot, see http://www.fws.gov/migratorybirds/issues/nontoxic_shot/nontoxic.htm

Opening Day of a Season No person on the opening day of the season shall possess any freshly killed migratory game birds in excess of the daily bag limit, or aggregate daily bag limit, whichever applies.

Field Possession Limit No person shall possess, have in custody, or transport more than the daily bag limit or aggregate daily bag limit, whichever applies, of migratory game birds, tagged or not tagged, at or between the place where taken and either (a) his automobile or principal means of land transportation; or (b) his personal abode or temporary or transient place of lodging; or (c) a migratory bird preservation facility; or (d) a post office; or (e) a common carrier facility.

Tagging requirement No person shall put or leave any migratory game birds at any place (other than at his personal abode), or in the custody of another person for picking, cleaning, processing, shipping, transportation, or storage (including temporary storage), or for the purpose of having taxidermy services performed, unless such birds have a tag attached, signed by the hunter, stating his address, the total number and species of birds, and the date such birds were killed. Migratory game birds being transported in any vehicle as the personal baggage of the possessor shall not be considered as being in storage or temporary storage.

Custody of birds of another No person shall receive or have in custody any migratory game birds belonging to another person unless such birds are properly tagged.

Termination of possession Subject to all other requirements of this part, the possession of birds taken by any hunter shall be deemed to have ceased when such birds have been delivered by him to another person as a gift; or have been delivered by him to a post office, a common carrier, or a migratory bird preservation facility and consigned for transport by the Postal Service or a common carrier to some person other than the hunter.

Gift of migratory game birds No person may receive, possess, or give to another, any freshly killed migratory game birds as a gift, except at the personal abodes of the donor or donee, unless such birds have a tag attached, signed by the hunter who took the birds, stating such hunter's address, the total number and species of birds and the date such birds were taken.

Transportation of birds of another No person shall transport migratory game birds belonging to another person unless such birds are properly tagged.

Species identification requirement No person shall transport within the United States any migratory game birds, except doves and band-tailed pigeons, unless the head or one fully feathered wing remains attached to each such bird at all times while being transported from the place where taken until they have arrived at the personal abode of the possessor or a migratory bird preservation facility.

Marking package or container No person shall transport by the Postal Service or a common carrier migratory game birds unless the package or container in which such birds are transported has the name and address of the shipper and the consignee and an accurate statement of the numbers of each species of birds therein contained clearly and conspicuously marked on the outside thereof.

Migratory Bird Hunting and Conservation Stamp The law requires that each waterfowl hunter 16 years of age and older must carry on his person a Migratory Bird Hunting and Conservation Stamp (Federal Duck Stamp) that is validated by the hunter signing the stamp in ink across the face of the stamp. *Note: If you purchase your stamp online at duckstamp.com, you will receive a purchase code. If you purchase your stamp from a sport license agent, DNR online licensing, or a DNR Licensing and Registration Center, you will receive a printed receipt. Both the purchase code and the printed*

receipt will be accepted as evidence of the purchase for 45 days and must be possessed while hunting waterfowl and coots. The paper stamp will be mailed to the purchaser. The proof of purchase will expire after 45 days and the purchaser must then possess the stamp, signed in ink across the face, while hunting waterfowl and coots.

More restrictive regulations may apply to National Wildlife Refuges opened to public hunting. For additional information on refuge specific regulations see <http://www.fws.gov/refuges/>.