

Hunting Waterfowl and Doves on Agricultural Lands in Arkansas

A Summary of Migratory Bird Baiting Regulations for Landowners and Hunters

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Arkansas has a wealth of ducks and doves, thanks to public support for maintaining and improving wildlife habitat and hunters who abide by hunting rules and regulations. Setting out bait for waterfowl or doves, or even hunting over a baited agricultural field, is not only unsportsmanlike and unethical, it is illegal. Determining what is “baiting” can be a problem if hunters and landowners do not understand federal regulations about baiting migratory game birds. Waterfowl and doves are treated differently under these regulations.

The Regulations

Hunting migratory game birds, which includes doves, ducks, geese, coots and cranes, in baited areas is illegal. The U.S. Fish and Wildlife Service and the Arkansas Game and Fish Commission are the agencies empowered to enforce regulations about baiting migratory birds. Baiting migratory game birds either by placing bait or directing the placement of bait is a criminal offense with fines up to \$100,000 for an individual or \$200,000 for an organization and up to a one-year prison term. Hunting over a baited area can result in a fine up to \$15,000 and imprisonment for six months.

Both hunters and landowners are responsible for understanding regulations about baiting. A **baited area** is where “salt, grain or other feed has been placed, exposed, deposited, distributed or scattered” in such a way as to lure or attract waterfowl or doves where hunters are attempting to take them. This includes luring birds “to, on or over areas” where

hunting occurs. Current regulations make it unlawful to take or hunt any migratory game bird by the aid of baiting if the person “knows” or “reasonably should know” an area is baited. Even after the bait has been removed, a hunter could be convicted if it is proven that he or she knew or reasonably should have known the area was baited within 10 days prior to the hunt. Landowners who established the baited area for hunters can be prosecuted as well.

The presence of any grain or feed, particularly grain or feed that is scattered or piled, should alert a hunter or landowner that the area may be baited.

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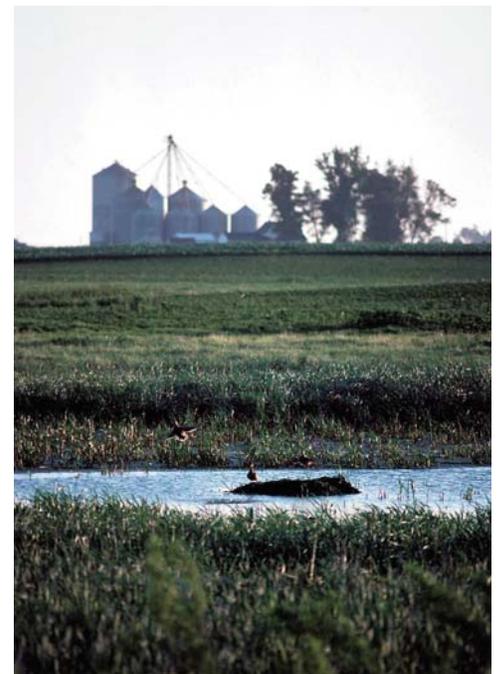


Figure 1. Agricultural lands provide habitat for waterfowl and doves. Photo by Tim McCabe, Natural Resources Conservation Service.

Discarded grains, such as corn affected by aflatoxin or other plant diseases, should be buried or spread and incorporated into the soil. Hunters cannot hunt migratory game birds over discarded grain from storage bins or livestock feeders where grain is piled. Such baits must be removed from the hunting area at least 10 days prior to the hunt. Even after bait removal, an area is considered baited for up to 10 days because waterfowl and doves may continue to return after the bait has been removed.

Agricultural and Soil Conservation Practices

Some agricultural practices attract wildlife although the producer may not have intended to attract waterfowl or doves for hunting. Practices conducted in a **normal agricultural operation** include planting, harvesting and post-harvest manipulation for the purpose of producing and gathering a crop or preparing for next season's crop. Manipulation means the alteration of natural vegetation or agricultural crops and residue by activities that include mowing, shredding, discing, rolling, chopping, trampling, flattening, burning or herbicide treatments.

Hunters are allowed to hunt waterfowl and doves in harvested fields if part of a normal agricultural harvest. This includes rice field crop residue that has been flooded, rolled or mowed. What if a field hasn't been harvested? The rules for waterfowl are more strict than for doves. It is legal to hunt ducks and geese if the unharvested cropland has not been mowed, rolled or otherwise manipulated. Dove hunting regulations are more liberal. Dove hunting is considered legal when unharvested fields have been mowed, rolled or manipulated. Doves can also be hunted over pasturelands that are planted to improve grazing conditions for livestock.

Other farm management activities, such as soil stabilization practices, may attract waterfowl or doves to an area. A **normal soil stabilization practice** means planting for controlling soil erosion for agricultural purposes or post-mining land reclamation. Hunters may legally hunt over areas that are planted as part of a normal soil stabilization practice for agricultural purposes. Factors determining whether a soil stabilization practice is "normal" are slope, aspect and other existing conditions at the site. Use of native plant species is encouraged for stabilizing creek sides and road construction. An added benefit is that hunting over natural vegetation is not considered baiting.

Many normal agricultural operations and soil stabilization practices are not considered baiting. However, any additional effort made to attract waterfowl or doves could be a problem. This includes overseeding a field, piling or shoveling grain in a plowed field or other actions that are unreasonable or economically unsound as a farming practice.



Figure 2. Unlike the past, baiting and harvesting large numbers of waterfowl is illegal. Photo courtesy of the U.S. Fish and Wildlife Service.

What Is a "Normal Agricultural Operation"?

Federal regulations identify state Cooperative Extension Service specialists as experts for determining what constitutes a normal agricultural operation or soil stabilization practice. Whether an agricultural operation is considered "normal" is a very difficult and complex assessment based on many variables, such as type of grain, seeding or planting date, seeding rate, method of planting or harvest, single or multiple applications, pre- and post-harvest manipulations, seasonal weather conditions and geographic location, to name a few. It may also involve an economic analysis of the cost of harvest versus market prices for the crop to determine whether a particular agricultural operation would be profitable.

University of Arkansas Cooperative Extension Service specialists have provided recommendations (Table 1) to the Arkansas Game and Fish Commission and the U.S. Fish and Wildlife Service for distinguishing a normal agricultural operation from baiting migratory game birds. These recommendations will help hunters, farmers, landowners, natural resource professionals and the general public distinguish a normal agricultural planting from baiting for several common commodity crops. The U.S. Fish and Wildlife Service makes the final determinations about whether recommendations were followed.

These recommendations (Table 1) are intended to provide a general understanding of what constitutes a normal agricultural operation in a typical year. A wide margin has been built into these guidelines for differences which may occur in any given year or geographic

location in Arkansas; however, even these margins may not reflect accurately a normal agricultural operation in extreme or uncommon situations. Any planting date or seeding rate that falls outside these parameters could be considered baiting, unless particular conditions or circumstances indicate otherwise.

Farmers who practice sustainable agriculture may plant **wildlife food plots** as part of their integrated management system. Hunting leases for deer, turkey, quail and other wildlife can provide supplemental income for farmers. Confusion arises when food plots planted for a particular wildlife species also attract doves or waterfowl. The legality of hunting doves over top-sown, freshly-planted food plots (i.e., unsprouted or ungerminated seeds planted on top of the ground) is debatable and could be construed as baiting. To avoid any questions, planting of wildlife food plots should occur early enough to allow time for the seeds to germinate at least 10 days before dove or waterfowl season. The recommendations for distinguishing

baiting from a normal agricultural operation (Table 1) apply to planting wildlife food plots. Wildlife food plots may be planted at other times or have heavier seeding rates applied, but it is advisable that hunters do not hunt doves in these areas, since these areas could be considered baited.

Agricultural and Hunting Practices for Doves

What options do landowners have for developing good habitat for a dove hunt? Natural vegetation and crops, such as millet, sunflower, corn and other grains, can be grown and manipulated to improve dove hunting. After the grain is ripe and just before the hunt, standing crops can be mowed, dragged down, disced or burned to attract doves. The manipulation of crops or natural feeds is an effective technique to improve dove hunting. Manipulation provides a good chance for attracting many doves during the

Table 1: Recommendations for Identifying Planting Dates and Seeding Rates as Part of a Normal Agricultural Operation

	Earliest Planting Date	Latest Planting Date	Total Maximum Seeding Rate Per Season
Barley	August 15	April 1	288 lbs/ac 86 seed/sq ft
Corn	February 15	July 1	25 lbs/ac 1 seed/sq ft
Millet ^a Browntop Japanese Pearl Proso	April 1	August 31	40 lbs/ac 132 seed/sq ft 142 seed/sq ft 78 seed/sq ft 74 seed/sq ft
Oats	August 15	April 15	256 lbs/ac 82 seed/sq ft
Rice	March 1	July 1	180 lbs/ac 82 seed/sq ft
Rye (small grain)	August 15	April 1	224 lbs/ac 92 seed/sq ft
Sorghum (grain)	March 1	July 1	15 lbs/ac 5 seed/sq ft
Sorghum (sudan)	April 1	August 15	60 lbs/ac 8 seed/sq ft
Soybeans (grain)	March 15	August 1	120 lbs/ac 9 seed/sq ft
Sunflower	March 1	July 15	15 lbs/ac 3 seed/sq ft
Triticale (wheat x rye)	August 15	April 1	240 lbs/ac 60 seed/sq ft
Wheat ^b	August 15	April 1	240 lbs/ac 80 seed/sq ft
Winter annual forage legumes	August 15	April 1	60 lbs/ac 29 seed/sq ft

^aUnmanipulated, second-year growth reclassifies millet as natural vegetation.

^bRecommendations are that wheat can be replanted once within two weeks of its initial planting if germination does not occur. A maximum of 80 seeds/square foot **total** is allowable to be considered a normal agricultural practice.

hunting season. Also, many other species of wildlife may benefit from food that is scattered because of a normal agricultural planting or harvest. However, it is illegal to deliberately scatter grain on a field after a crop has been harvested. The grain grown in the field may not be redistributed onto the field after it has been collected, harvested or gathered. Grain found in piles or in other large concentrations is not a normal agricultural planting, thus hunting over piles of grain is considered baiting.

Specifically, it is legal to hunt doves:

- where unharvested crops have been manipulated, including a crop or portion of a crop that has not been harvested due to equipment failure, weather, insect infestation, disease or any reason;
- where seeds or grains have been scattered (not piled) as a result of a normal agricultural operation or agricultural soil stabilization practice, including top-sown or aerial seeding;
- where grain grown on the land is scattered solely as the result of the manipulation (e.g., mowing, flattening, discing) of an agricultural crop;
- over standing crops;
- over standing or manipulated natural vegetation;
- over “hogged down” fields where livestock have fed on standing crops;
- over feedlots;
- from a blind camouflaged with natural vegetation;
- from a blind camouflaged with vegetation from agricultural crops, provided that grains or other feed from the crops are not exposed or scattered, thus creating a baited area.



Figure 3. Dove hunting marks the beginning of the fall season for many hunters. Photo courtesy of the Missouri Department of Conservation.

Agricultural and Hunting Practices for Waterfowl

Regulations governing baiting are more restrictive for waterfowl than for doves. Hunting ducks and geese is permitted in areas where there has been a normal agricultural planting, harvesting or post-harvest manipulation or soil stabilization practice. However, unlike doves, waterfowl hunting is not permitted when unharvested crops are manipulated (e.g., mowed or rolled) to attract waterfowl, especially if such practices occur near a duck blind. Producers may sometimes leave portions of a field unharvested because the grain is of poor quality, diseased or

otherwise uneconomical to harvest. It is legal to hunt over these unharvested portions of the field if no manipulation has occurred. Flooding of unharvested agricultural crops is legal as long as the crop has not been manipulated. Hunters should avoid hunting in any field where a portion of the crop is unharvested and the stalks knocked down to attract waterfowl.

Specifically, it is legal to hunt waterfowl:

- over standing crops or flooded standing crops, including aquatic plants;
- over standing, flooded or manipulated natural vegetation;
- in flooded fields after crops are harvested;
- where grains or top-sown seeds have been scattered solely as the result of a normal agricultural harvest or post-harvest manipulation;
- from a blind camouflaged with natural vegetation;
- from a blind camouflaged with vegetation from agricultural crops, provided that grains or other feed from the crops are not exposed or scattered, thus creating a baited area;
- where grain from standing or flooded standing agricultural crops is inadvertently scattered by hunters entering or leaving an area, placing decoys or retrieving downed birds.

It is illegal to hunt waterfowl:

- where unharvested crops have been manipulated, including a crop or portion of a crop that has not been harvested due to equipment failure, weather, insect infestation, disease or any reason;
- anywhere seed or grain is present, unless the seed or grain was scattered solely for the purpose of planting or harvest to produce and gather a crop, or normally would have remained after manipulating and removing a harvested crop;
- over harvested grains arranged in rows or piles;
- where grain is fed to livestock;
- where seeds remain on the surface of ground from planting for erosion control on a construction site.

Using Natural Vegetation to Attract Migratory Game Birds

To avoid problems with interpreting regulations about baiting, landowners and hunters can attract migratory game birds using natural vegetation. Natural vegetation that is manipulated for improving hunting conditions is not considered baiting. Federal

regulations specifically allow mowing, shredding, discing, rolling, chopping, trampling, flattening, burning and herbicide treatments of natural vegetation in a hunting area. However, landowners and hunters need to be certain that the vegetation being manipulated is classified as “natural.” **Natural vegetation** means any nonagricultural, native or naturalized plant species. Landowners who want to manage their land for waterfowl are encouraged to plant native or natural vegetation. The following are some examples of what is considered natural vegetation for doves and waterfowl in Arkansas:

Mourning doves	Waterfowl
American sweetgum	Annual sedge
Barnyardgrass	Aster
Euphorbia (spurges)	Barnyardgrass
Panicum grasses	Beggarticks
Croton	Chufa (yellow nutgrass)
Paspalum (dallisgrass)	Crabgrass
Poppy	Curltop ladythumb
Canarygrass	(ladythumb smartweed)
Carolina geranium	Dock
Chickweed starwort	Fall panicum
Common pokeberry	Foxtail
Common ragweed	Morningglory
Common sunflower	Panic grass
Bristlegrass	Pennsylvania smartweed
Loblolly pine	Redroot flatsedge
Prairie sunflower	(red-rooted sedge)
Amaranth (redroot amaranth, pigweed)	Rice cutgrass
Reed canarygrass	Spikerush
Shortleaf pine	Sprangletop
Sorgo	Swamp timothy
Switchgrass	Sweetclover
Turkey-mullein	Water pepper
White pricklypoppy	Water smartweed

Note that this list contains conservation plantings that occur naturally in Arkansas and that some can be seeded to attract wildlife. An exception is “planted” millet, which is not classified as natural vegetation and, therefore, cannot be mowed or otherwise manipulated for attracting waterfowl. However, planted millet that regrows in subsequent years without human intervention is considered natural vegetation. Hybridized species of rice and other commodity crops are not considered natural vegetation.

Responsibility of the Hunter

It is the responsibility of the hunter to determine whether or not a field is baited. Being unaware of the baited area is a difficult defense. There is a regulation that provides some legal relief for hunters who have

no possible way of knowing an area is baited. The strict liability interpretation of the former regulation has been removed. The regulatory agency must prove that the hunter knows or reasonably should know that the area was baited. However, it is still a violation of the law to hunt over a baited area. What can a hunter do to fulfill this responsibility?

- (1) A hunter should inspect the area before bringing a gun to the field. Always look for grain or other feed on a field. Determine if the grain on the field is there because of a normal agricultural planting or harvest. Check for signs of baiting; for example, the presence of grain that was not grown on the field or grain that is not evenly distributed on the field.
- (2) A hunter should inspect the field carefully if there is an unusually heavy concentration of doves or waterfowl in a field. When dove hunting on a freshly plowed field, a hunter should look closely on the surface and under the soil for grain. If grain or feed is found and you are uncertain of the reason, leave the area.
- (3) A hunter should ask if the field is legal. Ask if any grain or feed has been on the area the previous 10 days.

Questions?

If you have questions about regulations regarding baiting in Arkansas, contact these agencies:

Arkansas Game and Fish Commission
 #2 Natural Resources Drive
 Little Rock, AR 72205-1572
 501-223-6300

U.S. Fish and Wildlife Service
 1500 Museum Road, Suite 105
 Conway, AR 72032-4761
 501-513-4474

U.S. Fish and Wildlife Service
 700 West Capital Avenue, Suite 3020
 Little Rock, AR 72201-3238
 501-324-5643

University of Arkansas
 Cooperative Extension Service
 2301 South University Avenue
 Little Rock, AR 72204-4940
 501-671-2000

Visit the U.S. Fish and Wildlife Service’s web site to view current regulations for hunting doves (<http://www.fws.gov/le/huntfish/dovebaiting.htm>) and waterfowl (http://www.fws.gov/le/huntfish/waterfowl_baiting.htm).

Programs Supporting Wetland Habitat Management in Arkansas

Many agencies and organizations offer technical and financial support to landowners who implement wildlife management practices. Following is a brief description of these programs and contact information.

Arkansas Partners Project – a cooperative effort among several agencies which offers free technical assistance, water control structures and reforestation equipment/cost-sharing to private landowners for restoring and enhancing selected wetlands and agricultural fields for waterfowl during winter. **Contacts:** Arkansas Game and Fish Commission (501-223-6300), Ducks Unlimited, Inc. (501-955-9264), Natural Resources Conservation Service (501-301-3124), U.S. Fish and Wildlife Service (870-255-3812).

Conservation Reserve Program and Continuous Conservation Reserve Program – large-scale land retirement programs in which farmers are paid a rental fee per acre for conserving and enhancing soil, water, wetlands and wildlife habitat. Requires farmers cease production of agricultural commodities on enrolled land and establish grasses, trees or shallow water. Can receive up to 90 percent cost-share for wildlife habitat improvement. **Contact:** Farm Service Agency (501-324-5456). (Ask for FSA handbook 2-CRP.)

Conservation Stewardship Program – provides payments to producers who historically practiced good stewardship on their lands and incentives for those who want to do more. Payments for initial treatment, management and maintenance of conservation practices. **Contact:** Natural Resources Conservation Service (501-301-3124).

Environmental Quality Incentives Program – provides educational, technical and financial assistance to farmers for implementing conservation practices on priority lands, which include wetlands and waterfowl habitat. Only farmers currently engaged in agricultural

production are eligible. **Contacts:** Natural Resources Conservation Service (501-301-3124) or Farm Service Agency (501-324-5456).

Farm Loan Program Conservation – taxpayer-subsidized lender for farmers who cannot get credit in the private sector. “Debt-for-nature” swap allows borrowers to enter a conservation contract in exchange for reducing the loan. **Contact:** Farm Service Agency (501-324-5456).

Mississippi River Trust – charitable 501(c)(3) organization which works with private, willing landowners to find ways to preserve the Mississippi River watershed, primarily through conservation easements. **Contact:** Mississippi River Trust (662-686-3508, www.mississippirivertrust.org).

Multi-Agency Wetland Planning Team – focuses limited agency resources on state wetland conservation planning. Conducts planning, develops conservation strategies and implements voluntary incentive-based wetland conservation initiatives. **Contact:** MAWPT (501-223-6356, www.mawpt.org).

Private Lands Assistance – private lands biologists assist landowners with developing wildlife management plans and habitat enhancements; provide information including application process for federal and state incentive programs, such as Wetlands Reserve Program, Conservation Reserve Program, Continuous Conservation Reserve Program, Environmental Quality Incentive Program, Arkansas Partners Project and Riparian and Wetland Restoration Tax Credit. **Contact:** Arkansas Game and Fish Commission (501-223-6300) and ask for the private lands biologist nearest your county.

Riparian and Wetland Restoration Tax Credit – landowners receive state tax credit (maximum \$5,000 per year for 10 years) for restoring existing or creating new wetlands or riparian zones maintained for a minimum of ten years. Applications must be reviewed and approved before tax credit is issued. **Contact:** Arkansas Natural Resources Commission (501-682-1608).

Stream Teams – provide technical and financial support (cost-share) for reducing erosion and improving wildlife and fish habitat on private property. **Contact:** 1-800-364-4263, www.agfc.com.

University of Arkansas Division of Agriculture, Cooperative Extension Service – county-based assistance with soil samples, plantings, herbicides, wildlife and forest management. **Contact:** 501-671-2000, www.uaex.uada.edu.

Wetlands Reserve Program – land-retirement program for former or degraded wetlands that are restorable. Offers three options: permanent easements, 30-year easements and restoration cost-share easements (10 years minimum, cost-share up to 75 percent). Landowner retains control of access to land and hunting/fishing rights. **Contacts:** Natural Resources Conservation Service (501-301-3124) or Farm Service Agency (501-324-5456).

Wildlife Habitat Incentives Program – land management program that helps landowners plan and pay for wildlife habitat improvements. Provides technical and cost-share assistance for lands not currently enrolled in other federal conservation programs. **Contacts:** Natural Resources Conservation Service (501-301-3124) or Farm Service Agency (501-324-5456).

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