

ONTARIO FEDERATION OF ANGLERS & HUNTERS



Ontario Conservation Centre

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Ms. Caroline Ladanowski
Director, Wildlife Management and Regulatory Affairs Division
Canadian Wildlife Service
Environment and Climate Change Canada
Gatineau, Quebec
K1A 0H3

Dear Ms. Ladanowski:

RE: Canada Gazette, Part I, Volume 153, Number 22: Migratory Birds Regulations

The Ontario Federation of Anglers and Hunters (OFAH) is Ontario's largest non-profit, conservation-based organization representing 100,000 members, subscribers, and supporters, and 740 member clubs. We have reviewed the proposal to update the Migratory Bird Regulations (MBR) to modernize the language, facilitate enforcement, increase clarity and flexibility for migratory bird hunters, and explicitly recognize Aboriginal and treaty rights to harvest migratory game birds. Please accept the following comments for consideration.

The OFAH is pleased to see that Environment and Climate Change Canada has chosen not to move forward with the elimination of baiting authorizations or prohibiting the intentional flooding of crop fields. Since it appears there is no evidence of a conservation concern with the current baiting regulations, we believe there is no need to make unnecessary changes.

Part 1 – General

The OFAH is supportive of the clarifications and additions proposed in Part 1. Clarifying which activities are prohibited without a permit and what nests are protected will reduce confusion and increase enforceability. The addition of exceptions to possessing dead, injured, and/or live migratory birds is a positive change that will benefit individual migratory birds, particularly injured birds that are candidates for successful rehabilitation. While the transportation of an injured migratory bird to a wildlife rehabilitation centre was likely not considered by most people to be a contravention of the MBR, the clarification and exceptions will prevent any chance of charges being laid against someone trying to save a migratory bird.

The OFAH supports the inclusion of Constitution Act Section 35 in the MBR as it aligns the regulations with other pieces of legislation that govern hunting.

Part 2 – Hunting migratory game birds

Many of the proposals in this section of changes were also proposed in the 2014 proposals to modernize Canada's MBR. We are hoping the items that are being re-proposed will be adopted into regulations, with our past and present comments considered, under the current consultation.

Stating a purpose for the migratory game bird hunting permit

The OFAH supports stating the purpose of the migratory game bird permit as a permit that allows hunters to possess hunted birds for the purpose of consumption. This should help reduce confusion from the public about who needs to possess a permit.

Extend expiration date of the migratory game bird hunting permit

The OFAH supports extending the expiration date of the migratory game bird permit from March 10 to June 30 to encompass the season for overabundant species. This should have been amended as soon as a spring season was created in order to prevent hunters participating in this season from being in contravention of the MBR. However, we trust that common sense and enforcement officer discretion prevented anyone from being charged.

Hunting for minors (under 18 years of age)

The proposal to enable youth hunters to obtain their own permit and stamp free of charge will hopefully lead to more youth getting involved in waterfowl hunting as they will be able to hunt throughout the entire season without a permit (and fee). This will provide first-hand experience with waterfowl hunting and allow them to join an established group of hunters from an early age. However, we suggest leaving the Waterfowler Heritage Days intact as a weekend prior to the season to allow for the continuation of many existing organized youth hunts that occur on those days. Removing the cost of the permit and stamp would remove a potential barrier for youth participation and hopefully foster an interest in waterfowl hunting for the long term, but another option would be to require them to purchase only the habitat conservation stamp (i.e. only the hunting permit would be free of charge). This would maintain/increase revenue for the valuable waterfowl conservation efforts conducted by Wildlife Habitat Canada and instill conservation values in youth hunters from the beginning of their hunting lives. The low cost of the stamp likely won't pose a significant barrier while still ensuring that conservation values are maintained.

We are concerned that this proposed option would only be available online. We see no reason to force youth hunters to purchase their permits online when other options are available to other hunters. This would create an unfair barrier to youth who do not have access to computers.

Furthermore, we question the requirement for the mentor to have purchased a permit the year prior? This would exclude families who are trying to get into waterfowl hunting together and individuals who want to get back into waterfowl hunting to participate with a youth. We recommend removing these restrictions from the proposed regulation changes.

We also question why Ontario mentors can only accompany one minor where everywhere else in Canada a mentor can accompany two minors. It seems like an unnecessary restriction for residents of Ontario, which we cannot support at this time. Without legitimate justification for treating Ontario differently, we recommend allowing Ontario mentors to accompany two minors.

Crossbows and bow specifications

The OFAH supports the proposal to add crossbows to the legal means to take waterfowl and the addition of specific requirements for draw weight and arrowheads. However, we suggest not limiting the allowable arrowheads to those with at least two sharp blades that are a minimum of 22mm wide. Those arrowheads are appropriate for hunting geese, but there are other small game points (e.g. wire loops and judo points) that could be more effective for harvesting smaller ducks.

Clarification and updated definition on firearms and non-toxic shot

Clarification on the prohibitions around firearms reduces the risk of confusion from hunters and the public. Expanding the definition of non-toxic shot to include all shot that is composed of maximum percentages of metals, as opposed to specific compositions, will give manufacturers more freedom in developing new non-toxic shot combinations. Hopefully this will improve selection and availability of non-toxic shot for hunters over time.

Use of vehicles while hunting

The OFAH is supportive of additional clarity about drones and prohibiting their use for the purposes of hunting migratory birds. This will keep migratory bird hunting in line with other types of hunting. Also, the proposal to clearly outline when it is legal to hunt from a motor boat will help dispel confusion and misconceptions about waterfowl hunting.

In October 2013, we were informed by Wildlife Enforcement Division that “a person may have a loaded firearm in a power boat, and discharge it from the power boat, while the motor is running and the boat is in motion, to dispatch wounded birds.” Please confirm that this ability remains legal under the proposed revisions.

Changes to bag and possession limit requirements

There are a number of changes in the proposal that impact how birds are counted towards bag and possession limits. The OFAH supports the concept of preservation being excluded from a hunter's possession limit and appreciates the additional clarity about what constitutes preservation; however, we have concerns about "freezing" counting towards preserved birds. We are concerned that allowing for frozen eviscerated birds to no longer count towards possession limits would effectively remove the possession limit as hunters could, and likely do, clean and freeze their birds at the end of each day.

We question the requirement for the processing to occur in a residence or non-mobile facility and are not sure why it would make a difference to process and freeze migratory game bird meat in a house versus a travel trailer. If the full processing of a bird removes it from the possession limit then it should not matter where it is fully processed. Processing the birds would not alter the daily bag limit; therefore, there should be no need to restrict processing location.

The proposed changes would put the onus on the hunter to ensure that their birds are labeled with their information before they are sent to a third party for processing or taxidermy purposes. It would also allow for single labels on a package containing multiple birds. The OFAH is supportive of this as it would simplify the process of proving legal ownership while maintaining enforceability. Switching the term from "tagging" the birds with hunter information to "labelling" removes any confusion about requiring a tag for waterfowl hunting purposes.

Including found injured or dead birds (if suitable for human consumption) to a hunter's daily possession limit would improve enforceability, as it would be exceptionally difficult to prove what birds were found and which weren't. However, this may lead to fewer hunters picking up dead birds that they find, as they may be unsure about quality and not want to impact their daily limit.

Retaining fully feathered wing or head

We fully support the recommendation to allow hunters to choose to retain either a fully feathered head attached to the carcass or a fully feathered wing, instead of requiring the wing. Many hunters have requested this option and it is permitted in the US with no reported issues.

Retrieval requirements

The OFAH is supportive of clarifying retrieval requirements to more accurately reflect the reality of migratory bird hunting. Changing the requirement from immediate retrieval to retrieval as soon as the circumstances permit allows for the understanding that multiple birds can be downed from the same flock by multiple hunters. Under the current definition of "immediate retrieval" it would be unrealistic and/or dangerous to retrieve a downed bird immediately as other hunters may still be shooting. This change, along with the addition of wording to solidify the illegality of abandoning or spoiling migratory game birds, is a logical and pragmatic way to regulate the retrieval of birds.

Training retriever dogs

The OFAH supports the extension of the 200-bird possession for dog training purposes to individuals who register with the Minister. This will make it easier for people to train their retrievers, increasing the efficiency of retrieving downed birds. We also support the inclusion of migratory birds killed under a damage or danger permit to be able to be used for dog training purposes.

Hunting under the authority of an MGBH permit while hunting with an individual exercising Section 35 rights

Under the proposed changes, if a MGBH permit holder hunts with a person exercising their Section 35 rights to harvest migratory birds, all birds would be counted towards the permit holder's daily bag limit regardless of which individual actually harvested them. This would unnecessarily limit individuals hunting under their Section 35 rights and potentially result in charges for the permit holder. Under the proposed changes, even if both hunters harvested their daily bag limit, the non-Indigenous hunter could be charged for exceeding their daily bag limit, because they would be deemed to have harvested all of the birds. This effectively eliminates the opportunity for Indigenous and non-Indigenous hunters to hunt together. Have there been instances of people overharvesting simply because they were hunting with an Indigenous individual? What constitutes hunting together for the purpose of this regulation? There is far too much ambiguity associated with this proposed regulation to be fair or enforceable.

Prohibit the abandonment of harvested migratory game birds

The OFAH is supportive of the proposal to make it illegal to abandon or spoil harvested migratory game birds (with exemptions for taxidermy or training retriever dogs). This would make migratory game birds consistent with other harvested game species in the country.

Hunting in multiple areas – daily bag and possession

If a hunter hunts in more than one area in a single day, their limit for the species hunted that day would be the one that is the highest for those areas (i.e. not a total of the two or more daily bag limits). While the general intent of the proposal for hunting in multiple areas will be beneficial and easier for hunters, we question how this would be enforced in the field. If a hunter hunts in two waterfowl districts, harvests the daily bag limit for the higher area but gets checked by a Conservation Officer in the lower limit area, how does the Officer know that the hunter is not simply over their limit?

Temporary custody

The OFAH agrees with allowing individuals to take temporary custody of birds that are not theirs for the purpose of transporting or holding. This is especially reasonable considering the proposed labeling requirements that clearly identify the hunter who the birds belong to. This would allow for one individual to hold several people's birds for them while not worrying about being over their possession limit.

Gift of harvested migratory game birds

The OFAH is supportive of the proposed wording change for the gifting of migratory game birds. Once the birds have been accepted by another individual, they would no longer count towards the hunter's possession limit. This will likely encourage more hunters to gift birds. We suggest including clarification about the location and/or timing of the gifting of birds to differentiate it from party hunting. The inclusion of wording that prevents the "gifting" of migratory birds in the field during a hunt would prevent any confusion with party hunting.

Part 3 – Overabundance, damage, and danger

Proposed hunting provisions apply when harvesting overabundant species

The OFAH is supportive of aligning the regulations for harvesting migratory game birds with the harvesting of overabundant species under the authorization of a MGBH permit. This prevents any unnecessary confusion regarding what regulations apply under each circumstance.

Allowing gifting of birds killed under the authority of a damage or danger permit to kill

Allowing the gifting of birds killed under a damage or danger permit as long as there is an open season for that bird in Canada is a good way to reduce wastage. The OFAH is supportive of this proposal, because it will encourage the use of birds that might otherwise have not been used.

Change in the definition of decoy

The OFAH is supportive of the updated definition of decoy (insofar as it pertains to damage and danger permits) to include any device that imitates a migratory bird and that may attract them. Using decoys while taking birds under a damage and danger permit is contrary to the purpose of the permit and is therefore illegal. Ensuring the definition adequately covers any type of decoy increases the ability to enforce this regulation.

Part 4 – Other permits

Scientific permit

If the current policy is to allow rehabilitation facilities to acquire a scientific permit to allow them to possess migratory birds, then the regulations should reflect this policy. Additionally, we are supportive of the removal of some of the requirements to receive a scientific permit, specifically the need to have "statements from at least two qualified ornithologists." This requirement was fairly arbitrary as there is no formal process to determine who would be considered as a qualified ornithologist.

Charity permit

The OFAH supports the creation of a charity permit to allow for the donation of migratory game birds to food banks and fundraising dinners. There are many conservation organizations that use fundraising dinners as a way to increase funding for migratory birds, and being able to serve migratory game birds would be beneficial. However, many of these organizations already have wild game dinners in place and adding a requirement to have the funds raised go to migratory bird conservation might pose complications. If other game is being served, does 100% of the funds raised have to go to migratory birds, or just a portion? Is there a policy framework for how the fundraising profits would have to be used to protect or conserve migratory birds? This is a broad definition that could take many forms, and having a better understanding of what would qualify would be helpful for the implementation of these permits.

Conclusions

Considering this is the second time that many of these proposals have been put forward for public comment, we are hoping that they are now adopted into regulations. The majority of the proposed changes are welcomed and will benefit migratory game birds and hunters; however, there are a few details that need to be addressed to make them more clear, enforceable, and realistic. The OFAH appreciates the opportunity to comment and hopes to see these changes implemented.

Yours in Conservation,



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LT/jb

cc: OFAH Board of Directors
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