

§ 19.12 Exceptions to general prohibitions.

The prohibitions of the preceding section shall not apply to any person who:

(1) Is acting within the scope of his official duties as an employee or authorized agent of a State or the United States to administer or protect or aid in the administration or protection of land, water, wildlife, livestock, domesticated animals, human life or crops; or

(2) Is acting within the limitations of a permit referred to in § 19.21 or § 19.31 of this part.

Subpart C—Federal Permits**§ 19.21 Limitation on Federal permits.**

No Federal permits will be issued to authorize any person to hunt, shoot, or harass any wildlife from an aircraft, except for Federal permits to scare or herd migratory birds referred to in § 21.41 of this subchapter.

Subpart D—State Permits and Annual Report Requirements**§ 19.31 State permits.**

(a) Except as provided in § 19.3, States may issue permits to persons to engage in airborne hunting or harassing of wildlife for purposes of administering or protecting land, water, wildlife, livestock, domestic animals, human life or crops. States may not issue permits for the purpose of sport hunting.

(b) Upon issuance of a permit by a State to a person pursuant to this section, the issuing authority will provide immediate notification to the Special Agent in Charge having jurisdiction according to § 10.22.

§ 19.32 Annual reporting requirements.

(a) Any State issuing permits to persons to engage in airborne hunting or harassing of wildlife or any State whose employees or agents participate in airborne hunting or harassing of wildlife for purposes of administering or protecting land, water, wildlife, livestock, domestic animals, human life or crops, shall file with the Director, an annual report on or before July 1 for the preceding calendar year ending December 31.

(b) The annual report required by this section shall contain the following information as to each such permit issued:

(1) The name and address of each person to whom a permit was issued.

(2) Permit number and inclusive dates during which permit was valid.

(3) The aircraft number of the aircraft used and the location where such aircraft was based.

(4) Common name and number of the wildlife for which authorization to take was given and a description of the area from which the wildlife were authorized to be taken.

(5) The purpose for which the permit was issued, specifically identifying whether the permit was issued to protect land, water, wildlife, livestock, domestic animals, crops, or human life.

(6) The common name and number of wildlife taken by permittees and State employees or agents.

(c) A compilation of all annual reports required by this section shall be made by the Director and furnished to any State filing such annual report.

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AUTHORITY: 16 U.S.C. 703–712; and 16 U.S.C. 742 a–j.

SOURCE: 38 FR 22021, Aug. 15, 1973, unless otherwise noted.

Subpart A—Introduction

§ 20.1 Scope of regulations.

(a) *In general.* The regulations contained in this part relate only to the hunting of migratory game birds, and crows.

(b) *Procedural and substantive requirements.* Migratory game birds may be taken, possessed, transported, shipped, exported, or imported only in accordance with the restrictions, conditions, and requirements contained in this part. Crows may be taken, possessed, transported, exported, or imported only in accordance with subpart H of this part and the restrictions, conditions, and requirements prescribed in § 20.133.

§ 20.2 Relation to other provisions.

(a) *Migratory bird permits.* The provisions of this part shall not be construed to alter the terms of any permit or other authorization issued pursuant to part 21 of this subchapter.

(b) *Migratory bird hunting stamps.* The provisions of this part are in addition to the provisions of the Migratory Bird Hunting Stamp Act of 1934 (48 Stat. 451, as amended; 16 U.S.C. 718a).

(c) *National wildlife refuges.* The provisions of this part are in addition to, and are not in lieu of, any other provision of law respecting migratory game birds under the National Wildlife Refuge System Administration Act of 1966 (80 Stat. 927, as amended; 16 U.S.C. 668dd) or any regulation made pursuant thereto.

(d) *State Laws for the protection of migratory birds.* No statute or regulation of any State shall be construed to relieve a person from the restrictions, conditions, and requirements contained in this part, however, nothing in this part shall be construed to prevent the several States from making and enforcing laws or regulations not inconsistent with these regulations and the conventions between the United States and any foreign country for the protection of migratory birds or with the Migratory Bird Treaty Act, or which shall give further protection to migratory game birds.

Subpart B—Definitions**§ 20.11 Meaning of terms.**

For the purpose of this part, the following terms shall be construed, respectively, to mean and to include:

(a) *Migratory game birds* means those migratory birds included in the terms of conventions between the United States and any foreign country for the protection of migratory birds, for which open seasons are prescribed in this part and belong to the following families:

- (1) Anatidae (ducks, geese [including brant] and swans);
- (2) Columbidae (doves and pigeons);
- (3) Gruidae (cranes);
- (4) Rallidae (rails, coots and gallinules); and

(5) Scolopacidae (woodcock and snipe).

A list of migratory birds protected by the international conventions and the Migratory Bird Treaty Act appears in § 10.13 of this subchapter.

(b) *Seasons*—(1) *Open season* means the days on which migratory game birds may lawfully be taken. Each period prescribed as an open season shall be construed to include the first and last days thereof.

(2) *Closed season* means the days on which migratory game birds shall not be taken.

(c) *Bag limits*—(1) *Aggregate bag limit* means a condition of taking in which two or more usually similar species may be bagged (reduced to possession) by the hunter in predetermined or unpredetermined quantities to satisfy a maximum take limit.

(2) *Daily bag limit* means the maximum number of migratory game birds of 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.

(3) *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.

(4) *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.

(5) *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.

(d) *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.

(e) *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.

(f) *Paraplegic* means an individual afflicted with paralysis of the lower half of the body with involvement of both legs, usually due to disease of or injury to the spinal cord.

[53 FR 24290, June 28, 1988]

Subpart C—Taking

§20.20 Migratory Bird Harvest Information Program.

(a) *Information collection requirements.* The collections of information contained in §20.20 have been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* and assigned clearance number 1018-0015. The information will be used to provide a sampling frame for the national Migratory Bird Harvest Survey. Response is required from licensed hunters to obtain the benefit of hunting migratory game birds. Public reporting burden for this information is estimated to average 0.015 hours per response for 1,650,000 respondents, including the time for re-

viewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Thus the total annual reporting and record keeping burden for this collection is estimated to be 24,750 hours. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to the Service Information Collection Clearance Officer, MS-224 ARLSQ, Fish and Wildlife Service, Washington, DC 20240, or the Office of Management and Budget, Paperwork Reduction Project 1018-0015, Washington, DC 20503.

(b) *General provisions.* Each person hunting migratory game birds in Alabama, Arizona, California, Delaware, Florida, Georgia, Idaho, Illinois, Kentucky, Maine, Maryland, Michigan, Minnesota, Mississippi, Missouri, North Carolina, Oklahoma, Oregon, Pennsylvania, South Dakota, Tennessee, and Vermont must have identified himself or herself as a migratory bird hunter and given his or her name, address, and date of birth to the respective State hunting licensing authority and must have on his or her person evidence, provided by that State, of compliance with this requirement.

(c) *Tribal exemptions.* Nothing in paragraph (b) of this section shall apply to tribal members on Federal Indian Reservations or to tribal members hunting on ceded lands.

(d) *State exemptions.* Nothing in paragraph (b) of this section shall apply to those hunters who are exempt from State-licensing requirements in the State in which they are hunting.

(e) *Implementation schedule.* The Service is completing the implementation of this Program in 1998, which will incorporate approximately 1.6 million additional migratory bird hunters. The State of Texas will collect the name, address, and other necessary information from migratory bird hunters who are issued hunting licenses in Texas on or after October 1, 1997. All States must participate in the Program in 1998.

[58 FR 15098, Mar. 19, 1993, as amended at 59 FR 53336, Oct. 21, 1994; 61 FR 46352, Aug. 30, 1996; 62 FR 45708, Aug. 28, 1997]

§ 20.21 Hunting methods.

Migratory birds on which open seasons are prescribed in this part may be taken by any method except those prohibited in this section. No persons shall take migratory game birds:

(a) With a trap, snare, net, rifle, pistol, swivel gun, shotgun larger than 10 gauge, punt gun, battery gun, machine-gun, fish hook, poison, drug, explosive, or stupefying substance;

(b) 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;

(c) 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;

(d) 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;

(e) 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: *Provided*, That a craft under power may be used to retrieve dead or crippled birds; however, crippled birds may not be shot from such craft under power except in the seaduck area as permitted in subpart K of this part;

(f) 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;

(g) 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;

(h) By means or aid of any motordriven 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;

(i) By the aid of baiting, or on or over any baited area. As used in this paragraph, "baiting" shall mean the placing, exposing, depositing, distributing, or scattering of shelled, shucked, or unshucked corn, wheat or other grain, salt, or other feed so as to constitute for such birds a lure, attraction or enticement to, on, or over any areas where hunters are attempting to take them; and "baited area" means any area where shelled, shucked, or unshucked corn, wheat or other grain, salt, or other feed whatsoever capable of luring, attracting, or enticing such birds is directly or indirectly placed, exposed, deposited, distributed, or scattered; and such area shall remain a baited area for 10 days following complete removal of all such corn, wheat or other grain, salt, or other feed. However, nothing in this paragraph shall prohibit:

(1) The taking of all migratory game birds, including waterfowl, on or over standing crops, flooded standing crops (including aquatics), flooded harvested croplands, grain crops properly shocked on the field where grown, or grains found scattered solely as the result of normal agricultural planting or harvesting; and

(2) The taking of all migratory game birds, except waterfowl, on or over any lands where shelled, shucked, or unshucked corn, wheat or other grain, salt, or other feed has been distributed or scattered as the result of *bona fide* agricultural operations or procedures, or as a result of manipulation of a crop or other feed on the land where grown for wildlife management purposes: *Provided*, That manipulation for wildlife management purposes does not include the distributing or scattering of grain or other feed once it has been removed from or stored on the field where grown;

(j) While possessing shot (either in shotshells or as loose shot for muzzle-loading) other than steel shot, or bismuth-tin (97 parts bismuth: 3 parts tin with <1 percent residual lead) shot, or

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tungsten-iron (nominally 40 parts tungsten: 60 parts iron with <1 percent residual lead) shot or such shot approved as nontoxic by the Director pursuant to procedures set forth in §20.134, provided that:

(1) This restriction applies only to the taking of Anatidae (ducks, geese [including brant] and swans), coots (*Fulica americana*) and any species that make up aggregate bag limits during concurrent seasons with the former in areas described in §20.108 as nontoxic shot zones, and

(2) Tungsten-iron shot (nominally 40 parts tungsten: 60 parts iron with <1 percent residual lead) is legal as nontoxic shot for the 1997–98 migratory bird hunting season, except for the Yukon-Kuskokwim Delta habitat in Alaska.

[38 FR 22021, Aug. 15, 1973, as amended at 38 FR 22896, Aug. 27, 1973; 44 FR 2599, Jan. 12, 1979; 45 FR 70275, Oct. 23, 1980; 49 FR 4079, Feb. 2, 1984; 52 FR 27364, July 21, 1987; 53 FR 24290, June 28, 1988; 60 FR 64, Jan. 3, 1995; 60 FR 43316, Aug. 18, 1995; 61 FR 42494, Aug. 15, 1996; 62 FR 43447, Aug. 13, 1997]

§20.22 Closed seasons.

No person shall take migratory game birds during the closed season.

§20.23 Shooting hours.

No person shall take migratory game birds except during the hours open to shooting as prescribed in subpart K of this part.

[38 FR 22021, Aug. 15, 1973, as amended at 38 FR 22626, Aug. 23, 1973]

§20.24 Daily limit.

No person shall take in any 1 calendar day, more than the daily bag limit or aggregate daily bag limit, whichever applies.

[38 FR 22021, Aug. 15, 1973, as amended at 38 FR 22626, Aug. 23, 1973]

§20.25 Wanton waste of migratory game birds.

No person shall kill or cripple any migratory game bird pursuant to this part 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

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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.

[41 FR 31536, July 29, 1976]

§20.26 Emergency closures.

(a) The Director may close or temporarily suspend any season established under subpart K of this part:

(1) Upon a finding that a continuation of such a season would constitute an imminent threat to the safety of any endangered or threatened species or other migratory bird populations.

(2) Upon issuance of local public notice by such means as publication in local newspapers of general circulation, posting of the areas affected, notifying the State wildlife conservation agency, and announcement on local radio and television.

(b) Any such closure or temporary suspension shall be announced by publication of a notice to that effect in the FEDERAL REGISTER simultaneous with the local public notice referred to in paragraph (a)(2) of this section. However, in the event that it is impractical to publish a FEDERAL REGISTER notice simultaneously, due to the restriction in time available and the nature of the particular emergency situation, such notice shall follow the steps outlined in paragraph (a) of this section as soon as possible.

(c) Any closure or temporary suspension under this section shall be effective on the date of publication of the FEDERAL REGISTER notice; or if such notice is not published simultaneously, then on the date and at the time specified in the local notification to the public. Every notice of closure shall include the date and time of closing of the season and the area or areas affected. In the case of a temporary suspension, the date and time when the season may be resumed shall be provided by a subsequent local notification to the public, and by publication in the FEDERAL REGISTER.

[41 FR 31536, July 29, 1976]

Subpart D—Possession**§ 20.31 Prohibited if taken in violation of Subpart C.**

No person shall at any time, by any means, or in any manner, possess or have in custody any migratory game bird or part thereof, taken in violation of any provision of subpart C of this part.

§ 20.32 During closed season.

No person shall possess any freshly killed migratory game birds during the closed season.

§ 20.33 Possession limit.

No person shall possess more migratory game birds taken in the United States than the possession limit or the aggregate possession limit, whichever applies.

§ 20.34 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.

§ 20.35 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.

[41 FR 31536, July 29, 1976]

§ 20.36 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.

§ 20.37 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 tagged as required by § 20.36.

§ 20.38 Possession of live birds.

Every migratory game bird wounded by hunting and reduced to possession by the hunter shall be immediately killed and become a part of the daily bag limit. No person shall at any time, or by any means, possess or transport live migratory game birds taken under authority of this part.

§ 20.39 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.

[41 FR 31537, July 29, 1976]

§ 20.40 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.

[42 FR 39668, Aug. 5, 1977]

Subpart E—Transportation Within the United States**§ 20.41 Prohibited if taken in violation of Subpart C.**

No person shall at any time, by any means, or in any manner, transport

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any migratory game bird or part thereof, taken in violation of any provision of subpart C of this part.

§ 20.42 Transportation of birds of another.

No person shall transport migratory game birds belonging to another person unless such birds are tagged as required by § 20.36.

§ 20.43 Species identification requirement.

No person shall transport within the United States any migratory game birds, except doves and band-tailed pigeons (*Columba fasciata*), 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.

[41 FR 31537, July 19, 1976]

§ 20.44 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.

Subpart F—Exportation

§ 20.51 Prohibited if taken in violation of Subpart C.

No person shall at any time, by any means, or in any manner, export or cause to be exported, any migratory game bird or part thereof, taken in violation of any provision of subpart C of this part.

§ 20.52 Species identification requirement.

No person shall export migratory game birds unless one fully feathered wing remains attached to each such bird while being transported from the United States and/or any of its possessions to any foreign country.

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§ 20.53 Marking package or container.

No person shall export migratory game birds via the Postal Service or a common carrier unless the package or container 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.

Subpart G—Importations

§ 20.61 Importation limits.

No person shall import migratory game birds in excess of the following importation limits:

(a) *Doves and pigeons.* (1) From any foreign country except Mexico, during any one calendar week beginning on Sunday, not to exceed 25 doves, singly or in the aggregate of all species, and 10 pigeons, singly or in the aggregate of all species.

(2) From Mexico, not to exceed the maximum number permitted by Mexican authorities to be taken in any one day: *Provided*, That if the importer has his Mexican hunting permit date-stamped by appropriate Mexican wildlife authorities on the first day he hunts in Mexico, he may import the applicable Mexican possession limit corresponding to the days actually hunted during that particular trip.

(b) *Waterfowl.* (1) From any foreign country except Canada and Mexico, during any one calendar week beginning on Sunday, not to exceed 10 ducks, singly or in the aggregate of all species, and five geese including brant, singly or in the aggregate of all species.

(2) From Canada, not to exceed the maximum number permitted to be exported by Canadian authorities.

(3) From Mexico, not to exceed the maximum number permitted by Mexican authorities to be taken in any one day: *Provided*, That if the importer has his Mexican hunting permit date-stamped by appropriate Mexican wildlife authorities on the first day he hunts in Mexico, he may import the applicable Mexican possession limit corresponding to the days actually hunted during that particular trip.

[40 FR 36346, Aug. 20, 1975]

§ 20.62 Importation of birds of another.

No person shall import migratory game birds belonging to another person.

§ 20.63 Species identification requirement.

No person shall import migratory game birds unless each such bird has one fully feathered wing attached, and such wing must remain attached while being transported between the port of entry and the personal abode of the possessor or between the port of entry and a migratory bird preservation facility.

[41 FR 31537, July 19, 1976]

§ 20.64 Foreign export permits.

No person shall import, possess or transport, any migratory game birds killed in a foreign country unless such birds are accompanied by export permits, tags, or other documentation required by applicable foreign laws or regulations.

§ 20.65 Processing requirement.

No person shall import migratory game birds killed in any foreign country, except Canada, unless such birds are dressed (except as required in § 20.63), drawn, and the head and feet are removed: *Provided*, That this shall not prohibit the importation of legally taken, fully feathered migratory game birds consigned for mounting purposes to a taxidermist who holds a current taxidermist permit issued to him pursuant to § 21.24 of this chapter and who is also licensed by the U.S. Department of Agriculture to decontaminate such birds.

§ 20.66 Marking of package or container.

No person shall import migratory game birds via the Postal Service or a common carrier unless the package or container 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.

Subpart H—Federal, State, and Foreign Law**§ 20.71 Violation of Federal law.**

No person shall at any time, by any means or in any manner, take, possess, transport, or export any migratory bird, or any part, nest, or egg of any such bird, in violation of any act of Congress or any regulation issued pursuant thereto.

§ 20.72 Violation of State law.

No person shall at any time, by any means or in any manner, take, possess, transport, or export any migratory bird, or any part, nest, or egg of any such bird, in violation of any applicable law or regulation of any State.

§ 20.73 Violation of foreign law.

No person shall at any time, by any means, or in any manner, import, possess, or transport, any migratory bird, or any part, nest, or egg of any such bird taken, bought, sold, transported, possessed, or exported contrary to any applicable law or regulation of any foreign country, or State or province thereof.

Subpart I—Migratory Bird Preservation Facilities**§ 20.81 Tagging requirement.**

No migratory bird preservation facility shall receive or have in custody any migratory game birds unless such birds are tagged as required by § 20.36.

[41 FR 31537, July 29, 1976]

§ 20.82 Records required.

(a) No migratory bird preservation facility shall:

- (1) Receive or have in custody any migratory game bird unless accurate records are maintained which can identify each bird received by, or in the custody of, the facility by the name of the person from whom the bird was obtained, and show (i) the number of each species; (ii) the location where taken; (iii) the date such birds were received; (iv) the name and address of the person from whom such birds were received; (v) the date such birds were disposed of; and (vi) the name and address of the

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person to whom such birds were delivered, or

(2) Destroy any records required to be maintained under this section for a period of 1 year following the last entry on the record.

(b) Record keeping as required by this section will not be necessary at hunting clubs which do not fully process migratory birds by removal of both the head and wings.

[41 FR 38510, Sept. 10, 1976]

§ 20.83 Inspection of premises.

No migratory bird preservation facility shall prevent any person authorized to enforce this part from entering such facilities at all reasonable hours and inspecting the records and the premises where such operations are being carried.

[41 FR 31537, July 19, 1976]

Subpart J—Feathers or Skins

§ 20.91 Commercial use of feathers.

Any person may possess, purchase, sell, barter, or transport for the making of fishing flies, bed pillows, and mattresses, and for similar commercial uses the feathers of migratory waterfowl (ducks, geese, brant, and swans) killed by hunting pursuant to this part, or seized and condemned by Federal or State game authorities, except that:

(a) No person shall purchase, sell, barter, or offer to purchase, sell, or barter for millinery or ornamental use the feathers of migratory game birds taken under authority of this part; and

(b) No person shall purchase, sell, barter, or offer to purchase, sell, or barter mounted specimens of migratory game birds taken under authority of this part.

[38 FR 22021, Aug. 15, 1973, as amended at 45 FR 70275, Oct. 23, 1980]

§ 20.92 Personal use of feathers or skins.

Any person for his own use may possess, transport, ship, import, and export without a permit the feathers and skins of lawfully taken migratory game birds.

50 CFR Ch. I (10–1–97 Edition)

Subpart K—Annual Seasons, Limits, and Shooting Hours Schedules

§ 20.100 General provisions.

(a) The taking, possession, transportation, and other uses of migratory game birds by hunters is generally prohibited unless it is specifically provided for under regulations developed in accordance with the Migratory Bird Treaty Act. Consequently, hunting is prohibited unless regulatory schedules are established for seasons, daily bag and possession limits, and shooting (or hawking) hours. Migratory game bird population levels, including production and habitat conditions, vary annually. These conditions differ over North America, and within the United States, by flyways, States, and frequently areas within States. Thus, it is necessary to make annual adjustments in the schedules to limit the harvests of migratory game birds to permissible levels.

(b) The development of these schedules involves annual data gathering programs to determine migratory game bird population status and trends, evaluations of habitat conditions, harvest information, and other factors having a bearing on the anticipated size of the fall flights of these birds. The proposed hunting schedules are announced early in the spring, and following consideration of additional information as it becomes available, as well as public comment, they are modified and published as supplemental proposals. These are also open to public comment. Public hearings are held for the purpose of providing additional opportunity for public participation in the rulemaking process.

[44 FR 7147, Feb. 6, 1979]

§ 20.101 Seasons, limits and shooting hours for Puerto Rico and the Virgin Islands.

This section provides for the annual hunting of certain doves, pigeons, ducks, coots, gallinules and snipe in Puerto Rico; and for certain doves, pigeons and ducks in the Virgin Islands. In these Commonwealths, the hunting of waterfowl and coots (and other certain species, as applicable) must be

with the use of nontoxic shot beginning in the 1991-92 waterfowl season.

[53 FR 24290, June 28, 1988]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting annual regulatory schedules for this section, see the List of CFR Sections Affected in the Finding Aids section of this volume.

§20.102 Seasons, limits, and shooting hours for Alaska.

This section provides for the annual hunting of certain waterfowl (ducks, tundra swans, geese, and brant), common snipe, and sandhill cranes in Alaska. In Alaska, the hunting of waterfowl must be with the use of nontoxic shot beginning in the 1991-92 waterfowl season.

[55 FR 35267, Aug. 28, 1990]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting annual regulatory schedules for this section, see the List of CFR Sections Affected in the Finding Aids section of this volume.

§20.103 Seasons, limits, and shooting hours for mourning and white-winged doves and wild pigeons.

This section provides for the annual hunting of certain doves and pigeons in the 48 contiguous United States. The mourning dove hunting regulations are arranged by the Eastern, Central, and Western Management Units.

[44 FR 7147, Feb. 6, 1979]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting annual regulatory schedules for this section, see the List of CFR Sections Affected in the Finding Aids section of this volume.

§20.104 Seasons, limits, and shooting hours for rails, woodcock, and common (Wilson's) snipe.

This section provides for the annual hunting of certain rails, woodcock, and snipe in the 48 contiguous United States.

[44 FR 7148, Feb. 6, 1979]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting annual regulatory schedules for this section, see the List of CFR Sections Affected in the Finding Aids section of this volume.

§20.105 Seasons, limits and shooting hours for waterfowl, coots, and gallinules.

This section provides for the annual hunting of certain waterfowl (ducks, geese [including brant]), coots and gallinules in the 48 contiguous United States. The regulations are arranged by the Atlantic, Mississippi, Central and Pacific Flyways. These regulations often vary within Flyways or States, and by time periods. Those areas of the United States outside of State boundaries, i.e., the United States' territorial waters seaward of county boundaries, and including coastal waters claimed by the separate States, if not already included under the zones contained in §20.108, are designated for the purposes of §20.21(j) as nontoxic shot zones for waterfowl hunting beginning in the 1991-92 season.

[53 FR 24290, June 28, 1988, as amended at 56 FR 22102, May 13, 1991]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting annual regulatory schedules for this section, see the List of CFR Sections Affected in the Finding Aids section of this volume.

§20.106 Seasons, limits, and shooting hours for sandhill cranes.

This section provides for the annual hunting of sandhill cranes in designated portions of the 48 contiguous United States.

[55 FR 35267, Aug. 28, 1990]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting annual regulatory schedules for this section, see the List of CFR Sections Affected in the Finding Aids section of this volume.

§20.107 Seasons, limits, and shooting hours for tundra swans.

This section provides for the annual hunting of tundra swans in designated portions of the 48 contiguous United States.

[55 FR 39829, Sept. 28, 1990]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting annual regulatory schedules for this section, see the List of CFR Sections Affected in the Finding Aids section of this volume.

§ 20.108 Nontoxic shot zones.

Beginning September 1, 1991, the contiguous 48 United States, and the States of Alaska and Hawaii, the Territories of Puerto Rico and the Virgin Islands, and the territorial waters of the United States, are designated for the purpose of § 20.21(j) as nontoxic shot zones for hunting waterfowl, coots and certain other species. "Certain other species" refers to those species, other than waterfowl or coots, that are affected by reason of being included in aggregate bags and concurrent seasons.

[56 FR 22102, May 13, 1991]

§ 20.109 Extended seasons, limits, and hours for taking migratory game birds by falconry.

This section provides annual regulations by which falconers may take permitted migratory game birds.

[44 FR 7148, Feb. 6, 1979]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting annual regulatory schedules for this section, see the List of CFR Sections Affected in the Finding Aids section of this volume.

§ 20.110 Seasons, limits, and other regulations for certain Federal Indian reservations, Indian Territory, and ceded lands.

This section provides for establishing annual migratory bird hunting regulations for certain tribes on Federal Indian reservations, Indian Territory, and ceded lands.

[50 FR 35764, Sept. 3, 1985]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting annual regulatory schedules for this section, see the List of CFR Sections Affected in the Finding Aids section of this volume.

Subpart L—Administrative and Miscellaneous Provisions**§ 20.131 Extension of seasons.**

Whenever the Secretary shall find that emergency State action to prevent forest fires in any extensive area has resulted in the shortening of the season during which the hunting of any species of migratory game bird is permitted and that compensatory extension or reopening the hunting season for such birds will not result in a dimi-

nuton of the abundance of birds to any greater extent than that contemplated for the original hunting season, the hunting season for the birds so affected may, subject to all other provisions of this subchapter, be extended or reopened by the Secretary upon request of the chief officer of the agency of the State exercising administration over wildlife resources. The length of the extended or reopened season in no event shall exceed the number of days during which hunting has been so prohibited. The extended or reopened season will be publicly announced.

§ 20.132 Subsistence use in Alaska.

(a) In Alaska, Eskimos and Indians may take, possess, and transport, in any manner and at any time, auks, auklets, guillemots, murre, and puffins and their eggs for food and their skins for clothing, but the birds and eggs so taken shall not be sold or offered for sale.

(b) In Alaska, any person may, for subsistence purposes, take, possess, and transport, in any manner and at any time, snowy owls and cormorants and their eggs for food and their skins for clothing, but the birds and eggs so taken shall not be sold or offered for sale.

§ 20.133 Hunting regulations for crows.

(a) Crows may be taken, possessed, transported, exported, or imported, only in accordance with such laws or regulations as may be prescribed by a State pursuant to this section.

(b) Except in the State of Hawaii, where no crows shall be taken, States may by statute or regulation prescribe a hunting season for crows. Such State statutes or regulations may set forth the method of taking, the bag and possession limits, the dates and duration of the hunting season, and such other regulations as may be deemed appropriate, subject to the following limitations for each State:

(1) Crows shall not be hunted from aircraft;

(2) The hunting season or seasons on crows shall not exceed a total of 124 days during a calendar year;

(3) Hunting shall not be permitted during the peak crow nesting period within a State; and

(4) Crows may only be taken by firearms, bow and arrow, and falconry.

§ 20.134 Nontoxic shot.

(a) *Approval.* (1) The information collection requirements contained in § 20.134 have been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* and assigned clearance number 1018-0067. The information is being collected to provide a basis for which the Director, Fish and Wildlife Service, can conduct a methodical and objective review to approve/disapprove nontoxic shot status sought by an applicant. The information will be used for toxicity assessment of candidate shot submitted for approval by applicant. Response is required to obtain a benefit.

(2) The Director, U.S. Fish and Wildlife Service, shall determine that a specific type of shot material is acceptable for the purposes of 50 CFR 20.21(j), if after a review of applications and supporting data submitted in accordance with this section, together with all other relevant evidence, including public comment, it is concluded that the spent shot material does not impose a significant danger to migratory birds and other wildlife or their habitats.

(b) *Application and review.* (1) All applications under this section shall be submitted to the Director and shall include:

(i) A minimum of 25 pounds of the candidate shot in size equivalent to #4.

(ii) A description of the chemical composition of the candidate shot and a statement of the expected composition variability during large-scale production.

(iii) The applicant's assessment of the potential toxicity of the candidate shot to migratory birds and other wildlife species as compared to lead shot and steel shot.

(iv) The applicant's assessment of the environmental fate of the candidate shot when spent and of any human health or safety issues that may be of concern.

(2) If the Director concludes, on the basis of the technical and scientific data contained in the applicant's submission, that this candidate shot is worthy of further testing, the appli-

cant is notified to submit a plan for conducting initial screening evaluations as outlined in paragraph (c) of this section. The Director shall specify what portion of paragraph (c)(1) should be conducted and any modifications to the procedures that might be necessary. The Director will then announce in the FEDERAL REGISTER that a candidate material that shows promise has been identified and further testing will be considered when the developer submits a satisfactory initial screening plan. This announcement will include a description of the chemical composition of the candidate shot.

(3) The initial screening plan submitted by the applicant will be reviewed by the Director. The Director may decline to approve the plan, or any part of it, if deficient in any manner with regard to timing, format, or content requirements that he has placed upon it. The Director, or authorized representative, may inspect laboratory facilities to be used.

(4) Initial screening tests, as described in paragraph (c)(1) of this section, will then be conducted, analyzed, and reported by the applicant to the Director.

(5) The Director will then review results, analytical procedures, and conclusions from screening tests. Within 30 days of receipt of the report, the Director will conditionally approve or unconditionally reject the candidate material and provide written explanation for these decisions.

(6) If the Director conditionally approves the candidate material, the applicant will be advised of the second phase of tests, as described in paragraph (c)(2) of this section. The applicant will be advised to develop and submit a plan for conducting a 30-day dosing test using mallards on a diet of commercially available duck food (paragraph (c)(2) of this section; Toxicity Test 1).

(7) The plan for conducting the 30-day dosing test (Toxicity Test 1) on a diet of commercially available duck food will be submitted to the Director for review and approval. The Director, or authorized representative, will then inspect the test facilities and review the test procedures.

(8) Toxicity Test 1, if approved, is then conducted, analyzed, and reported by the applicant to the Director.

(9) The Director reviews the results and within 30 days will conditionally approve or unconditionally reject the candidate material and provide written explanation for these decisions. If conditionally approved, guidance for further testing is provided the applicant.

(10) This process of requesting a plan, reviewing the plan, accepting or rejecting the plan, conducting tests, analyzing results, reporting results to the Director, followed by a decision by the Director to continue or terminate testing, with written explanation for the rationale, may be repeated as Tests 2 and 3 (described in paragraph (c)(2) of this section) are performed. Following satisfactory completion of Tests 1, 2, and 3, or their equivalent, and publication of a summary of results in the FEDERAL REGISTER for public comment, the candidate material is concomitantly proposed for inclusion in 50 CFR 20.21(j).

(11) For the purposes of § 20.134, the terms *significant* and *significantly* refer to a ($P \leq 0.05$) finding of significance.

(c) *Outline of procedures for testing*—(1) *Initial screening tests.* These tests will be performed on the candidate shot if the initial submission of information required under paragraphs (b)(1)(i) through (iv) of this section by the applicant, indicates that it qualifies for further testing. The Director will provide instructions to the applicant concerning the conduct of the following tests.

(i) The candidate shot will be chemically analyzed by the Service or an independent laboratory and the results will be compared to the applicant's descriptions of shot composition and composition variability.

(ii) The candidate shot will be run through a standardized test *in vitro* (see below) that will assess its erosion, in an environment simulating *in vivo* conditions of a waterfowl gizzard, and any release of components into a liquid medium. Erosion characteristics will be compared to those of lead shot and steel shot of comparable size.

STANDARDIZED TEST FOR EROSION RATE

Reference: Kimball, W.H., and Munir, Z.A. 1971. The corrosion of lead shot in a simulated waterfowl gizzard. *J. Wildl. Mgmt.* 35(2):360–365.

MATERIALS

Atomic absorption spectrophotometer.
Drilled aluminum block to support test tubes.
Thermostatically controlled stirring hot plate.
Small teflon coated magnets.
Hydrochloric acid (pH 2.0) and pepsin.
Capped test tubes.
Lead, steel, and candidate shot.

Procedures

Hydrochloric acid and pepsin are added to each capped test tube at a volume and concentration that will erode a single #4 lead shot at a rate of 5 mg/day. Three test tubes, each containing either lead shot, steel shot, or candidate shot, are placed in the aluminum block on the stirring hot plate. A teflon coated magnet is added to each test tube and the hot plate is set at 42° C and 500 rpm. Erosion of shot will be determined on a daily basis for 14 consecutive days by weighing the shot and analyzing the digestion solution with an atomic absorption spectrophotometer. The 14-day procedure will be replicated five times.

Analysis

Erosion rates of the three types of shot will be compared by appropriate analysis of variance and regression procedures. The statistical analysis will determine whether the rate of erosion of the candidate shot is significantly greater or less than that of lead and steel. This determination is important to any subsequent toxicity testing.

(2) *Toxicity tests.* The three tests described in this section represent an evaluation of three major categories of toxic effects: short-term periodic exposure; chronic exposure under adverse environmental conditions; and chronic exposure impact on reproduction. The detail of the experimental procedure can be modified, if necessary, to address the specific composition and erosion characteristics of the candidate shot. The inclusion of lead shot and steel shot control groups is considered necessary for dealing with the experimental variability associated with tests being performed by different laboratories under a variety of conditions beyond control of the experimental protocol. Statistical analyses will be performed on all data from each test.

Toxicity tests 1-3 are designed for testing the effects of metal or metalloid shot. If the candidate is not metal or metalloid, other testing procedures will have to be developed to evaluate the effects of the components of the candidate shot. In every case, the test animals will be exposed to the candidate material:

- (i) Both acutely and chronically;
- (ii) Both stressed and non-stressed by diet and temperature; and
- (iii) With comparisons made to lead and steel shot regarding mortality and sublethal effects.

When special consideration is given to potential impacts on species other than migratory birds and to the environmental fate of nonmetal or nonmetalloid candidate shot, further testing beyond that outlined in this paragraph (c) might be required.

Test 1 (Short-term, 30-day toxicity test using a commercially available duck food).

MATERIALS

100 male and 100 female hand-reared mallards approximately 6 to 8 months old.
These mallards must have plumage and body conformation that resemble wild mallards.
200 elevated, outdoor 1-meter square pens of vinyl-coated wire equipped with food containers and waterers.
Laboratory equipped to perform fluoroscopy, required blood and tissue assays, tissue metal analyses, and necropsies.
Commercial duck food.
Lead, steel, and candidate shot.

Procedures

Mallards will be housed individually in outdoor pens and given *ad libitum* access to food and water. After 3 weeks, they will be randomly assigned to 10 groups (10 males and 10 females/group) and sham-dosed (control) or dosed with two, four, or eight pellets of lead, steel or the candidate shot. Birds will be fluoroscoped 1 week after dosage to check for shot retention. Birds will be observed daily for signs of intoxication and mortality over a 30-day period. Body weight will be determined at the time of dosing, and at days 15 and 30 of the test.

On days 0, 3, 9, 15 and 30, blood will be collected by venipuncture for determination of hematocrit, hemoglobin concentration, red blood cell delta-aminolevulinic acid dehydratase, and zinc protoporphyrin concentration. All survivors will be sacrificed on day 30, and liver delta-aminolevulinic acid dehydratase, and total and protein bound glutathione concentration will be determined. The liver and other appropriate or-

gans will be removed from the sacrificed birds and from other birds dying prior to sacrifice on day 30. The organs will be analyzed for lead and other metals contained in the steel and candidate shot. All birds dying prior to sacrifice will be necropsied to determine pathological conditions associated with death.

Analysis

Mortality among the specified groups will be analyzed with appropriate chi-square statistical procedures. Any effects on the previously mentioned physiological parameters caused by the candidate shot must be significantly less than those caused by lead shot and must not be significantly greater than those caused by steel shot. Physiological data and tissue residue data will be analyzed by analysis of variance or other appropriate statistical procedures to include the factors of shot type, dose, and sex. Comparisons between sacrificed birds and birds dying before sacrifice will be made whenever sample sizes are adequate for a meaningful comparison. The applicant will ensure that copies of all the raw data and statistical analyses accompany the report of this test when it is sent to the Director.

Test 2 (Chronic, 14-week toxicity test in cold weather using a nutritionally-deficient diet). This test will be conducted at a location where the mean monthly temperature during December, January, and February is between 30° and 40° F.

MATERIALS

56 male and 56 female hand-reared mallards approximately 6 to 8 months old. The mallards must have plumage and body conformation that resemble wild mallards.
112 elevated, outdoor 1-meter square pens of vinyl/coated wire equipped with food containers and waterers.
Laboratory equipped to perform fluoroscopy, and required blood and tissue assays, tissue metal analysis, and necropsies.
Whole kernel corn.
Lead, steel, and candidate shot.

Procedures

Mallards will be individually assigned to outdoor, 1-meter square pens of vinyl-coated wire during the first week of December and acclimated to an *ad libitum* diet of whole kernel corn for 2 weeks. Birds will be randomly assigned to seven groups (8 males and 8 females/group) and sham-dosed (control) or dosed with one or four #4 pellets of lead, steel, or the candidate shot.

Birds will be weighed and fluoroscoped weekly. All recovered shot will be weighed to measure erosion. Blood parameters determined in Test 1 will be measured again in this test using blood samples drawn at the initiation of dosage, 24 hours after dosage,

and at the end of weeks 1, 2, 4, 8 and 14. At the end of 84 days, all survivors will be sacrificed. The liver and other appropriate organs will be removed from the sacrificed birds and birds dying prior to sacrifice on day 84. The organs will be analyzed for lead and other metals contained in the steel and candidate shot. All birds dying prior to sacrifice will be necropsied to determine pathological conditions associated with death.

Analysis

Mortality among the specified groups will be analyzed with appropriate chi-square statistical procedures. Any effects on the previously mentioned physiological parameters caused by the candidate shot must be significantly less than those caused by lead shot and must not be significantly greater than those caused by steel shot. Physiological data and tissue residues will be analyzed by analysis of variance or appropriate statistical procedures to include the factors of shot type, dose, and sex. Comparisons between sacrificed birds and birds dying before sacrifice will be made whenever sample sizes are adequate for a meaningful comparison. The applicant will ensure that copies of all the raw data and statistical analyses accompany the report of this test when it is sent to the Director.

Test 3 (Chronic dosage study that includes reproductive assessment using a commercially available duck food diet).

MATERIALS

200 male and 200 female hand-reared mallards that have not been through a reproductive season. These mallards must have plumage and body conformation that resemble wild mallards.

Pens capable of holding 5–10 ducks each.

200 elevated, outdoor pens at least 1-meter square, covered with vinyl-coated wire, and equipped with feeders, waterers and nest boxes.

Laboratory equipped to perform fluoroscopy and required blood assays.

Commercial duck food (developer pellets, breeder pellets, and starter mash).

Lead, steel and candidate shot.

Procedures

Mallards will be randomly assigned to 10 groups (20 males and 20 females/group) in January and held in same-sex groups of 5–10 individuals until mid-February. The mallards will then be randomly paired, within each group, and moved to outdoor pens (one pair per pen). Ducks will be provided with an *ad libitum* diet of commercial developer pellets until initiation of laying, when the pairs will be switched to breeder pellets. Ducks will be sham-dosed (controls) or dosed with three #4 pellets of lead, steel or candidate shot. Dosing will occur using three different

dosing schedules: (1) In January; 2 weeks after initiation of the study; (2) at the initiation of laying; and (3) at both times designated in (1) and (2). The single control group will be sham-dosed at both times.

Birds will be fluoroscoped 1 week after dosage to check shot retention, and weighed every 2 weeks. Blood parameters determined in Tests 1 and 2 will be measured again in this test using blood samples drawn at initiation of the study, at time of dosing, at initiation of incubation, and at sacrifice. All birds will be sacrificed when reaching 7 days of age.

Clutches will be candled to determine fertility of the eggs. Nests will be checked daily to determine the fate of eggs and ducklings. Ducklings will be provided with starter mash after hatching.

Analysis

Any mortality, reproductive inhibition, or effects on the previously mentioned physiological parameters must be significantly less than those caused by lead shot and must not be significantly greater than those caused by steel shot. Physiological and reproductive data will be analyzed by analysis of variance or other appropriate statistical procedures. The applicant will ensure that copies of all raw data and statistical analyses accompany the report of this test when it is sent to the Director.

(Information collection requirements approved by the Office of Management and Budget under control no. 1018-0067)

[51 FR 42100, Nov. 21, 1986]

Subpart M—Criteria and Schedule for Implementing Nontoxic Shot Zones for the 1987–1988 and Subsequent Waterfowl Hunting Seasons

SOURCE: 51 FR 42107, Nov. 21, 1986, unless otherwise noted.

§20.140 Purpose and scope.

The regulations of this subpart apply to the designation, implementation and enforcement of nontoxic shot zones for waterfowl hunting in the United States for the 1987–1988 and subsequent hunting seasons. The regulations of this subpart do not apply to the issuance of regulations under part 21 of this title or under subparts A through J and L and N of this part.

§20.141 Definitions.

As used in this subpart:

(a) *Nontoxic Shot* means any shot-type that does not cause sickness and death when ingested by migratory birds as determined by criteria established under §20.134. The only nontoxic shot currently approved by the Director, U.S. Fish and Wildlife Service, is steel shot.

(b) *Nontoxic Shot Zones* means all land and water areas within the boundaries of the United States where the use of nontoxic shot is required for waterfowl hunting. A zone may be all or part of a county designated and/or established for nontoxic shot use.

(c) *Waterfowl* means the Anatidae (ducks, geese [including brant], and swans) and coots (*Fulica americana*).

§20.142 Applicability.

This subpart applies to persons of all ages engaged in waterfowl hunting in the established nontoxic shot zones and to all of the boroughs, counties, or parishes within the separate States, without exception. Possession and use of nontoxic shot (including shotshells and loose shot for use in muzzleloading), for all legal gauges of shotguns, is required for waterfowl hunting in nontoxic shot zones. The Secretary of the Interior, acting through the Fish and Wildlife Service, will not open a zone to waterfowl hunting where the Fish and Wildlife Service is prevented from establishing the zone as a nontoxic shot zone under the criteria of this subpart.

§20.143 Criteria and schedule for conversion to nontoxic shot.

The criteria and procedures specified below will be followed in the conversion nationwide to the use of nontoxic shot for waterfowl hunting. As of the 1991-1992 season, nontoxic shot will be required in *all* waterfowl hunting in the United States.

(a) Beginning in the 1987-1988 waterfowl hunting season, implementation of nontoxic shot zones is on a decremental basis with regard to the intensity of average annual waterfowl harvest per square mile of a particular county; the initial harvest level triggering monitoring/conversion is 20 or more birds per square mile, decreasing by 5 birds per square mile each successive waterfowl hunting season until the

nationwide ban season is reached in 1991-1992. Data on average annual waterfowl harvest are from Carney et al. 1983; data on county size have been obtained from the U.S. Bureau of the Census. Table I illustrates the schedule for conversion to nontoxic shot.

TABLE I.—SCHEDULE FOR MONITORING AND/OR CONVERTING COUNTIES TO NONTOXIC SHOT ZONES FOR HUNTING WATERFOWL

Average annual waterfowl harvest per mi ² * (by county)	Hunting season in which—		
	Monitoring must begin to defer implementation	Qualifying areas converted	Nontoxic shot required in deferred areas
20 or more	1985-86	1987-88	1991-92
15 or more	1986-87	1988-89	1991-92
10 or more	1987-88	1989-90	1991-92
5 or more	1988-89	1990-91	1991-92
less than 5	1989-90	1991-92	1991-92

* Average harvest is based on Carney et al. 1983 (Distribution of waterfowl species harvested in states and counties during 1971-80 hunting seasons. U.S. Fish and Wildlife Service Special Scientific Report—Wildlife No. 254).

(b) If States, through monitoring, demonstrate during annual Fish and Wildlife Service Regulations Committee meetings that neither of the following two decision criteria are met in a county scheduled for conversion to a nontoxic shot zone, that conversion can be deferred until (but not beyond) the 1991-92 hunting season (monitoring of the latter must include a sample of at least 100 birds of waterfowl species susceptible to lead poisoning):

(1) Dead waterfowl; 3 or more individual specimens confirmed as lead-poisoned during the monitoring year, nor

(2) Ingested shot in gizzards; 5 percent or greater of the sample have gizzards with 1 or more lead shot, and

(i) Liver lead; 5 percent or greater of the sample have livers with concentrations of lead 2 ppm or higher (wet weight), or

(ii) Blood lead; 5 percent or greater of the sample have blood with concentrations of lead 0.2 ppm or higher (wet weight), or

(iii) Protoporphyrin; 5 percent or greater of the sample have blood with protoporphyrin concentrations of 40 ug/dl or higher.

(c) Established nontoxic shot zones will not be eligible for deferral or rescission from conversion in any manner.

(d) There is no deferral past the 1991–1992 nationwide conversion year. States may elect to forgo monitoring and/or otherwise convert to nontoxic shot zones on an accelerated basis, i.e., less than a county, countywide or statewide.

(e) States may accelerate conversion on less than a county basis for purposes of completing a biological or enforcement/management unit; however, the minimum conversion schedule [set out in the June, 1986, Final Supplemental Environmental Statement on the use of lead shot for hunting migratory birds in the United States, Appendix N] will be adhered to.

(f) Where a portion, but not all, of a county is included in nontoxic shot zones for the 1986–87 or later waterfowl hunting season, the remainder of the county will convert in the year that it would otherwise be converted on the basis of its total county waterfowl harvest density.

(g) When a county is converted to nontoxic shot status under this paragraph, it will be added to the list of nontoxic shot zones contained in §20.108 and all the prohibitions of §20.21(j) will apply.

Subpart N—Special Procedures for Issuance of Annual Hunting Regulations

SOURCE: 46 FR 62079, Dec. 22, 1981, unless otherwise noted.

§20.151 Purpose and scope.

The rules of this subpart N apply to the issuance of the annual regulations establishing seasons, bag limits, and other requirements for the seasonal hunting of migratory birds. The rules of this subpart N do not apply to the issuance of regulations under part 21 of this title or under subparts A through J and L through M of this part 20.

§20.152 Definitions.

As used in this subpart N:

(a) *Flyway Council* means the Atlantic, Mississippi, Central, or Pacific Flyway Council;

(b) *Regulations Committee* means the Migratory Bird Regulations Committee of the Fish and Wildlife Service; and

(c) *Significant*, as used in reference to a communication or other form of information or data, means related to the merits of the regulation and received, utilized, or transmitted by an official of the Department who is or may reasonably be expected to be involved in the decisional process on the regulation.

§20.153 Regulations committee.

(a) *Notice of meetings.* Notice of each meeting of the Regulations Committee to be attended by any person outside the Department will be published in the FEDERAL REGISTER at least two weeks before the meeting. The notice will state the time, place, and general subject(s) of the meeting, as well as the extent of public involvement.

(b) *Public observation and written comment.* Each meeting of the Regulations Committee for which notice is published pursuant to paragraph (a) of this section will be open to the public for observation and the submission of written comments.

(c) *Public participation.* Except for the mid-summer meetings held in Washington, DC, in conjunction with the public hearing on waterfowl and other late season frameworks, the public may participate in any meeting of the Regulations Committee for which notice is published pursuant to paragraph (a) of this section through the submission of oral statements that comply with the rules stated in the notice.

(d) *Minutes of meetings.* Minutes will be made of each meeting of the Regulations Committee for which notice is published pursuant to paragraph (a) of this section.

§20.154 Flyway Councils.

(a) *Notice of meetings.* Notice of each meeting of a Flyway Council to be attended by any official of the Department will be published in the FEDERAL REGISTER at least two weeks before the meeting or as soon as practicable after the Department learns of the meeting. The notice will state the time, place, and general subject(s) of the meeting.

§20.155 Public file.

(a) *Establishment.* A public file will be established for each rulemaking to which this subpart N is applicable.

(b) *Contents.* Except for information exempt from disclosure under 5 U.S.C. 552, a public file established pursuant to paragraph (a) of this section will contain:

(1) The minutes of Regulations Committee meetings made pursuant to paragraph (d) of § 20.153;

(2) Any written comments and other significant written communications which occur after the notice of proposed rulemaking;

(3) Summaries, identifying the source, of any significant oral communications which occur after the notice of proposed rulemaking; and

(4) Copies of or references to any other significant data or information.

PART 21—MIGRATORY BIRD PERMITS

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AUTHORITY: Pub. L. 95-616, 92 Stat. 3112 (16 U.S.C. 712(2)).

SOURCE: 39 FR 1178, Jan. 4, 1974, unless otherwise noted.

Subpart A—Introduction

§ 21.1 Purpose of regulations.

The regulations contained in this part supplement the general permit regulations of part 13 of this subchapter with respect to permits for the taking, possession, transportation, sale, purchase, barter, importation, exportation, and banding or marking of migratory birds. This part also provides certain exceptions to permit requirements for public, scientific, or educational institutions, and establishes depredation orders which provide limited exceptions to the Migratory Bird Treaty Act (16 U.S.C. 703-712).

[54 FR 38150, Sept. 14, 1989]

§ 21.2 Scope of regulations.

(a) Migratory birds, their parts, nests, or eggs, lawfully acquired prior to the effective date of Federal protection under the Migratory Bird Treaty Act (16 U.S.C. 703-712) may be possessed or transported without a permit, but may not be imported, exported, purchased, sold, bartered, or offered for purchase, sale or barter, and all shipments of such birds must be marked as provided by part 14 of this subchapter: *Provide*, no exemption from any statute or regulation shall accrue to any offspring of such migratory birds.

(b) This part 21, except for § 21.22 (banding or marking permits), does not apply to the bald eagle (*Haliaeetus leucocephalus*) or the golden eagle (*Aquila chrysaetos*) for which regulations are provided in part 22 of this subchapter.

(c) The provisions of this part are in addition to, and are not in lieu of other regulations of this subchapter B which may require a permit or prescribe additional restrictions or conditions for the