

§ 20.151

(ii) After conclusion of Tier 3 testing, the applicant must report the results to the Director. If after review of the Tier 3 data (completion 60 days after receipt of material) the Service determines that all of the information gathered and submitted in accordance with Tiers 1, 2, and 3, as applicable, does not establish that the shot or shot coating does not impose a significant danger to migratory birds, other wildlife, and their habitats, the applicant will have the option of repeating the tests that the Director deems are inconclusive. If the applicant chooses not to repeat the tests, approval of the candidate shot or shot coating is denied. A *Notice of Review* will inform the public that Tier 3 results are inconclusive, the applicant's decision not to repeat Tier 3 testing, and the Service's subsequent denial of the shot or shot coating.

(iii) If review of either the initial or repeated Tier 3 test data results in a preliminary determination that the shot or shot coating does not impose a significant danger to migratory birds, other wildlife and their habitats, the Director will publish in the FEDERAL REGISTER a proposed rule stating the Service's intention to approve this shot or shot coating and providing the public with the opportunity to comment. The rulemaking will include a description of the chemical composition of the shot or shot coating and a synopsis of findings under the standards required by Tier 3. If at the end of the comment period, the Service concludes that the shot or shot coating does not impose a significant danger to migratory birds, other wildlife, or their habitats, the shot or shot coating will be approved as nontoxic with publication of a final rule in the FEDERAL REGISTER.

(5) *Residual lead levels.* The Service's maximum environmentally acceptable level of lead in shot is trace amounts or <1 percent. Any shot manufactured with lead levels equal to or exceeding 1 percent are considered toxic and, therefore, illegal.

(6) *Field detection device.* Before approval of any shot for use in migratory game bird hunting, a noninvasive field testing device must be available for enforcement officers to determine the

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shot material in a given shell in the field.

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

[51 FR 42100, Nov. 21, 1986, as amended at 62 FR 63611, Dec. 1, 1997]

Subpart M [Reserved]

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.

(b) [Reserved]

§ 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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