

§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

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

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
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.