

## Author

The primary author of this final rule is Mr. J. Allen Ratzlaff, Asheville Field Office, U.S. Fish and Wildlife Service, 330 Ridgefield Court, Asheville, North Carolina 28806 (704/665-1195, Ext. 229).

## List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and

recordkeeping requirements, Transportation.

## Regulation Promulgation

Accordingly, part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, is amended as set forth below:

## PART 17—[AMENDED]

1. The authority citation for part 17 continues to read as follows:

**Authority:** 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500; unless otherwise noted.

2. Section 17.12(h) is amended by adding the following, in alphabetical order under flowering plants, to the List of Endangered and Threatened Plants, to read as follows:

## § 17.12 Endangered and threatened plants.

\* \* \* \* \*

(h) \* \* \*

Species		Historic range	Family name	Status	When listed	Critical habitat	Special rules
Scientific name	Common name						
Flowering plants:							
*	*	*	*	*	*		*
<i>Arabis perstellata</i> .	Rock cress .....	U.S.A. (KY, TN) .....	Brassicaceae .....	E	570	NA	NA
*	*	*	*	*	*		*

Dated: December 12, 1994.

**Mollie H. Beattie,**

Director, Fish and Wildlife Service.

[FR Doc. 94-32267 Filed 12-30-94; 8:45 am]

BILLING CODE 4310-55-M

## 50 CFR Part 20

RIN 1018-AC66

### Migratory Bird Hunting; Decision on the Conditional Approval of Bismuth-Tin Shot as Nontoxic for the 1994-95 Season

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Final rule.

**SUMMARY:** The U.S. Fish and Wildlife Service (Service) is publishing this final rule to notify the public of the interim conditional approval of the use of bismuth-tin for the remainder of the 1994-1995 migratory bird hunting season. Toxicity studies undertaken by the Bismuth Cartridge Company and other pertinent materials indicate that bismuth-tin shot is nontoxic to waterfowl when ingested.

**EFFECTIVE DATE:** This rule becomes effective January 3, 1995.

**FOR FURTHER INFORMATION CONTACT:** Paul R. Schmidt, Chief, or Keith Morehouse, Staff Specialist, Office of Migratory Bird Management (MBMO), U.S. Fish and Wildlife Service, 634 ARLSQ, 1849 C St. NW, Washington D.C. 20240 (703/358-1714).

**SUPPLEMENTARY INFORMATION:** The Service published a proposed regulation in the **Federal Register** on August 22, 1994 (59 FR 43088) to provide for

conditional approval of bismuth-tin shot (in a mixture of [nominally] 97-3 percents, respectively) as nontoxic for the taking of waterfowl and coots during the 1994-1995 hunting season. This proposed action was in response to a petition for rulemaking from the Bismuth Cartridge Company received June 24, 1994. The petition requested that the Service modify the provisions of 50 CFR 20.21(j), to legalize the use of bismuth-tin shot on an interim, conditional basis for both the 1994-95 and the 1995-96 seasons. The petition cited the following reasons in support of the proposal: (a) bismuth is nontoxic; (b) the proposed rule is conditional; and (c) the evidence presented in the record, i.e., the application from the Bismuth Cartridge Company. This petition acknowledged responsibility by the Bismuth Cartridge Company to complete all the nontoxic shot approval tests as outlined in 50 CFR 20.134.

The current petition for rulemaking follows two previous applications to the Service for final approval, one dated October 21, 1993, and the other dated December 30, 1993. The Service replied that the applications were deficient because the bismuth-based shot material had not been adequately tested. Preliminary toxicity testing by the applicants had been with essentially-pure bismuth only. Thus, there was not adequate scientific data (either available or provided with the application) covering toxicity of the material to be loaded into shotshells. The Service pledged in both replies, however, to work with the applicants to process the applications in as timely a fashion as possible.

In response to the Bismuth Cartridge Company's petition of June 14, 1994, the Service proposed (59 FR 43088) the interim conditional approval of bismuth-tin shot based on what was known about the toxicity of bismuth and on the agreement by the Bismuth Cartridge Company to conduct and complete the 30-day acute toxicity test as described in 50 CFR 20.134.

For bismuth, there are three especially recent and relevant studies that support this proposal. The three studies include Sanderson and Anderson (1994), Ringelman et al. (1992), and Sanderson et al. (1992). A complete description of these studies can be found in the proposed rule (59 FR 43088). In addition, test results with tin include those by Grandy et al. (1968) in which there were no deaths associated with mallards dosed with tin shot. Positive results from the acute toxicity test (Sanderson et al. 1994) (just concluded) and the other toxicity information (cited above) suggest that a temporary conditional approval for bismuth-tin can be provided without significant risk to migratory bird resources. The Service believes it has sufficient flexibility in the regulations to approach approval of shot in a step manner.

The toxicity analysis procedures (50 CFR 20.134) consist of three tests which represent the three major categories of toxic effects: short-term periodic exposure, chronic exposure under adverse environmental conditions, and the impact of chronic exposure on reproduction. Tests include both steel-shot and lead-shot control groups and statistical analyses of all data from each test. Test 1 is a short-term, 30-day acute