

on selected refuges will contribute significantly to that trend.

11. The 104th Congress has banned Federal agencies from imposing new regulations, and this proposed rule is just another form of gun control, an anti-hunting ploy and a slap at our fundamental freedom.

Response

The regulation setting process is not intended as a manner of gun control, but rather as a resource protection measure and was drawn as narrowly as possible in order to provide the least restrictive hunting opportunity.

The intent of Congress is to reduce Federal regulatory burdens, and the Administration is in the process of reducing outdated and unnecessary rules. Congress, however, realizes that the hunting of migratory birds involves several treaty obligations with neighboring countries where migratory birds spend part of the year. Whether migratory birds are using national wildlife refuges or being hunted on State or private lands, there must be certain fair and equitable rules established. Therefore annual regulations are promulgated based on annual biological determinations of harvestable surpluses of game species.

Also, fishing on national wildlife refuges would be closed to the public without the establishment of annual regulations. Therefore, Congress has been receptive to appropriate rulemakings which allow hunters and fishermen the opportunity to participate in annual harvests.

The following questions and answers respond to the range of additional comments received from individuals concerning this proposed rule:

- What is the history of nontoxic shot requirements while hunting?

A nationwide phase-out program on the use of lead shot for waterfowl hunting began in 1986. By the 1991–92 season, only nontoxic (steel) shot was allowed for waterfowl and coot hunting. Prior to 1986 many national wildlife refuges required the use of steel shot because of locally documented lead poisoning in waterfowl.

- How will I know where to use nontoxic shot?

Site-specific brochures and information are available. Contact the refuge manager of the refuge you plan to hunt, and ask for an explanation of the nontoxic boundaries.

- Where can upland game continue to be hunted using lead?

Since State wildlife agencies and national wildlife refuges have limited the use of lead shot for the hunting of waterfowl and coots and now several

areas are phasing in controls on upland and other small game hunting around wetlands, hunters should consult specific wildlife refuge regulations. The refuges proposed for nontoxic shot conversion in this rulemaking will remain open to the use of lead shot for upland and small game in the 1995–96 season, although voluntary use of nontoxic shot will be requested. Most waterfowl production areas of the prairie pothole country will remain open to the use of lead shot until the 1998–99 hunting season. Again, the Service will encourage the voluntary use of nontoxic shot on those areas.

- Where will hunters be required to use nontoxic shot?

A list of refuges by State is available from the Service's 7 regional offices, and from local refuge offices. The Federal Register, which also lists each refuge, is accessible from The National Wildlife Refuge Home Page on the INTERNET, location:

“<http://bluegoose.ARW.R9.FWS.gov/>”, or by calling 1–800–344–WILD and requesting a refuge brochure and a 1996–97 list of refuges where nontoxic shot is required to hunt one or more species of wildlife other than waterfowl and coot.

- How many kinds of nontoxic shot can hunters purchase?

Even though manufacturers are experimenting with other metals and alloys, steel shot is still the best and most readily available nontoxic shot. Bismuth shot has only recently become available on a limited and conditional basis.

- Where can nontoxic shot be purchased?

Steel shot is available locally at many large sporting goods stores that cater to waterfowl hunters. If they don't have exactly what you are looking for, they will no doubt recommend an alternate source.

- Are states requiring the use of nontoxic shot?

Many State wildlife agencies have imposed nontoxic shot regulations on wildlife management areas where waterfowl hunting also takes place, such as Indiana (for dove hunting), Missouri (for snipe and rail), and Tennessee (for doves). Other States, such as Nebraska, require nontoxic shot for all bird hunting on certain State management areas. In Utah, nontoxic shot is required to hunt sandhill cranes, and for all upland and small game hunting on two State management areas.

- Why do you permit hunting at all on National Wildlife Refuges?

Hunting is a part of our country's heritage. Many refuges were purchased with funds derived from the sale of

duck stamps to waterfowl hunters. The National Wildlife Refuge System Administration Act authorizes recreation that is compatible with the primary purpose for which the refuges were established. Some refuges have hunting as a specific purpose of being acquired.

- Will big game (buckshot deer hunting) be included in the nontoxic shot requirement?

No. The regulation requires the use of nontoxic shot for certain upland and other small game only when hunting takes place in or near permanent or seasonal wetlands.

- What wildlife are considered upland or small game and covered by this regulation?

Each specific refuge regulation will specify what wildlife species can be hunted on that particular refuge. The intent of the regulation is to include all species of upland and small game that are hunted by shotgun in or near a permanent or seasonal wetland. The hunted species present there may include, but are not limited to, the following: pheasants, quail, snipe, dove, rabbits, woodcock, partridge, grouse, and rails.

- Why do raptors including bald eagles die from ingesting lead shot?

When a duck ingests lead shot into the gizzard/stomach while feeding, the lead will be deposited and lodge in the gizzard and stay there while being worn away through natural grinding processes. A mallard, for example, may ingest 2 pellets of #4 lead shot in the gizzard, and as the bird becomes weak and disoriented from the lead poisoning, it becomes an easy food source for all predators including raptors. When the bird is eaten by a marsh hawk or bald eagle, the lead is now going to enter the raptor's body. The toxic (secondary) effect of the lead may have caused the death of both the prey and the predator.

- Will small bore rifle hunting be included in the nontoxic shot regulation.

No, small bore rifle hunting is not included in the nontoxic shot requirement.

Conformance With Statutory and Regulatory Authorities

The National Wildlife Refuge System Administration Act (NWRSA) of 1966, as amended (16 U.S.C. 668dd), and the Refuge Recreation Act of 1962 (16 U.S.C. 460k) govern the administration and public use of national wildlife refuges. Specifically, section 4(d)(1)(A) of the NWRSA authorizes the