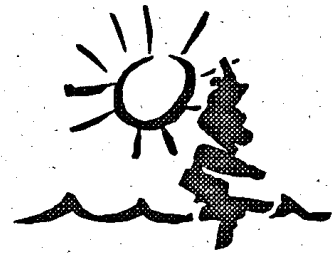




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EXECUTIVE SUMMARY

Three sets of regulations administered by the Canadian Wildlife Service (CWS) were examined in the Regulatory Review: the Migratory Birds Regulations and the Migratory Bird Sanctuary Regulations, both pursuant to the *Migratory Birds Convention Act*, and the Wildlife Area Regulations, pursuant to the *Canada Wildlife Act*. To carry out the review, a nine-member review team (three full-time and six part-time members) of Environment Canada employees was established.

The regulations and the legislation upon which they are based are the essence of CWS's mandate. The Migratory Birds Regulations and Migratory Bird Sanctuary Regulations have existed since 1917, and the Wildlife Area Regulations since the mid-70s. They have been recently complemented by the Wildlife Policy for Canada, a document adopted by the Wildlife Ministers' Council of Canada in September 1990, which provides a national framework for federal, provincial, territorial, and nongovernmental policies and programs that affect wildlife. The goal of the policy is to maintain and enhance the health and diversity of Canada's wildlife, for its own sake and for the benefit of present and future generations of Canadians.

The first step in this review was to ask stakeholders for their views on the regulations. In 1991, on its own initiative, CWS had already sought the suggestions of stakeholders for updating and amending the regulations. Preparations were also underway to respond to recommendations made by the Senate Standing Joint Committee for the Scrutiny of Regulations. Because one of the objectives of this Regulatory Review was to examine the impact of regulations on competitiveness and environmental sustainability, questions that had not been asked in CWS's first consultation, an additional round of public consultation was undertaken. The same stakeholders were contacted, as well as others likely to be interested in competitiveness, such as the oil/gas, mining, forestry, and outfitting industries. In addition, random samples of all permit holders (e.g., migratory game bird hunters, bird banders, aviculturists) were contacted.

To make it easier for stakeholders to understand the regulations and respond, a consultation document was prepared that summarized the regulations into five major groups by subject matter. The historical reasons and program-related rationale for each major section of the regulations were provided, and a short questionnaire based on the department's Regulatory Review Criteria was developed. Consultation documents, along with a stamped and addressed reply envelope, were mailed to stakeholders. Follow-up phone calls were made to selected stakeholders to encourage response, provide clarification, and offer to meet if desired. Some 1200 consultation documents were sent out.

Almost 200 responses were received (16%), many of them with thoughtful comment and specific suggestions, which indicated that CWS had been successful in reaching persons or organizations affected by or deeply interested in its regulations.

Nine out of ten stakeholders did not indicate any concern with the purpose or administration of the regulations or else felt that the purpose and administration were too lenient (Question 1). For example, a clear majority is in favour of migratory game

bird hunting regulations. However, some stakeholders did raise specific concerns; the one most often mentioned was concern about enforcement of the regulations.

Eight out of ten stakeholders felt that the regulations enhanced Canada's competitiveness as a nation or were neutral (Question 2). The reason given most often for enhancing competitiveness was that the regulations ensured sustainable use of a resource, so that access to hunting, wildlife viewing, etc. could be perpetuated.

Nine out of ten stakeholders said that the regulations enhanced environmental sustainability or were neutral (Question 3). Again, nine out of ten did not want any regulations deleted or amended (Question 4) or else wanted the regulations strengthened. There were numerous specific suggestions for changes or improvements.

In no case did stakeholders put forward an alternative to regulation (Question 5). Nine out of ten stakeholders said that there was no alternative or else suggested complementary activities only such as more educational programs and more cooperation with stakeholder groups.

In carrying out its analysis of the regulations, the Review Team considered all stakeholder comments from this review and from the 1991 consultation, making special note of those topics that generated a great deal of comment, such as enforcement and habitat protection, for example. Background information on the legal basis of the regulations, reporting burdens, level of government involvement, enforcement and compliance, international requirements, comparable situation in the provinces, and comparable situation in countries that are major trading partners was compiled and reviewed. The main problems identified by the Review Team were:

- need to review the legal basis for some sections of the regulations;
- confusion because of the lack of precise wording in some regulations;
- too much discretionary power in the hands of the Minister because the regulations fail to specify the types of conditions for the permits;
- lack of an appeal process for ministerial decisions related to permits;
- concern about enforcement of the regulations;
- duplication and inconsistency between the Migratory Birds Regulations and the Migratory Bird Sanctuary Regulations;
- unnecessary reporting burden for some permits;
- concern about some overlap of provincial and federal regulations, especially permit issuance;
- concern about the nature of activities permitted in Migratory Bird Sanctuaries and National Wildlife Areas, whether the regulations are too restrictive or too permissive;
- concern about the practice of baiting for hunting;
- concern about unregulated hunting by aboriginal people;
- concern about habitat protection.

Options for dealing with these concerns fall into two main categories: (1) amendments to the regulations that can be put forward now, and (2) changes that will require amendments to the Acts themselves, additional consultations with stakeholders, discussion with provinces, or development of policy by CWS. The most important immediate options are as follows:

- incorporating the substantive sections and the schedule of the Migratory Bird Sanctuary Regulations into the Migratory Birds Regulations and revoking the remaining sections. This would remove inconsistency and duplication between the two sets of regulations, which are both gazetted under the same Act;
- specifying the types of conditions for permits under both the Migratory Birds Regulations and the Wildlife Area Regulations in order to limit the discretionary powers of the Minister;
- adding a mechanism for appealing ministerial decisions related to permits and authorizations under both the Migratory Birds Regulations and the Wildlife Area Regulations;
- proceeding with an amendment to the Migratory Birds Regulations to allow ammunition other than steel shot to qualify as nontoxic shot. This will remove regulatory obstacles to the development of alternative nontoxic shots and improve competitiveness;
- expanding nontoxic shot zones to minimize the impact of lead shot on migratory birds;
- reducing the reporting burden for some types of permits;
- clarifying the intent of certain sections and adding or modifying definitions;
- wherever possible using management plans (developed through public consultation) rather than regulations to resolve use conflicts in National Wildlife Areas and Migratory Bird Sanctuaries;
- developing a comprehensive compliance strategy;
- moving quickly to develop regulations under the new *Wild Animal and Plant Protection and Regulation of International and Interprovincial Trade Act*.

Other proposed actions that will require more consultation or will require amendment of an Act or of the Migratory Birds Convention itself are:

- increasing fines and improving enforcement mechanisms in the *Migratory Birds Convention Act*;
- continuing to seek amendments to the Convention to provide a legal framework for cooperative hunting regimes with aboriginal people;
- reviewing the use of bait to attract migratory birds for the purpose of hunting with a view to eliminating the practice;
- working with provinces and territories to reduce or remove duplication in permitting;
- exploring the concept of delegating additional responsibility for the migratory game bird hunt to provinces and territories;
- investigating the possibility of working in partnership with nongovernment agencies for management or interpretive programs in certain Migratory Bird Sanctuaries or National Wildlife Areas;
- reviewing the legal basis for habitat protection in the Migratory Birds Convention;
- increasing fines and improving enforcement mechanisms in the *Canada Wildlife Act*.

Both stakeholders' opinions and the results of the Review Team's analysis support continued federal government intervention in the form of regulation. The regulations enhance both Canada's competitiveness and environmental sustainability by protecting migratory birds and some of the areas important to them and to other

wildlife. They are an important part of federal strategies for achieving the goals of the Green Plan related to sustaining Canada's wealth of wildlife. Specific commitments in the Green Plan relate to protected areas and to strengthening the regulations and the *Migratory Birds Convention Act*. The Migratory Birds Regulations and the Migratory Bird Sanctuary Regulations are required for Canada to comply with the provisions of the Migratory Birds Convention, a treaty with the United States. The Wildlife Area Regulations contribute to Canada's fulfillment of international obligations such as the Convention on Biological Diversity and the Ramsar Convention. There is a clear economic gain to Canadians and to government as a result of protecting and managing migratory birds and some of the areas important for their breeding and survival. Data collected in a 1987 survey by Statistics Canada showed that hunting and viewing migratory waterfowl contributed \$1.4 billion to the Gross Domestic Product, generated \$533 million in government revenue from taxes, and sustained 34,000 jobs. The economic impact of recreational activity associated with all types of terrestrial wildlife, not just migratory waterfowl, is even more substantial: a contribution of \$ 6.5 billion to the Gross Domestic Product, \$ 2.5 billion in government revenue from taxes, and 159,000 jobs, which represent \$ 3.7 billion in personal income for Canadians. The cost of the regulations to government is several orders of magnitude smaller, less than \$1 million in 1992-93. These economic benefit figures do not attempt to quantify the many other benefits of migratory birds as intrinsically important components of ecosystems, or their social, cultural, and emotional importance to Canadians.

INTRODUCTION

1. PURPOSE OF THE REGULATORY REVIEW

As part of a government-wide initiative, Environment Canada undertook a comprehensive review of its regulatory programs, as called for in the February 1992 federal budget and the December 1992 economic statement. The review, which started in November 1992, was designed to identify regulations that significantly hinder Canadian competitiveness or impose needless costs on consumers.

Treasury Board President Gilles Loiselle directed that none of the regulatory reviews would be allowed to compromise the government's commitment to protection of the environment, safety, and human health. In Environment Canada, regulations were reviewed to ensure that they met the goal of environmental sustainability, in line with Canada's Green Plan, as well as that of competitiveness. The purpose of Environment Canada's regulatory review was to develop recommendations relating to potential regulatory change, in order to ensure that the department's regulatory framework operates as efficiently and effectively as possible.

Major conclusions were to emerge from the review by April 1993, which dictated a very tight schedule, especially for consulting with stakeholders. In February the Minister of the Environment extended the consultation period by one month, to the end of March. Draft recommendations were then to be put forward by June.

The purpose of this report is to present the background information, stakeholder comment, and analysis that have led to the draft recommendations that are here set forth to guide regulatory reform by the Canadian Wildlife Service.

2. THE CANADIAN WILDLIFE SERVICE — LEGISLATIVE HISTORY AND ACTIVITIES

Environment Canada's Canadian Wildlife Service (CWS) handles wildlife matters that are the responsibility of the federal government. Within the Department's framework for sustaining environmental benefits, CWS contributes to a number of program areas. They include sustaining or increasing migratory bird and other wildlife populations, maintaining or enhancing wildlife habitat/ecosystems, rehabilitating or re-establishing endangered species, sustaining biodiversity internationally, sustaining the integrity and health of aquatic ecosystems, and reducing the impacts of toxics. CWS also provides information related to other departmental programs such as reducing the threat of global warming/climate change, reducing the impacts of acid rain, reducing the adverse environmental impacts of new initiatives, and integrating consideration of environmental and natural resource values into economic planning.

Legislative History

The focus of CWS's regulatory program stems from CWS's origins. In the early 1900s there was a drastic decline in migratory bird populations, particularly in eastern North America. As the decline in abundance of migratory birds was a responsibility shared by all states and provinces, an agreement between the Canadian and American federal governments was required to regulate hunting and undertake conservation

INTRODUCTION

programs. In 1916, Canada and the U.S. signed the Migratory Birds Convention, and the following year Parliament passed legislation (the *Migratory Birds Convention Act*) giving the federal government responsibility for the management of certain species of migratory birds. From this Act grew the current regulations concerning hunting and other uses of migratory birds and protecting areas of importance for the conservation of migratory birds.

By the late 1960s, it was clear that action by the federal government was required on many other wildlife issues, such as management of mammals that cross international boundaries and the serious problem of species becoming threatened with extinction. As a result, in 1973 the *Canada Wildlife Act* was passed enabling the federal government to carry out wildlife research and, in cooperation with the provinces, to undertake a wide range of wildlife conservation and interpretation activities for wildlife or its habitat. Areas of key importance to Canada's wildlife are protected through regulations under this Act.

The importance of international cooperation on environmental issues was recognized at the 1972 Stockholm Conference on the Human Environment. One initiative arising from that Conference was the Convention on International Trade in Endangered Species of Wild Fauna and Flora, an international agreement for the protection of certain wild species against overexploitation through trade. It entered into force in 1975. In order to more effectively implement the Convention and address other issues associated with trade in wild fauna and flora, the *Wild Animal and Plant Protection and Regulation of International and Interprovincial Trade Act* was passed by Parliament and received Royal Assent in December 1992. Consultations on regulations are currently underway and will result in the Act's proclamation likely during 1994.

Today's CWS

The twentieth anniversary of the Stockholm Conference was marked by the United Nations Conference on Environment and Development held in Rio de Janeiro in June 1992. Over 160 countries signed the Convention on Biological Diversity at that time and, in December, Canada became the first developed country to ratify the Convention.

The conservation of biodiversity is of paramount importance in sustaining environmental, economic, and social health and well-being. It means maintaining variety among living organisms and the ecological communities which they inhabit. The specific objectives of the Convention include the conservation of biological diversity, the sustainable use of its components, and the fair and equitable sharing of benefits.

Over the last number of years, federal and provincial wildlife agencies have increasingly recognized the importance of broader program objectives and more diversified and innovative strategies and activities to achieve those objectives. In 1990, the adoption of A Wildlife Policy for Canada by federal, provincial, and territorial wildlife ministers officially recognized this new approach to wildlife conservation in Canada, one based on a concept of wildlife that includes all wild organisms and their habitats. While respecting jurisdictional differences, the policy stresses the need for a more integrated approach, both in terms of cooperation among

jurisdictions and also in the application of an ecosystem approach to understanding and resolving wildlife conservation issues.

Canada's Green Plan, in particular its "National Wildlife Strategy" component, serves as the federal action plan for implementation of A Wildlife Policy for Canada, and is itself a major contribution to implementation of the Convention on Biological Diversity. Recognizing the broad range of issues faced by wildlife conservation agencies, initiatives under the Green Plan are designed to act as catalysts in meeting the conservation needs for wildlife. Emphasis is placed on building partnerships, strengthening the wildlife research base, establishing networks of expertise and information sharing, supporting education and awareness, and providing seed funding for joint conservation initiatives. The partnership for conservation of wildlife and its habitat also extends to the negotiation and implementation of cooperative wildlife management agreements with aboriginal people through comprehensive claims, community self-government, and other mechanisms.

Current Activities

Conservation of Migratory Birds and Other Wildlife

CWS conducts research on a wide variety of migratory birds and implements conservation measures to protect them. To maintain optimum populations of waterfowl, various field surveys are conducted in cooperation with the U.S. Fish and Wildlife Service and other organizations. Hunters also get involved by answering a questionnaire about the number of birds killed and by sending in duck wings and goose tails for determination of the age and number of each kind of bird taken in a given year. This work helps to determine the hunting regulations to be established each year.

Since 1968, CWS has coordinated an annual national survey of breeding nongame birds, mainly songbirds. Each June, volunteers record the breeding birds present along prescribed routes. Annual changes in numbers and long-term population trends are valuable indicators of environmental change.

When coastal habitats are ravaged by oil spills, the effects on seabirds can be devastating. Increased development and activities offshore, where many species breed, threaten seabird populations. CWS gathers information on their numbers and distribution in nesting areas and at sea, and produces maps showing critical areas.

Caribou, such as the Porcupine and Beverly-Kaminuriak herds, migrate over provincial, territorial, and international boundaries. CWS sits on an international management board that has been established to ensure the well-being of these and other herds by providing expertise in research and conservation.

Endangered Species

CWS is a leading player in the efforts to protect endangered species. It is a member of and administers the Secretariat for the Committee on the Status of Endangered Wildlife in Canada (COSEWIC), which produces the official list of Canadian endangered species. CWS is also active in RENEW (Recovery of Nationally Endangered Wildlife), a national program that brings all relevant Canadian agencies and groups together in a concerted effort to rehabilitate species once their status has been established. CWS is a partner in recovery programs for a number of endangered

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species, including the Whooping Crane, Peregrine Falcon, Piping Plover, wood bison and swift fox. Recovery programs have ranged from raising individuals in captivity and introducing them into the wild, to carefully controlling access and human activities in the species' natural habitat.

Conservation of Wildlife Habitat

The most ambitious habitat conservation program to date is the North American Waterfowl Management Plan (NAWMP). It is a \$1.5 billion joint Canada-US program designed to protect and enhance wetland habitat throughout North America, thereby restoring the populations of ducks and geese to the levels of the 1970s. NAWMP is recognized as having significant socioeconomic benefits beyond conserving migratory birds. This is especially true in prairie agriculture areas.

Habitat used by wildlife is also essential for agriculture, forestry, and other competing interests. To accommodate all concerns, CWS works with other agencies and groups to minimize the impact of such activities on critical wildlife habitat. The normal CWS role is one of influence and leadership. For example, CWS is the lead agency for the implementation of the Federal Policy for Wetland Conservation. This policy, based on the principle of no net loss of wetland function, is now being implemented by federal agencies and is seen by provinces and other countries as the model to follow. CWS has also co-sponsored a Wetlands Evaluation Guide to assist land use planners in determining the full range of environmental and social values of wetlands in addition to the traditional economic value. These initiatives are contributing to the conservation of wetlands in a nonregulatory fashion. CWS assumes a more direct role in protecting high-priority wetlands through the establishment and management of National Wildlife Areas and Migratory Bird Sanctuaries. There are close to 150 of these protected areas across the country.

Environmental impact studies are conducted by CWS to determine the effects of large-scale development projects on wildlife habitat. Many of these studies are in the north, a region which has just begun to feel the effects of resource development. Without proper planning, major developments could permanently damage the ecosystem.

The Effects of Pollutants on Wildlife

The dangers of toxics, pesticides, and acid rain have become all too familiar to Canadians. Not surprisingly, the threat is no less serious to wildlife. Chemical contamination of wildlife populations provides a useful indication of the overall health of the environment. Therefore, wildlife biologists monitor the effects of toxic chemicals entering ecosystems through such human activities as agriculture, industry, forestry, and urbanization. For example, pesticides are used extensively in modern agriculture and forestry. CWS conducts research on their impact on wildlife and provides advice to Agriculture Canada on their registration and use. Current studies on the impact of long-range transport of airborne pollutants on wildlife are examining the effects of acid rain on waterfowl in eastern Canada and the resulting socioeconomic impact.

International Programs

In addition to cooperative programs with the USA, CWS is involved in numerous international activities. These include projects where there is a shared wildlife population to manage, as with Lesser Snow Geese, which spend the summer in the Soviet Union and the winter in Canada near Vancouver. CWS is heavily involved in partnerships concerning the Arctic. These include the Arctic Environmental Protection Strategy, in particular the Conservation of Arctic Flora and Fauna and the Canada–Russia Mixed Environment Commission. Other examples of international activities are the Latin America Program and the Western Hemisphere Shorebird Reserve Network (WHSRN), which focus on migratory birds common to both American continents. By strengthening relationships with the Latin American countries, CWS is able to share research and conservation expertise on migratory birds and their habitats. Canada is also a signatory to the Convention on Wetlands of International Importance Especially as Waterfowl Habitat (the Ramsar Convention).

Canada was the first developed country to ratify the Convention on Biological Diversity. The Convention requires that national biodiversity strategies be prepared by each party. CWS has been assigned the task of coordinating the development of the Canadian biodiversity strategy and the federal and departmental contributions to that strategy. This work involves an extensive partnership involving many provincial and territorial agencies, other federal departments, all services in Environment Canada, and nongovernment organizations representing all sectors — conservation, protection, and development. Of particular importance is the integration of indigenous knowledge and organizations into the development of the Canadian biodiversity strategy.

CWS's Regulatory Program

CWS's regulatory program occupies a specific niche within the complement of activities pursued by CWS to achieve the objectives of the Environment Canada programs in which it participates. CWS adopts various wide-ranging strategies in pursuit of these objectives: science (research, development, monitoring), partnerships (international, provincial, other government departments, nongovernment organizations), cooperation, influence, leadership, stewardship, advice, advocacy, education and communications, and compliance and enforcement.

The CWS regulatory program is another of the strategies chosen to fulfill environmental responsibilities. Its focus is specific and strategic and relates to only two program areas: protecting migratory birds and protecting habitat of key importance to migratory birds and other wildlife.

3. THE REVIEW TEAM

The CWS Review Team was put together in January 1993. It was led by **Patricia Logan**, Chief of the Scientific and Technical Documents Division, CWS. The other full-time members of the team were **Christopher Currie**, Senior Analyst, Aboriginal and Native Affairs, Corporate Policy Group, Environment Canada, and **Suzanne Roussel**, National Coordinator for Planning and Policy, Legislation and Enforcement Division, CWS. Part-time members were **J.F.T. Carreiro**, Chief, Wildlife Conservation and Environmental Quality, CWS, Ontario Region; **André Jacquemot**, Resource Economist, Socioeconomic and Marketing Division, CWS; **Yvan Lafleur**, Chief, Legislation and Enforcement Division, CWS; **Robert McLean**, Acting Chief,

Program Analysis and Coordination Division, CWS; Lisa Quiring, Regulatory Analyst, Legislation and Enforcement Division, CWS; and J. Stephen Wendt, Chief, Migratory Birds Conservation Division, CWS. Regional team members in each of the CWS Regions provided substantial amounts of background data and were responsible for overseeing the consultation exercise in their region and reviewing the draft report. Regional team members were Richard Elliot, Chief, Migratory Bird Management, CWS, Atlantic Region; Charles Drolet, Chief, Population Management Division, CWS, Quebec Region; J.F.T. Carreiro, Chief, Wildlife Conservation and Environmental Quality, CWS, Ontario Region; Arni Goodman, Science Liaison Officer, CWS, Western and Northern Region; and Gerry Townsend, Chief, Wildlife Conservation, CWS, Pacific and Yukon Region.

4. REGULATIONS UNDER REVIEW

Three sets of regulations were considered in the regulatory review. The Migratory Birds Regulations and the Migratory Bird Sanctuary Regulations are gazetted under authority of the *Migratory Birds Convention Act (1917)*, and the Wildlife Area Regulations under authority of the *Canada Wildlife Act (1973)*. The Migratory Birds Regulations establish, among other things, the basis for hunting season dates and bag and possession limits. The actual season dates, daily bag and possession limits, hunting zones, and permit and stamp fees for each province and territory are set out in Schedules 1 and 2 of the regulations. Zones, dates, and limits may change from year to year and are the subject of annual consultation. The schedules themselves were therefore not included in this review exercise. The substantive portion of the regulations — those sections that authorize the setting of zones, season dates, limits, and fees in the schedules — were of course included in the review.

Also excluded from this review were one act and four regulations intimately linked with the *Wild Animal and Plant Protection and Regulation of International and Interprovincial Trade Act (WAPPA)*, which received Royal Assent on December 17, 1992. WAPPA is a Green Plan initiative designed to protect wild animals and plants from poaching and smuggling. More specifically, it will control international trade and interprovincial transport in wild animals and plants, their parts, and products in order to better conserve Canadian and foreign species and to protect Canadian ecosystems from the introduction of harmful wild species. Once the new Act enters into force, the *Game Export Act* will be repealed. That Act has no regulations and was therefore not relevant to this exercise.

Four specific regulations established under the *Export and Import Permits Act*, administered by the Secretary of State for External Affairs and International Trade, pertain to the Convention on International Trade in Endangered Species of Wild Fauna and Flora. The Convention is an international agreement for the protection of species of wild animals and plants against overexploitation caused by international trade. It operates through a permit system that varies according to the endangered status of a particular species. The 118 countries that are party to the Convention include the United States and all of Canada's major trading partners. All signatories use the same permit system.

When it enters into force, WAPPA will enhance implementation of the Convention. The existing regulatory regime under the *Export and Import Permits Act*

will be revoked and replaced with new regulations to be developed under the provisions of WAPPA. These new regulations will incorporate the permit requirements of the Convention. Other elements of the regulatory package to be developed in response to the new provisions of WAPPA will be subject to the same scrutiny that all new regulatory initiatives receive through consultation with affected stakeholders and the development of a comprehensive Regulatory Impact Analysis Statement, which includes consideration of the impact of the new regulation on competitiveness.

5. CONSULTATION PROCESS

CWS's goal for its consultation exercise was to put into place an inclusive and open consultation process, reaching the largest number of stakeholders possible in the time available and making it simple for them to respond. The consultation effort was shaped by the nature of the stakeholder base, the fact that a separate review of the same regulations had already been undertaken by CWS on its own initiative in 1991 (Regulations Review Project), and the short amount of time available.

CWS has a broadly based clientele and consultation process, which reflect its partnership approach to program delivery. Those interested in its regulations include, for example, migratory game bird hunters, aviculturists, taxidermists, farmers, members of environmental and wildlife groups, aboriginals, bird banders, researchers, and provincial and territorial wildlife agencies. The opinions of these groups were sought in 1991-92 when CWS began its own review of its regulations. Regional offices assumed a lead role, since regional staff are better able to identify the most appropriate stakeholders and know the local issues.

The same broad group of stakeholders was given an opportunity to comment as part of the current review, with its focus on competitiveness and environmental sustainability. It too was largely conducted through regional offices. Groups likely to be interested in competitiveness were added, such as outfitters and the oil/gas, mining, and forest industries. CWS Headquarters staff were responsible for consulting with certain national associations and other stakeholder groups that were not part of the first consultation exercise. In addition, a random sample of the various permit holders (e.g., migratory game bird hunters, aviculturists, bird banders) was also contacted. For details see the consultation plan matrix (Table 1).

Because of the short timeframe, stakeholders were contacted by mail and a written response was requested, as in the earlier 1991-92 CWS review. To maximize response and reduce "consultation fatigue," the stakeholder's task was made as easy as possible by summarizing CWS regulations into five major groups by subject matter, or "blocks," providing the rationale for each, and attaching a one-page questionnaire based on Environment Canada's Regulatory Review Criteria (Appendix 1) to focus input and elicit the information that CWS required to undertake an effective analysis. The entire text of the regulations was also included. Producing this consultation document was the Regulatory Review Team's first priority. The document, including a stamped and addressed return envelope, was distributed by Regions and Headquarters to stakeholders on their respective mailing lists from January 22 to 27, 1993. Some 1200 consultation documents were sent. To maximize returns, CWS telephoned

*"If we truly desire that these regulations result in the greatest prosperity for all Canadians, we must put the protection of habitat and species as our primary goal. Prosperity must be based primarily on the long-term sustainability of ecosystems, not on short-term economic goals."**

*Extracts from stakeholders' responses are included throughout the report to illustrate some of the opinions put forth.

Table 1
CONSULTATION PLAN MATRIX

Stakeholder	Regional Responsibility	Follow-up	Headquarters Responsibility	Follow-up
Waterfowl organizations	Regional groups	Selected	—	—
Environmental and wildlife organizations	Regional groups	Selected	Group of Eight (national groups)	All
Aviculture groups	Regional associations Sample of permit holders	Selected	—	—
Taxidermy permit holders	Sample of permit holders	Selected	—	—
Eiderdown industry	Sample of permit holders	Selected	—	—
Aboriginal organizations	Regional groups	Selected	Indigenous Survival International, comprehensive claims groups, national associations	All
Ammunition and shot manufacturers	—	—	J. Brown, Hummason Mfg., Challenger Shells	All
Provincial/territorial agencies	Enforcement offices; respond to provincial/territorial inquiries	All	DG correspondence to Wildlife Directors	—
Outfitters and tourist camp operators	Major operators (where feasible)	Selected	—	—
Oil/gas/mining sector	Permit holders recently operating in MBSs and NWAs	All	Canadian Mining Association	All
	Canadian Petroleum Association (W&N Region)	All		
Scientists and research organizations	Sample of permit holders	Selected	Association of Canadian Universities for Northern Studies	All
Bird banders	—	—	National and regional banding groups Sample of permit holders	All groups
Federal departments and agencies	—	—	Agriculture Canada, Transport Canada (airport management), DND, RCMP, Parks Canada	All
Airports/holders of damage permits	All airport permit holders	Selected	—	—
	Sample of damage permit holders	Selected		
Waterfowl hunters	—	—	Sample of participants in harvest survey	Selected
Museums	Regional museums	Selected	National museums	All
USA, Mexico	—	—	U.S. Fish & Wildlife Service, Instituto Nacional de Ecología	—

Note: Samples are random
MBS: Migratory Bird Sanctuary
NWA: National Wildlife Area

selected stakeholders to encourage response, provide clarification, and offer to meet if desired. Phone follow-up began during the week of January 25.

In the last week of February, the Minister of the Environment extended the deadline for interested parties to comment on the review until the end of March. At that point CWS telephoned all stakeholders who had indicated concern about the time frame to inform them of the extension and assure them that their comment was welcome. In addition, all national aboriginal associations were contacted again.

Responses (almost 200) were logged in the Departmental Regulatory Review Office and acknowledged immediately. They form the basis for the Stakeholder Views summarized in a later section. In June a summary of comments received was sent to respondents for verification. The comments received in the consultation project that CWS began in 1991 have also been included and in some cases identified as such.

6. ANALYTICAL PROCESS

Three documents served as the basis for guiding our information gathering and analysis: Environment Canada's "Regulatory Review Criteria" and "Context and Guidelines for Applying the Review Criteria," and the Treasury Board of Canada's "Regulatory Policy".

Environment Canada's Regulatory Review Criteria (Appendix 1) were designed to elicit information documenting the legal basis, reporting burden, level of government involvement, enforcement and compliance, international requirements, and comparable situation in the provinces and territories and in other countries. They were also to assist in the analysis of the impacts of regulations, impacts that must be consistent with the intended objectives of the regulations and the legislation from which they derive. In addition to competitiveness, the analysis focused on obsolescence, duplication, cooperation with industry, benefits, compliance costs, environmental sustainability, and alternatives to existing regulations. Although it was recognized that the regulations must reflect the government's competitiveness goals, it was also confirmed that they must similarly reflect the government's environmental sustainability goals as outlined in the Green Plan.

The second document, entitled "Context and Guidelines for applying the Review Criteria" (Appendix 2), situated this exercise in terms of the direction that was given in the 1992 federal budget; namely, to identify those regulations that may hinder Canadian competitiveness or whose costs outweigh their benefits.

Finally, the Treasury Board of Canada's Regulatory Policy states as a policy objective the notion that the government's regulatory powers must result in the greatest net benefit to Canadians. The policy states that all regulating departments must be able to demonstrate that:

- government intervention through regulation remains justified;
- regulation is the best of available alternatives;
- the regulatory program provides maximum gain to beneficiaries in relation to the cost to federal and provincial governments, businesses, and individuals;
- resources are available to ensure effective compliance with and enforcement of the regulatory provisions; and

"The integrity of the environment is essential and in fact integral to our 'prosperity' and well-being. We believe Canada's competitiveness is enhanced by its image as a country of great landscapes and clean wilderness."

INTRODUCTION

- stakeholders are informed and involved in the regulation-making and review processes.

The work carried out by the CWS Regulatory Review Team, and that by Environment Canada's seven other review teams, was guided by an External Advisory Panel. The External Advisory Panel was formed to endorse the review criteria, challenge review teams and guide the review process, confirm that key stakeholders had been consulted, provide viewpoints, and advise the Minister on resulting recommendations. Panel members were drawn from industry, business, labour, environmental groups, and conservation groups (e.g., the Canadian Chemical Producers' Association, Mining Association of Canada, Canadian Labour Congress, International Institute for Sustainable Development, Coalition for a Green Economic Recovery, and Canadian Wildlife Federation).

At its first meeting, the Panel reviewed and accepted the review criteria. Particular attention was given to the need to identify the objectives of the legislation and policies upon which the regulations were based, including enforcement and compliance considerations, as well as the cumulative impact of regulations and questions of harmonization and equivalency. The Panel's comments reinforced the importance of looking at regulatory mechanisms in the larger policy context, from an ecosystem management point of view. At its second meeting, the Panel commented on the consultation phase and the preliminary analysis and findings of the review teams and urged that key concepts such as "environmental sustainability" be defined.

The "challenge" approach was used by the CWS Review Team itself as the drafting of this document progressed. Organizing and analyzing the large volume of information received from stakeholders, CWS regional offices, and CWS headquarters staff was the responsibility of five team members, each one working with one of the subject areas, or "blocks," used in the consultation document. Their analyses and recommendations were then combined in a draft document that was discussed, evaluated, and modified by the entire team. The revised draft that resulted was reviewed by regional team members and revised prior to review and subsequent approval by the CWS Executive Committee. Approval by the Committee resulted in the preparation of a draft that was presented in summary form to senior departmental management and to the External Advisory Panel. Preparation of this document followed.

MIGRATORY BIRDS REGULATIONS

The provisions of the Migratory Birds Regulations fall into three general areas: general protection, hunting and hunting permits, and permits other than hunting permits. The regulations were broken down into these three blocks in the consultation document in order to make them easier to understand and facilitate comment by stakeholders. Where appropriate below, the regulations are discussed by block, but otherwise they are treated all together.

1. BACKGROUND INFORMATION

Legal Basis and Regulatory Objective

The hunting of migratory game birds is regulated in both Canada and the United States. Each country shares a commitment to work together to preserve migratory game bird populations. In 1916 the two countries signed the Migratory Birds Convention, which is implemented in Canada by the *Migratory Birds Convention Act*, proclaimed in 1917. The obligations of Canada under the Convention establish federal authority in this area under section 132 of the Constitution (the power to perform obligations “towards Foreign Countries, arising under Treaties between the Empire and such Foreign Countries”). There is extensive judicial support for this authority.

Additional support for federal authority can be found in the “Peace, Order, and Good Government” clause of the Constitution. Federal jurisdiction over migratory birds, which are widely distributed and migrate annually over territorial, provincial, and international boundaries, has been explicitly acknowledged since 1917. No legal decisions have been made that relate to the application of the Peace, Order, and Good Government clause to migratory birds.

The Migratory Birds Convention (1916)

The Convention consists of a lengthy preamble and nine Articles. The preamble states that many species of migratory birds “of great value as a source of food or in destroying insects which are injurious to forests and forage plants ... as well as to agricultural crops” are “in danger of extermination through lack of adequate protection during the nesting season or while on their way to and from their breeding grounds.” The two countries, “being desirous of saving from indiscriminate slaughter and of insuring the preservation of such migratory birds as are either useful to man or are harmless, have resolved to adopt some uniform system of protection.” Among other things, the Articles establish a closed season for most migratory game birds between March 10 and September 1, prohibit the taking of eggs or nests except for scientific and propagating purposes, and recognize that special protection was necessary for wood and eider ducks in particular and that this could be achieved by the establishment of refuges.

The Migratory Birds Convention Act and Migratory Birds Regulations

The *Migratory Birds Convention Act* was proclaimed in 1917 to implement the terms of the Convention, and the Migratory Birds Regulations were made pursuant to the Act. The regulations date from 1917 but have been added to and amended over the

years. The original and current objective of the Act and regulations made pursuant to the Act is to conserve the diversity of migratory birds in Canada, while preserving social, cultural, and economic opportunities for the benefit of present and future generations. Both the Convention and the Act set general prohibitions that allow variance only through the issuance of permits.

There is an emphasis in the Migratory Birds Regulations on the control of hunting. Migratory game birds are protected during their nesting season and when travelling to and from their breeding grounds through the establishment of annual hunting season dates and bag and possession limits. The regulations also control, for example, the sale, purchase, or shipment of migratory birds, their nests or eggs; scientific collection, aviculture and taxidermy; and activities designed to reduce the damage migratory birds cause to crops or other property and the danger they pose to aircraft. Migratory Bird Sanctuaries are created pursuant to the Migratory Bird Convention Act; the Migratory Bird Sanctuary Regulations are discussed separately in this report.

Interpretation of the Convention and Conservation Objectives

There are at least six areas worthy of special mention in terms of the Convention, the wording that is used in its Articles, and the application of the *Migratory Birds Convention Act* and the Migratory Birds Regulations. CWS has over the years used different sections of the regulations to achieve various well-defined conservation goals. Although a strict interpretation of wording used in the Convention may not support these provisions, there are compelling reasons to continue to use them until suitable alternatives are developed. Efforts are underway to correct the areas of ambiguity, through either negotiated amendments to the Convention itself or proposed amendments to the Act.

1. The traditional hunting of murres in Newfoundland is a practice that precedes the province's 1949 union with Canada. Subsection 5(2) was added to the regulations six years later, the result of intense pressure from the provincial government. At the time the bird was the major source of food for many Newfoundlanders, and restricting the hunt would have had serious consequences for outport residents. This reality is, however, complicated by the fact that murres are not migratory game birds but "Other Migratory Nongame Birds." According to Article II of the Convention, there should then be a continuous closed season on murres, except for aboriginal hunters. As the parts of the Convention and Act that refer to the restriction of hunting seasons and bag limits deal only with migratory game birds, they do not apply to murres. No bag limits were imposed in 1955, and a very liberal hunting season of seven months' duration was established.

Today the hunt remains an important cultural and sporting activity, with as many as 15,000 participating hunters. An estimated 600,000 to 900,000 birds are taken annually. Managers have been unable to apply migratory game bird management techniques to this species. Increasing concern about the effects of the hunt on murre populations has led CWS to use section 37 as a harvest management tool to vary or close the hunting season or change any quota or bag limit for conservation purposes, after appropriate communication to the public. Previous use has always been in the context of "emergency" situations related to excessive harvest, large numbers of hunters, extremely

vulnerable birds, and associated complaints from members of the public and media. CWS may use section 37 only in exceptional circumstances warranted by considerations of conservation, as it has on three occasions in the past, to ensure the effective application of the regulations. On two of the occasions the Newfoundland murre hunt was closed.

2. There does not appear to be explicit authority in the Convention for section 33, which relates to the regulation of exotic species. The provisions of the *Wild Animal and Plant Protection and Regulation of International and Interprovincial Trade Act* may be appropriate in this context.
3. There are questions about the authority in the Convention for section 35, which relates to the polluting of waters or areas frequented by migratory birds.
4. Much of the waterfowl hunting carried out by aboriginal people in the territories and provinces during the closed season is not permitted by the Convention (subsection 5(4)). This subsection is only enforced under the terms of CWS's Interim Policy on the Application of the Migratory Birds Convention Act and the Canada Wildlife Act Respecting Closed-Season Hunting and Eggging by Aboriginal People. (See Amendments/ Enforcement and Aboriginal People later in this report for more detail).
5. There are questions about the authority in the Convention for habitat. The preamble refers to "some uniform system of protection," and Article IV refers to the "establishment of refuges" for wood and eider ducks.
6. Section 26.1, concerning the ability of CWS to destroy the eggs of migratory birds, has been questioned for many years on the basis that eggs are not defined as birds for control purposes in the Convention or the Act. A proposed amendment to the Act to define eggs as migratory birds will provide a legal basis for this regulation, which is critical to migratory bird control at airports, for example, to ensure public safety.

"They enhance sustainability but could do much more. Damage to habitat and pollution are the main threat to most birds."

Reporting Burden

The following permits may be issued under the Regulations: Migratory Game Bird Hunting Permit, Scientific Permit, Avicultural Permit, Damage Permit, Airport Permit, Taxidermist Permit, Eiderdown Permit, and Special Permit. The number of permits, other than hunting permits, issued in 1992-93 is listed in Table 2. The purpose, rationale, and reporting requirement for each type of permit are as follows.

Migratory Game Bird Hunting Permit

A major feature of the regulations is to control the number of birds killed by hunters. Migratory game birds can only be hunted by persons who hold a valid hunting permit. There is no reporting requirement. Voluntary questionnaire and wing surveys are conducted each year with the support of hunters.

Scientific Permit

The Convention recognizes the importance of scientific research on migratory birds and establishes permits to kill, collect, or capture and band migratory birds for

MIGRATORY BIRDS REGULATIONS

Table 2
NUMBER OF PERMITS OTHER THAN MIGRATORY GAME BIRD HUNTING PERMITS ISSUED BY CWS IN 1992-93
BY REGION

	Atlantic Region	Quebec Region	Ontario Region	Western & Northern Region	Pacific & Yukon Region	Headquarters
Scientific	55	95	46	198	101	510
Aviculture	331	855	853	257	191	-
Damage	9	119	291	NA	49	-
Airport	0	18	26	5	29	-
Taxidermy	38	130	221	191	73	-
Eiderdown	3	-	-	1	-	-
Special	3	-	2	8	8	-

NA: Not available.

"In my experience scientific permits are somewhat difficult to obtain, but I appreciate the benefits of such regulations."

scientific or educational purposes. Section 19 of the regulations sets forth the qualifications of a person allowed to obtain such a permit and requires that the person report on activities as well as disposal of killed birds. Permit holders must submit a written report within 30 days of the expiration of the permit. Bird banders are required to report all birds banded, their band numbers, species, age, and status on an annual basis.

Avicultural Permit

"We have operated under this permit [avicultural] for the past 39 years and must say that it is a fair and easy to comply with set of regulations."

The Convention recognizes that propagating birds in captivity can be a legitimate activity. Section 20 of the regulations controls the impact of that activity on wild migratory bird populations by restricting the possession, disposal, and release of captive birds. Permit holders are required to keep books and records and to submit them on or before the January 31 following the end of each calendar year in which the permit was held. Specific information regarding all transactions affecting the permit holder's captive migratory bird flock is required, for example, the species and number of birds being held, hatched, acquired, sold, that died, or were consumed. In the CWS Ontario Region, 10-15% of the reports are usually incorrect and additional contact is required. In some cases a field inspection by an enforcement officer is necessary.

Damage (or Danger) Permit

The Convention recognizes the need to act if birds are damaging properties or creating danger. Sections 24, 25, 26, and 27 of the regulations describe the procedures and conditions for the issuance of scare or kill permits and specific restrictions respecting bait station areas and lure crop areas. The damage to property from migratory birds can sometimes be substantial; the most common example is damage of agricultural crops. Scare permits are issued most often.

Permit holders must return their permits with certain required information to the issuing officer within 15 days of the expiration of the permit. For example, in the CWS Western and Northern Region information is required on the number, species, and disposition of birds killed. An experiment designed to reduce the administrative and reporting burden was initiated in the CWS Atlantic region in 1991, when migratory bird damage (scare and kill) permits were issued to commercial blueberry growers for an extended five-year period. The results are being evaluated to determine if the absence of immediate reports has resulted in unacceptable abuse.

Airport Permit

Section 28 of the regulations allows the issuance of permits to airport managers to kill, control, or disperse birds when birds are considered to be a danger to aircraft. Every year there are hundreds of collisions between birds and aircraft. Thankfully, most do not cause loss of human life, but they do damage equipment.

"There is a definite need for Airport Permits. In the interest of safety, some provision for issuing these permits must continue."

Section 28 contains no specific reporting requirements. However, subsection 4(5) states that there is a requirement to comply with every condition set out in a permit. For example, in the CWS Ontario and the Western and Northern regions airport permits are conditional on the permit holder recording the number and species of each bird killed and producing those records when requested by CWS. Such requests normally occur once each year.

Taxidermy Permit

Taxidermy is recognized as a legitimate activity for the preservation of the remains of birds legally killed by hunters, and so a permit is required to allow the taxidermist to legally possess the birds. Section 29 of the regulations controls the possession of migratory birds by taxidermists through a permit system. Registry books are supplied to taxidermists, in which all birds received for taxidermy must be listed with the owner's name and address, hunting licence number, date of receipt, and date of delivery. Each bird must be tagged for identification. In both the Ontario and the Western and Northern Regions such records are checked when a physical inspection of the facilities and birds takes place. Books must be kept up to date, but annual reporting is not required.

Eiderdown Permit

Section 32 controls the collection of eiderdown by permit holders and by aboriginal people. The various species of eider duck nest on the ground, lining the nest with copious quantities of breast down feathers. With due regard for the climate, some of these feathers can be removed without jeopardizing the chances of nesting success. The down is used for fabrication of insulated clothing and bedclothes. Controls are required to prevent excessive harvest, protect eggs, and minimize disturbance of nesting birds. The Atlantic Region requires permit holders to report the areas worked, number of nests used, and amount of down collected.

Special Permit

Section 36 gives authority to the Minister to issue a special permit to any person, notwithstanding anything in these regulations. Special permits exist for purposes other than those mentioned above, and allow for persons to kill, capture, or possess any migratory birds and collect and possess carcasses, eggs, or nests of any migratory birds. Although special permits are issued within the parameters of the CWS Permit Policy described below, concern has been expressed by the Senate Standing Joint Committee for the Scrutiny of Regulations about the discretionary nature of the power given to the Minister.

CWS Permit Policy

To assist permit issuing officers, and to ensure consistent administrative practices throughout CWS and agencies acting on its behalf, a Permit Policy has been developed to define the responsibilities of staff involved. The policy contains certain general requirements and criteria for the issuance of permits. For example, permits will be issued to individuals or organizations only upon a request that satisfies the requirements for the permit requested. Conditions must not replace the requirements of the regulations.

Level of Government Involvement

Level of government involvement refers essentially to the cost to government of developing and implementing regulations.

Government expenditures in both human and financial resources on all regulations administered by CWS are presented in Table 3. Costs are presented separately for regions and for headquarters from 1989-90 to 1992-93. Costs attributable to the Wildlife Area Regulations under the *Canada Wildlife Act* have been separated from the costs attributable to the two sets of regulations (Migratory Birds Regulations, Migratory Bird Sanctuary Regulations) under the *Migratory Birds Convention Act*. In some cases the relative proportion of costs attributable under the two Acts is estimated; by and large, the great majority of the costs relate to the Migratory Birds Regulations.

The types of activities considered in arriving at a "cost" of CWS regulations included development of new or amended regulations; the annual revision of Schedules 1 and 2 of the Migratory Birds Regulations (hunting season dates and limits), including consultations with stakeholders and partners; gazetting; the printing and distribution of hunting permits, habitat stamps, and summaries of the regulations for hunters; administrative costs of issuing all other permits; enforcement and compliance activities; and the annual survey of hunters to determine harvest figures for each hunted bird species in each province or territory. The costs associated with waterfowl surveys and management are not included as a cost of regulations because these activities relate to the entire range of CWS programs, such as endangered species, habitat protection, North American Waterfowl Management Plan, biodiversity, etc.

The regulations also generate revenue from the sale of permits. The most widely purchased permit is the migratory game bird hunting permit, which had sales of over \$4 million in 1991-92 (permit plus stamp). The permit, which in 1992 sold for \$3.50, must be validated by a wildlife habitat stamp (\$8.50). The revenue from the stamps, net of printing costs, flows through to Wildlife Habitat Canada, a nonprofit agency that acquires and manages crucial wetland habitat for migratory birds and other wildlife species. In Table 3, the cost of regulations is shown net of revenue from permits. In 1992-93, that cost was \$708,000.

MIGRATORY BIRDS REGULATIONS

Table 3
COSTS OF CWS INVOLVEMENT IN REGULATIONS FOR THE FISCAL YEARS 1989-90 TO 1992-93

TYPES OF COSTS Includes Salaries, O&M & Capital	Fiscal Year	Person- Years	Current \$'000	Constant 1989 \$'000*
TOTAL ALL REGIONS				
MBCA COSTS:	1989/90	21.5	1,323.3	
	1990/91	25.0	1,778.4	
	1991/92	25.0	1,821.3	
	1992/93	25.0	1,968.2	
CWA COSTS:	1989/90	16.8	1,143.0	
	1990/91	16.9	1,305.9	
	1991/92	18.2	1,218.5	
	1992/93	16.6	1,459.8	
MBCA REVENUE:	1989/90	NA	-24.6	
	1990/91	NA	-24.8	
	1991/92	NA	-23.8	
	1992/93	NA	-20.6	
CWA REVENUE:	1989/90	NA	-148.7	
	1990/91	NA	-139.9	
	1991/92	NA	-162.2	
	1992/93	NA	-186.4	
TOTAL COSTS	1989/90	38.3	2,446.3	2,466.3
	1990/91	41.9	3,084.3	2,934.6
	1991/92	43.2	3,039.8	2,804.2
	1992/93	41.6	3,428.0	3,133.5
TOTAL REVENUE	1989/90	NA	-173.3	-173.3
	1990/91	NA	-164.7	-156.7
	1991/92	NA	-186.0	-171.6
	1992/93	NA	-207.0	-189.2

* Based on the implicit price index (GDP) for government current expenditures on goods and services (Statistics Canada Publication Number 11-010, Jan. 1993).

1986 = 100.0

1989 = 112.5 = 100.0 1991 = 121.9 = 108.4

1990 = 118.2 = 105.1 1992 = 123.1 = 109.4

MBCA: Migratory Birds Convention Act

CWA: Canada Wildlife Act

NA: Not applicable

MIGRATORY BIRDS REGULATIONS

Table 3
COSTS OF CWS INVOLVEMENT IN REGULATIONS FOR THE FISCAL YEARS 1989-90 TO
1992-93 (Continued)

TYPES OF COSTS Includes Salaries, O&M & Capital	Fiscal Year	Person- Years	Current \$'000	Constant 1989 \$'000*
TOTAL HEADQUARTERS				
MBCA COSTS:	1989/90	8.1	1,634.1	1,634.1
	1990/91	9.1	1,671.9	1,590.8
	1991/92	9.1	1,763.5	1,626.8
	1992/93	9.1	1,706.0	1,559.4
CWA COSTS:	1989/90	NA	31.8	31.8
	1990/91	NA	38.2	36.3
	1991/92	NA	42.1	38.8
	1992/93	NA	36.0	32.9
MBCA REVENUE:	1989/90	NA	-4,225.6	-4,225.6
	1990/91	NA	-4,122.6	-3,922.5
	1991/92	NA	-4,555.0	-4,202.0
	1992/93	NA	-4,255.0	-3,889.4
TOTAL COSTS:	1989/90	8.1	1,665.9	1,665.9
	1990/91	9.1	1,710.1	1,627.1
	1991/92	9.1	1,805.6	1,665.7
	1992/93	9.1	1,742.0	1,592.3
TOTAL REVENUE:	1989/90	NA	-4,225.6	-4,225.6
	1990/91	NA	-4,122.6	-3,922.5
	1991/92	NA	-4,555.0	-4,202.0
	1992/93	NA	-4,255.0	-3,889.4

* Based on the implicit price index (GDP) for government current expenditures on goods and services
(Statistics Canada Publication Number 11-010, Jan. 1993).

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NA: Not applicable

MIGRATORY BIRDS REGULATIONS

Table 3
COSTS OF CWS INVOLVEMENT IN REGULATIONS FOR THE FISCAL YEARS 1989-90 TO
1992-93 (Continued)

TYPES OF COSTS Includes Salaries, O&M & Capital	Fiscal Year	Person- Years	Current \$'000	Constant 1989 \$'000*
GRAND TOTAL CWS				
MBCA COSTS:	1989/90	29.6	2,957.4	2,957.4
	1990/91	34.1	3,450.3	3,282.9
	1991/92	34.1	3,584.8	3,307.0
	1992/93	34.1	3,674.2	3,358.6
CWA COSTS:	1989/90	16.8	1,174.8	1,174.8
	1990/91	16.9	1,344.1	1,278.9
	1991/92	18.2	1,260.6	1,162.9
	1992/93	16.6	1,495.8	1,367.3
MBCA REVENUE:	1989/90	NA	-4,250.2	-4,250.2
	1990/91	NA	-4,147.4	-3,946.1
	1991/92	NA	-4,578.8	-4,224.0
	1992/93	NA	-4,275.6	-3,908.2
CWA REVENUE:	1989/90	NA	-148.7	-148.7
	1990/91	NA	-139.9	-133.1
	1991/92	NA	-162.2	-149.6
	1992/93	NA	-186.4	-170.4
TOTAL COSTS:	1989/90	46.4	4,132.2	4,132.2
	1990/91	51.0	4,794.4	4,561.8
	1991/92	52.3	4,845.4	4,469.9
	1992/93	50.7	5,170.0	4,725.8
TOTAL REVENUE:	1989/90	NA	-4,398.9	-4,398.9
	1990/91	NA	-4,287.3	-4,079.3
	1991/92	NA	-4,741.0	-4,373.6
	1992/93	NA	-4,462.0	-4,078.6
TOTAL COSTS NET OF REVENUE:	1989/90	NA	-266.7	-266.7
	1990/91	NA	507.1	482.5
	1991/92	NA	104.4	96.3
	1992/93	NA	708.0	647.2

* Based on the implicit price index (GDP) for government current expenditures on goods and services (Statistics Canada Publication Number 11-010, Jan. 1993).

1986 = 100.0

1989 = 112.5 = 100.0 1991 = 121.9 = 108.4

1990 = 118.2 = 105.1 1992 = 123.1 = 109.4

MBCA: Migratory Birds Convention Act

CWA: Canada Wildlife Act

NA: Not applicable

MIGRATORY BIRDS REGULATIONS

Enforcement and Compliance

Enforcement

*"A realistic monetary fine!
Not \$300."*

Every person who violates any provision of the Migratory Birds Regulations is guilty of an offence punishable on summary conviction. This means that charges must be laid, a court decision rendered, and a person found guilty before the person can be fined. The fines vary from \$10 to \$300 depending on the seriousness of the infraction. The regulations are enforced by CWS, Royal Canadian Mounted Police (RCMP), Canadian Parks Service, Department of Fisheries and Oceans, and provincial and territorial wildlife agencies. Officers are responsible for inspecting hunting areas, inspecting hunters for hunting permits, and inspecting hunting equipment and the number of migratory game birds taken and possessed. They participate in patrols during high-complaint periods and become involved in investigations that significantly impact migratory bird resources. The amount of field work done by these agencies varies from region to region.

*"The regulations are poorly
enforced."*

Most provinces and territories have small game hunting regulations comparable to those of the *Migratory Birds Convention Act*, making it possible to bring charges under provincial law for some migratory bird hunting violations. Officers lay charges under the piece of legislation that most clearly fits the violation, will require the least follow-up time (as in court proceedings), and has the most appropriate penalties. This often results in the provincial regulations being used.

*"Some of our major concerns
pertain to enforcement of the
current regulations."*

Partnerships with participating agencies, if they are to be successful, consume a considerable amount of the time of CWS enforcement personnel, as well as funds. Officers coordinate and provide assistance to other agencies involved in migratory bird enforcement, and advise on methods to address illegal hunting activity and on the wording to be used in search warrants and in the preparation of charges, for example. Training is also provided to other agencies. Only CWS offers this type of specialized training for enforcing the Migratory Birds Regulations.

Compliance

Achieving compliance with wildlife laws is critical to the activities of CWS. Compliance is achieved through a range of activities that complement enforcement, including information and education. CWS plays a leadership role in achieving compliance with the acts and regulations for which it is responsible by setting standards of behaviour, establishing strategic direction, monitoring progress, and participating actively. CWS Executive Committee has approved an Enforcement and Compliance Policy that sets out the guiding principles for enforcing legislation.

A new computer database program, federal voluntary payment system (ticketing), and ongoing discussions with other enforcement agencies should assist CWS as it moves to obtain more accurate statistics on compliance levels. The ability to better capture and use reliable data will do much to improve the enforcement program and more effectively utilize limited resources. Through recent discussions and formal Letters of Understanding with other agencies, statistics on number of hunters checked, violations, warnings, etc. have now become available to CWS. Historically, most of the statistical information used by CWS came from its own enforcement efforts using road blocks and hunter inspections. Developing a comprehensive compliance picture has been very difficult because RCMP statistics are

maintained differently from CWS statistics and have traditionally been difficult to retrieve. Also, although provincial agencies do supply statistics on charges under the *Migratory Birds Convention Act*, provincial officers usually charge offenders under provincial law in part, at least, because of higher provincial penalties and the absence of a federal voluntary payment system. CWS does not have the resources to review all provincial tickets to determine which violations involve migratory birds.

Resources

CWS had 27.5 person-years devoted to enforcement across Canada in 1992–93. Levels of enforcement can be illustrated by regional data. In the Atlantic Region, approximately 65 charges are laid each year by CWS officers, while approximately 50 more are laid by other agencies working on joint operations. In the Ontario Region close to 1800 contacts were made, 130 investigations undertaken, and 80 charges laid in 1992–93. In the Pacific and Yukon Region in the same year, approximately 1800 contacts were made, 80 investigations conducted, and 30 charges laid.

"The human and financial resources allocated to enforce the Migratory Birds Convention Act are inadequate. Accordingly, adequate numbers of federal enforcement officers with sufficient financial resources and equipment should be assigned to enforce the Act."

The importance of adequately resourcing enforcement activities is recognized by CWS. Concern about enforcement has been underlined by recent trends in judicial decisions. The courts used to regard decisions about levels of enforcement as matters of administrative discretion. However, in 1989 the Supreme Court of Canada concluded that careless enforcement could make the government liable in civil court, and that lack of resources no longer provided a conclusive defence against damages. Administrative discretion is still a vital element of regulation, and the courts recognize that resources are finite. But government must be able to show the courts that it has allocated available resources reasonably, and that it has not claimed a greater degree of protection than it delivers. The enforcement program of CWS meets the reasonableness test. Related policies, such as those on permit issuance and the application of the *Migratory Birds Convention Act* to aboriginal people, are public documents that are available to interested citizens.

Amendments to the *Migratory Birds Convention Act*

A key element of Canada's Green Plan is Environment Canada's effort to enhance its enforcement program. The Green Plan states that the existing network of enforcement coordinators for the *Migratory Birds Convention Act* will be augmented and coordination increased. As well, tougher laws and bigger penalties will be introduced. As a result, amendments to the *Migratory Birds Convention Act* were proposed prior to this Regulatory Review.

"As it is now, in most areas you can hunt for days and not come in contact with any kind of enforcement officer. They have too much area, not enough help."

The purpose of the amendments is twofold. First, the amendments will deliver on Green Plan commitments by strengthening and modernizing the *Migratory Birds Convention Act* to improve their administration and implementation and ensure protection of migratory birds. Second, during the public consultation on the Green Plan the federal government was asked to display leadership in the international community by strengthening enforcement and penalties for the illegal hunting of migratory birds and threatened wildlife. The amendments are fully supported by sport hunters, recreationists and conservationists, and the provinces and territories.

The most important proposed amendments are :

- increasing the fine structure to a realistic level (currently the maximum fine is \$300);
- providing the ability to proceed in court by either summary conviction or indictment;
- providing the ability to issue tickets (in conjunction with the enabling provisions of the new federal *Contraventions Act*); and
- addressing the problems caused by trafficking and commercialization.

Housekeeping changes have also been proposed to clarify terminology and modernize the text. For example, the Minister's authority is to be better defined. The period within which the Minister may initiate prosecutions is to be extended.

Amendments/Enforcement and Aboriginal Peoples

All regulatory departments have been affected by the decision of the Supreme Court of Canada in *Sparrow v. The Queen* (1990) concerning the protection offered to aboriginal and treaty rights by section 35 of the *Constitution Act* (1982). The case concerned fishing for food, social, and ceremonial purposes. The Supreme Court said that before such rights of aboriginal peoples can be infringed by legislation or other government action, this must be "justified" according to standards laid down by the Court. The requirement for "justification" is grounded in the fiduciary relationship of the Crown to aboriginal peoples.

In general, justification requires the following: a special and valid legislative objective, minimum infringement on the right necessary to accomplish the objective, and maintenance of the honour of the Crown. As well, affected aboriginal peoples must be consulted. Where an allocation of resources is at issue — fishing or hunting for food, for example — the aboriginal right takes priority over all other uses after provision for conservation.

After the Supreme Court of Canada *Sparrow* decision, regulatory departments were advised by the Department of Justice to conduct reviews of their regulations to ensure adherence to *Sparrow* principles. Environment Canada's Legal Services has advised that application of the closed hunting season provisions of the *Migratory Birds Convention Act* to aboriginal peoples who may have aboriginal or treaty rights may not withstand Supreme Court scrutiny.

Aboriginal peoples have asked the federal government to amend the Convention and the *Migratory Birds Convention Act* to accommodate their wish to hunt migratory birds and collect eggs during the closed season. Regional aboriginal groups have participated in recent consultations on the amendments. In response, acknowledging the requirements of the *Sparrow* decision, CWS has:

- implemented an Interim Policy on the Application of the Migratory Birds Convention Act and Canada Wildlife Act Respecting Closed-Season Hunting and Egging by Aboriginal People that allows year-round harvest and egging where conservation can be ensured;
- continued to consult with aboriginal groups on a proposed protocol to the Convention (elements of which would respond to their concerns);

- begun to develop a strategy for negotiating changes with the United States to allow improved northern access and exercise of aboriginal rights where these are found to exist.

The protocol represents a preliminary memorandum, to be signed by diplomatic negotiators, as the basis for amendments to the Convention of 1916. The amendments, once approved, will take the form of additions to the existing Convention rather than change the original wording.

Improved northern access for aboriginal peoples is one of the topics being discussed as part of the protocol initiative. Aboriginal people want the amended Convention to extend the scope of Canada-US migratory bird management and conservation to include traditional aboriginal migratory bird harvesting between March and September — what is now the closed season. Aboriginal people also want the amended Convention to accommodate the exercise of aboriginal and treaty rights as they relate to migratory bird use and management.

International Requirements

The conservation of species that migrate between Canada and other countries depends on the protection of the species' populations and habitats by all countries concerned. Canada's wildlife resource is part of the heritage of all people, just as the wildlife of other countries is part of the heritage of Canadians. Canada's responsibility for its wildlife is international in scope, as is this country's interest in wildlife conservation throughout the world.

To protect migratory birds in particular, as has been noted in greater detail above, in 1916 Canada and the United States signed a conservation treaty called the Migratory Birds Convention. The objective of the treaty was and continues to be to establish a uniform system of protection that will save migratory birds from indiscriminate slaughter and preserve their populations. The Migratory Birds Regulations are required in order for Canada to comply with the treaty.

Additional agreements have been signed with the United States for the protection of migratory birds, including the North American Waterfowl Management Plan, the Whooping Crane Recovery Plan, and various administrative agreements. There are also agreements for cooperation on migratory bird research and conservation with Mexico, Brazil, Ecuador, Peru, Venezuela, Cuba, Russia, the Republic of Ireland, and Northern Ireland.

The Convention on Biological Diversity, signed by Canada in 1992, places general requirements on Canada to sustain migratory birds as components of biodiversity. There are also conventions for the conservation of migratory species that Canada has not signed, in large part because the Migratory Birds Convention exceeds their requirements. However, there is an onus on Canada to observe the spirit of these conventions, including the Convention on Nature Protection and Wildlife Preservation in the Western Hemisphere and the Convention on the Conservation of Migratory Species of Wild Animals (Bonn Convention). Canada is a signatory to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). Proposed amendments to the *Migratory Birds Convention Act* will enhance Canada's

leadership in the international community by strengthening enforcement and penalties for the illegal hunting and commercialization of migratory birds.

Comparable Situation in the Provinces and Territories

The provinces and territories have similar objectives for many species of wildlife that are nonmigratory, species that generally do not move beyond jurisdictional boundaries. The rules that provinces and territories use for non-migratory wildlife are similar in intent and substance to the federal regulations protecting migratory birds. Provincial and territorial regulations generally control possession, hunting methods, and hunting quotas and require permits for a variety of purposes. Until very recently, provincial and territorial legislation focused on exploited species of wildlife such as large game and furbearers. Endangered species are now given special consideration in most provinces, and greater attention is given to nongame species.

Some provinces pass hunting regulations that include migratory bird hunting seasons and bag limits that match the federal regulations. Courts have held that the federal regulations take precedence in these cases where there is conflict between the federal and provincial regulations. Two reasons why provincial and even RCMP officers may charge offenders under provincial regulations are that the provincial regulations impose higher fines than those currently allowed under the *Migratory Birds Convention Act* and they enable officers to issue tickets for less serious offences and generally avoid any requirement to spend time in court.

Aside from paramountcy, the federal regime is necessary to ensure interprovincial and national consistency in the application of the *Migratory Birds Convention Act*. Differences of opinion, particularly with regard to regional harvest levels and the protection required to sustain the continental migratory game bird population, are not unusual.

More details on legislation and enforcement in provinces and territories is given in the region-by-region discussion below.

Atlantic Region

Newfoundland, Nova Scotia, Prince Edward Island, and New Brunswick have developed legislation that authorizes the regulation of species of animals that fall within provincial control. Permits are required to hunt provincially controlled species, and specific areas such as ecological reserves, areas closed to hunting, provincial parks, and wilderness reserves have been set aside to protect animals and their habitat.

There are 341 provincial enforcement officers in the CWS Atlantic Region. Most have also been appointed as officers for the purposes of the *Migratory Birds Convention Act* to assist in enforcement activities. However, even though provincial officers are empowered to enforce the provisions of the regulations, they have many responsibilities under their own legislation that necessarily receive higher priority. Memorandums of Understanding recently established in the Atlantic Region with Newfoundland and Nova Scotia will serve to highlight major concerns and enhance the spirit of cooperation between agencies. However, it is not possible either federally or provincially to investigate all reported infractions of federal legislation.

Quebec Region

Quebec's *Loi sur la conservation et la mise en valeur de la faune* includes migratory birds in the "small game" category and requires a provincial permit to hunt them. It also restricts hunting in provincial reserves and sanctuaries.

The Quebec Ministry of Leisure, Fish, and Game has 450 full-time officers and 80 part-time officers who are appointed as officers under the *Migratory Birds Convention Act*. Their enforcement effort tends to be limited to the areas where migratory bird hunting is most popular, along the St. Lawrence River and on the Lower North Shore, and concentrated outside the big game hunting season.

Ontario Region

Ontario has 1012 full-time and 500 part-time enforcement officers. The province's *Game and Fish Act* and Game and Fish Act Regulations contain provisions that mirror the Migratory Bird Regulations, Migratory Bird Sanctuary Regulations, and Wildlife Area Regulations. There are many examples:

- The definition of "game birds" — grouse, pheasants, etc. — includes migratory birds protected under the *Migratory Birds Convention Act*.
- Any person wishing to hunt a migratory game bird must have a provincial licence in addition to the federal permit. The period during the day that a person can hunt is the same.
- The permit system is comparable.
- Daily bag and possession limits and season dates for hunting wildlife are usually based on the same principles and periods used in the federal regulations.
- There is a section dealing with the release of exotic species into the wild.

Major revisions to the *Game and Fish Act* have been proposed that would protect all raptor species, birds not protected by the Migratory Birds Convention.

Western and Northern Region

Alberta, Saskatchewan, and Manitoba have defined wildlife in their respective legislation in a way that encompasses migratory birds as defined in the Convention and the *Migratory Birds Convention Act*. Overlap may occur in subsequent regulations if migratory birds are explicitly mentioned. The Northwest Territories do not now include migratory birds in their definition of wildlife. Provincial and territorial wildlife officers have been appointed as officers for the purposes of the *Migratory Birds Convention Act*. Provincial officers, however, usually lay charges under their own regulations for offences affecting migratory birds because their fines are stiffer and options are available for handling charges without the necessity of a court appearance. There are over 500 provincial and territorial enforcement personnel in the Western and Northern Region. They have many other responsibilities in addition to wildlife enforcement.

There are differences in the way that permits, such as those for taxidermy and aviculture, are handled by each province. For example, Saskatchewan has site requirement guidelines and/or inspections before issuing a captive game bird permit, while Alberta does not. Saskatchewan does not include migratory birds in its

definition of wildlife for the purposes of issuing a captive game bird permit. There are many other differences.

Pacific and Yukon Region

In British Columbia the definition for "small game" includes migratory game birds as defined in the *Migratory Birds Convention Act*. B.C. mirrors the Act for hunting infractions, seasons, and bag limit restrictions. B.C. does not provide legislative protection for migratory insectivorous or migratory non-game birds. Nor does B.C. have legislation covering permits that are not hunting-related, i.e., taxidermy, scientific, crop depredation, and aviculture. B.C. has approximately 120 Conservation Officers and they are appointed as ex officio game officers under the *Migratory Birds Convention Act*.

In the Yukon Territory too the definition for "small game" includes migratory game birds. The Yukon has regulations that mirror the hunt regulations, seasons, and bag limits. The Yukon regulates migratory insectivorous or migratory nongame birds as wildlife. The Yukon Territory has 15 Conservation Officers who are ex officio game officers under the *Migratory Birds Convention Act*.

Comparable Situation in other Countries

Laws to protect wildlife, and migratory species in particular, are found throughout the world. The history of these laws is long. Statutes and common law protecting wildlife date at least to the time of the Magna Carta in Britain. There are records of game officers in ancient Egypt. The basis of Canadian protection and stewardship programs has developed from the British legal system's view of wildlife as a publicly protected resource. This is the underlying assumption in migratory bird and other wildlife management systems throughout North America. In this review we concentrated on those countries that are Canada's important trading partners: the USA, members of the European Community, and Mexico.

The regulations used by the United States to comply with the Migratory Birds Convention are highly correlated with those in Canada. Each country is invited to take part in the regulatory consultations of the other, and this ensures consistency and a continental management regime. There are two exceptions to this general statement. First, because the United States has signed more recent migratory bird treaties with the former USSR, Japan, and Mexico, some birds have been added to their protected list that do not have this status in Canada. They include eagles, hawks, vultures, ravens, crows, jays, falcons, ospreys, pelicans, owls, cormorants, and kingfishers. Secondly, the United States has banned lead shot for all waterfowl hunting. In Canada, lead shot is currently banned for waterfowl hunting in certain zones only. In the United States, individual states pass laws relating to migratory birds, as do some provinces in Canada.

Countries that have signed migratory bird treaties with the United States generally follow the pattern established by the convention with Canada. Mexico, second only to the United States in importance for birds that breed in Canada, has an approach to migratory bird protection in its federal law that is consistent with Canada's.

In Britain, the *Game Act* (1831) established closed seasons for game birds. Some provisions of that Act still apply. There have been a series of Acts for British birds. The *Protection of Birds Act* (1954) and a subsequent Act (1967) protect wild

birds, their nests, and eggs at all times of the year with exceptions for hunting, scientific study, education, and protection of crops and property. This is analogous to the Canadian situation.

A long-standing problem in Britain and other European countries that have laws for the conservation of birds has been the lack of protection for migratory birds in migration and wintering areas. The European Parliament has now passed legislation requiring consistent protection for migratory birds throughout the European Community. Canada and the USA have had such consistent protection thanks to the Migratory Birds Convention and have achieved a real measure of conservation success.

2. STAKEHOLDER VIEWS

CWS's 1991 Regulations Review Project

CWS recognizes that meaningful public consultation is the first and often most important step in developing effective and efficient regulations. In November of 1991 CWS began a comprehensive Regulations Review Project designed to streamline, standardize, and clarify the same regulations that are the subject of this government-wide review. The main objective of the project was to modify and/or improve the regulations in order to ensure resource conservation and to provide effective management of harvested species. Provisions that could not achieve their purpose would be revoked.

Phase One of the project is complete. A consultation document was prepared and distributed to concerned individuals and user groups across Canada. Regional CWS offices were responsible for coordinating and distributing the document to individuals, groups, and associations within their own locality. Headquarters staff ensured that national associations and organizations received the consultation document.

Regional coordinators forwarded all comments to headquarters (January–April 1992), where they were consolidated into a national summary document (May–August 1992). Initial analysis was begun, with the result that comments were divided into two categories: those where there seemed to be a consensus among stakeholders, and those where further discussion and review were required. The consensus views are included in the Recommendation portion of this report as potential modifications to the regulations. Because CWS's review project was overtaken by the present regulatory review, Phase Two (distributing the consolidated document to all stakeholders who made submissions) was deferred. The Phase Two distribution will now follow this exercise and it will incorporate any additional input that is received as part of this exercise. CWS will fulfill its commitment to consult with participants in its own Regulations Review Project before it initiates specific changes to its regulations.

Senate Standing Joint Committee for the Scrutiny of Regulations

Commitments have been made to the Senate Standing Joint Committee for the Scrutiny of Regulations to address all of their outstanding recommendations. Substantive recommendations (versus typos, translation errors) from the Committee focus on the following:

- subsection 4(1): the ability of the Minister to impose permit conditions is too discretionary

MIGRATORY BIRDS REGULATIONS

- subsection 15(2): ambiguous wording
- section 26.1: revoke, the Convention does not authorize the destruction of migratory bird eggs
- section 36: ability of the Minister to issue special permits is too discretionary

Subsections 4(1) and 15(2) and section 36 are the subject of recommendations included in this review. The Committee's request that section 26.1 be revoked is not supported by CWS or by Environment Canada's Legal Services. Instead, an amendment to the Act has been proposed to define eggs as migratory birds for control purposes to ensure public safety.

Current Review

Stakeholder responses complement the foregoing background information on legal basis and regulatory objective, reporting burden, level of government involvement, enforcement and compliance, international requirements, comparable situation in the provinces, and comparable situation in other countries that was used in the analysis. The current review involved the same list of stakeholders that were consulted in Phase One of CWS's 1991 Regulations Review Project. A number of businesses and associations were added, in particular ammunition and shot manufacturers, outfitters and tourist camp operators, and the oil/gas, mining, and forestry sectors. See the Consultation Plan Matrix (Table 1) for a complete listing of stakeholder groups that were provided with a copy of the consultation document and invited to participate.

Issues, Positions, and Priorities of Stakeholders

The consultation document sent to stakeholders divided the content of the Migratory Birds Regulations into three blocks by subject matter: (1) General Protection, (2) Hunting and Hunting Permits, and (3) Permits other than Hunting Permits. The Migratory Bird Sanctuary Regulations constituted a fourth block, and the Wildlife Area Regulations were treated as a fifth block. A short questionnaire with five questions followed each block:

1. What concerns do you have about the purpose and administration of these regulations?
2. Do these regulations hinder or enhance Canada's competitiveness? How?
3. Do these regulations hinder or enhance environmental sustainability? How?
4. Should any of these regulations be deleted or amended? If amended, how?
5. Are there more efficient ways of, or nonregulatory alternatives for, achieving the objectives of the regulations? If so, what are they?

"Where the intent of a regulation is protection and protection is considered important if not vital to healthy populations then I don't think competitiveness is any issue."

"As long as enforcement is carried out then I believe the intent of the regulations would be well-served and environmental sustainability enhanced."

The close to 200 responses to the questionnaire indicated a high degree of satisfaction with the three sets of regulations. Five of ten respondents had no concern about the purpose and administration of the regulations. Most of the concerns expressed (four of ten respondents) were that the regulations or their administration should be more stringent. Eight of ten felt that the regulations are neutral or enhance Canada's competitiveness, and nine of ten felt that the regulations are neutral or

enhance environmental sustainability. Four of ten said that no deletions or amendments are required; of the remaining six who did want changes, five wanted the regulations strengthened. In no case did stakeholders put forward an alternative to regulation. Nine of ten respondents said there are no alternatives or suggested complementary activities (e.g., more education) only.

A summary of the stakeholders' responses to the questionnaire for each block of the Migratory Bird Regulations is provided below. A compilation of the comments made by stakeholders on all three sets of regulations is included as Appendix 3. Excerpts from stakeholders' responses appear throughout this report to illustrate some of the opinions put forth.

Summary of Comments—General Protection

Concerns about purpose and administration. Most respondents had no concerns, but some recommended changes to clarify wording and avoid confusion. Respondents also expressed strong support for better enforcement of the Act—Section 35 dealing with pollution was specifically mentioned—and for increased resources for game officers.

"On the whole the regulations are fine. The main problem is with enforcement."

Many comments related to the means by which officers are appointed, fines, and penalties — issues that can only be addressed through amendments to the Act.

"The regulations are poorly enforced. In particular sections 6 and 35 are virtually unenforced."

Some believe that the Act does not provide the authority to adequately protect bird habitat and should be amended to do so.

Several noted that although the Act adequately protects all birds [in fact, not all birds are protected under this legislation] it does not provide the means to respond to situations involving problems and damage created by specific bird populations that are growing larger and creating a nuisance. Others recommended that all migratory birds should be included in the Act.

Individual comments related to the broad discretionary powers of the Minister, the importance of avoiding or removing duplication with other government regulations, the importance of having regulations that are easily understood by citizens, and the view that the regulations do not accurately reflect the diversity of users.

Regulations hinder or enhance Canada's competitiveness. Nearly all respondents said that the regulations enhance Canada's competitiveness by ensuring healthy bird populations and allowing economic activities related to hunting and bird watching. Others felt that it is not appropriate to measure the importance of migratory bird protection against short-term profit considerations. Some respondents believed that the regulations have no impact on competitiveness; the regulations are neutral and create no problems.

"Overall impact on competitiveness would likely be minor, but it is possible that the existence of Migratory Bird Regulations could affect the activities of particular companies in specific areas."

Individual respondents stated that Canadian outfitters and guides are affected because legislation in the United States and Mexico is less stringent and allows hunters longer access to the birds, that legislation in the United States is generally more stringent than Canadian laws and better protects birds, and that more socioeconomic studies are required.

"Regulations are not stringent enough. More attention should be directed toward habitat preservation and development."

Regulations hinder or enhance environmental sustainability. The response from most stakeholders was that the regulations enhance sustainability. Many of them qualified their answer by noting weaknesses in the provisions dealing with habitat protection, the failure to enforce section 35 (pollution) and a lack of adequate enforcement in general.

Some referred to their perception of uncontrolled harvesting of migratory birds by aboriginal people and the unregulated hunting of murrens in Newfoundland.

"Sec. 35 may prohibit pollution of waters or area frequented by migratory birds but this in itself will not prevent pollution. I believe this section needs to be more strongly worded with reference(s) more to penalty/fine for contravention."

Regulations to be deleted or amended. While in general the regulations were well accepted, several specific amendments were proposed. Respondents suggested, for example, that the word "Indian" be replaced by "Aboriginal," that an appeal process be added, that the sale of mounted game birds by taxidermists be authorized, that a person be allowed to keep any migratory bird found dead by the person, and that control over exotic species be increased. In some cases recommended amendments were diametrically opposed; for example, to eliminate section 35 (pollution) because it is redundant, and to expand and strengthen section 35. Some proposed to prohibit the sale of feathers; others, to authorize the sale of bird parts to increase conservation budgets.

"Is Section 35 not redundant? Would this not be covered by other federal or provincial regulations?"

Alternatives. Most respondents said that they do not see any alternatives to regulation. However, it was noted by many that better education and well-designed information campaigns would help attain higher levels of compliance. Some proposed that new agreements with Mexico and Latin American countries be developed to enhance migratory bird protection. A few proposals recommended that there be more cooperation and agreements with volunteer groups and conservation associations, that all stakeholders be involved in negotiations, that the regulations be integrated with provincial hunting regulations to avoid duplication, and that efforts be undertaken to better educate local governments and judges.

"Possibly more educational programmes through the media and publications, both popular and scientific, based on sound research."

Summary of Comments—Hunting

Generally, the respondents showed a high degree of acceptance of the migratory bird regulations for hunting. They felt the regulations are necessary to protect environmental sustainability of hunted migratory birds. Although the Migratory Birds Regulations are widely accepted, some concerns have been expressed, both in comments received during this review and during the consultations that began in 1991. The concerns mentioned most frequently are included in the summary of the questionnaire that follows.

"As long as regulations remain acceptable to the hunting fraternity I feel they enhance sustainability. (Most hunters want their sport maintained and will cooperate with managers who demonstrate common sense and supportive arguments for these regulations.)"

Concerns about purpose and administration. A clear majority were in favour of the hunting regulations generally. Arguments for increased enforcement effort were frequently made. Some respondents felt that all migratory species of birds should be covered by the Convention, and some said that the habitat protection powers in the regulations were too weak.

Regulations hinder or enhance Canada's competitiveness. A large number of respondents said that the regulations enhance competitiveness because they ensure that migratory game bird populations are large enough to sustain a hunt. However, a few said that the regulations can hinder competition when they are not uniform among groups and jurisdictions, a view that was amplified by others with specific reference to the effect of bag limits on tourism.

Regulations hinder or enhance environmental sustainability. Respondents indicated that environmental sustainability was the *raison d'être* of the hunting regulations, and so the conclusion follows almost by definition. The conclusion was stated in various ways. A few respondents felt that the regulations can impede environmental sustainability when they are not uniform among groups and jurisdictions. Other reasons given for a negative effect on sustainability were that the regulations were too lenient or that the regulations allowed baiting during the hunting season.

"Enhance. Sustainable use of wildlife has value for the tourism industry including resident and foreign hunters provided the overall bag limits established by the appropriate authorities do not exceed the production rate."

Regulations to be deleted or amended. There was a high level of acceptance of the regulations as they now stand. Some recommendations were made for change; for example, the use of lead shot. Respondents' recommendations ranged from a complete ban on lead shot for all species to the establishment of nontoxic shot zones only where a need can be demonstrated. Some respondents wanted new nontoxic alternatives to steel shot and research on the crippling rates associated with nontoxic shot.

The possession limits also caused difficulties for some people who were unsure of what they meant in certain cases, such as gifts made to others and limits related to hunting in more than one province. Some respondents asked for a season possession limit.

"Non-toxic shot should be made law in North America—too many losses from lead poisoning."

There were also suggestions having to do with special rules for hunting by aboriginals, namely, that aboriginal use of migratory birds be subject to federal regulations, or that bag limits or complete closures apply to aboriginals as well as to other hunters.

Amendments to regulations regarding hunting methods were also suggested, for example, to improve retrieval of killed or injured birds and to clarify and/or change legal shooting hours. Many respondents' suggestions centered on the use of bait to attract birds for the purpose of hunting. Comments ranged from a desire for no control on baiting, to support for current regulations, to the more frequently stated view that baiting should be banned altogether.

"Using bait is a definite NO, NO."

Alternatives. No suggestions were offered for alternative approaches. However, some complementary activities were suggested, such as more public education programs or partnerships with fish and game associations and volunteers for enforcement of the regulations.

"You should work closer with related interest groups (i.e., Fish & Game Associations)."

Summary of Comments—Permits

A fundamental issue divided the respondents — is it appropriate to kill, scare, or disturb birds and to permit the keeping of birds in captivity at all? Some recommended that such activities be eliminated, others, that they be retained.

The comments indicated two distinct schools of thought. The first is strongly in favour of the reduction, restriction, or elimination of all or most of the permits and an increased control. Not surprisingly, the second proposes a more liberal approach that includes making access to permits easier and a reduction of control.

"My experience has been that CWS is extremely careful in granting permission to collect birds, especially where there is concern for the numbers requested. A reasoned approach like this should be continued."

Concerns about purpose and administration. A majority of respondents said that they had no concerns; however, other respondents raised several points. Some respondents perceived a need for improved enforcement, asked that more qualified people be responsible for issuing permits and managing the permit system, and recommended

"Why must permits to scientists be reissued every year when a hunter can pick up a new one with no questions asked?"

that the approach used and conditions attached to permits be consistent. Many believed that permit holders abuse the migratory bird resource under cover of the permit. The reporting burden was noted by several, as well as the suggestion that longer-term permits replace annual permits.

Regulations hinder or enhance Canada's competitiveness. Respondents, almost without exception, stated that the regulations enhance Canada's competitiveness. For example, they ensure airport safety, an orderly permit system, and the long-term sustainability of the migratory bird resource.

The very small number of respondents who felt that the regulations hinder competitiveness stated that the regulations force Canadian aviculturists to purchase unrelated breeding stock in foreign countries, use an approach that is different from that used in the United States and Mexico, do not permit the release and shooting of migratory birds as in the United States, do not prevent the significant damage that is caused to crops by migratory birds, endanger the resource by authorizing the killing of too many birds, restrict research and education, restrict the activities of taxidermists, do not prevent overpopulation, which may result in the eventual destruction of migratory bird habitat, and do not address the question of recovering dead or injured birds.

Regulations hinder or enhance environmental sustainability. Once again, the great majority of respondents stated that environmental sustainability is enhanced by the regulations. For example, population management is achieved, the killing of specific species and the activities of citizens are controlled, a genetic pool is developed for release into the wild, exotic species are controlled, and captive stock is used for research and education.

Those who felt that the regulations hinder environmental sustainability stated that small populations or vulnerable species could be destroyed, the killing of birds is not acceptable, poor stock has been introduced or released, and too many kills are authorized.

Regulations to be deleted or amended. Many respondents made specific recommendations concerning the permits that are issued by CWS under the authority of the regulations, as follows:

Airport permits

- Extend the duration of airport permits
- Do not restrict the ability to kill nuisance birds to airports

Avicultural permits

- Allow capture of wild migratory birds
- Allow keeping of salvaged birds
- Extend the duration of avicultural permits to two to five years
- Authorize the control of high-risk species
- Allow the mounting of dead birds
- Allow rehabilitation
- Create a scientific collection permit for aviculturists
- Allow the release of surplus birds

"I am concerned with captive birds escaping into the wild."

- Allow the keeping of endangered species for the purpose of future release only
- Allow the possession of any migratory bird
- Permit stronger control
- Prohibit release
- Restrict the issuance of permits to knowledgeable and experienced aviculturists only

General permits

- Subsection 26.1(1) which permits the destruction of eggs should be amended to require collection and relocation in other areas
- All permits should be reviewed by an animal care committee

"There should be no permits granted except under the review of an Animal Care Committee whose composition should include 25% laypersons."

Rehabilitation permits

- Could be designed as an avicultural permit

Scientific permits

- Include aviculturists in subsection 19(2)
- Require a review by an animal care committee
- Permit cancellation or modification
- Delete section 19.1(a), as there is no need to kill
- Amend subsection 19(2) by deleting the obligation to be from or acting on behalf of a museum, university, etc.

"I believe permit system is fair and efficient."

Special permits

- Delete section 36, which gives too much power to the Minister
- Amend to authorize issuance by provincial officers

Taxidermy permits

- Amend to allow the mounting of birds that are found dead
- Clarify possession as it relates to migratory birds
- Simplify reporting and lessen registry burden

"As a taxidermist, I would like to see the law amended so that a person who finds a migratory bird dead of natural causes or by accident could have the specimen mounted."

Alternatives. The great majority of respondents saw no alternative to regulation. General comments included suggestions that permits be issued only to knowledgeable and experienced applicants, education be improved, certification/accreditation be conducted by existing organizations, partnerships be encouraged, coordination with the provinces be improved, more regulations be developed and protected areas identified, nuisance birds be controlled through a hunt in the spring, other mechanisms be developed to control nuisance birds, and there be 100% compensation for damage caused to crops by migratory birds.

"More compensation to the landowners is an alternate method to control game birds in agricultural areas rather than issuing kill permits."

3. ANALYTICAL RESULTS

Cooperation with other Governments

"Provide for regulations within provincial legislation that accomplish the same objective."

Given the migratory nature of the resource, it is by definition not possible for the federal government or provincial jurisdictions alone to develop and maintain a national program aimed at conserving and protecting the resource for citizens in Canada and throughout North America. Joint action and working partnerships with all levels of government, nongovernment organizations and the public have been and will continue to be the foundation upon which the migratory bird program is built, especially in times of fiscal restraint. Resources must be pooled. Priorities have to be established in concert. The federal umbrella provides a value-added function for all jurisdictions, and is particularly important to those jurisdictions that do not have parallel legislation. The cooperation of provincial governments will continue to be essential, since provincial enforcement officers reinforce the numbers of federal officers and provide a local presence.

To a certain extent the federal regulatory regime has been mirrored by the regulations of some provinces. However, it is important to remember that the constitutionally sound federal regulations will always take precedence in cases of conflict. Provincial laws can complement a federal program if they are at least equal to or more restrictive than the provisions of the federal law.

In the context of migratory birds, some pieces of provincial legislation have established more stringent fine and penalty provisions. The proposed amendments to the *Migratory Birds Convention Act* will improve the federal regime, and the proposed federal ticketing scheme under the new *Contraventions Act* will encourage officers in all jurisdictions to use the *Migratory Birds Convention Act* as an enforcement tool.

There is potential to reduce overlap in permitting activities between the federal and provincial governments. For example, at least one province issues its own taxidermy permit; in such a case, the provincial permit might be recognized as meeting the requirements of the federal permit. All provinces issue their own hunting permits; there may be an opportunity to jointly develop a permitting system in which a hunter is required to possess only one piece of paper that fills both federal and provincial requirements.

Cooperation with Industry

"This regulation hinders Canada's competitiveness because it doesn't open the door enough to research and development of new nontoxic shot, research and development that could lead to the development of a lucrative export market."

In cases where specific business interests have been regulated—ammunition manufacturers, outfitters, and eiderdown entrepreneurs for example—the objective of the regulatory provision could not be achieved more effectively by using another control tool. In fact, business supports the regulatory objectives. Domestic ammunition manufacturers will be provided with an opportunity to develop new non-lead alternatives to the lead shot that has been the traditional mainstay of hunters in North America. Outfitters support the regulatory regime because it helps to provide the stability in migratory bird populations that they need to sustain their businesses from year to year. The recent designation of Green and Shepherd Islands, located off the coast of Newfoundland, as Migratory Bird Sanctuaries formalizes the protection now given to numerous migratory birds, including the Common Eider. The eider in particular has been the focus of conservation efforts designed to improve employment opportunities through the establishment of a local eiderdown industry.

There are, of course, examples of companies that do not support particular regulatory efforts (e.g., permit conditions). Managing the sustainable use of wildlife resources, both in terms of population and habitat, while enabling an industry to develop a nonrenewable resource is a challenging task. Options and levels of acceptable risk need to be determined. Governments must clearly define what is to be protected and why, identify the time frame of operations, the lead regulating agency, potential delegation of permitting authority, and clear guidelines for imposing conditions on permits.

Compliance Costs for Permit Holders

The reporting burden for permits is not regarded as onerous by most permit holders, but attempts are being made by CWS to reduce the costs of administration and to reduce the number of mailings to each permit holder. For example, CWS Atlantic Region is developing a computerized process for permit application, approval, monitoring, and renewal. Improvements to the existing permit program would not only reduce the burden on permit holders, but would increase the efficiency of the CWS program as well. By way of example, the CWS Atlantic Region had to create a permits and surveys officer position in 1992 to speed the processing and monitoring of permits. In the CWS Ontario Region, two of the seven enforcement officer positions are devoted almost exclusively to permit management. In the CWS Western and Northern Region, it is normal for approximately 20% of those holding permits other than migratory game bird hunting permits to be inspected.

Minor cost recovery is achieved from the annual \$10 fee charged in all regions of Canada for certain permits, such as those required for aviculture and taxidermy. The amount of revenue generated from permit sales varies from year to year depending on the number of permits issued. A recent exercise in the CWS Western and Northern Region identified costs of permit administration and ways of increasing revenues. There are definitely some areas where permit fee increases would be justified. Avicultural and taxidermy permits have been set at \$10 for a number of years and could be increased on an incremental basis.

Benefits

Abundant wildlife resources are part of the Canadian identity. Canada is one of the few countries in the world that still contains large natural ecosystems, and for many Canadians, wildlife provides powerful images that define the essence of the country. Great V's of Canada Geese winging north or south are a spectacular reminder of seasonal rhythms. They are much more than that, though.

Healthy wildlife populations are important not only for emotional reasons. Aboriginals often rely on the wild harvest for food, clothing, and income. For some of Canada's aboriginal populations, over half of their total income comes from hunting, fishing, and trapping. Wildlife is an important part of aboriginal culture, and seasonal migrations may be times of intensive communal ritual and renewal. Wildlife also plays a vital role in the ecological and biological processes that are essential to life, such as seed dispersal, nutrient cycling, predation, pest control, and waste breakdown. Wildlife and wildlife habitat are also important for the preservation of biological diversity. The health of wildlife is an important indicator of the health of the environment on which we depend. As well, recreational activities that depend on wildlife are a vital part of the ordinary, everyday lives of an overwhelming majority of

"Certainly do not hinder Canada's competitiveness; all responsible countries require firm regulations pertaining to their wildlife populations to ensure healthy populations and generate tourist dollars."

Canadians. In 1987 a survey conducted by Statistics Canada showed that over 91% of the population 15 years and older took part in some form of wildlife-related activity. For example, approximately 500,000 Canadians hunted waterfowl and 5.4 million people enjoyed observing waterfowl.

These activities had important economic impacts. Although wildlife has not traditionally been thought of as a major contributor to our economic well-being, we are becoming increasingly aware that its contribution to the Canadian economy is considerable, and that even from a strictly economic viewpoint, expenditures on wildlife conservation are justified. Those waterfowl-related activities such as hunting and observation supported 34,000 jobs in 1987, contributed \$1.4 billion to Canada's gross domestic product, and generated tax revenues of \$533 million (Table 4). These are economic benefits realized by all Canadians, in addition to the direct benefits received by the participants themselves, which were estimated at \$200 million in the Statistics Canada survey. These economic benefits depend on the conservation of healthy populations of migratory waterfowl, which are just some of the migratory birds protected by the *Migratory Birds Convention Act* and its regulations. When the economic impacts of recreational activities associated with all forms of terrestrial wildlife—migratory waterfowl plus other migratory birds such as robins and warblers, nonmigratory birds, large and small mammals, and other wildlife such as amphibians—are computed, the results are even more impressive. In 1987, Canadians spent \$5.1 billion on wildlife-related activities, and this economic stimulus contributed \$6.5 billion to the gross domestic product, put tax revenues worth \$2.5 billion into government coffers across Canada, and sustained 159,000 jobs, which represent \$3.7 billion in personal income for Canadians.

"I think they enhance Canada's competitiveness because many residents of other countries like to visit Canada and part of the reason is to view, paint, photograph, or hunt wildlife."

Canadian wildlife plays a crucial role in the economic performance of Canada's tourism industry, which generated some \$24 billion in revenues and over 630,000 jobs in 1988. Many communities are heavily dependent on the economic stimulus of wildlife-related tourism. For example, Montmagny, Quebec, is a center for the observation and hunting of geese. The town of Percé, Quebec, benefits from the seabird colonies on Bonaventure Island; boat excursions to the island are a summer industry. In the spring, thousands of bird watchers visit Point Pelee National Park to view migrating warblers. Visitors to Point Pelee spend \$700 000 on film and processing alone in a single month; their presence adds \$10 million to the local economy during May. The new trend toward ecotourism can only increase the importance of a healthy and sustainable wildlife resource.

Preliminary results from the 1991 U.S. Fish and Wildlife National Survey show that hunting and nonconsumptive wildlife-associated recreation in Canada by U.S. residents make an important contribution to the Canadian economy. This contribution is at least three times larger than the one made by Canadians in the US.

A often forgotten aspect of Canadian migratory birds is the economic benefits received by the people of the countries where these birds migrate. The birds are highly prized as game birds by millions of hunters in the United States and Mexico as well as in Canada. An even larger number of people enjoy observing them. For example, results from the U.S. 1985 National Survey of Fishing, Hunting, and Wildlife-Associated Recreation show that some US \$1.090 billion or Can \$1.488 billion were spent that year by U.S. migratory bird hunters in the U.S. The importance of migratory birds for Americans has been recognized by the signing of the North

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Table 4
ANNUAL BENEFITS OF WILDLIFE AND MIGRATORY BIRD (WATERFOWL) - RELATED RECREATIONAL
ACTIVITIES IN CANADA, 1981 AND 1987

Recreational Wildlife Activity or Economic Indicator	All Wildlife		Migratory Birds (Waterfowl)	
	1981	1987	1981	1987
A. RECREATIONAL HUNTING				
Direct Benefits (Economic Welfare)	\$418 M	\$451 M	\$90 M	\$83 M
Participants' Expenditure	\$1,186 M	\$1,060 M	\$230 M	\$194 M
Indirect Benefits (Economic Impact on Canadian Economy)				
Gross Domestic Product	\$1,467 M	\$1,347 M	\$284 M	\$247 M
Government Revenue from Taxes	\$559 M	\$520 M	\$108 M	\$95 M
Number of Jobs	52,315	33,054	10,145	6,050
B. NONCONSUMPTIVE ACTIVITIES (Viewing, photography etc.)				
Direct Benefits (Economic Welfare) from Primary Nonconsumptive Trips	\$361 M	\$536 M	\$79 M	\$121 M
Participants' Expenditure	\$3,004 M	\$4,039 M	\$675 M	\$892 M
Indirect Benefits (Economic Impact on Canadian Economy)				
Gross Domestic Product	\$3,717 M	\$5,133 M	\$835 M	\$1,134 M
Government Revenue from Taxes	\$1,415 M	\$1,981 M	\$318 M	\$437 M
Number of Jobs	132,545	125,946	29,783	27,815
C. TOTAL ALL ACTIVITIES (A+B)				
Direct Benefits (Economic Welfare)	\$779 M	\$987 M	\$169 M	\$205 M
Participants' Expenditure	\$4,190 M	\$5,099 M	\$905 M	\$1,086 M
Indirect Benefits: (Economic Impact on Canadian Economy)				
Gross Domestic Product	\$5,184 M	\$6,480 M	\$1,119 M	\$1,380 M
Government Revenue from Taxes	\$1,974 M	\$2,501 M	\$426 M	\$533 M
Number of Jobs	184,860	159,000	39,928	33,867

Notes:

- Direct, or primary, benefits** refer to the enjoyment or satisfaction received by participants during their wildlife-related recreational experience. According to economic theory, the degree of satisfaction (benefit) experienced by individuals can be measured in terms of the prices they were prepared to pay for the consumption of goods or services. In many cases, such as wildlife-related recreational activities, participants do not actually pay for them. The licence fees paid for hunting do NOT represent the full value of benefits received by hunters. The price participants would be willing to pay was assessed from a survey in which participants were asked how much more they would have spent over and above what they did spend before deciding not to participate in the wildlife-related activity. It should be noted that the product evaluated is not wildlife itself but rather the recreational activities that the presence of wildlife populations makes possible.
- Indirect, or secondary, benefits** are those attributable to the national economy and are derived from the expenditures made by the participants to take part in wildlife-related activities. These expenditures generate a series of economic effects, also called economic impacts, that extend well beyond those at the point of sale. Data on expenditures were obtained from a survey, and their economic impacts were estimated by Statistics Canada through one of their Input-Output Models. It should be noted that the direct benefits accrue directly to the participants themselves, while the indirect benefits accrue to all Canadians.
- Preliminary findings of the 1991 National Survey on the importance of wildlife to Canadians confirm the popularity of wildlife-related activities among Canadians and their economic significance. (Source: Based on the findings of the 1981 and 1987 National Surveys carried out by Statistics Canada).
- M = Million.

American Waterfowl Management Plan, which focuses on the value of maintaining an adequate habitat base to ensure perpetuation of North American waterfowl.

The annual amendments to the Migratory Birds Regulations that control the hunting season dates and the number of migratory game birds that may be taken and possessed during those dates help to ensure that constant levels of migratory game bird populations are sustained year after year. Similarly, the annual amendments help to ensure that a sustained yield of direct and indirect economic benefits referred to above will continue to accrue to Canadians at a very low enforcement cost. These benefits to Canadians result from both hunting and nonhunting uses of migratory birds.

Competitiveness

The regulations enhance competitiveness by ensuring that wildlife in general and the common migratory bird resource in particular are not jeopardized by the business and sport of hunting. Sustainability of the resource, and of the businesses that rely on hunting and nonconsumptive enjoyment of the resource, is assured through responsible control and management. Different bag limits from province to province reflect the reality of local situations and the sustainability of local migratory bird populations.

A proposed amendment to the regulations will provide an incentive to develop new types of nontoxic shot other than steel, thereby enhancing competitiveness for ammunition manufacturers. However, it may also be true that the small number of areas that have been designated as nontoxic zones, in the short term at least, will be less desirable as hunting areas for those hunters who do not want to pay for the more expensive nontoxic shot and who decide to do their hunting elsewhere.

The regulations do not violate existing provisions of international trade agreements such as the General Agreement on Tariffs and Trade, the Canada-United States Free Trade Agreement or the North American Free Trade Agreement. With particular regard to the United States, the annual amendments to the migratory bird hunting regulations are made in consultation with federal and state wildlife biologists and officials and are consistent with US annual regulations.

Environmental Sustainability

Since the purpose of the Convention from which the regulations ultimately derive is to protect birds from the "danger of extermination through lack of adequate protection during the nesting season or while on their way to and from their breeding grounds," the regulations do, by definition, promote environmental sustainability.

One of the objectives of the Green Plan is to sustain Canada's wealth of wildlife. The health and diversity of wild animals and plants are to be maintained and enhanced. The Migratory Birds Regulations are one component of federal strategies for achieving the goals of the Green Plan, and indeed, augmenting and increasing coordination of a network of enforcement coordinators for the *Migratory Birds Convention Act* is one of the Green Plan's specific initiatives. Strengthened wildlife law enforcement is another. These are important, because current levels of compliance and enforcement are a cause of concern. In the Atlantic Region, for example, the endangered Harlequin Duck is declining, down from a population of 33 in 1992 to just 21 at last count. Populations in Quebec are also falling. Hunting has been implicated as the major cause of the

"They enhance Canada's competitiveness. Hunting regulations are, for the most part, fair and reasonable. Foreign hunters and hikers like coming to Canada to hunt, to fish, and to visit. This is good for Canadian outfitters, guides, motel-hotel owners, and store owners."

"These regulations enhance environmental sustainability. There are good examples of this — the recovery of canvasback duck populations."

"Enhancing environmental sustainability of migratory birds goes well beyond the scope of this legislation. In order to sustain migratory birds, changes are required in social values, agriculture and industry."

decline. A credible enforcement campaign and a supporting educational program need to be mounted.

The regulations can only accomplish what the Convention itself authorizes. As discussed earlier (Legal Basis and Regulatory Objective), the Convention authorizes limited habitat protection, and its legal basis for certain conservation actions must be reviewed. Many stakeholders pointed out areas that they would like to see strengthened, such as protection for all species of migratory birds and for habitat. The question of appropriate regulation of hunting by people exercising aboriginal rights to hunt was also raised. To improve the impact of the regulations on environmental sustainability in these areas will require amendments to the Convention and/or the *Migratory Birds Convention Act*. The regulations do, however, meet or exceed the existing provisions of international environmental agreements.

The annual hunting amendments are developed through comprehensive consultation with affected stakeholders, including aboriginals, environmental groups, business, the hunting public, provincial and territorial officials and biologists, as well as officials of the federal and state governments in the United States. These changes are based on the best and most current available scientific knowledge. The regulations are also flexible enough to ensure that emergency situations can be handled quickly and conservation of the resource assured. Because bag limits are based on population surveys and management objectives for individual species, for environmental sustainability reasons they may differ from province to province.

4. ALTERNATIVES

In North America wildlife is a public resource. The purpose of the Migratory Birds Regulations is to conserve a public resource for the benefit of present and future generations. Some degree of federal government involvement is required if national conservation goals are to be achieved. One of the underlying principles of this regulatory review is that the Government of Canada's commitment to safety, health, and the environment will not be compromised. Stakeholder response strongly supported the regulatory approach and, if anything, indicated a desire for more stringent regulations. All of the "alternatives" suggested by stakeholders were, in fact, complementary activities in support of regulation, not substitutes for it.

There is no substitute for regulation for conserving a common property resource. However, this does not mean that the Migratory Birds Regulations cannot be improved, that the administration of the regulations cannot be streamlined or even changed, or that the regulations cannot be buttressed by nonregulatory activities for achieving the objective of the regulations. In fact, nonregulatory activities have long been important means used by CWS to achieve conservation goals. A good example is public education through the Hinterland Who's Who television announcements and brochures.

Stakeholders suggested activities such as more public education or partnerships with volunteer organizations as alternatives. These suggestions merit serious consideration, particularly as part of a comprehensive strategy for achieving compliance with the regulations. Given respondents' widespread concern about adequate enforcement and the reality of government's limited resources, it is important to explore all options for more cost-effective ways of securing compliance with the

"The regulations are designed to protect migratory birds and their rationale is sound."

"Education might reduce the need for such regulations, but we still need proper laws as given in the Act. The Act and the treaty for which it was written seem to do the job better than any alternative."

"No concerns with the purpose and administration of these regulations but am very concerned about their enforcement."

regulations. CWS has an approved Enforcement and Compliance Policy, but it has not yet developed a strategy for implementing the policy. Such a strategy should include enforcement activities complemented by nonregulatory means of achieving compliance, namely, promotion of compliance and leverage on factors influencing the behavior of target groups. These factors (generally economic, psychological, and sociological) can be identified and analyzed to determine which factors encourage and which militate against compliance, and methods can be suggested for strengthening the positive factors and reducing or eliminating the impediments to compliance.

An example of strengthening a positive force would be building on Canadians' appreciation for wildlife. Although Canadians have an emotional attachment to wildlife and recognize its intrinsic importance, they do not necessarily understand the economic benefits of wildlife in terms of jobs sustained, personal income, revenue, etc. Perhaps an intensive education campaign to increase awareness of the economic impacts of healthy, sustainable populations of migratory waterfowl would strengthen societal disapproval of poaching, disturbing birds, or polluting bird habitat. Attitudes can be changed. In the last decade we have seen dramatic changes in public tolerance for smoking and impaired driving. As well, voluntary conservation measures by anglers to preserve wild fish stocks, such as the practice of catch and release, are becoming engrained as part of the angling culture of North America, and self-policing is enhancing compliance. For example, anglers are patrolling trout spawning beds on the Crowsnest River in southwestern Alberta and reporting angling violations to a toll-free provincial enforcement number. It is possible that a well-directed information program could create similar societal disapproval for noncompliance with the Migratory Birds Regulations. In any event, such an analysis would identify the areas where scarce government resources for enforcement and compliance could be used for maximum effect.

"For example, you could have a single window of permits set up where anyone wanting a permit of any type including banding, game bird breeding, to hunting and fishing licences, could go to one place."

In addition to stakeholders' widespread concern about adequate enforcement, there were also concerns about duplication and confusion between federal and provincial hunting regulations. A "one-window" federal-provincial approach to permits was suggested. In view of such concerns, the reality of limited federal government resources, and the opportunity provided by the review to take a fresh look at regulatory regimes, consideration was given to finding alternatives to the present scheme in which the federal government administers the hunt of migratory game birds.

Two options were considered, (1) turning the administration of the hunt over to a private agency or (2) delegating additional responsibility to provincial governments. The first option would involve selling the rights to hunt birds (access to the resource) to a private agency, for example a conservation or aboriginal association, which would then sell permits and monitor hunters. The agency could be allowed to make a profit subject to a long-term commitment to use a portion of the revenues to enhance the resource, for example, by habitat acquisition and protection. One of the major problems was how the regulations could be enforced under such a scheme. This approach would also require a fundamental change in the common property rights of the migratory bird resource, a change that might well not be acceptable to the Canadian public.

"We have no concerns about the purpose of these regulations. However, administratively, there is an overlap between these regulations and provincial wildlife regulations with respect to licensing of individuals for hunting purposes."

The second option would involve delegating additional responsibility for the hunt to provinces, which would then issue permits, retain the fees or a large portion of them, and enforce the regulations. The federal government would retain regulatory

responsibility and associated responsibility for harvest surveys, population surveys, and research. There are a number of considerations that argue for this option. Provincial governments already issue their own hunting permits and enforce their own hunting regulations. Delegation to provincial governments for migratory birds occurs in a practical way now in certain circumstances. Provincial enforcement officers, who greatly outnumber federal ones in all CWS regions in Canada, are delegated to enforce the Migratory Birds Regulations. The provinces of Alberta and Prince Edward Island handle the sale of federal migratory game bird permits through their vendor systems. This arrangement has been offered to the other provinces and the territories.

Delegation of additional responsibility for the hunt would mean several changes, for example, in the way that permits are issued and reported. New means of putting together a national data base of hunters' names and addresses would have to be developed to allow the national harvest survey to continue. New arrangements with Wildlife Habitat Canada, which currently receives the revenue from the habitat stamp that validates the federal permit, would have to be negotiated. One advantage to the hunting public would be that the hunter would only be required to possess one permit in order to hunt or, at the very least, would be able to obtain all necessary permits from the same outlet. This is not now the case, except in Alberta and PEI. This second option seems worth exploring with provinces and territories in more detail as a possible means of achieving the objective of the regulations, meeting some stakeholder concerns, and securing a greater level of provincial and territorial involvement in administration and enforcement of migratory game bird hunting.

"Consideration should be given to examining the areas of overlap in issuance of permits and eliminating the overlap. Hunters should not have to purchase two licenses to hunt migratory game birds."

5. FINDINGS

1. The Migratory Birds Regulations enhance Canada's competitiveness by ensuring access to migratory birds. The annual amendments to set season dates and bag limits ensure sustained yield of the resource.
2. The regulations enhance environmental sustainability by protecting migratory birds, for example, during the nesting season and on their way to and from their breeding grounds. Their whole purpose is conservation of a shared continental resource.
3. The regulations are an important part of federal strategies for achieving the goals of the Green Plan related to sustaining Canada's wealth of wildlife. Specific commitments in the Green Plan relate to the regulations and to the *Migratory Birds Convention Act*.
4. The benefits of the regulations greatly outweigh their cost to government. In economic terms alone, migratory waterfowl benefited all Canadians in 1987 by contributing \$1.4 billion to the gross domestic product, generating \$533 million in federal and provincial tax revenues, and sustaining 34,000 jobs. Data from the 1991 survey are expected to show similar or greater benefits. The cost of the regulations to government is several orders of magnitude smaller, less than \$1 million. These economic benefit figures do not attempt to quantify the many other benefits of migratory birds as intrinsically important components of ecosystems, or their social, cultural, and emotional importance or their contribution to natural processes and to science and agriculture.

5. The regulations are required for Canada to comply with the terms of the Migratory Birds Convention, a treaty with the United States of America.
6. The regulations ensure national consistency of management of migratory birds.
7. There is no substitute for regulation as a means to conserve the publicly owned and internationally shared migratory bird resource. This view is confirmed by stakeholders.
8. Legitimate concerns about specific sections of the regulations were raised by stakeholders or identified in CWS's analysis. Many improvements can be made to the regulations, mainly in the areas of streamlining or clarifying them, reducing administrative burden on both permit holders and CWS, eliminating duplication, and making the regulations more enforceable. These changes should also make the regulations more supportive of both environmental sustainability and competitiveness.
9. Some improvements suggested by stakeholders or identified by CWS fall outside the scope of regulatory reform and require amendments to the Act itself or even the Convention. This is particularly true of suggestions for improving environmental sustainability. Certain amendments have already been proposed, and it is hoped that this regulatory review will provide momentum for obtaining approval for these amendments.
10. Many stakeholders expressed the view that the regulations per se are effective but that enforcement of the regulations is inadequate. CWS recognizes that vigilant enforcement and ongoing compliance activities are necessary for the regulations to fulfill their conservation purpose. Within the scope of the regulatory review certain changes to the regulations can aid enforcement, but ultimately the solution lies elsewhere, for example, in securing greater provincial and territorial involvement in responsibility for the migratory game bird hunt or in complementing enforcement activities with cost-effective nonregulatory ways of achieving compliance.
11. On some issues stakeholders are divided, so more consultation with affected parties, discussions and negotiations with provinces and territories, or development of policy by CWS will be a prerequisite to amending certain sections of the regulations.

"The Migratory Birds Convention Act and Treaty have stood the test of time. We see the necessity of minor adjustments but strongly urge the Canadian Wildlife Service, as the lead migratory bird management agency, to ensure enforcement of all existent regulations. We simply ask you to improve your own enforcement and compliance levels. It would be a better world."

6. DRAFT RECOMMENDATIONS

Recommended changes to the Migratory Birds Regulations are discussed by block. They are grouped into recommendations for which an implementation plan can be developed now, and those that will require further study, consultation, or policy development by CWS.

Regulations Relating to General Protection

Many worthwhile proposals to improve the regulations cannot be addressed without amending the *Migratory Birds Convention Act*. The authority given to the Minister to regulate activities related to habitat and pollution is a good example of concerns that cannot be resolved without changing the Act. Other suggested changes

will require an amendment to the Convention; for example, expanding the scope to protect all migratory birds or authorizing the regulation of murre hunting in Newfoundland.

Because of the way the regulations have been amended over the years, often in a piecemeal fashion, meaningful improvement to the sections dealing with general protection ideally would involve a complete overhaul or reorganization of sections and subsections. The following amendments are recommended:

Recommendation 1

- that section 2 (definitions) be amended by adding or modifying definitions to clarify interpretation. Some of the terms to be added or modified are as follows:

- bait/baiting
- deposit (amend to clarify sections 35 and 41)
- migratory birds (amend to include dead or live birds)
- power boat (amend to include all power boats)
- possession (amend to reflect Criminal Code definition)
- prohibited hunting zone
- resident (amend to make consistent with provincial legislation)
- scare ammunition
- scientific society (amend to clarify section 19)
- take (amend to differentiate from hunting)
- taxidermist (amend to include employees working in the same premises)

Recommendation 2

- that subsection 4(1) (permits) be amended to specify the types of conditions for permits, or that the regulations be reorganized to group all permit sections together, subject to common general provisions (including the terms and conditions that can be applied to a permit)

Recommendation 3

- that section 33 (foreign species) be amended to allow the control or destruction of any species of birds, including exotic species of birds, that threatens a native species of migratory bird. See Recommendation 36 also.

Recommendation 4

- that section 35 (pollution) be amended to specify clearly the situations to which it applies. It must be recognized that increased use of an amended provision necessarily means increased resource levels in terms of personnel and technical and legal support. The potential application of the *Canadian Environmental Protection Act* should also be considered. The CEPA five-year review is now underway and creates an opportunity for increased use of that Act.

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Recommendation 5

- that a new section be added to describe an appeal procedure for ministerial decisions relating to permits and authorizations (i.e., where a permit is refused, suspended, or cancelled)

Recommendation 6

- that Schedule II be amended to include all permits and authorizations described in the regulations.

Recommendation 7

- that CWS proceed with proposed amendments to the *Migratory Birds Convention Act* to increase penalties and improve enforcement mechanisms

Further Study and Consultation

Recommendation 8

- that it be determined whether section 12 (sale or purchase) should be liberalized, for example, to allow the sale of mounted birds and other uses currently unauthorized.

Regulations Relating to Hunting

The response received from stakeholders supports the Migratory Birds Regulations and reinforces existing policies and initiatives. The recommendations are as follows:

Recommendation 9

- that in the context of subsection 5(8) (general prohibitions), efforts to amend the Convention to provide a legal framework for the development of cooperative management regimes with aboriginal peoples continue

Recommendation 10

- that efforts to amend the Convention to provide a legal framework for regulating the murre hunt continue

Recommendation 11

- that nontoxic shot zones be expanded to minimize the impact of lead shot on migratory bird populations

Further Study and Consultation

Recommendation 12

- that the use of bait to attract migratory birds for hunting be studied with a view to an eventual ban

Recommendation 13

- that the use of possession limits be reviewed

Recommendation 14

- that other stakeholder recommendations be considered in greater detail (e.g., incentives to hunters who use retrieving dogs, the number of birds that businesses involved in retriever dog training can use, shooting hours, the banning of crane hunting, etc.)

Recommendation 15

- that CWS explore methods to minimize the annual changes to regulations by working with provinces, territories, and stakeholders to develop long-term strategies for the management of hunting. Also by describing dates independently of particular years, it will not be necessary to pass regulations for calendar adjustments.

Regulations Relating to Permits other than Hunting Permits

The present regime seems well accepted, although some stakeholders commented on lack of enforcement and possible abuses by some permittees. With the proviso that making modifications to regulations regarding permits requires a complete overview of proposed changes in the other sections of the regulations, within the authority of the *Migratory Birds Convention Act* the following amendments are recommended:

Recommendation 2 (cited above)

- that subsection 4(1) (permits) be amended to specify the types of conditions for permits, or that the regulations be reorganized to group all permit sections together, subject to common general provisions (including the terms and conditions that can be applied to a permit)

Recommendation 5 (cited above)

- that a new section be added to describe an appeal procedure for ministerial decisions relating to permits and authorizations (i.e., where a permit is refused, suspended, or cancelled)

Recommendation 16

- that a permit for migratory bird rehabilitation be created

Recommendation 17

- generally, that the permit provisions be streamlined to reduce the administrative and reporting burden and to better focus on those individuals and organizations that use large numbers of migratory birds

Taxidermy permits

Recommendation 18

- that section 30 (receiving specimens) be revoked

Recommendation 19

- that section 31 (books and records) be amended to allow the collection only of data essential to verify compliance

Recommendation 20

- that subsection 31(3) (annual returns) be revoked

Scientific permits

Recommendation 21

- that section 19 (scientific permits) be amended to include review by an animal care committee whenever live birds are handled

Special permits

Recommendation 22

- that section 36 (special permits) be revoked and replaced by specific permits (e.g., for enforcement, migratory bird management, reintroduction, killing of bird populations that threaten vulnerable populations, emergencies)

Damage permits

Recommendation 23

- that subsection 24(1) (permits respecting birds causing damage or danger) be amended to authorize the use of scare ammunition without a permit

Avicultural permits

Recommendation 24

- that the ability to specify and impose conditions on permits allowing the capture of wild birds and the release of captive birds in the wild be added

Recommendation 25

- that permitting be flexible, according to the species and number of birds that are being kept in captivity (e.g., business versus hobby, permit duration, graduated fee structure that reflects the principle that the user pays, etc.)

Recommendation 26

- that permits be restricted to migratory game bird species only

Recommendation 27

- that the means by which birds can be disposed of be specified (e.g., mounting)

Recommendation 28

- that efforts be made to reduce the reporting burden

Further Study and Consultation

Recommendation 29

- that separate permits for education and salvage be created

Recommendation 30

- that a process to identify species at risk be developed

Recommendation 31

- that consultations with provincial and territorial governments be undertaken to consider ways to reduce or remove duplication in permitting; for example, by recognizing certain provincial permits as equivalent to a federal permit

Recommendation 32

- that consideration be given to raising permit fees

General Recommendations

Recommendation 33

- that CWS develop a comprehensive compliance strategy for implementing its enforcement and compliance policy. The strategy should include enforcement activities and nonregulatory means of achieving compliance.

MIGRATORY BIRDS REGULATIONS

Recommendation 34

- that, particularly in cooperation with user groups, CWS develop additional appropriate public education programs

Recommendation 35

- that CWS explore the concept of delegating additional responsibility for the migratory game bird hunt to the provinces and territories

Recommendation 36

- that CWS move quickly to develop regulations under the *Wild Animal and Plant Protection and Regulation of International and Interprovincial Trade Act*. Recommendation 3 concerning the potential control or destruction of exotic species of birds would, for example, be affected.

Recommendations to be Gazetted in 1993

Four specific changes are being prepared for the 1993 migratory game bird hunting season, which concern:

- the use of raptors to hunt waterfowl in Prince Edward Island
- various rules on baiting and goose hunting in Quebec, and
- redefining nontoxic shot as any shot with less than 1% lead content.

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MIGRATORY BIRD SANCTUARY REGULATIONS

1. BACKGROUND INFORMATION

Legal Basis and Regulatory Objectives

The Migratory Bird Sanctuary Regulations are gazetted under authority of the Migratory Birds Convention (1916) and the *Migratory Birds Convention Act* (1917) for the purpose of controlling and managing areas important for the protection of migratory birds. There are 101 Migratory Bird Sanctuaries in Canada, which together protect approximately 11.3 million hectares. About a third of the sanctuaries are located on federally owned lands; the others are situated on privately owned lands or on provincial Crown lands. Management of the land is dependent in the latter cases upon the cooperation of the landowner. Legal descriptions of all sanctuaries appear in a schedule to the regulations.

When the Convention was signed in 1916, excessive hunting was the major threat to migratory birds. Now, with a good level of control on hunting, the main threat to migratory birds is loss and degradation of habitat. However, Migratory Bird Sanctuary Regulations provide only a limited vehicle for protection of habitat and only when birds are present. The Convention refers to habitat protection twice. The preamble stresses the importance of adopting "some uniform system of protection" to save migratory birds from "indiscriminate slaughter," thereby "insuring the preservation of such migratory birds as are either useful to man or are harmless." Article IV specifically authorizes the "establishment of refuges" for wood and eider ducks only. As noted in the discussion of the legal basis of the Migratory Birds Regulations, there is some uncertainty about the degree of authority that is provided in the Convention to regulate habitat protection beyond the specific terms of Article IV.

The regulations specifically prohibit certain activities within sanctuary boundaries: hunting migratory birds; disturbing, destroying, or taking the nests of migratory birds; possessing a live migratory bird or a carcass, skin, nest, or egg of a migratory bird; possessing any firearm; and allowing dogs and cats to run at large. Permits that authorize an otherwise prohibited activity can be issued, subject to conditions necessary to protect migratory birds or the eggs, nests, or habitat of migratory birds within a sanctuary. Limited exceptions are made for residents or persons domiciled in a sanctuary.

Protection of migratory bird habitat is fundamental to the conservation of many species. In order to be consistent with the philosophy of the Convention, the existing provisions of the Migratory Birds Convention Act and other initiatives such as the Federal Policy on Wetland Conservation (1992) and the Federal Policy on Land Use (1981), CWS identifies, protects, and manages lands of particular ecological value to wildlife as part of Canada's national heritage — a "system of protection." Canada's first Migratory Bird Sanctuary, located at Last Mountain Lake in Saskatchewan, is the oldest waterfowl refuge in North America. It was established in 1887. Migratory Bird Sanctuaries are identified as "protected areas" in Canada's Green Plan.

The CWS document entitled *Migratory Bird Sanctuary Policy, Criteria and Procedures* (1988) outlines four basic criteria that are considered before establishing or

"They hinder environmental sustainability. Not enough control over habitat destruction."

"Sanctuaries provide protection and habitat where waterfowl can feed during winter months without hunting stress."

"Major concern is that the total number of sanctuaries is puny — when compared to the size of the country and to the benefits of sanctuaries."

MIGRATORY BIRD SANCTUARY REGULATIONS

delisting any Migratory Bird Sanctuary. Once established, a sanctuary is to be reviewed every five years to determine if it still meets one or more of the criteria:

1. The area supports migratory bird populations that are concentrated, for any part of the year, in order to meet one or several essential needs, and that are vulnerable to site-specific threats.
2. The area supports populations that occupy habitats of a restricted geographical type and are vulnerable to human disturbance.
3. The area regularly supports at least one percent of a population of one species or subspecies.
4. The area figures prominently in the requirement for the management of regional populations of migratory birds and/or has high capabilities for educational or interpretive purposes.

It has become increasingly difficult to manage sanctuaries not located on federally owned land. During the 1980s an attempt was made to move toward a refuge system approach, as exists in the United States. The aim of this effort was to have only federal lands used as sanctuaries. All Migratory Bird Sanctuaries that qualified as being of national importance were to be revoked and redesignated as National Wildlife Areas under authority of the *Canada Wildlife Act* and Wildlife Area Regulations. However, few of the sanctuaries that qualified have undergone the transformation and become National Wildlife Areas.

Reporting Burden

Permits that authorize an otherwise prohibited activity such as hunting migratory birds or taking their nests and eggs can be issued by the Minister of Environment where the sanctuary is situated on federal Crown land, or by the chief game officer of a province where the sanctuary is situated on provincial Crown land. The requirements of policies such as the Federal Policy on Wetland Conservation and the Federal Policy on Land Use must be met prior to the issuing of permits that would allow an activity within the boundaries of a sanctuary located on federal Crown lands.

Relatively few permits are issued. They are usually for research, access, or land use. There are no mandatory reporting requirements for Migratory Bird Sanctuary permit holders. However, approximately one-third of all permit holders who have been granted access to a sanctuary have had conditions placed on their permit and are required to submit a report containing information indicating the general locations of wildlife sightings and locations where their activities were focused. A map showing camping locations and expedition routes may be required.

Level of Government Involvement

Detailed information is available in Table 3, in the Migratory Birds Regulations portion of this document, relating to costs for all three sets of regulations. Generally speaking, the costs to government of developing and sustaining sanctuaries is small. Two-thirds of the total number of sanctuaries are located on privately owned or provincial Crown lands. They have not been purchased. The enforcement and administration costs of the regulations are minimal.

Enforcement and Compliance

Provincial officers and members of the RCMP have been appointed as officers under the *Migratory Birds Convention Act* to enforce not only the Migratory Birds Regulations but the Migratory Bird Sanctuary Regulations as well. The ability to make such appointments has been delegated from the Minister to CWS headquarters. These officers assist CWS enforcement staff who have generally been assigned part-time monitoring and management duties. CWS biologists and management staff in each region must also spend some time assisting in the administration of Migratory Bird Sanctuaries.

The CWS Interim Policy on the Application of the Migratory Birds Convention Act and the Canada Wildlife Act Respecting Closed-season Hunting and Egging by Aboriginal People recognizes that Migratory Bird Sanctuaries are established for conservation purposes.

Persons convicted of an offence under the Act are liable to fines of up to \$300 and/or up to six months' imprisonment.

International Requirements

The Migratory Bird Sanctuary Regulations are gazetted under authority of the *Migratory Birds Convention Act*, the legislation that implements within Canada the Articles of the Migratory Birds Convention entered into with the United States. Canada is a signatory to other international conventions and agreements as noted throughout this document, but in no other case has legislation been enacted to implement their provisions. Migratory birds are of singular importance in this respect.

In 1981 Canada became the twenty-ninth country to sign the Convention on Wetlands of International Importance Especially as Waterfowl Habitat, or Ramsar Convention. The purpose of the Ramsar Convention is "to stem the progressive encroachment on and loss of wetlands, now and in the future." Designation as a Ramsar site recognizes the international importance of a wetland and supports existing federal or provincial legislation. It is noteworthy that of Canada's 30 Ramsar sites, eight are Migratory Bird Sanctuaries or include sanctuary lands within them. Such international recognition confirms the importance of the Migratory Birds Convention and of the sanctuary system.

Migratory Bird Sanctuaries are also recognized by the World Conservation Union (IUCN) as one category of protected areas, the "Habitat and Wildlife Management Areas", which are defined as "desirable when protection of specific habitats is essential to the continued well-being of resident or migratory fauna."

Comparable Situation in the Provinces and Territories

Most provinces have their own sanctuary or special areas management legislation, which they manage according to their own criteria and policies. Management areas are often established on lands set aside primarily for other reasons, such as forestry and agriculture. The federal sanctuary criteria are designed to reflect the broader national interest. Migratory Bird Sanctuaries may also be important on the local scale. For example in western Canada, where significant populations of migratory birds are not always present in some of the smaller sanctuaries, local support

"I believe more sanctuary areas are desirable."

for protective status remains strong. Most communities appreciate the educational and public awareness value of sanctuaries and incorporate their presence into local planning initiatives.

In Ontario, the province's *Game and Fish Act* and pursuant regulations set objectives that are very similar to those of the Migratory Bird Sanctuary Regulations. Although they do not limit access to provincial Crown Game Reserves, they do restrict hunting and trapping and the possession of all sport hunting equipment within reserve boundaries.

In the 17 Migratory Bird Sanctuaries located in the Northwest Territories, habitat protection depends in large part on the Territorial Land Use Regulations gazetted under authority of the federal *Territorial Lands Act* and administered by the land manager, Indian and Northern Affairs Canada. These regulations designate land use management zones and establish a permit system for the regulation of surface activities on territorial lands. Environment Canada has an advisory role with regard to activities both within and outside of Migratory Bird Sanctuaries in the NWT, but has traditionally been able to negotiate stronger environmental permit conditions for permits that affect sanctuary lands, including permits issued by Indian and Northern Affairs Canada. Development companies are obliged to meet conditions placed on permits or leases issued for mining and oil or gas exploration as well as conditions under the Migratory Bird Sanctuary Regulations or the Territorial Land Use Regulations. The realities of exploration efforts and lease management are balanced against concerns for environmental protection.

Comparable Situation in Other Countries

In the US, a National Wildlife Refuge System was created and initially managed under authority of the *Migratory Bird Treaty Act*. Because this legislation did not empower the federal government to acquire migratory bird habitat, the *Migratory Bird Conservation Act* was passed in 1929 to enable the purchase or rental of areas identified under its provisions. All refuges acquired pursuant to this authority were deemed to be "inviolable sanctuaries." The National Wildlife Refuge System now operates under the basic authority of the *National Wildlife Refuge System Administration Act* (1966), *Refuge Recreation Act* (1962), and *Refuge Revenue Sharing Act* (1964).

Several international treaties have been made by the United States under the authority of the *Migratory Bird Treaty Act*. A 1936 treaty with Mexico introduced the concept of "refuge zones" for migratory birds. In 1974 a Convention signed with Japan dealt with the establishment sanctuaries and other facilities for the protection and management of migratory birds. A 1976 treaty with the former Soviet Union, which has not been ratified, would obligate each nation to identify areas that are of special importance to migratory bird conservation and to undertake measures necessary to protect ecosystems within those areas.

2. STAKEHOLDER VIEWS

Recent Reviews

The consultative effort undertaken by CWS in 1991-92 (Regulations Review Project) yielded many valuable stakeholder suggestions. These comments generally

focused on topics such as the importance of ensuring that definitions be consistent with those used in the Migratory Birds Regulations, the definition of activities subject to regulation, the notion of regulating all activities in some particularly sensitive sanctuaries, giving more authority to game officers, accommodating the needs of people living within or near the boundaries of a sanctuary, and repealing the sanctuary status of those areas that no longer satisfy the criteria.

With regard to the last comment, in 1984 CWS conducted a review of all Migratory Bird Sanctuaries in Ontario to determine if migratory birds were still present, to review public use, and to see if the sanctuary was still important in terms of protecting the resource. Of the 12 sanctuaries, four no longer maintain a sufficient population of migratory birds to be maintained and are to be revoked (Pinafore Park, Guelph, Young Lake, Fielding), two need further review to determine boundary changes (Rideau, Moose River), one has become a National Wildlife Area (Eleanor Island), and five are to be maintained (Chantry Island, Mississippi Lake, Upper Canada, Beckett Creek, Hannah Bay).

"List of sanctuaries should be reviewed relative to modern information on critical migratory bird areas and relatively unimportant areas dropped from designation."

A recent internal paper on the status of CWS's protected areas initiative under the Green Plan discusses the issue of recognizing sanctuaries as "protected areas." It recommends that in order to improve the status of sanctuaries as protected areas, CWS should make changes to the regulations and establish management plans in order to better control activities within the sanctuary boundaries. The application of more stringent regulations would require increased enforcement and additional resources. Management plans can only be developed with the participation and approval of affected landowners.

A document entitled *A Review of the Boundaries of Bird Sanctuaries in the Northwest Territories* (February 1990), prepared by the Conservation Advisory Committee on the Northern Mineral Policy, notes that comments received from federal government departments led to the conclusion that "sanctuaries can provide focal points for public opinion and thereby effectively constrain exploration and mining activities." Industries involved in petroleum and mining exploration, for example, indicated that their acceptance of sanctuary boundaries is based on the premise that sanctuary permits will continue to be issued for exploration activities. One environmental group agreed with a recommendation that existing boundaries be expanded but was concerned about potential reductions or cancellations of boundaries without a sound review of basic criteria. Specific recommendations concerning the 13 Migratory Bird Sanctuaries located north of 60° latitude in the Northwest Territories included the following:

- significant changes to the boundaries of any sanctuary should be made only if supported by a thorough field assessment of the sanctuary's migratory bird population;
- management plans for northern sanctuaries should be prepared;
- six of the 13 existing sanctuaries (Anderson River Delta, Banks Island No.1 and No.2, Bylot Island, Cape Parry, and Seymour Island) should remain unchanged;
- five (Dewey Soper, East Bay, Harry Gibbons, Kendall Island, and McConnell River) should be expanded;
- consideration should be given to reducing the boundaries of the Queen Maud Gulf sanctuary; and

- consideration should be given to revoking the Cape Dorset sanctuary.

Current Review

The current review involved the same stakeholders that were consulted in the 1991 Regulations Review Project. A number of businesses and associations were added, in particular ammunition and shot manufacturers, outfitters and tourist camp operators, and the oil/gas, mining, and forestry sectors. See the Consultation Plan Matrix (Table 1) for a complete listing of stakeholder groups that were provided with a copy of the consultation document and invited to participate.

Stakeholder responses complement the background information on legal basis and regulatory objective, reporting burden, level of government involvement, enforcement and compliance, international requirements, comparable situation in provinces and territories, and comparable situation in other countries that was used in the analysis.

Issues, Positions, and Priorities of Stakeholders

The Migratory Bird Sanctuary Regulations constituted the fourth block of regulations on which stakeholders commented. The questionnaire is reproduced in the preceding Migratory Birds Regulations portion of the text. A summary of comments made by stakeholders on all three sets of regulations is included as Appendix 3. Excerpts from stakeholders' responses appear throughout this report.

Summary of Comments

Concerns about purpose and administration. A majority of respondents had no major concerns about the purpose and administration of the regulations. Comments focused on inadequate enforcement, habitat protection, the needs of people who live within or very near to a sanctuary, and restrictions on human activities within sanctuary boundaries. Although hunters and naturalists expressed very different views, in general stakeholders seemed to feel that these types of activities are not necessarily mutually exclusive.

Regulations hinder or enhance competitiveness and environmental sustainability. The regulations are seen to enhance both competitiveness and environmental sustainability by ensuring that migratory bird populations and their habitat are protected. The importance of protecting valuable national resources and of ensuring long-term economic and environmental benefits of wildlife-related activities was recognized. While some felt that sanctuaries resulted in poor land management and overpopulation of some species, the majority view was that protecting migratory birds and their habitat enhances the resource and improves economic activities such as ecotourism and hunting.

Regulations to be deleted or amended. Most stakeholders felt that no serious changes are necessary, but supported efforts to strengthen the regulations so that they better control activities within sanctuaries and offer more habitat protection. The application of the regulations to all individuals, including those harvesting under an aboriginal or treaty right, was seen as essential.

"Enhance. Nonhunted regions allow for nonconsumptive enjoyment of wildlife. Such uses are of increasing economic importance in Canada."

"They should be amended to protect habitat – not just the birds!"

Regular review of sanctuaries to ensure that they are judged against the most current biological information was suggested. It was also felt that sanctuary boundaries should be reviewed to ensure that each area is sufficient to support the resident population of migratory birds. Zoning within sanctuary boundaries was discussed as a means of prohibiting access to critical nesting areas. Additional sanctuaries were requested for Prince Edward Island, New Brunswick, and Manitoba. The need for management plans that include all involved governments and individuals was noted.

"There should be a suitable buffer zone around and outside all bird sanctuaries especially those open to the public."

Alternatives. While no respondents offered an alternative to regulation, many expressed the view that public education is an essential complement and an important mechanism for fostering respect for sanctuaries and private stewardship efforts elsewhere. Stakeholders felt that additional resources are required to enforce the regulations. One way of overcoming resource limitations would be to establish working arrangements with wildlife groups and other organizations. An increased level of protection was desired by most.

3. ANALYTICAL RESULTS

Cooperation with Other Governments

The regulations do not duplicate the effects or objectives of other existing federal or provincial regulations. Enforcement activities within sanctuaries are limited, but to the extent that they do occur, sometimes involve provincial enforcement officers.

Cooperative efforts between the federal and provincial governments could focus on land exchanges, Memorandums of Understanding with involved government departments, or lease arrangements. Lands that are already owned by federal government departments could be evaluated for their conservation value and arrangements made to transfer title to Environment Canada.

Cooperation with Industry

The objective of the regulations cannot be accomplished more effectively by industry self-regulation. However, the support and cooperation of affected industries and businesses are essential if land use conflicts are to be resolved. Meaningful consultation when amendments to the regulations are considered and management plans are prepared will help to ensure that the concerns of industry and business are understood and addressed. Encouraging landowner support for management plans should be considered. Operating principles designed to minimize detrimental effects both on the sanctuary and on businesses such as agriculture and pulp harvesting, whose activities are constrained by the protected area status, could also be identified. More certainty is required with regard to the conditions and duration of permits, and an appeal procedure should be established for ministerial decisions relating to permits.

Compliance Costs for Permit Holders

Additional costs usually accompany exploration or development of nonrenewable resources within a Migratory Bird Sanctuary. In the northern sanctuaries, certain activities are governed by land use regulations administered by Indian and Northern Affairs Canada as well by the sanctuary regulations. The time needed to plan and then conduct an activity so that environmental protection concerns

are met can involve some real costs to industry. For example, limitations are imposed by the terrain, which must be sufficiently frozen to withstand the pressures of the activity in question so that degradation does not occur. Specific activities at a site may have to be curtailed during the periods when migratory birds are in the area.

With regard to mining and oil and gas activities, only technology that has been proven effective in controlling possible negative environmental impacts is permitted. An environmental assessment may be required.

Benefits

The regulations are an important means of ensuring that specific migratory bird populations are protected. The benefits of this protected status are significant to Canada and are quantified in Table 4 and the section on Benefits in the discussion of the Migratory Birds Regulations.

"This sanctuary serves an incredibly important educational role to the local children, adults, and their visitors. That has to help balance the scales of environmental sustainability!"

It is interesting to note that a majority of stakeholders recognize that protecting migratory birds and their habitat enhances the resource and improves economic activities such as ecotourism and hunting. Significant economic opportunities for local service-related businesses can result. The Bonaventure Island and Percé Rock Bird Sanctuary is a case in point. Boat excursions to Bonaventure Island to view colonies of gannets and other migratory birds are a popular summer activity that draws many visitors. Tour boat owners have banded together into an association to provide better service to tourists, promote the activity, and realize maximum economic benefits. An interpretive center has been built at the entrance to the Red Deer Bird Sanctuary, Red Deer, Alberta, and an active interpretive and educational program is conducted. Staff at the center say that the designation as a Migratory Bird Sanctuary provides added credibility and tourist drawing power. Migratory Bird Sanctuaries, like other protected areas, play important educational roles in making Canadians aware of their natural heritage and instilling in them respect for the ecosystems on which all life depends. Protected areas are also of importance internationally, in terms of both tourism and prestige.

Competitiveness

The regulations do not impose an unnecessary regulatory burden on small communities and businesses. In fact, as outlined in the previous section on Benefits, sanctuaries have created new employment opportunities. Ecotourism activities, for example, attract clients for local restaurants, retailers, hotels, and other service-related businesses. There is some indication that the presence of protected spaces leads to increased hunting opportunities in areas adjacent to or near sanctuaries.

The recent designation of Green and Shepherd Islands as Migratory Bird Sanctuaries has helped to create an economic opportunity. Located off the coast of Newfoundland, the new sanctuaries now offer protection to numerous migratory bird species found in that area. Increased eider duck populations in particular create the potential for an industry based on the collection of down from nesting colonies to be used in the production of comforters and other down-filled products.

The regulations have had an impact on the way that industry conducts its business within sanctuary boundaries, particularly in the north. Permits are only issued where industry can show that the technology to be used is effective in controlling

"After discussion we recommend a strengthening of the access regulations/permits to Sanctuaries on a year-round basis."

possible environmental impacts. All industries operating in the Northwest Territories must meet an acceptable environmental standard for activities in sanctuaries. Exploratory work within a sanctuary may be permitted. However, an abandoned site must be restored, if not enhanced, for the benefit of a particular species, and returned to its natural state within a reasonable time frame. As mentioned earlier, industry would like more certainty with regard to the conditions attached to permits.

Environmental Sustainability

The existing regulations enhance environmental sustainability and support Green Plan objectives by ensuring national consistency of approach to protecting migratory birds subject to the Convention. However, they may be improved to better achieve these purposes if they are revoked as a separate regulatory instrument and the substantive elements are integrated into the Migratory Birds Regulations. Those sections that relate specifically to sanctuaries would then be supported by the more substantial text of the Migratory Birds Regulations. Inconsistency and duplication of common provisions — such as those dealing with definitions and permits — would be removed. Combining the two sets of regulations made under the *Migratory Birds Convention Act* into one regulatory instrument would also streamline and clarify the text to ensure that the intent of the Convention's Articles is being met. New provisions to be added to the Migratory Birds Regulations for establishing conditions for permits and creating an appeal process for Ministerial decisions would then also apply to sanctuary permits.

"They enhance environmental sustainability through the quality of the spaces they create."

The ability of CWS to pursue additional habitat protection objectives will ultimately depend on the legal interpretation given to the Articles of the Convention.

"Environmental sustainability is enhanced. Sanctuaries afford birds peace and quiet—so important during breeding season."

4. ALTERNATIVES

There are no alternative approaches that would achieve the benefits of the existing regulations. As noted in the discussion of the Migratory Birds Regulations, in North America wildlife is a public resource. Some degree of government involvement is required if national conservation goals are to be achieved and environmental sustainability is to be enhanced. This view is supported by the comments received from stakeholders, the great majority of whom agree with the concept of federal protection for migratory birds and their habitat. It is also important, however, that sanctuaries be periodically re-examined against the accepted criteria.

Suggestions for complementary activities include a proposal that, subject to thorough review by landowners and interested stakeholders, some sanctuaries could be revoked and gazetted as National Wildlife Areas. This would extend regulatory protection beyond migratory birds to habitat, which is clearly authorized by the *Canada Wildlife Act*. Management plans could be prepared (or updated) for sanctuaries situated on federally owned lands. Few sanctuary management plans have been developed. The advantage of having a management plan (described in the discussion of the legal basis for the Wildlife Area Regulations) is that management policies on such topics as public consultation, recreation, permits and enforcement must be prepared and made available to the public. Use conflicts can be resolved through the management plan rather than regulation. Where sanctuaries are located on privately owned or provincial Crown lands, the agreement of affected landowners

"Philosophically, there is a need for all stakeholders (including industry, indigenous peoples, private agencies and governments) to acknowledge the need of a stronger co-management approach to Sanctuaries and NWAs."

MIGRATORY BIRD SANCTUARY REGULATIONS

would have to be secured as part of the management plan process. Private landowners should be encouraged to participate in the sanctuary program.

Stakeholders stressed that an adequate level of enforcement needs to be applied. It is recognized that current enforcement programs are less than optimum. Agreements with provincial governments could be developed for sanctuaries located on provincially owned lands. Responsibility could be delegated to the provinces or local management authorities through long-term agreements.

Public awareness programs could be developed with wildlife organizations and other groups interested in delivering such programs.

The possibility of identifying additional sanctuaries where specific restrictions would apply during those periods when nesting or migratory birds are particularly vulnerable (there are now two, Bonaventure Island and Percé Rock Bird Sanctuary and Machias Island Bird Sanctuary) has also been raised.

"Public education is an important complement. It is an important mechanism to foster respect for sanctuaries and private stewardship outside them."

5. FINDINGS

1. The Migratory Bird Sanctuary Regulations enhance environmental sustainability by protecting migratory birds, for example during the nesting season and on their way to and from their nesting grounds. As with the Migratory Birds Regulations, their whole purpose is to achieve the goals of the Convention and conserve a shared continental resource.
2. The regulations are an important part of federal strategies for achieving the goals of the Green Plan related to sustaining Canada's wealth of wildlife. Specific Green Plan commitments relate to protected areas.
3. The benefits of the regulations greatly outweigh their cost to government. The cost of the regulations to government is minimal.
4. The regulations are required for Canada to comply with certain Articles of the Migratory Birds Convention, a treaty with the USA.
5. The regulations ensure national consistency of approach to protecting migrating birds subject to the Convention.
6. The substantive sections that apply uniquely to sanctuaries, and the schedule that provides the legal description for each sanctuary should be retained, with minor exceptions. This conclusion is strongly supported by stakeholders.
7. The notion of achieving habitat protection through regulations gazetted under authority of the Convention is, as noted earlier, a matter of some debate. A majority of stakeholders propose an increased role in this regard.

6. DRAFT RECOMMENDATIONS

Recommendation 37

- that the Migratory Birds Regulations be amended to incorporate the Migratory Bird Sanctuary Regulations, specifically sections 3 and 4 (general prohibitions); sections 6, 8, 8.1, and 11 (prohibitions dealing with specific geographic areas); section 5 (pertaining to the control of dogs and cats within sanctuaries); and sections 9 and 10 (permits). It is recognized that only the unique and therefore relevant portions of these sections will be incorporated.

Recommendation 38

- that existing sanctuary descriptions be annexed as a separate schedule to the Migratory Birds Regulations

Recommendation 39

- that the *Migratory Bird Sanctuary Policy, Criteria and Procedures* be applied and sanctuaries deleted or created as appropriate (e.g., revocations have been requested for the Cape Dorset Sanctuary, for four sanctuaries in Ontario, and for seven island sanctuaries in Quebec)

Recommendation 40

- to improve the status of sanctuaries as "protected areas," that management plans be developed through public consultation and over time for those sanctuaries that are retained, for which no plans currently exist, and which are located on federally owned lands. With the concurrence of the landowner, management plans can also be developed for sanctuaries on lands not owned by the federal government.

Further Study and Consultation

Recommendation 41

- that where local groups or associations indicate willingness, the possibility of working arrangements for management or interpretive programs on Migratory Bird Sanctuaries be investigated

Recommendation 42

- that, particularly in cooperation with user groups, CWS develop additional appropriate public education programs

"Public education is probably also an essential complement to public regulation."

Recommendation 43

- that where appropriate, Migratory Bird Sanctuaries be converted to National Wildlife Area status. See also Recommendation 58.

Recommendation 44

- that additional clarification be sought to determine if amendments to the Convention or *Migratory Birds Convention Act* are in fact needed for CWS to regulate habitat protection

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WILDLIFE AREA REGULATIONS

1. BACKGROUND INFORMATION

Legal Basis and Regulatory Objectives

The Wildlife Area Regulations are gazetted under the *Canada Wildlife Act* (1973). The *Canada Wildlife Act* includes provisions designed to promote wildlife and habitat conservation in Canada. Under the Act, when “public lands are required for wildlife research, conservation or interpretation, the Governor in Council may assign the administration, management and control of those lands to the Minister” and “may authorize the Minister to purchase, acquire or lease any lands or interests therein for the purpose of research, conservation and interpretation in respect of: a) migratory birds; or b) with the agreement of the government of the provinces having an interest therein, other wildlife.” Almost all National Wildlife Areas are owned by the federal government. A few are managed under the terms of 99-year leases. CWS currently protects approximately 287,000 hectares in 45 National Wildlife Areas.

The regulations prohibit a wide range of activities, including but not limited to hunting and fishing, possessing a firearm or any wildlife, damaging vegetation, farming, livestock grazing, letting domestic animals run at large, carrying on recreational activities, carrying on commercial or industrial activities, disturbing or removing soil or other material, and dumping or depositing any waste or substance that would degrade or alter the quality of the environment. However, these and other activities may be carried on within a National Wildlife Area if authorized by a permit. Permitted activities for each National Wildlife Area are outlined in a management plan. Management plans allow only activities compatible with wildlife research, conservation, and interpretation. For example, the Polar Bear Pass National Wildlife Area management plan contains management policies on such topics as public consultation, plan review, multiple land use, wildlife harvesting, rare/threatened/endangered species, archaeological sites, recreation, permits, and enforcement. Management plans have been prepared for 41 of the 45 National Wildlife Areas and are available upon request. The plans are developed in consultation with local residents, interest groups, and usually the province. Unfortunately, because of lack of funds, management plans have not been revised every five years as hoped. The activities that have been permitted — hay harvesting, hunting, and on-site interpretation programs, for example — have not significantly altered the natural state of any National Wildlife Area ecosystem.

“Protection of wildlife areas helps to ensure existence of natural habitats and wildlife therein in perpetuity—very important to humanity.”

Each National Wildlife Area is managed individually to preserve or increase that area’s value to wildlife. Each management plan considers how both wildlife and people can use the area without disrupting the habitat. In most areas, hunting, fishing, bird watching, hiking, photography, and canoeing are permitted. But where the habitat is particularly fragile, even hiking is limited. It is not clear according to the Wildlife Area Regulations that activities such as hiking and bird watching are allowed without a permit.

The *Canada Wildlife Act* improved the ability of the Department to develop programs for habitat protection. The Migratory Bird Sanctuary Regulations can only be used to control activities within sanctuary boundaries when migratory birds are

"Protecting areas of important wildlife habitat enhances environmental sustainability. These areas must be intensively managed but they must also be used to promote environmental awareness in the public."

present, and they offer protection to migratory birds only. The Wildlife Area Regulations can be used to control activities within National Wildlife Areas during all seasons, even when migratory birds are not present, offer greater habitat protection, and protect all "non-domestic animals." National Wildlife Areas also have management plans for dealing with the uses to be permitted in each area. It is for these reasons that some nationally important Migratory Bird Sanctuaries were changed to National Wildlife Areas. However, the regulations grant too much discretion to the Minister for specifying conditions for permits and for outlining on the posters marking National Wildlife Areas the activities that can be carried on within an area. Nor do the regulations provide an appeal process related to ministerial decisions about permits.

National Wildlife Areas are identified as "protected areas" in Canada's Green Plan.

Draft criteria for establishing National Wildlife Areas have been prepared. When finalized they will bring more consistency to the process of identifying and selecting new areas. One of the powers of the *Canada Wildlife Act* is the ability of the Minister to enter into agreements not only with provinces but also with other bodies such as government departments and individuals. In 1992 a Memorandum of Understanding with the Department of National Defence was signed to designate parts of Canadian Forces Base Suffield, Alberta, as a National Wildlife Area. The purpose is to protect a large tract of rare native prairie wildlife habitat. Once the National Wildlife Area is designated, CWS will assist the Department of National Defence in preparing a management plan for the area. Consideration is now being given to creating the first marine-based National Wildlife Area, at Isabella Bay on Baffin Island. The Inuit community of Clyde River suggested the establishment of such a National Wildlife Area to protect critical habitat for the bowhead whale. This will involve a Memorandum of Understanding with the Department of Fisheries and Oceans and with the community. As well, a number of cooperative National Wildlife Areas are proposed under the comprehensive claims process. Land claimants, such as the Tungavik Federation of Nunavut, would enter into agreements with the Minister to protect areas of wildlife habitat on lands belonging to them.

Reporting Burden

There are no mandatory reporting requirements for National Wildlife Area permit holders. Western and Northern Region does require a report from holders of grazing or haying permits indicating amount of hay taken off or number of animals released to graze. Permits are generally annual.

Activities for which permits are issued include scientific study, land use, and trapping and hunting. With the exception of hunting permits in Quebec Region (see Benefits, below), relatively few National Wildlife Area permits are issued each year.

Level of Government Involvement

Government expenditures in both human and financial resources on all regulations administered by CWS are presented in Table 3 (in the Migratory Birds Regulations portion of this document). The types of activities considered in arriving at a "cost" of Wildlife Area Regulations in Table 3 included development of new or amended regulations, gazetting, administrative costs of issuing permits, and enforcement and compliance activities. Revenue is generated by National Wildlife

Area permit fees; these revenues are shown in Table 3. Permit fees for haying and grazing in the Western and Northern Region, for example, are similar to provincial fees for agricultural uses.

Enforcement and Compliance

Persons convicted of a summary offence under the Act are liable to fines of up to \$2,000 and/or up to six months' imprisonment.

Few enforcement officers have been appointed under the *Canada Wildlife Act*. Appointments cannot be made by the Minister of the Environment, but must be done through regulation. Those officers who have been appointed are either provincial enforcement officers or members of the Royal Canadian Mounted Police. In general, the Migratory Birds Regulations and not the Wildlife Area Regulations are enforced within National Wildlife Areas because the Minister is able to appoint provincial enforcement officers and members of the RCMP as officers for the purposes of the Migratory Birds Regulations. In the Western and Northern Region, for example, there have been no charges under the Wildlife Area Regulations and no fines collected since 1989.

Generally, National Wildlife Areas are monitored on a case-by-case basis, and patrols of areas increase during the hunting season. For example, in the Ontario Region some National Wildlife Areas are patrolled weekly by contract caretakers who are local residents. In other cases, there are on-site resident managers.

The CWS Interim Policy on the Application of the Migratory Birds Convention Act and the Canada Wildlife Act Respecting Closed-Season Hunting and Egging by Aboriginal People recognizes National Wildlife Areas as being established for conservation purposes.

Amendments to the *Canada Wildlife Act*

A key element of Canada's Green Plan is Environment Canada's effort to enhance its enforcement program. As a result, amendments to the *Canada Wildlife Act* were proposed prior to this Regulatory Review to strengthen and modernize the Act. The most important proposed amendments are:

- increasing the fine structure to a realistic level
- improving enforcement mechanisms, e.g., by clarifying the powers of wildlife officers and simplifying the appointment of officers

Housekeeping changes have also been proposed to clarify terminology and modernize the text.

International Requirements

The Wildlife Area Regulations are authorized by the *Canada Wildlife Act*. They are in no way connected to the terms of the Migratory Birds Convention or any other international treaty. They do, however, complement the philosophy and intent of other conventions and agreements that Canada has signed.

"The fines should be increased to match the provincial fine structures or even some of the fines specified in similar American legislation."

"Better protection could be provided to these areas if provincial officers were given authority to enforce their protection under one federal piece of legislation."

WILDLIFE AREA REGULATIONS

In 1981 Canada became the twenty-ninth country to sign the Convention on Wetlands of International Importance Especially as Waterfowl Habitat, or Ramsar Convention. The purpose of the Ramsar Convention is "to stem the progressive encroachment on and loss of wetlands, now and in the future." Designation as a Ramsar site recognizes the international importance of a wetland and supports existing federal or provincial legislation. It is noteworthy that of Canada's 30 Ramsar sites, 10 are National Wildlife Areas or include National Wildlife Area lands within them. Such international recognition confirms the importance of the wildlife area system. Contracting parties must designate one or more sites to be included in the List of Wetlands of International Importance. In January 1981 Canada identified Cap Tourmente National Wildlife Area as its first addition to the list.

National Wildlife Areas are recognized as one category of protected areas by the World Conservation Union (IUCN).

Comparable Situation in the Provinces

Most provincial governments have legislation that designates areas in which wild animals and their habitat are protected, whether described as ecological reserves, areas closed to hunting, provincial parks, or wilderness reserves. Such legislation is not always equivalent to the provisions of the *Canada Wildlife Act*. For example, provincial agencies often establish wildlife management areas on lands set aside primarily for other reasons, such as forestry and agriculture. Unlike National Wildlife Areas, it is seldom that large areas of 2000 hectares or more are set aside for the primary reason of wildlife protection.

Ontario's *Game and Fish Act* and pursuant regulations have a purpose that is similar to the federal legislation — to conserve and protect wildlife within the province, especially small and big game species. The regulations do not limit access to Crown Game Reserves, but do restrict hunting and trapping within reserve boundaries.

In Quebec, the situation is a little different from that in other provinces because its wildlife protection laws apply to wildlife habitat on private lands as well as public lands. However, in general, the protection afforded is less restrictive than that afforded by federal legislation.

Federal and provincial regulations that serve to protect certain areas have similar general aims with respect to the lands in question. These regulations do, however, apply to different lands; there is no overlap. While management plans for National Wildlife Areas have to be consistent with economic realities, in general the potential exists to take a strong conservation position based on national considerations.

Comparable Situation in Other Countries

The National Wildlife Refuge System in the USA is described under the Migratory Bird Sanctuary Regulations in this report.

2. STAKEHOLDER VIEWS

The Regulations Review Project undertaken by CWS in 1991–92 also resulted in many valuable stakeholder suggestions concerning National Wildlife Areas. These comments focused on topics such as the importance of ensuring that definitions be

consistent with those used in the Migratory Birds Regulations, better definition of regulated activities, consideration of recognizing provincial hunting permits as equivalent to federal permits, and allowing individuals to hunt within National Wildlife Areas. Concern was expressed that there are too many powers given to officers.

The current review involved the same list of stakeholders that were consulted in the Regulations Review Project. A number of businesses and associations were added, in particular, ammunition and shot manufacturers, outfitters and tourist camp operators, and the oil/gas, mining, and forestry sectors. See the Consultation Plan Matrix (Table 1) for a complete listing of stakeholder groups that were provided with a copy of the consultation document and invited to participate.

Stakeholder responses complement the background information on legal basis, reporting burden, level of government involvement, enforcement and compliance, international requirements, comparable situation in the provinces, and comparable situation in other countries that was used in the analysis.

Issues, Positions, and Priorities of Stakeholders

The Wildlife Area Regulations constituted the fifth and final block of regulations on which stakeholders commented. The five questions that made up the questionnaire are reproduced in the Migratory Birds Regulations portion of the text. A summary of the comments made by stakeholders on all three sets of regulations is included as Appendix 3, and extracts from responses are quoted throughout this report.

Summary of Comments

Concerns about purpose and administration. A majority of stakeholders did not have any concerns about the purpose and administration of the Wildlife Area Regulations. In fact, many indicated that they would like to have even more National Wildlife Areas established. It was recognized that coordination and cooperation between levels of government and between government and nongovernment groups could be improved, and that there are not enough enforcement officers to enforce the regulations. There was a predictable range of views expressed by those who support hunting and those who prefer naturalist activities. Some feel that there is a need for better consultation with local residents and users.

Regulations hinder or enhance competitiveness and environmental sustainability. Most stakeholders felt that the regulations enhance competitiveness and environmental sustainability. They recognized that the regulations help to conserve and protect wildlife and wildlife habitat, which in turn results in economic benefits from the enjoyment of wildlife. The importance of domestic and foreign tourists, naturalists, and hunters was noted. Most stakeholders adopted a balanced viewpoint, accepting that areas of compatibility exist between those who prefer consumptive and nonconsumptive activities. Some believed that the regulations could be strengthened to improve both competitiveness and environmental sustainability.

"Habitat protection has present and future value in a world where wild areas are diminishing. Wild areas will become more potent marketable resources with each passing year."

However, one mining industry association stated that competitiveness could be adversely affected by the regulations, in that land use permits appear to be issued arbitrarily and on an annual basis only. Investment might be affected. Others felt that the regulations could hinder competitiveness if wildlife resources are denied to hunters, naturalists, and others without sufficient biological justification.

Regulations to be deleted or amended. The majority of stakeholders believed that no modifications are necessary, with the exception of creating new National Wildlife Areas. Specific mention was made of rare and endangered species, old growth forests, riparian habitat, beaches and dunes. Some would like to have more access to National Wildlife Areas for hunting and naturalist activities, regarding the regulations as being too restrictive in each case. The mining association noted above wants permit issuance to be less arbitrary. It was suggested that future co-management efforts include nongovernment organizations and private individuals and institutions.

"Provide signs, or pamphlets at entrances on etiquette wildlife expects of visiting humans."

Alternatives. None of the stakeholders felt that there are alternatives to the Wildlife Area Regulations. However, many said that more public education would be of great benefit and would help to achieve the objectives of the program. Others felt that more enforcement officers, improved surveillance, and more effective signage and advertising would have a similar effect. Also, some stakeholders felt that nongovernment groups and volunteers should be used to achieve the objectives. There is a perception of untapped potential in privately owned and retired agricultural lands, in the use of tax credits, and in nonregulatory alternatives such as Memorandums of Understanding, contractual agreements, or multi-agency management plans.

3. ANALYTICAL RESULTS

Cooperation with Other Governments

The regulations do not duplicate the effects or objectives of other existing federal or provincial regulations.

Cooperative efforts between the federal and provincial governments could focus on land exchanges, Memorandums of Understanding with involved government departments, and lease arrangements. Lands that are already owned by the federal government could be evaluated for their conservation value and arrangements made to transfer title to Environment Canada.

Cooperation with Industry

The objective of the regulations cannot be accomplished more effectively by industry self-regulation. However, the support and cooperation of affected industries and businesses are essential if land use conflicts are to be resolved. Meaningful consultation when amendments to the regulations are considered and management plans are prepared will help to ensure that the concerns of industry and business are understood and addressed.

Compliance Costs for Permits Holders

Permit requirements for industrial or business activities to be undertaken in National Wildlife Areas affect determinations of cost viability. For example, the fact that permits are issued annually and not on a multi-year basis may affect investor confidence in activities such as mining because there is no certainty that permits will continue to be issued. Changes to the process now used to issue permits are being considered.

Benefits

The benefits of protected status for migratory birds, other wildlife, and habitat are significant for Canada and are discussed under the Migratory Birds Regulations and quantified in Table 4. National Wildlife Areas, like other protected areas, play an important educational role in making Canadians aware of their natural heritage and instilling respect for the ecosystems on which all life depends. Protected areas are also of importance in Canada and internationally, in terms of both tourism and prestige. Benefits also accrue locally. Significant economic opportunities for local service-related businesses can result from National Wildlife Areas. The Cap Tourmente National Wildlife Area in Quebec, for example, has a visitor center, on-site resource manager at all times, trails, brochures, and interpretation guides. Over 90,000 visitors come to Cap Tourmente each year to both view and hunt migrating snow geese. Hunters are selected by a computerized draw each spring for a controlled hunt. The cost of a traditional hunt permit is close to \$300 and of a self-guided hunt permit is close to \$200. The annual operating budget for the hunt is financed entirely by registration fees and permit sales. The benefits to the resource and the total economy are significant: overgrazing of vegetation by geese is prevented, seasonal jobs are created, and the hunters have an impact on the region's economy.

Competitiveness

The regulations enhance competitiveness in general by ensuring the conservation of migratory birds and other wildlife by protecting important habitat. Canadian wildlife plays a crucial role in the performance of Canada's tourism industry. Many communities are heavily dependent on the economic stimulus of wildlife-related tourism. The economic activity resulting from the innovative services offered at Cap Tourmente National Wildlife Area (see above) is an example.

"Wilderness areas are a large tourist attraction and becoming more so."

Environmental Sustainability

The regulations enhance environmental sustainability and support Green Plan objectives. However, the existing level of enforcement and compliance is insufficient if all environmental sustainability goals are to be achieved.

"Competitiveness? Who are we competing with? How does this have anything to do with wildlife management?"

Enforcement of the *Canada Wildlife Act* Regulations is hampered because of the way in which officers are appointed, because of the way the Act is worded, and because of the low penalties that are available. Amendments to the Act to improve enforcement mechanisms and allow for tougher penalties have been proposed.

CWS has identified National Wildlife Areas that should be enlarged or reduced and new lands that should be designated as National Wildlife Areas. Once review and consultation are complete, these amendments relating to National Wildlife Area lands will be processed.

4. ALTERNATIVES

There is no alternative to regulation for setting aside and protecting key habitat for migratory birds and other wildlife. This view is supported by comments received from stakeholders, the great majority of whom agree with the concept of federal protection for wildlife and wildlife habitat.

"To ensure national consistency, control by regulation appears to be the most efficient method."

"We see no compelling reason to alter or delete National Wildlife Area regulations; however, we see merit in widening and redefining the mandate to include non-government organizations and private institutions as part of co-management teams."

Within the regulatory framework the management plan is the most appropriate tool for resolving conflicting resource uses on individual National Wildlife Areas. A proper balance of activities should be possible through consultation with local residents, the province, industry, environmental groups, aboriginal people, and hunting and naturalist associations. Each plan would be adapted for the area in question and also consistent with CWS policies.

Education and volunteer programs should be considered as complementary suggestions. Innovative services such as those offered at Cap Tourmente—the lottery hunt, interpretation and guide services—could be used in other locations.

5. FINDINGS

1. The Wildlife Area Regulations enhance environmental sustainability by conserving key habitat for migratory birds and other wildlife species and by protecting migratory birds and other wildlife throughout the year. New applications of the Canada Wildlife Act and its regulations are emerging, for example, through land claims settlements in the North.
2. The regulations are an important part of federal strategies for achieving the goals of the Green Plan related to sustaining Canada's wealth of wildlife. Specific Green Plan commitments relate to protected areas.
3. The benefits of the regulations greatly outweigh their cost to government. The cost of the regulations to government is minimal.
4. The regulations are consistent with and contribute to Canada's international obligations, for example the Convention on Wetlands of International Importance Especially as Waterfowl Habitat (Ramsar) and the Convention on Biological Diversity.
5. The regulations contribute to ensuring national consistency in efforts to conserve wildlife, and endangered species in particular.
6. The substantive sections and schedule of the regulations should be retained, with minor exceptions. This conclusion is strongly supported by stakeholders.
7. Amendments to the regulations can be proposed that will improve, streamline, and clarify the regulatory text.
8. Some amendments to the Act are required to improve enforcement.
9. Management plans, developed through consultation with local residents, user groups, and the provinces, are flexible and effective tools for ensuring that a proper balance is achieved between conservation of the resource and compatible uses of the resource for naturalist, hunting, and land-use activities.

6. DRAFT RECOMMENDATIONS

Recommendation 45

- that CWS proceed with proposed amendments to the *Canada Wildlife Act* to improve enforcement mechanisms and increase penalties

Recommendation 46

- that all National Wildlife Areas have up-to-date management plans and that management plans involve consultation with local residents, the provinces, user groups, and aboriginal people

Recommendation 47

- that management plans, rather than regulation, be used to determine permitted activities on individual National Wildlife Areas

Recommendation 48

- that in conjunction with amendments to the *Canada Wildlife Act*, regulatory amendments be made with respect to the powers of wildlife area officers (section 9 and subsections 10(1) and (2) to be revoked)

Recommendation 49

- that the Cap Tourmente permit fees no longer be listed in the body of the regulations but in a new Schedule II, for simplification (paragraphs in section 8.2 to be revoked)

Recommendation 50

- that the definitions and wording of the regulations be made consistent with those used in the revised Migratory Birds Regulations, as appropriate (e.g., section 2)

Recommendation 51

- that trapping and being in possession of instruments that could be used for the purposes of trapping be prohibited without a permit (paragraph 3(1)(a))

Recommendation 52

- that the regulations be amended to ensure that, subject to management needs, activities such as bird watching, hiking, photography, and tape recording can be allowed without a permit (section 3)

Recommendation 53

- that the regulations be amended to reduce the scope of ministerial discretion, for example, to specify conditions for permits and to identify what authorizations or restrictions can be made on the posters relating to controlling activities (subsection 3(2))

Recommendation 54

- that the regulations be amended by adding an appeal procedure for ministerial decisions relating to permits and authorizations (section 4)

Recommendation 55

- that the regulations be amended to make it an offence to fail to comply with any condition set out in a permit (section 4). This will ensure consistency with the Migratory Birds Regulations.

Recommendation 56

- that where appropriate, multi-year permits be issued

Further Study and Consultation

Recommendation 57

- that the criteria used to establish National Wildlife Areas be finalized as soon as possible and, once approved, be applied in determining whether or not to establish, maintain, enlarge, reduce, or revoke National Wildlife Areas

Recommendation 58

- that upon amendment of the *Canada Wildlife Act* as in Recommendation 45, all Migratory Bird Sanctuaries be reviewed to determine whether any should be redesignated as National Wildlife Areas.

Recommendation 59

- that, particularly in cooperation with user groups, CWS develop additional appropriate public education programs

Recommendation 60

- that where local groups or associations indicate willingness, the possibility of working arrangements for management or interpretive programs on National Wildlife Areas be investigated

NEXT STEPS

Both stakeholders' opinions and the results of the Review Team's analysis support continued federal government intervention in the form of regulation. The regulations enhance both Canada's competitiveness and environmental sustainability by protecting migratory birds and some of the areas important to them and to other wildlife. They are an important part of federal strategies for achieving the goals of the Green Plan related to sustaining Canada's wealth of wildlife. Specific commitments in the Green Plan relate to protected areas and to strengthening the regulations and the *Migratory Birds Convention Act*. The Migratory Birds Regulations and the Migratory Bird Sanctuary Regulations are required for Canada to comply with the provisions of the Migratory Birds Convention, a treaty with the United States. The Wildlife Area Regulations contribute to Canada's fulfillment of international obligations such as the Convention on Biological Diversity and the Ramsar Convention. There is a clear economic gain to Canadians and to government as a result of protecting and managing migratory birds and some of the areas important for their breeding and survival. Data collected in a 1987 survey by Statistics Canada showed that hunting and viewing migratory waterfowl contributed \$1.4 billion to the Gross Domestic Product, generated \$533 million in government revenue from taxes, and sustained 34,000 jobs. The economic impact of recreational activity associated with all types of terrestrial wildlife, not just migratory waterfowl, is even more substantial: a contribution of \$ 6.5 billion to the Gross Domestic Product, \$ 2.5 billion in government revenue from taxes, and 159,000 jobs, which represent \$ 3.7 billion in personal income for Canadians. The cost of the regulations to government is several orders of magnitude smaller, less than \$1 million in 1992-93. These economic benefit figures do not attempt to quantify the many other benefits of migratory birds as intrinsically important components of ecosystems, or their social, cultural, and emotional importance to Canadians.

CWS's draft recommendations flow not only from this government-wide regulatory review, but equally from the regulations review that CWS began in 1991 on its own initiative. The recommendations are based on CWS's commitment to maintain and restore ecological processes, maintain and restore biodiversity, and ensure that all uses of wildlife are sustainable. They reflect CWS's belief in the intrinsic, social, cultural, and economic values of wildlife, the weight given to basic and applied scientific research, the importance attached to a well-informed and involved public, a commitment to consultation and partnerships, and support for a special role in wildlife management by aboriginal people.

The draft recommendations are intended to strengthen the contribution of CWS's regulatory program to environmental sustainability and the conservation of biological diversity. By so doing, they will also enhance Canada's competitiveness as a nation, because the natural environment is the foundation of economic growth. The cardinal importance of the environment to prosperity was underlined by many respondents to the questionnaire and stated in a myriad of ways, often forcefully. Many references were made to the importance of healthy wildlife populations and natural habitat to the tourism industry. Certain changes to the regulations will also open the door to more domestic competitiveness, such as the opportunity to develop and market new alternatives to lead shot. The major themes emerging from the draft recommendations include the opportunity for improving the regulations by simplifying, streamlining, and consolidating; the importance of working with

provinces and territories to harmonize activities and eliminate duplication; and the necessity of amending the *Migratory Birds Convention Act*, *Canada Wildlife Act*, and Migratory Birds Convention in order to enhance environmental sustainability.

The requirement in Treasury Board's regulatory policy to keep stakeholders informed and involved in the regulatory process has long been embraced by CWS not as an obligation, but as a responsible and productive way of carrying out its mandate in all areas, not just regulatory reform. CWS consults regularly with its provincial and territorial partners, the USA and Mexico, nongovernment organizations, and individuals. This is particularly important given the shared jurisdiction in environmental matters in Canada, the migratory nature of birds and other wildlife, and the important place that wildlife holds in the hearts and minds of the Canadian public. These draft recommendations will now be circulated for comment and consultation to all participants in the regulatory review exercise and to CWS's partners. In late fall 1993, after the consultation period, this report and its recommendations will be finalized. Implementation of recommendations is expected to begin early in the new year. Changes that have strong support from stakeholders and that can be accomplished within the authority of the *Migratory Birds Convention Act* and the *Canada Wildlife Act* will be scheduled for early implementation. Progress on regulatory reform will be reported through the usual CWS communications vehicles, such as the migratory game bird status reports (which are sent to all who wish to be involved in the annual changes to the regulations), and regular interchanges between federal and provincial/territorial wildlife directors, as well as through any special reporting mechanisms that may be put in place by the Departmental Regulatory Review Office.

APPENDIX 1

Regulatory Review Criteria

A. BACKGROUND INFORMATION REQUIRED TO PROCEED WITH THE ANALYSIS OF IMPACTS

1. **Legal Basis and Regulatory Objectives:** Outline the objectives, intended benefits (both short and long term), control measures, and approaches used to achieve the objectives, and the regulatory history for the set of regulations.
2. **Reporting Burden:** Outline the reporting requirements of the regulations.
3. **Level of Government Involvement:** Outline the 1989/90, 1990/91, 1991/92 and 1992/93 government expenditure in human and financial resources, chart the historical trend of government expenditure, and indicate, if any, the level of cost recovery.
4. **Enforcement and Compliance:** Outline the level of enforcement and compliance of the regulations, for example, the numbers of inspections.
5. **International Requirements:** Outline how these regulations are required in order to comply with existing or proposed provisions of international or bilateral environmental treaties, conventions, agreements, or memoranda of understanding.
6. **Comparable Situation in Federal Departments, the Provinces and Territories:** Describe the regulatory situation of other federal departments, the provinces, and territories with respect to similar objectives addressed by these regulations.
7. **Comparable Situation in other Countries:** Describe the regulatory situation of major trading partners and competitors with respect to similar objectives addressed by these regulations. Include any alternative approaches currently in use or proposed for use—for example, effluent taxes and tradable emission permits—their degree of effectiveness, and applicability to Canada.
8. **Stakeholder Concerns:** Outline any concerns expressed by industry or production sectors, consumers, lobby groups, environmentalists, or major trading partners about the development, purpose, and/or functioning of the regulations.

B. ANALYSIS OF IMPACTS: Respond to the following questions

1. **Obsolescence:** Are there regulations that no longer serve the intended purpose?
2. **Cooperation with other Governments (of the provinces, territories, municipalities, major trading partners):** Do the regulations duplicate the

effects or objectives of other regulations established by the federal government or by another level of government?

Can the environmental problems addressed by the regulations be handled by another level of government, or handled jointly with others?

3. **Cooperation with Industry:** Could the objective that this regulation is intended to achieve be accomplished more effectively by industry on its own initiative, or in cooperation with industry?

4. **Compliance Costs (to industry, provinces, territories or municipalities):** What are the current costs to industry, provinces, territories, or municipalities, as well as the historical trend of their costs of compliance with the regulations?

5. **Benefits:** Are the regulations creating the intended objectives/benefits?

If not, are the regulations still providing more benefits than costs?

Who are the beneficiaries of the benefits?

Do the regulations redistribute income from one group, region, or firm to another?

6. **Competitiveness:** Do the regulations impose barriers and disincentives, or incentives, to industry's development and use of new technologies, products, services, and markets—for example, barriers such as technology-based standards, reliance on "available technology," or uncertainty regarding product and cleanup liability?

Do the regulations impose unnecessary regulatory burdens on small communities and small businesses (given their limited financial, technical, and institutional revenues), for example, the amount and type of information that must be reported to regulatory agencies?

Do the regulations conform to, or violate, existing provisions of international trade agreements, such as the General Agreement on Tariffs and Trade (GATT), the Canada/U.S. Free Trade Agreement (FTA), or the North American Free Trade Agreement (NAFTA); and are they the least trade restrictive measure that will achieve the environmental objective?

Are the regulations consistent with, more stringent than, or less demanding than those adopted by major trading partners and competitors?

Do the regulations result in higher adjustment costs to Canadian industry than those of our major trading partners and competitors with respect to similar environmental objectives? How significant are these adjustment costs in terms of total production costs; and to what extent are they offset in the short and long term by productivity gains and increased access to new market opportunities?

Do the regulations enable industry to respond in a timely fashion to market demands, particularly for new products?

Do the regulations create or resolve current issues related to green consumerism, for example, the potential for a boycott of Canadian forest products in European markets?

Do the regulations discriminate between domestic and imported products? If so, how?

Do the regulations impede or enhance Canadian or foreign investment in Canadian industry?

Do the regulations impose internal barriers to trade and investment within Canada?

7. **Environmental Sustainability:** Do the regulations promote or hinder the quality of the environment that is necessary to provide a strong and competitive economy? More specifically, to what extent do the regulations support the Green Plan objectives and goals (clean air, water and land, sustainable use of renewable resources, maintenance of ecological integrity of our special spaces and species, preserving the integrity of the North, global environmental security, minimizing impacts of environmental emergencies)?

Is the level of enforcement and compliance adequate to promote environmental sustainability?

Do the regulations meet the existing or proposed provisions of international environmental agreements, such as the Montreal Protocol, or the conventions on climate change and biodiversity; and are such provisions consistent with the objectives of competitiveness?

In the development of the regulations and their application, were inclusionary consultation processes incorporated, for example, among government departments at all levels, and among industry, government, labour, environmentalists, and aboriginals?

Are the regulations based on best available scientific knowledge?

Do the regulations provide flexibility for the development, adoption and diffusion of new, more efficient and cleaner production processes and products, thereby facilitating pollution prevention as opposed to "after the fact" clean-up. For example, are regulations aimed at desired outcomes or at prescribing how regulatory objectives are to be achieved?

Do the regulations provide barriers or include incentives for the development and use of relatively low risk products and production processes, for example, alternative transportation fuels technologies, such as natural gas?

Do the regulations provide barriers or promote the development and use of emerging technologies that could be used to achieve cleaner and more efficient alternatives to wasteful production processes and polluting products, for example, biotechnology?

Have regulations been identified that have fostered innovation and the development of domestic and internationally competitive products and services that could be used to a greater extent?

8. **Alternatives:** Are there alternative approaches to the existing regulation that could be effective in terms of achieving the intended benefits, such as the use of market instruments, performance standards or industry self-regulation?

C. RECOMMENDATIONS

1. **Implications for the Role of Government:** Taking into consideration the background information outlined in Section A, the answers to the questions in Section B, and the "Guiding Assumptions" outlined below, respond to the following questions.

Is government intervention justified? If so, should it be a federal responsibility; and is it the responsibility of Environment Canada to intervene?

Is this an area where alternative approaches could be immediately proposed, tested using demonstration projects, or presented as viable options to the public?

If not, are there more efficient ways to deliver the existing regulation?

2. **Options for Action:**

- a) (I) **Obsolete Regulations:** List the regulations that could be immediately deregulated without any negative impacts.

- (II) **Regulatory Change:** Position the regulations for which changes are recommended in one or more of the following regulatory change categories. Outline and discuss the options available for working towards the recommended changes. Identify the preferred option to proceed with if analyses and consultations have been completed, or identify where further study and consultation are required.

Phased Deregulation: Environment Canada will no longer regulate in these areas. However, phasing must occur to lessen the negative impacts of deregulation for Canadian-based market participants.

Sharing of Responsibilities: New regulating and/or enforcing arrangements are required with other federal departments, provincial, territorial or municipal governments, industry, or international collaboration.

Modification or Improvements: Environment Canada retains current regulating responsibilities although some changes would improve the regulations or their application.

- (III) **Regulations Proposed for Retention:** Identify the regulations that do not require change, and explain why they should be maintained.

D. GUIDING ASSUMPTIONS

The criteria for assessing the regulations are built on the assumptions listed below.

1. In accordance with Treasury Board policy on regulations, which state that when regulating, departments must consider that:
 - government intervention remains justified; regulation is the best of available alternatives;
 - the regulatory program provides maximum gain to beneficiaries in relation to the cost to Canadian governments, businesses, and individuals;
 - resources are available to ensure effective compliance and enforcement; and
 - stakeholders must be informed and involved with the regulatory review and change process.
2. In applying the criteria, impacts of regulations must be consistent with the intended objectives of the regulations and the legislation.
3. The regulations must reflect the government's competitiveness goals.
4. The regulations must reflect the government's environmental sustainability goals as outlined in the Green Plan.

Departmental Regulatory Review Office
Environment Canada
February 9, 1993

APPENDIX 2

CONTEXT AND GUIDELINES FOR APPLYING THE REVIEW CRITERIA

Directed by the 1992 Federal Budget, federal government departments are undertaking a review of regulations within their mandates to identify those that may hinder Canadian competitiveness or whose costs outweigh their benefits. At the same time, the Minister responsible for regulatory affairs has instructed that none of the reviews will be allowed to compromise the government's commitments to safety, health, and the environment. The objective of Environment Canada's review process is to develop recommendations relating to potential regulatory change to ensure that its regulatory framework operates in the most efficient and effective way in the face of changes affecting government and industry alike, the globalization of the world's economy, and overall federal government fiscal restraint.

The departmental regulatory review is particularly timely for Environment Canada. Debate over the appropriate instruments to implement environmental policies that at the same time enhance the competitiveness of industries is one of the major environmental issues of the 1990s. Employing effective instruments to promote sustainable development is also one of the key objectives of the Green Plan. This is a unique opportunity to ensure that our regulatory instruments fit the current economic and environmental circumstances. The regulatory review criteria have been developed with this viewpoint in mind.

The review criteria are designed to provide information documenting the legal basis, objectives, control measures and history of regulations, as well as the extent of government involvement and a review of the comparable situation in the provinces, territories, and other countries. They are also designed to assist in the analysis of the impacts of regulations. In addition to competitiveness, the questions relate to obsolescence, duplication, cooperation with industry, benefits, industrial compliance costs, environmental sustainability, and alternatives to existing regulations.

The review criteria are designed to be comprehensive. It is possible, however, to screen out some regulations from assessment against the complete review criteria. Early on in the review process, some regulations may be seen to be obsolete because of Canada's changing circumstances. In such cases where recommendations for deregulation without any negative impact can be made, the regulations may not have to be subjected to the remaining review criteria. It is those regulations for which there is justification for intervention by Environment Canada that the remaining review criteria have been designed.

The intent of much of the remaining review criteria is to assess regulation's impact on industry's ability to compete on both a domestic and international level and to ensure that we are meeting our environmental objectives in the best way and at the least cost. Comparative information and analysis of the regulatory costs and practices of Canada's major competitors as well as of how well Canada's regulations support environmental sustainability will provide a yardstick against which we can measure the appropriateness of our regulatory instruments. Many of the recommendations flowing from the review criteria, particularly those that relate to alternative approaches, will be future oriented. Such recommendations may guide the regulatory direction of Environment Canada in the years ahead.

APPENDIX 3

STAKEHOLDERS' VIEWS

The attached compilation represents views expressed by respondents to the Canadian Wildlife Service's questionnaire about the Migratory Birds Regulations, Migratory Bird Sanctuary Regulations, and Wildlife Area Regulations. The questionnaire was sent to stakeholders as part of Environment Canada's Regulatory Review in order to determine their views about whether the regulations promoted environmental sustainability and competitiveness and, if necessary, how the regulations should be amended. Almost 200 responses were received. They were very thoughtful, indicated deep concern about wildlife and habitat, and made many specific and useful suggestions.

If the same idea was expressed in several different ways by different respondents it appears only once. However, we have indicated which comments were made by at least 10% of the respondents to a question. As well, we have included a summary of all responses to the five questions in the questionnaire to illustrate major trends.

Summary of all Responses to the Questionnaire

Concerns about the Purpose and Administration of the Regulations

5 out of 10 have no concern,
4 out of 10 are concerned that the purpose and the administration are too lenient, and
1 out of 10 is concerned that the purpose and the administration are too restrictive.

9 out of 10 either have no concern or feel that purpose and administration are too lenient

The Regulations Hinder or Enhance Canada's Competitiveness

4 out of 10 feel that the Regulations are neutral,
4 out of 10 feel that the Regulations enhance competitiveness, and
2 out of 10 feel that the Regulations hinder competitiveness.

8 out of 10 feel that the Regulations do not hinder Canada's competitiveness

The Regulations Hinder or Enhance Environmental Sustainability

3 out of 10 feel that the Regulations are neutral,
6 out of 10 feel that the Regulations enhance environmental sustainability, and
1 out of 10 feel that the Regulations hinder environmental sustainability.

9 out of 10 feel that the Regulations are neutral or enhance environmental sustainability

The Regulations to be Deleted or Amended

4 out of 10 feel that the Regulations need no deletions or amendments,
5 out of 10 feel that modifications are needed to strengthen the Regulations, and
1 out of 10 feels that modifications are needed to weaken the Regulations.

9 out of 10 feel that the Regulations need no modification or require strengthening

Alternatives to the Regulations

5 out of 10 feel there are no alternatives to the Regulations,
4 out of 10 feel there are complementary activities to improve compliance with the Regulations, and
less than 1 out of 10 feels there are alternatives to the Regulations.

9 out of 10 feel that there are either no alternatives to the Regulations or there are complementary activities only

Summary of Views

1. Migratory Birds Regulations Relating to General Protection

A. Concerns about the Purpose and the Administration of the Regulations

- Migratory Birds Regulations relating to general protection are necessary and acceptable.★
- The level of fines and penalties, the ticketing system and enforcement are inadequate.★
- Protection, including habitat protection, is too limited.★
- The regulations are not applied equally to all people; they do not reflect the diversity of users.
- The regulations lack exemptions to allow farmers to deter birds from damaging crops.
- Discretionary powers of the Minister are too broad.
- There is duplication with other government legislation.
- The objectives of U.S. and Canada legislation differ.
- Too many regulations and restrictions between levels of government. Regulations need to be harmonized between governments.
- The population of game birds is declining.

B. The Regulations Hinder or Enhance Canada's Competitiveness

- The regulations enhance Canada's competitiveness★
 - by ensuring healthy bird populations, which allow economic activities, and
 - by improving the image as a country of great landscapes and clean wilderness.
- The Regulations hinder Canada's competitiveness★
 - by impacting Canadian outfitters and guides because American and Mexican regulations are less stringent and Americans and Mexicans have longer access to birds, and
 - by inadequate bird protection since the U.S. legislation is more stringent than Canadian laws.
- The regulations do not hinder or enhance Canada's competitiveness.★
- More socioeconomic studies are required.
- The question of competitiveness is irrelevant. The Regulatory Review measures wildlife versus short-term profits.

C. The Regulations Hinder or Enhance Environmental Sustainability

- The regulations enhance environmental sustainability★
 - by maintaining national ecosystem integrity and ensuring the continued survival of natural populations and species.

★SIGNIFICANT RESPONSE — 10% OR MORE OF THE RESPONSE TO THAT QUESTION

- The regulations hinder environmental sustainability★
 - by not sufficiently protecting the habitat, and
 - by not regulating hunt of murre in Newfoundland.
- The regulations do not hinder or enhance environmental sustainability.★

D. Regulations to be Deleted or Amended

- Regulations are adequate as they now stand.★
- Changes should be made to increase accuracy and clarify terminology and to remove duplication and inconsistencies.
- Better define terms such as habitat, motor vehicle, traffic, power and sneak boats, nest, disturbing the nest and surrounding areas.
- Define "corporation" as a "person" and identify cats as "predators". Replace "Indian" with "Aboriginal people" to include Metis and "any area in Canada" with "his traditional area".
- Strengthen the control of the introduction of foreign species to include all birds and add an authority to destroy escaped birds.
- Reduce restrictions on import of birds.
- Clarify and broaden the section on pollution to include habitat protection, specify pollutants and require clean-up by the polluter.
- Examine if the section on pollution is covered by other regulations such as CEPA.
- Restrict commercialization of migratory birds, their parts or products, including feathers.
- Authorize the sale of bird parts including skins to limit wastage.
- Restrict the harvest of individual species such as murre in Newfoundland.
- Control the extent of bird wastage when birds are killed and not collected.
- Better define possession limits.
- Authorize sale of mounted game birds by taxidermists and possession of migratory birds found dead.
- Restrict possession by "retriever clubs".
- Add an appeal process and a notification process to an individual.
- Extend the suspension period.
- Control access to private lands and activities that are detrimental to agriculture. Control hunting methods.
- Remove the right of a game officer to search.
- Add a public consultation process to amend regulations.
- Simplify conditions for transportation of game birds between provinces.

E. Alternatives to the Regulations

- No alternatives to the regulations exist.★
- Improve education and information campaigns. Increase education of local government and judges.
- Sign new agreements with Mexico and other Latin American countries to enhance migratory bird protection.

★SIGNIFICANT RESPONSE — 10% OR MORE OF THE RESPONSE TO THAT QUESTION

- Sign joint work agreements with volunteer groups and conservation associations and involve all stakeholders.
- Integrate regulations with provincial hunting regulations to avoid duplication.

2. Migratory Birds Regulations Relating to Hunting

A. Concerns about the Purpose and the Administration of the Regulations

- Migratory Birds Regulations are needed to control hunting.★
- Banning the use of lead shot should be extended beyond the scope of these regulations into provincial jurisdiction when species other than migratory game birds are included.
- The habitat protection powers are too weak to adequately protect migratory bird populations. Habitat programs are needed to support hunting management.
- More rest areas are needed for game birds.
- Protection should be broadened to include all migratory species of birds.
- The regulations, in general, are not applied uniformly across Canada.
- Baiting is being abused in Ontario.
- New rules on baiting proposed by the province of Quebec will interfere with legitimate bird banding projects there.
- Current baiting regulations are satisfactory.
- All hunting should be banned.
- Sport hunting should be banned.
- Hunting for the purpose of medical research should be permitted.
- Hunting should not be allowed in poor light conditions, especially at the end of the day.★
- The setting of hunting regulations is too political. Better biological survey information is needed for migratory game birds subject to annual hunting.
- The Canadian Wildlife Service's migratory bird program should be strengthened.
- The sale of migratory birds, which is illegal, is a problem.
- Enforcement of the regulations is inadequate.★
- Duplication exists in permit issuance; there are too many regulations for hunters and too many permits required between levels of government.
- Too many birds are killed in the United States and Mexico.

B. The Regulations Hinder or Enhance Canada's Competitiveness

- The regulations enhance Canada's competitiveness★
 - by allowing access to huntable species — access that would not be possible without regulations.
- The regulations hinder Canada's competitiveness★
 - by not being uniformly applied among groups and jurisdictions (e.g., bag limits),
 - by being too lenient and allowing baiting,

★SIGNIFICANT RESPONSE — 10% OR MORE OF THE RESPONSE TO THAT QUESTION

- by allowing one hunting operator to unfairly draw birds away from others using bait,
 - by allowing seizure of hunting equipment, and therefore subjecting hunters to significant loss, and
 - by not consulting with aboriginal people on the issue of possession limits.
- The regulations do not hinder or enhance Canada's competitiveness.★
 - The question of competitiveness is irrelevant.
- C. The Regulations Hinder or Enhance Environmental Sustainability
- The regulations enhance environmental sustainability★
 - by allowing hunting to be managed as a sustainable activity, and
 - by protecting migratory birds.
 - The regulations hinder environmental sustainability★
 - by being too lenient and not uniformly applied among groups and jurisdictions,
 - by allowing the use of bait during the hunting season,
 - by allowing hunting especially with reference to the wasteful wounding of birds by hunters,
 - by being too complex and encouraging poor compliance, and
 - by specifying minimal standards for hunters which encourage "lowest common denominator" behaviour.
 - The regulations do not hinder or enhance environmental sustainability.★
- D. Regulations to be Deleted or Amended
- Regulations are adequate as they now stand.★
 - Modernize to bring into the realities of 1990's, and make them consistent with similar provincial wildlife regulations. Clarify, simplify and better define regulated activities.
 - Add an appeal process and a notification process to an individual.
 - Increase the level of fines.
 - Baiting of migratory game birds should be banned altogether. Limit baiting in private hunting areas.
 - Allow the use of bait to attract migratory game birds during the hunting season.
 - Clarify possession limits and specify limits when involving prepared food, gifts made to others, and limits related to hunting in more than one province.
 - Establish seasonal possession limits using tagging or seasonal point system.
 - Amend existing limits only when the bird population is in decline.
 - Establish a carefully controlled spring season in the north and do not allow hunting in northern areas during periods when birds cannot fly.
 - Bag and possession limits should be established in consultation with aboriginal people.

★SIGNIFICANT RESPONSE — 10% OR MORE OF THE RESPONSE TO THAT QUESTION

- Use fixed season dates as much as possible and protect introduced populations from long hunting seasons.
- The use of lead shot for all hunting should be banned throughout Canada and new nontoxic alternatives to steel shot should be added such as bismuth.
- Nontoxic shot zones should not be established in areas where they are not needed.
- Establish a certification process for nontoxic shot.
- Research the crippling rates associated with nontoxic shot and review the current bans on lead shot.
- Clarify the section dealing with the retrieval of killed, crippled, or injured birds and create incentives to reduce wastage of birds (e.g., encourage by providing higher bag limits when using boats or retrieving with dogs while hunting over water).
- Restrict hunting methods; ban the use of long bows and rifled barrels and limit the size of the boat motor.
- Require that shotgun be cased and locked when stored or transported.
- Prohibit the use of boats for harassing birds.
- Reduce the use of equipment seizures as a penalty.
- Encourage hunting with partners or guides.
- Remove condition that shotgun can be loaded with a single bullet.
- Do not allow a corporation to have up to 125 lawfully killed migratory birds for the purpose of dog training.
- Only allow possession of coots for the purpose of dog training.
- Amend to better control the possession of migratory birds for the purpose of dog training.
- Avoid regulating individual species and do not use bag restrictions for naturally uncommon species.
- Extend hunting for doves, swans, ducks and geese.
- Ban hunting of certain kinds of migratory game birds such as geese, ducks, band-tailed pigeons, Sandhill Cranes and murre. Modify hunting season (e.g. afternoon closure, 2 year ban).
- Greater restrictions needed in specific locations.
- Hunters need to report kills. Allow for feet or head to be used as identification instead of one feathered wing left on migratory birds in possession.
- Give the Minister the power to change hunting seasons and bag limits for conservation purposes when necessary.
- Remove the special restrictions that have been placed on nonresidents of Canada.
- Place special restrictions on nonresident hunters and require them to hire guides.
- A national wildlife commission should set regulations; local boards could help in the setting of regulations. Favour wildlife conservation when there is scientific uncertainty.
- Current bird populations are too low to be hunted.
- The hunting season is too long and bag limits are too liberal.
- Review bag and possession limits to ensure that these are appropriate to the population of the birds and to the purpose of the hunting.

*SIGNIFICANT RESPONSE — 10% OR MORE OF THE RESPONSE TO THAT QUESTION

E. Alternatives to the Regulations

- No alternative approaches exist★.
- Increase enforcement effort on migratory game bird hunting★. Part-time and temporary conservation officers would help the enforcement program.
- Establish partnerships: volunteers and fish and game associations could help enforce the regulations.
- More public awareness programs are needed.★
- Work more closely with other levels of government.

3. Migratory Birds Regulations Relating to Permits

A. Concerns about the Purpose and the Administration of the Regulations

- Migratory Birds Regulations relating to permits are necessary and acceptable.★
- The killing, scaring or disturbing of birds and keeping of birds in captivity should be eliminated.
- The killing, scaring or disturbing of birds and keeping of birds in captivity should be maintained.
- Kill permits should not be issued to land owners or corporate bodies that do not allow hunting during the regular season on the properties where they experience damage.
- The permittees are abusing the bird resource. Permits should be restricted or eliminated.★
- Permits should be made more accessible and less stringent.
- Requirement for an annual permit should be replaced by a longer term period.
- There is a lack of clear definitions.
- There is a need for a specific permit for salvage.
- There is a need for better enforcement, for qualified people to manage the permit system with a consistent approach and conditions to remove duplication and inconsistencies with provincial permits.
- A regulatory void exists where the federal government can not prevent municipal government from effectively usurping the federal mandate and regulatory authority.

B. The Regulations Hinder or Enhance Canada's Competitiveness

- The regulations enhance Canada's competitiveness★
 - by ensuring airport safety,
 - by ensuring an orderly permit system, and
 - by ensuring long-term sustainability of resources.
- The regulations hinder Canada's competitiveness★
 - by forcing Canadian aviculturists to purchase unrelated breeding stock outside Canada,
 - by not regulating the same way as Mexico and U.S.,
 - by not allowing the "release and shoot" of migratory birds as in the U.S.,

★SIGNIFICANT RESPONSE — 10% OR MORE OF THE RESPONSE TO THAT QUESTION

- by not controlling significant damage to crops caused by overpopulation of birds,
- by authorizing too many kill permits and therefore threatening the resource,
- by restricting research and education,
- by restricting activities of taxidermists, and
- by prohibiting the retrieval of dead or injured birds from the wild.

- The regulations do not hinder or enhance Canada's competitiveness.★
- The question of competitiveness is irrelevant.

C. The Regulations Hinder or Enhance Environmental Sustainability

- The regulations enhance environmental sustainability★
 - by managing bird populations by controlling overkill of species, by controlling activities of citizens,
 - by controlling the genetic pool for release in the wild,
 - by controlling exotic species, and
 - by permitting captive stock to be used for research and education.

- The regulations hinder environmental sustainability★
 - by not protecting small populations or vulnerable species,
 - by not controlling excessive killing of birds,
 - by not allowing the release of captive birds to the wild,
 - by not allowing the killing of birds that damage crops, and
 - by not controlling the introduction or release of poor genetic stock.

- The regulations do not hinder or enhance environmental sustainability.★

D. Regulations to be Deleted or Amended

- Regulations are adequate as they now stand.★
- Control the destruction of eggs and nests and allow them to be relocated to new area.
- Control to ensure that abuse is not occurring and that primary consideration is given to ensure the long-term health of wild populations and the survival of species.
- Regulate the permits closely to ensure that abuse is not occurring.
- Remove privileges for more than one year for serious offenses.
- Allow the use of aviculturist permits for rehabilitation.
- Amend regulations so that municipal by-laws can not supersede the authority of MBCA.
- Airport permit
 - Extend the duration of the permit.
 - Authorize killing of nuisance birds by groups other than airport staff.
- Aviculture permit
 - Amend for stronger control.
 - Allow the possession of any migratory bird.

★SIGNIFICANT RESPONSE — 10% OR MORE OF THE RESPONSE TO THAT QUESTION

- Allow capture from and release to the wild.
 - Prohibit release to the wild.
 - Allow the keeping of endangered species only for future release.
 - Allow the keeping of salvaged birds and the mounting of birds found dead.
 - Extend the duration of permit to 5 years.
 - Control high-risk endangered species.
 - Allow rehabilitation.
 - Include scientific collecting permit for aviculturists.
 - Restrict permits to knowledgeable and experienced aviculturists.
- Damage permit
 - Allow hunting of common species and exclude rare species.
 - Scientific permit
 - Include aviculturists, along with museums and scientific societies.
 - Require a review by an animal care committee.
 - Remove the need to kill.
 - Remove condition "to be from or acting for a museum, scientific society or government".
 - Allow the use of birds found dead.
 - Special permit
 - Reduce the powers of the minister.
 - Amend to have the permits also issued by provincial officers.
 - Taxidermy permit
 - Allow mounting of birds found dead and clarify possession of migratory birds.
 - Simplify reporting and registry burden.

E. Alternatives to the Regulations

- No alternative approaches exist.★
- Increase public education and awareness.
- Partnership: better coordination with provinces and certification by existing organizations such as scientific societies.
- Additional regulations and protected areas.
- Promote the role of regulated hunting in controlling "problem" birds.
- Alternative programs such as spring hunting to control nuisance birds and compensation for crop damages.

4. Migratory Bird Sanctuary Regulations

A. Concerns about the Purpose and the Administration of the Regulations

- Migratory Bird Sanctuary Regulations are necessary and acceptable.★

★SIGNIFICANT RESPONSE — 10% OR MORE OF THE RESPONSE TO THAT QUESTION

- The regulations limit access to naturalist activities; zones should be made accessible to naturalists.
- Selective hunting of migratory birds and hunting seasons should be established.
- Greater restrictions should be placed on activities such as logging, mining, dam-building, oil and gas and agriculture.
- Too many permits are issued.
- Permits issued for industrial activity renewed annually should be extended.
- Too much discretion is given to the Minister when issuing permits.
- Predator control is needed to protect nesting birds.
- Dogs and cats should not be allowed in sanctuaries.
- Dogs and cats should be allowed in sanctuaries.
- There are too many sanctuaries.
- The sanctuaries are based on a principle of micro-management rather than a more global approach.
- Sanctuaries should not be established on the basis of preventing hunting and conserving wildlife.
- The protection of migratory bird habitat should be enhanced.
- There are insufficient enforcement resources to ensure compliance★.
- There is a lack of interest by provincial authorities.
- If hunting in sanctuaries were allowed, fewer birds would migrate to be killed elsewhere.

B. The Regulations Hinder or Enhance Canada's Competitiveness

- The regulations enhance Canada's competitiveness★
 - by protecting migratory birds and their habitat, which improves economic activities,
 - by improving an important non-consumptive economic activity, and
 - by providing for long-term conservation of natural resources.
- The regulations hinder Canada's competitiveness★
 - by limiting access to migratory bird populations,
 - by not protecting the resource outside the sanctuary,
 - by having too many protected areas,
 - by not controlling the migratory birds from damaging crops, and
 - by placing restrictions on industrial activities.
- The regulations do not hinder or enhance Canada's competitiveness★.
- The question of competitiveness is irrelevant.

C. The Regulations Hinder or Enhance Environmental Sustainability

- The regulations enhance environmental sustainability★
 - by establishing sanctuaries that attract more wildlife to the area, and
 - by allowing a greater conservation of the natural resource and its habitat.
- The regulations hinder environmental sustainability★

★SIGNIFICANT RESPONSE — 10% OR MORE OF THE RESPONSE TO THAT QUESTION

- by allowing consumptive activities that damage natural resources,
- by protecting overpopulation of wildlife that may damage habitat,
- by not sufficiently managing the habitat, and
- by not sufficiently restricting the activities throughout the year.

- The regulations do not hinder or enhance environmental sustainability.★

D. Regulations be Deleted or Amended

- Regulations are adequate as they now stand.★
- Simplify the regulations and strengthen them to make sanctuaries a more inviolate entity.
- Allow for hunting of nuisance birds such as seagulls.
- Additional sanctuaries should be established.
- Establish sanctuaries in Manitoba.
- Review sanctuaries to properly assess their relevance and importance. Serious consideration must be given to the establishment of appropriate sanctuaries.
- Modification to sanctuary boundaries requires a consultation process with aboriginal people.
- Add detailed limitations to a specific sanctuary to increase control, specify the period of the year and add buffer zones around the sanctuary to limit certain activities such as hunting.
- Prohibit developments such as resource extraction, road or dam construction.
- Allow the hunter to transport unloaded firearms throughout Vaseux Lake. Modify boundaries of Couvée Island Bird Sanctuary.
- Prohibit land clearing or swamp draining.
- Delist sanctuaries and designate them as National Wildlife Area and propose co-management plans.
- Add a public consultation process to amend regulations.

E. Alternatives to the Regulations

- There are no alternatives to the regulations.★
- Increase the enforcement activities★.
- Better delineate boundaries to promote the sanctuary.
- Partnerships: wildlife organizations and other organizations.
- Increase acquisition of land.
- Provide incentives for landholders to establish sanctuaries on their land. Prevent massive wetland drainage and habitat destruction projects.
- More public education.
- Encourage supervised public use of these areas.
- Transfer protection to provincial jurisdiction.
- Control world population.

5. Wildlife Area Regulations

A. Concerns about the Purpose and the Administration of the Regulations

- Wildlife Area Regulations are necessary and acceptable.★

★SIGNIFICANT RESPONSE — 10% OR MORE OF THE RESPONSE TO THAT QUESTION

- There is a lack of coordination between levels of government, and between government and nongovernment organizations.
- There should be more consultation with local residents and users.
- There are not enough enforcement officers to enforce the regulations.
- Do we understand the ecological and genetic biodiversity of the resources?
- Do these regulations and those of the Government of Ontario focus on biodiversity and fragmentation issues?
- Wildlife Areas should be large enough to ensure sustainability and delineation should be along natural boundaries.

B. The Regulations Hinder or Enhance Canada's Competitiveness

- The regulations enhance Canada's competitiveness★
 - by attracting tourists, naturalists and people from other countries, and
 - by giving a direct return on investment through the enjoyment of sport hunting.
- The regulations hinder Canada's competitiveness★
 - by impacting a specific mining company in specific locations,
 - by having a cumulative impact on industry,
 - by not sufficiently protecting the habitat,
 - by costing more to the tax-payers than the benefits obtained, and
 - by denying access to hunters, outfitters and naturalists.
- The regulations do not hinder or enhance Canada's competitiveness.★
- The question of competitiveness is irrelevant.

C. The Regulations Hinder or Enhance Environmental Sustainability

- The regulations enhance environmental sustainability★
 - by balancing the level of enjoyment from recreational activities with ecological integrity.
- The regulations hinder environmental sustainability★
 - by confusing sustainability with anti-hunting sentiment, and
 - by not being strong enough.
- The regulations do not hinder or enhance environmental sustainability.

D. The Regulations be Deleted or Amended

- Regulations are adequate as they now stand.★
- More National Wildlife Areas are needed or some areas should be enlarged★.
- Other federal lands should be designated as Wildlife Areas.
- Pasture land which contains rare and endangered species (eg. Burrowing Owl) and old growth forest, riparian habitat, beaches and dunes should be made into Wildlife Areas.
- A surcharge on hunting licenses could cover some of the acquisition costs.

★SIGNIFICANT RESPONSE — 10% OR MORE OF THE RESPONSE TO THAT QUESTION

- National Wildlife Areas with unimportant habitat should be revoked.
- Amend regulations in consideration of the large number of naturalists who wish to take part in recreational activities that are nondestructive to the National Wildlife Areas.
- Allow hunting in National Wildlife Areas.
- Prohibit hunting in National Wildlife Areas.
- If hunting is allowed, proper notification should be in place.
- Remove discretionary power in the issuance of a permit and extend period for more than one year.
- Allow for consultation with the province.
- Establish co-management teams which include nongovernment organizations.
- Control the use of all-terrain vehicles in remote areas.
- Amend the permit requirements to exclude exotic species (e.g. purple loose strife) from protection in National Wildlife Areas.
- Increase species protection by eliminating or controlling political interference.
- Define firearms as specified in the Criminal Code.

E. Alternatives to the Regulations

- There are no alternatives to the regulations.*
- Increase public education*. Youngsters should be included in the targeted audience. Signs and pamphlets should be made available at entrances of National Wildlife Areas describing the activities allowed.
- Conduct public consultation every few years to re-evaluate the regulations.
- Consultation should be sought with aboriginal people in the development of policies and programs.
- Increase enforcement activities including surveillance on National Wildlife Areas.
- Improve habitat protection by limiting wildlife habitat destruction on private lands and establishing agricultural land retirement programs.
- Establish partnerships with local wildlife groups.
- Volunteers should be used, and tax credits should be sought.
- Partnerships with veterinary associations would lead to a means of self-regulation and avert public criticism related to animal treatment.
- Memorandums of understanding with other agencies should be sought for co-management plans.
- Monies from offences and surtaxes should be directed to managing and establishing Wildlife Areas.
- Provincial legislation should also apply in Wildlife Areas.

*SIGNIFICANT RESPONSE — 10% OR MORE OF THE RESPONSE TO THAT QUESTION

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