1Supporting Statement A for Paperwork Reduction Act Submission

Approval Procedures for Nontoxic Shot and Shot Coatings, 50 CFR 20.134

OMB Control Number 1018-0067

Terms of Clearance: **None.**

1. Explain the circumstances that make the collection of information necessary.

This information collection is associated with regulations implementing the Migratory Bird Treaty Act (MBTA; 16 U.S.C. 703-712). The MBTA prohibits the unauthorized take of migratory birds and authorizes the Secretary of the Interior to regulate take of migratory birds in the United States. Under this authority, the U.S. Fish and Wildlife Service (Service, we) controls the hunting of migratory game birds through regulations at 50 CFR part 20. In 1991, we banned lead shot for hunting waterfowl and coots in the United States, because of its toxicity to migratory birds and other wildlife. At that time, steel shot was the only available nontoxic alternative. In subsequent years, we have encouraged manufacturers to develop other alternatives for hunting use. The guidelines for approving a candidate material as nontoxic for waterfowl and coot hunting are at 50 CFR 20.134. The information collection requirements found there provide the basis by which the Director of the Service approves or disapproves the nontoxic status of candidate shot materials.

We have prepared a proposed rule to shorten the application and approval process. We propose the following substantive changes:

- Addition of a requirement that an application for approval of a nontoxic shot must document that a shotshell loaded with the shot is readily identifiable in the hand as containing nontoxic shot when tested with magnets, rare earth magnets, or the Hot Shot® test device. This requirement is intended to simplify enforcement of the waterfowl hunting regulations.

- A requirement that an application for approval of a nontoxic shot must include a statement of the relative hardness of the candidate shot, compared to standard lead shot which has a hardness of 1.0. Applicants already know this information, but it will help the public decide about the type of firearm in which the shot can be used safely.

- Amendment of the language governing determination of Expected Environmental Concentrations (EECs) in terrestrial and aquatic ecosystems to make clear the shot size and number of shot to be used in calculating the EECs. Applicants need to know this to calculate the EECs, but it is not specified in the current regulations.

- The addition of specific pH levels to be used in calculating the EEC in water. Applicants need to know this to calculate solubilities, but it is not specified in the current regulations.

- A provision for testing loaded shotshells containing an approved shot type and revoking approval of that shot type if it is not identifiable in loaded shotshells held in the hand in the field. Slight manufacturing changes can alter the chemical and magnetic properties of an approved shot so that it cannot be detected in the field. This has created

enforcement problems for law officers.

2. Indicate how, by whom, how frequently, and for what purpose the information is to be used. If the information collected will be disseminated to the public or used to support information that will be disseminated to the public, explain how the collection complies with all applicable Information Quality Guidelines.

We collect this information only when a manufacturer submits an application for approval of a nontoxic shot or shot coating. The regulations at 50 CFR 20.134 outline the application and approval process for new types of nontoxic shot and specify what information we collect and how we use it to determine the shot material's nontoxic status. When considering approval of a candidate material as nontoxic, we must ensure that it is not hazardous in the environment and that secondary exposure (ingestion of spent shot or its components) is not a hazard to migratory birds. To make that decision, we require each applicant to collect information about the solubility and toxicity of the candidate material. Additionally, for law enforcement purposes, a noninvasive field detection device must be available to distinguish candidate shot from lead shot. This information constitutes the bulk of an application for approval of nontoxic shot.

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology; e.g., permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also describe any consideration of using information technology to reduce burden (and specifically how this collection meets GPEA requirements).

We encourage submission of electronic files with the application materials. In the past, most applicants have submitted their entire applications electronically.

4. Describe efforts to identify duplication.

There are no other information collections that gather the information we need to determine the nontoxic status of a candidate shot material. Applicants may use previously collected information, thus avoiding unnecessary duplication of risk assessments, toxicity tests, and background information.

5. If the collection of information impacts small businesses or other small entities, describe the methods used to minimize burden.

This collection does not significantly impact small businesses. We collect only the minimum information necessary for us to determine the nontoxic status of shot material. If a small entity chooses to submit an application, we work closely with the applicant to avoid duplication and reduce the hour/dollar burden as much as possible.

6. Describe the consequence to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.

We only collect this information when an entity applies for approval of a new nontoxic shot. If the information were not collected, we could not determine if the candidate material is nontoxic; therefore, fewer nontoxic shot materials would be available to hunters. Increased use of nontoxic shot enhances protection of migratory waterfowl and their habitats. In addition, studies

show that hunter compliance with nontoxic shot requirements improves when more nontoxic shot types are available.

7. Explain any special circumstances that would cause an information collection to be conducted in a manner:

- *** requiring respondents to report information to the agency more often than quarterly;**
- *** requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;**
- *** requiring respondents to submit more than an original and two copies of any document;**
- *** requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records, for more than three years;**
- *** in connection with a statistical survey, that is not designed to produce valid and reliable results that can be generalized to the universe of study;**
- *** requiring the use of a statistical data classification that has not been reviewed and approved by OMB;**
- *** that includes a pledge of confidentiality that is not supported by authority established in statute or regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use; or**
- *** requiring respondents to submit proprietary trade secrets, or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.**

There are no special circumstances that require us to conduct this collection in a manner inconsistent with OMB guidelines.

8. Provide the date and page number of publication in the *Federal Register* of the agency's notice, required by 5 CFR 1320.8(d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice (or in response to a PRA statement) and describe actions taken by the agency in response to these comments.
Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported. [Please list the names, titles, addresses, and phone numbers of persons contacted.]

We have prepared proposed regulations at 50 CFR 20.134 to add or change requirements for nontoxic shot applications. A copy of the proposed rule is attached as a supplementary document. The proposed rule solicits public comment for a period of 30 days on the information collection and recordkeeping requirements described in this supporting statement.

9. Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.

We do not provide any payments or gifts to respondents.

10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy.

There is no assurance of confidentiality. The information contained in an application is subject to the Freedom of Information Act.

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private.

We do not ask questions of a sensitive nature.

12. Provide estimates of the hour burden of the collection of information.

Over the past 15 years, we have received an average of less than one application per year. As a placeholder for these information collection requirements, we estimate that we will receive one application per year for a total of 3,200 annual burden hours. The hour burden associated with the information collection varies with each applicant and depends significantly on how much already-available information can be applied toward a candidate material. Our hour burden estimate ranges from 80 to 6,400 hours with an average of 3,200 hours per application. The proposed changes to the applications will not change the hour burden for applicants. Applicants have used, and need to use, the additional information we seek, but they were not required to provide it previously.

We estimate the total dollar value of the annual burden hours to be $148,192 (3,200 hours x $45.64). Based on Bureau of Labor Statistics Occupational Employment and Wages, May 2011 (http://www.bls.gov/oes/current/oes192041.htm), the mean hourly wage for environmental scientists and specialists is $33.08. We multiplied this wage by 1.4 to account for benefits ($46.31), in accordance with BLS News Release USDL-12-2404, December 11, 2012, Employer Costs for Employee Compensation—September 2012 (http://www.bls.gov/news.release/pdf/ecec.pdf).

13. Provide an estimate of the total annual [nonhour] cost burden to respondents or recordkeepers resulting from the collection of information.

We estimate that the total annual nonhour cost burden to respondents will be $25,800. This amount includes the proposed $800 application processing fee and $25,000 for solubility testing. We estimate that $25,000 is the average annual cost to contract out with companies that perform the tests and analyses required for approval of a nontoxic shot material.

14. Provide estimates of annualized costs to the Federal Government.

We estimate the annual cost to the Federal Government to administer this information collection will be $20,322 ($2,822 for salary costs plus $17,500 for other costs). To determine salary costs, we used the Office of Personnel Management Salary Table 2012-DCB and multiplied the hourly rate for a GS-13, step 10 ($55.46) by 1.5 to account for benefits ($83 (rounded)) in accordance with USDL 12-2404.

TASK	TOTAL ANNUAL HOURS	SALARY COSTS ($83/HR)	FEDERAL REGISTER COSTS
Application Review and Consultation	9	$ 747	
Prepare Draft Environmental Assessment and Proposed Rule	20	1,660	
Publish Proposed Rule			$11,000
Prepare Final Environmental Assessment and Final Rule	5	415	
Publish Final Rule			6,500
Total		**$2,822**	**$17,500**

15. Explain the reasons for any program changes or adjustments.

There are no program changes or adjustments to the number of responses or the annual hour burden. There is a program change in the nonhour cost burden due to the proposed application fee. We estimate the nonhour cost burden will increase from $25,000 to $25,800.

16. For collections of information whose results will be published, outline plans for tabulation and publication.

We do not publish the results of this information collection.

17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.

We will display the OMB control number and expiration date on appropriate materials.

18. Certification.

There are no exceptions to the certification statement.