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. Identify any legal or administrative requirements that necessitate the collection.

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.

2. Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection. Be specific. If this collection is a form or a questionnaire, every question needs to be justified.

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 recent past, most applicants have submitted their entire applications electronically.

4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in Item 2 above.

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 any methods used to minimize burden.

This collection does not significantly impact small businesses. We collect 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 we do not collect the information, 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. If applicable, provide a copy and identify 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 and in response to the PRA statement associated with the collection over the past three years, and describe actions taken by the agency in response to these comments. Specifically address comments received on cost and hour burden.

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.

Consultation with representatives of those from whom information is to be obtained or those who must compile records should occur at least once every three years — even if the collection of information activity is the same as in prior periods. There may be circumstances that may preclude consultation in a specific situation. These circumstances should be explained.

On October 20, 2021, we published in the Federal Register (86 FR 58091) a notice of our intent to request that OMB renew this information collection. In that notice, we solicited comments for 60 days, ending on December 20, 2021. We received one comment in response to that notice:

> ***Comment 1:*** Anonymous electronic comment submitted via Regulations.gov (comment ID FWS-HQ-MB-2021-0111-0001) on November 4, 2021:
>
> "This rule is important to minimise the amount of unnecessary pain or cruelty caused by hunting. Also don't use toxic bullets just shoot better."
>
> ***Agency Response to Comment 1:*** The comment does not address the information collection requirements; therefore, no response is required.

It was not possible to conduct targeted outreach to respondents. Most years, there are no respondents. On the rare occasion where we have submission, the respondent is new who has not previously completed the process. Therefore, they do not possess sufficient knowledge to comment about the information collection or burden estimates.

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

We do not provide 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.

We do not provide any assurance of confidentiality. Information is collected and protected in accordance with the Freedom of Information Act (5 U.S.C. 552) (FOIA).

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. This justification should include the reasons why the agency considers the questions necessary, the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.

We do not ask questions of a sensitive nature.

12. Provide estimates of the hour burden of the collection of information. The statement should:

- *** Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. Unless directed to do so, agencies should not conduct special surveys to obtain information on which to base hour burden estimates. Consultation with a sample (fewer than 10) of potential respondents is desirable. If the hour burden on respondents is expected to vary widely because of differences in activity, size, or complexity, show the range of estimated hour burden, and explain the reasons for the variance. Generally, estimates should not include burden hours for customary and usual business practices.**
- *** If this request for approval covers more than one form, provide separate hour burden estimates for each form and aggregate the hour burdens.**
- *** Provide estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate categories. The cost of contracting out or paying outside parties for information collection activities should not be included here.**

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, or less**, 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.

We estimate the total dollar value of the annual burden hours to be **$187,968** (3,200 hours x $58.74). To calculate the hourly burden costs, we used Bureau of Labor Statistics (BLS) May 2020 National Industry-Specific Occupational Employment and Wage Estimates for NAIC Code 541600, "Management, Scientific, and Technical Consulting Services" which lists a mean hourly wage of $40.79 for environmental scientists and geoscientists (occupational code 19-2040). In accordance with BLS News Release USDL-21-2146, December 16, 2021, Employer Costs for Employee Compensation—September 2021, we multiplied this rate by 1.44 which resulted in a fully burdened hourly rate of **$58.74** (rounded).

13. Provide an estimate of the total annual non-hour cost burden to respondents or recordkeepers resulting from the collection of information. (Do not include the cost of any hour burden already reflected in item 12.)

- *** The cost estimate should be split into two components: (a) a total capital and start-up cost component (annualized over its expected useful life) and (b) a total operation and maintenance and purchase of services component. The estimates should take into account costs associated with generating, maintaining, and**

disclosing or providing the information (including filing fees paid for form processing). Include descriptions of methods used to estimate major cost factors including system and technology acquisition, expected useful life of capital equipment, the discount rate(s), and the time period over which costs will be incurred. Capital and start-up costs include, among other items, preparations for collecting information such as purchasing computers and software; monitoring, sampling, drilling and testing equipment; and record storage facilities.

* **If cost estimates are expected to vary widely, agencies should present ranges of cost burdens and explain the reasons for the variance. The cost of purchasing or contracting out information collection services should be a part of this cost burden estimate. In developing cost burden estimates, agencies may consult with a sample of respondents (fewer than 10), utilize the 60-day pre-OMB submission public comment process and use existing economic or regulatory impact analysis associated with the rulemaking containing the information collection, as appropriate.**
* **Generally, estimates should not include purchases of equipment or services, or portions thereof, made: (1) prior to October 1, 1995, (2) to achieve regulatory compliance with requirements not associated with the information collection, (3) for reasons other than to provide information or keep records for the government, or (4) as part of customary and usual business or private practices.**

We estimate that the total annual non-hour cost burden to respondents will be **$26,630**. This amount includes the final $1,630 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 cost to the Federal government. Also, provide a description of the method used to estimate cost, which should include quantification of hours, operational expenses (such as equipment, overhead, printing, and support staff), and any other expense that would not have been incurred without this collection of information.

We estimate the annual cost to the Federal Government to administer this information collection will be **$3,136** (rounded) for salary costs.

To determine average annual salary costs, we used the Office of Personnel Management Salary Table 2022-DCB which lists the rate for a GS-13 (step 5) as $58.01. To account for benefits, we multiplied this rate by 1.59 in accordance with BLS News Release USDL-21-2146, December 16, 2021, Employer Costs for Employee Compensation—September 2021, resulting in a fully burdened rate of $92.24.

Activity	Total Annual Hours	Salary Costs ($92.24/hr)
Application Review and Consultation	9	$ 830.16
Prepare Draft Environmental Assessment and Final Rule	20	461.20
Prepare Final Environmental Assessment and Final Rule	5	461.20
	Total:	**$ 3,136.16**

15. Explain the reasons for any program changes or adjustments in hour or cost burden.

We are not reporting any program changes or adjustments.

16. For collections of information whose results will be published, outline plans for tabulation and publication. Address any complex analytical techniques that will be used. Provide the time schedule for the entire project, including beginning and ending dates of the collection of information, completion of report, publication dates, and other actions.

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. Explain each exception to the topics of the certification statement identified in "Certification for Paperwork Reduction Act Submissions."

There are no exceptions to the certification statement.