

is an important component in the approval of any alternative shot material. Service law enforcement personnel will be asked to assess any noninvasive field testing equipment on the market to determine their utility and accuracy. Final unconditional approval, if otherwise proper, would be contingent upon the development and availability of a noninvasive field testing shot device.

#### NEPA Consideration

Pursuant to the requirements of section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4332(C)), and the Council on Environmental Quality's regulation for implementing NEPA (40 CFR 1500-1508), an Environmental Assessment has been prepared and is available to the public at the Office of Migratory Bird Management at the address indicated under the caption **ADDRESSES**. Based on review and evaluation of the information contained in the Environmental Assessment, the Service determined that the proposed action to amend 50 CFR 20.21(j) to allow conditional use of bismuth-tin nontoxic shot for the 1995-96 waterfowl hunting season would not be a major Federal action that would significantly affect the quality of the human environment.

#### Endangered Species Act Considerations

Section 7 of the Endangered Species Act (ESA), as amended (16 U.S.C. 1531-1543; 87 Stat. 884), provides that, "The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act" (and) shall "ensure that any action authorized, funded or carried out \* \* \* is not likely to jeopardize the continued existence of any endangered

species or threatened species or result in the destruction or adverse modification of (critical) habitat \* \* \*."

Consequently, the Service will initiate Section 7 consultation under the ESA for this proposed rulemaking to legalize, on a conditional basis, the use of bismuth-tin shot for hunting waterfowl and coots during the 1995-96 seasons. When completed, the results of the Service's consultation under Section 7 of the ESA may be inspected by the public in, and will be available to the public from, the Office of Migratory Bird Management, at the address in the **ADDRESSES** section.

#### Regulatory Flexibility Act, Executive Order 12866, and the Paperwork Reduction Act

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 et seq.) requires the preparation of flexibility analyses for rules that will have a significant effect on a substantial number of small entities, which includes small businesses, organizations and/or governmental jurisdictions. The Service has determined, however, that this rule will have no effect on small entities since the shot to be approved will merely supplement nontoxic shot already in commerce and available throughout the retail and wholesale distribution systems. No dislocation or other local effects, with regard to hunters and others, are apt to be evidenced. This rule was not subject to Office of Management and Budget (OMB) review under Executive Order 12866. This rule does not contain any information collection efforts requiring approval by the OMB under 44 U.S.C. 3504.

Authorship: The primary author of this proposed rule is Peter G. Poulos, Office of Migratory Bird Management.

#### List of Subjects in 50 CFR Part 20

Exports, Hunting, Imports, Reporting and recordkeeping requirements, Transportation, Wildlife.

Accordingly, Part 20, Subchapter B, Chapter 1 of Title 50 of the Code of Federal Regulations is proposed to be amended as follows:

#### PART 20—[AMENDED]

1. The authority citation for Part 20 continues to read as follows:

**Authority:** Migratory Bird Treaty Act (July 3, 1918), as amended (16 U.S.C. 701-711); the Fish and Wildlife Improvement Act of 1978 (November 8, 1978); as amended, (16 U.S.C. 712); and the Fish and Wildlife Act of 1956 (August 8, 1956), as amended, (16 U.S.C. 742 a-d and e-j).

2. Section 20.21 is amended by revising paragraphs (j) introductory text and (j)(2) to read as follows:

#### § 20.21 Hunting methods.

\* \* \* \* \*

(j) While possessing shot (either in shotshells or as loose shot for muzzleloading) other than steel shot, bismuth-tin ([nominally] 97-3 percent, respectively) shot or such shot approved as nontoxic by the Director pursuant to procedures set forth in § 20.134.

Provided that:

(1) \* \* \*

(2) Bismuth-tin shot is legal as nontoxic shot only during the 1995-96 season.

Dated: June 5, 1995.

**George T. Frampton,**

*Assistant Secretary for Fish and Wildlife and Parks.*

[FR Doc. 95-14513 Filed 6-13-95; 8:45 am]

BILLING CODE 4310-55-P