List of Subjects in 45 CFR Part 2102

Administrative practice and procedure, Sunshine Act.

This document was prepared under the direction of Thomas Luebke, Secretary. U.S. Commission of Fine Arts, 401 F Street, NW., Suite 312, Washington, DC 20001.

■ Accordingly, for the reasons set forth above, Part 2102 is amended as set forth below.

■ For the reasons stated in the preamble, the Commission of Fine Arts hereby amends 45 CFR 2102, Subpart B—Procedures on Submission of Plans or Designs, with the addition of the following sections to read:

PART 2102—MEETINGS AND PROCEDURES OF THE COMMISSION

■ 1. The authority citation for part 2102 is revised to read as follows:

Authority: 5 U.S.C., App. 1.

■ 2. Add § 2102.13 to Part 2102, Subpart B—Procedures on Submission of Plans or Designs, to read as follows:

§ 2102.13 Project eligibility criteria for placement on a Consent Calendar.

With respect to submissions to the Commission for projects that meet the following criteria, the Secretary, at his/her discretion and in coordination with the Commission's staff, may place these projects on a Consent Calendar according to § 2102.14.

(a) Additions to buildings of less than 25 percent (%) of the original structure and no more than 25,000 sq. ft.;

(b) New construction of less than 25,000 sq. ft.;

(c) Window replacement projects;

(d) Cellular or other communications antenna installations or replacements;

(e) New or replacement signs;

(f) Cleaning, routine maintenance, repairs or replacement-in-kind of exterior finish materials;

(g) Temporary utility or construction structures;

(h) And does not include new physical perimeter security items.

■ 3. Add § 2102.14 to Part 2102, Subpart B—Procedures on Submission of Plans or Designs, to read as follows:

§ 2102.14 Consent Calendar and Appendices procedures.

(a) The Commission shall review applications scheduled on its Meeting Agenda, Consent Calendar, or Appendices (Old Georgetown Act and Shipstead-Luce Act). Cases on the Meeting Agenda will be heard by the Commission in open session. Cases on the Consent Calendar or Appendices will be acted upon based on submitted materials and staff recommendations without further public comment.

(b) The Commission shall release the proposed Meeting Agenda, and the Consent Calendar and Appendices with staff recommendation to the public not later than five (5) calendar days before the meeting.

(c) The scheduling of cases on the Meeting Agenda, Consent Calendar, and Appendices shall be at the sole discretion of the Commission and staff, and nothing shall preclude the Commission from amending or changing the scheduling at a public meeting.

(d) The staff shall prepare a written recommendation for each case on the Consent Calendar or Appendices the Commission will review.

(e) The Commission shall conduct public review of cases in accordance with a proposed Agenda released to the public before the Commission meeting. The Commission shall dispose of other cases by adoption of a Consent Calendar and Appendices, as appropriate. The Commission may amend the Meeting Agenda, Consent Calendar and Appendices at the public meeting as it may deem appropriate.

(f) An application may be placed on the Consent Calendar if the applicant and staff agree that the proposed work has no known objection by an affected government agency, neighborhood organization, historic preservation organization, or affected person. Any relevant terms or modifications agreed upon by the applicant and staff may be included as conditions of the approval.

(g) At the request of any Commission member, the Chairperson may remove any case from the Consent Calendar and place it on the Meeting Agenda for individual consideration by the Commission at the meeting. A request from any other group or person to remove a case from the Consent Calendar should be made to the staff in advance of the meeting and shall be considered as a preliminary matter at the meeting.

(h) The Chairperson may also remove any case from a duly noticed Meeting Agenda and place it on the Consent Calendar, provided there is no objection from the applicant, any Commission member, or any affected group or person present and wishing to comment on the case.

(i) The Commission may approve the Consent Calendar and Appendices on a voice vote.

Dated: August 18, 2005.

Thomas Luebke,

Secretary, U.S. Commission of Fine Arts.

[FR Doc. 05–16712 Filed 8–22–05; 8:45 am]

BILLING CODE 6330–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

RIN 1018–AT87

Migratory Bird Hunting; Approval of Iron-Tungsten-Nickel Shot as Nontoxic for Hunting Waterfowl and Coots

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule; availability of Final Environmental Assessment and Finding of No Significant Impact.

SUMMARY: The U.S. Fish and Wildlife Service (we, us, or USFWS) approves shot formulated of 62 percent iron, 25 percent tungsten, and 13 percent nickel as nontoxic for waterfowl and coot hunting in the United States. We assessed possible toxicity effects of the Iron-Tungsten-Nickel (ITN) shot, and determined that it is not a threat to wildlife or their habitats, and that further testing of ITN shot is not necessary. We have prepared a Final Environmental Assessment and a Finding of No Significant Impact in support of this decision.

This rule also corrects an error and adds clarity to the list of currently approved nontoxic shot types.

DATES: This rule takes effect on September 22, 2005.

ADDRESSES: The Final Environmental Assessment for approval of ITN shot and the associated Finding of No Significant Impact are available from the Division of Migratory Bird Management, U.S. Fish and Wildlife Service, 4501 North Fairfax Drive, Room 4091, Arlington, Virginia 22203–1610. You may call 703–358–1825 to request copies.

The complete file for this rule is available, by appointment, during normal business hours at the same address. You may call 703–358–1825 to make an appointment to view the files.

FOR FURTHER INFORMATION CONTACT: Dr. George T. Allen, Division of Migratory Bird Management, 703–358–1714.

SUPPLEMENTARY INFORMATION:

Background

The Migratory Bird Treaty Act of 1918 (Act) (16 U.S.C. 703–711) and the Fish and Wildlife Improvement Act of 1978 (16 U.S.C. 712) implement migratory bird treaties between the United States and Great Britain for Canada (1916 and 1996 as amended), Mexico (1936 and 1972 as amended), Japan (1972 and 1974 as amended), and Russia (then the Soviet Union, 1978). These treaties

protect certain migratory birds from take, except as permitted under the Acts. The Acts authorize 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 controls the hunting of migratory game birds through regulations in 50 CFR part 20.

Deposition of toxic shot and release of toxic shot components in waterfowl hunting locations are potentially harmful to many organisms. Research has shown that ingested spent lead shot causes significant mortality in migratory birds. Since the mid-1970s, we have sought to identify shot types that do not pose significant toxicity hazards to migratory birds or other wildlife. We addressed the issue of lead poisoning in waterfowl in an Environmental Impact Statement in 1976, and again in a 1986 supplemental EIS. The 1986 document provided the scientific justification for a ban on the use of lead shot and the subsequent approval of steel shot for hunting waterfowl and coots that began that year, with a complete ban of lead for waterfowl and coot hunting in 1991. We have continued to consider other potential candidates for approval as nontoxic shot. We are obligated to review applications for approval of alternative shot types as nontoxic for hunting waterfowl and coots.

We received an application from ENVIRON-Metal, Inc. of Sweet Home, Oregon, for approval of Iron-Tungsten-Nickel shot formulated as 62 percent iron, 25 percent tungsten, and 13 percent nickel by weight for waterfowl and coot hunting. We reviewed the shot under the criteria in Tier 1 of the revised nontoxic shot approval procedures contained in 50 CFR 20.134 for permanent approval of shot as nontoxic for hunting waterfowl and coots. We amend 50 CFR 20.21(j) to add ITN shot to the list of the approved types of shot for waterfowl and coot hunting.

On May 6, 2005, we published a proposed rule to approve ITN as a nontoxic shot type (70 FR 23954). The application for the approval of ITN shot included information on chemical characterization, production variability, use, expected production volume, toxicological effects, environmental fate and transport, and evaluation, and the proposed rule included this information, a comprehensive evaluation of the likely effects of each shot, and an assessment of the affected environment.

The Director of the U.S. Fish and Wildlife Service has concluded that the spent shot material will not pose a significant danger to migratory birds or other wildlife or their habitats, and therefore approves the use of Iron-Tungsten-Nickel shot as nontoxic for hunting waterfowl and coots.

We received one comment in response to the proposed rule. However, the commenter did not raise any issues that caused us to reconsider our proposed approval of ITN shot as nontoxic. Neither manufacturing the shot nor firing shotshells containing the shot will alter the metals or increase their susceptibility to dissolving in the environment.

ENVIRON-Metal estimates that the volume of ITN shot used hunting migratory birds in the United States will be approximately 200,000 pounds (90,719 kilograms) during the first year of sale, and perhaps 500,000 pounds (227,000 kg) per year thereafter.

This rule also corrects the formulation of Tungsten-Tin-Bismuth (TTB) shot. We inadvertently left out the iron in the TTB formulation in our August 9, 2004, approval of the shot type (69 FR 48163).

The listing of approved nontoxic shot types is also changed to provide more consistent naming of approved shot types. The shot types are now named and listed by the predominant metals in the alloys.

Cumulative Impacts

We foresee no negative cumulative impacts from approval of this nontoxic shot type. Approval of a shot type that contains only metals already approved as nontoxic will not additionally impact the human environment.

NEPA Consideration

In compliance with the requirements of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(C)), and the Council on Environmental Quality's regulation for implementing NEPA (40 CFR 1500–1508), though all of the metals in this shot type have been approved in higher concentrations in other shot types and are not likely to pose adverse toxicity effects on fish, wildlife, their habitats, or the human environment, we prepared a Draft Environmental Assessment for this action, on which we received no comments. We have completed the Final Environmental Assessment for approval of ITN shot as nontoxic.

Endangered Species Act Considerations

Section 7 of the Endangered Species Act (ESA) of 1972, as amended (16 U.S.C. 1531 *et seq.*), provides that Federal agencies shall ''insure 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.'' We have concluded that because all of the metals in this shot type have been approved in higher concentrations in other shot types and should not be available to biota due to use of ITN shot, this action will not affect endangered or threatened species. A Section 7 consultation under the ESA for this rule is not needed.

Regulatory Flexibility 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, or governmental jurisdictions. This rule approves an additional type of nontoxic shot that may be sold and used to hunt migratory birds; this rule would provide one shot type in addition to the types that are approved. We have determined, however, that this rule will have no effect on small entities since the approved shot merely will supplement nontoxic shot already in commerce and available throughout the retail and wholesale distribution systems. We anticipate no dislocation or other local effects, with regard to hunters or others.

Small Business Regulatory Enforcement Fairness Act

This is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule does not impose an unfunded mandate of more than $100 million per year or have a significant or unique effect on State, local, or tribal governments or the private sector because it is the Service's responsibility to regulate the take of migratory birds in the United States. This rule will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; it will only affect availability of the approved nontoxic shot type. Finally, because this rule only affects approval of this nontoxic shot type, it will not have a significant adverse effect on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

Executive Order 12866

This rule is not a significant regulatory action subject to Office of Management and Budget (OMB) review under Executive Order 12866. This rule will not have an annual economic effect of $100 million or more or adversely affect an economic sector, productivity,

jobs, the environment, or other units of government. Therefore, a cost-benefit economic analysis is not required. This action will not create inconsistencies with other agencies' actions or otherwise interfere with an action taken or planned by another agency. No other Federal agency has any role in regulating nontoxic shot for migratory bird hunting. The action is consistent with the policies and guidelines of other Department of the Interior bureaus. This action will not materially affect entitlements, grants, user fees, loan programs, or the rights and obligations of their recipients because it has no mechanism to do so. This action will not raise novel legal or policy issues because the Service has already approved several other nontoxic shot types.

Paperwork Reduction Act

An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. We have examined this regulation under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501) and found it to contain no information collection requirements. OMB has approved collection of information from shot manufacturers for the nontoxic shot approval process, and has assigned control number 1018–0067, which expires on December 31, 2006. For further information, see 50 CFR 20.134.

Unfunded Mandates Reform

We have determined and certify pursuant to the Unfunded Mandates Reform Act, 2 U.S.C. 1502 *et seq.*, that this rulemaking will not impose a cost of $100 million or more in any given year on local or State government or private entities.

Civil Justice Reform—Executive Order 12988

We, in promulgating this rule, have determined that these regulations meet the applicable standards provided in Sections 3(a) and 3(b)(2) of Executive Order 12988.

Takings Implication Assessment

In accordance with Executive Order 12630, this rule, authorized by the Migratory Bird Treaty Act, does not have significant takings implications and does not affect any constitutionally protected property rights. This rule will not result in the physical occupancy of property, the physical invasion of property, or the regulatory taking of any property.

Federalism Effects

Due to the migratory nature of certain species of birds, the Federal Government has been given responsibility over these species by the Migratory Bird Treaty Act. This rule does not have a substantial direct effect on fiscal capacity, change the roles or responsibilities of Federal or State governments, or intrude on State policy or administration. Therefore, in accordance with Executive Order 13132, this regulation does not have significant federalism effects and does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951) and 512 DM 2, we have determined that this rule has no effects on Federally recognized Indian tribes.

List of Subjects in 50 CFR Part 20

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

■ For the reasons discussed in the preamble, we amend part 20, subchapter B, chapter I of title 50 of the Code of Federal Regulations as follows:

PART 20—[AMENDED]

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

Authority: 16 U.S.C. 703–712; 16 U.S.C. 742a–j; Pub. L. 106–108.

■ 2. Section 20.21 is amended by revising paragraph (j)(1) to read as follows:

§ 20.21 What hunting methods are illegal?

* * * * *

(j)(1) While possessing loose shot for muzzle loading or shotshells containing other than the following approved shot types.

Approved shot type	Percent composition by weight
bismuth-tin	97 bismuth, 3 tin.
iron (steel)	iron and carbon.
iron-tungsten (2 types)	60 iron, 40 tungsten and 78 iron, 22 tungsten.
iron-tungsten-nickel	62 iron, 25 tungsten, 13 nickel.
tungsten-bronze	51.1 tungsten, 44.4 copper, 3.9 tin, 0.6 iron.
tungsten-matrix	95.9 tungsten, 4.1 polymer.
tungsten-nickel-iron	50 tungsten, 35 nickel, 15 iron.
tungsten-polymer	95.5 tungsten, 4.5 Nylon 6 or 11.
tungsten-tin-bismuth	49–71 tungsten, 29–51 tin; 0.5–6.5 bismuth, 0.8 iron.
tungsten-tin-iron-nickel	65 tungsten, 21.8 tin, 10.4 iron, 2.8 nickel.

* * * * *

Dated: July 26, 2005.

Craig Manson,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 05–16720 Filed 8–22–05; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 041126332–5039–02; I.D. 081705G]

Fisheries of the Exclusive Economic Zone Off Alaska; Yellowfin Sole by Vessels Using Trawl Gear in the Bering Sea and Aleutian Islands Management Area

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; closure.

SUMMARY: NMFS is closing directed fishing for yellowfin sole by vessels using trawl gear in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the 2005 halibut bycatch allowance specified for the trawl yellowfin sole fishery category in the BSAI.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), August 18, 2005, through 2400 hrs, A.l.t., December 31, 2005.

FOR FURTHER INFORMATION CONTACT: Josh Keaton, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the BSAI according to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The 2005 halibut bycatch allowance specified for the trawl yellowfin sole fishery category in the BSAI is 886 metric tons as established by the 2005 and 2006 final harvest specifications for groundfish in the BSAI (70 FR 8979, February 24, 2005).

In accordance with § 679.21(e)(7)(v), the Administrator, Alaska Region, NMFS, has determined that the 2005 halibut bycatch allowance specified for the trawl yellowfin sole fishery category in the BSAI has been caught. Consequently, NMFS is closing directed fishing for yellowfin sole by vessels using trawl gear in the BSAI.

After the effective date of this closure the maximum retainable amounts at §§ 679.20(e) and (f) apply at any time during a trip.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the closure of directed fishing for yellowfin sole by vessels using trawl gear in the BSAI. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of August 17, 2005.

The AA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

This action is required by § 679.21 and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: August 17, 2005.

Alan D. Risenhoover,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 05–16706 Filed 8–18–05; 2:30 pm]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 041126332–5039–02; I.D. 081605D]

Fisheries of the Exclusive Economic Zone Off Alaska; Atka Mackerel Lottery in Areas 542 and 543

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; notification of fishery assignments.

SUMMARY: NMFS is notifying the owners and operators of registered vessels of their assignments for the B season Atka mackerel fishery in harvest limit area (HLA) 542 and/or 543 of the Aleutian Islands subarea of the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to allow the harvest of the B season Atka mackerel HLA limits established for area 542 and area 543.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), August 18, 2005, until 2400 hrs, A.l.t., December 31, 2005.

FOR FURTHER INFORMATION CONTACT: Josh Keaton, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the BSAI exclusive economic zone according to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

In accordance with § 679.20(a)(8)(iii)(A), owners and operators of vessels using trawl gear for directed fishing for Atka mackerel in the HLA are required to register with NMFS. Ten vessels have registered with NMFS to fish in the B season HLA fisheries in areas 542 and/or 543. In order to reduce the amount of daily catch in the HLA by about half and to disperse the fishery over time and in accordance with § 679.20(a)(8)(iii)(B), the Administrator, Alaska Region, NMFS, has randomly assigned each vessel to the HLA directed fishery for Atka mackerel for which they have registered and is now notifying each vessel of its assignment.

Vessels authorized to participate in the first HLA directed fishery in area 542 and/or in the second HLA directed fishery in area 543 in accordance with § 679.20(a)(8)(iii) are as follows: Federal Fishery Permit number (FFP) 3835 Seafisher, FFP 3400 Alaska Ranger, FFP 1879 American No. 1, FFP 4093 Alaska Victory, and FFP 3819 Alaska Spirit.

Vessels authorized to participate in the first HLA directed fishery in area 543 and/or the second HLA directed fishery in area 542 in accordance with § 679.20(a)(8)(iii) are as follows: FFP 2134 Ocean Peace, FFP 2443 Alaska