

practices) that are developed or adopted by voluntary consensus standards bodies, such as the Society of Automotive Engineers. The NTTAA directs us to provide Congress (through OMB) with explanations when we decide not to use available and applicable voluntary consensus standards. There are no voluntary consensus standards developed by voluntary consensus standards bodies pertaining to this NPRM.

#### *Unfunded Mandates Reform Act*

The Unfunded Mandates Reform Act of 1995 requires agencies to prepare a written assessment of the costs, benefits and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local or tribal governments, in the aggregate, or by the private sector, of more than \$100 million annually (adjusted for inflation with base year of 1995). This NPRM would not result in expenditures by State, local or tribal governments, in the aggregate, or by the private sector in excess of \$100 million annually.

#### *National Environmental Policy Act*

NHTSA has analyzed this rulemaking action for the purposes of the National Environmental Policy Act. The agency has determined that implementation of this action will not have any significant impact on the quality of the human environment.

#### *Executive Order 13211*

Executive Order 13211 (66 FR 28355, May 18, 2001) applies to any rulemaking that: (1) Is determined to be economically significant as defined under E.O. 12866, and is likely to have a significantly adverse effect on the supply of, distribution of, or use of energy; or (2) that is designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. This rulemaking is not subject to E.O. 13211.

#### *Plain Language*

Executive Order 12866 and the President's memorandum of June 1, 1998, require each agency to write all rules in plain language. Application of the principles of plain language includes consideration of the following questions:

- Have we organized the material to suit the public's needs?
- Are the requirements in the rule clearly stated?
- Does the rule contain technical language or jargon that isn't clear?
- Would a different format (grouping and order of sections, use of headings,

paragraphing) make the rule easier to understand?

- Would more (but shorter) sections be better?
- Could we improve clarity by adding tables, lists, or diagrams?
- What else could we do to make the rule easier to understand?

If you have any responses to these questions, please include them in your comments on this proposal.

#### *Regulatory Identifier Number (RIN)*

The Department of Transportation assigns a regulation identifier number (RIN) to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. You may use the RIN contained in the heading at the beginning of this document to find this action in the Unified Agenda.

#### *Privacy Act*

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78) or you may visit <http://www.regulations.gov>.

#### **List of Subjects in 49 CFR Part 571**

Imports, Motor vehicle safety, Motor vehicles, and Tires.

In consideration of the foregoing, NHTSA proposes to amend 49 CFR part 571 as set forth below.

#### **PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS**

1. The authority citation for part 571 continues to read as follows:

**Authority:** 49 U.S.C. 322, 30111, 30115, 30117 and 30166; delegation of authority at 49 CFR 1.50.

2. Section 571.121 is amended by revising S5.2.3.3(a) to read as follows:

##### **§ 571.121; Standard No. 121; Air brake systems.**

\* \* \* \* \*

S5.2.3.3 Antilock malfunction indicator.

(a) In addition to the requirements of S5.2.3.2, each trailer and trailer converter dolly manufactured on or after March 1, 1998, and before March 1, 2011, shall be equipped with an external antilock malfunction indicator

lamp that meets the requirements of S5.2.3.3 (b) through (d).

\* \* \* \* \*

Issued: February 26, 2009.

**Stephen R. Kratzke,**

*Associate Administrator for Rulemaking.*

[FR Doc. E9–4491 Filed 2–27–09; 11:15 am]

**BILLING CODE 4910–59–P**

## **DEPARTMENT OF THE INTERIOR**

### **Fish and Wildlife Service**

#### **50 CFR Part 17**

[FWS–R2–ES–2009–0004; 92210–1111–0000–B3]

#### **Endangered and Threatened Wildlife and Plants; Initiation of Status Review for the Roundtail Chub (*Gila robusta*) in the Lower Colorado River Basin**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice; initiation of status review and solicitation of new information.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), announce the initiation of a status review for the roundtail chub (*Gila robusta*) in the lower Colorado River basin. Through this action, we encourage all interested parties to provide us information regarding the status of, and any potential threats to, the roundtail chub. We request information on the status of roundtail chub throughout the range of the species, in order to evaluate a petition to list a distinct population segment (DPS) in the lower Colorado River basin.

**DATES:** To allow us adequate time to conduct this review, we request that we receive information on or before April 2, 2009.

**ADDRESSES:** You may submit information by one of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.
- *U.S. mail or hand-delivery:* Public Comments Processing, Attn: FWS–R2–ES–2009–0004; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, Suite 222; Arlington, VA 22203.

We will not accept e-mail or faxes. We will post all information on <http://www.regulations.gov>. This generally means that we will post any personal information you provide us (see the Information Solicited section below for more information).

**FOR FURTHER INFORMATION CONTACT:**

Steve Spangle, Field Supervisor, Arizona Ecological Services Office, 2321 West Royal Palm Road, Suite 103, Phoenix, AZ 85021-4951; telephone 602-242-0210; facsimile 602-242-2513. If you use a telecommunications device for the deaf (TDD), call the Federal Information Relay Service (FIRS) at 800-877-8339.

**SUPPLEMENTARY INFORMATION:****Information Solicited**

To ensure that the status review is complete and based on the best available scientific and commercial information, we are soliciting information concerning the status of the roundtail chub (*Gila robusta*). Information gained during this process will be used to evaluate whether the lower Colorado River basin population of roundtail chub is a distinct population segment (DPS) as described in our Policy Regarding the Recognition of Distinct Vertebrate Population Segments Under the Endangered Species Act (DPS Policy; 61 FR 4722, February 7, 1996), and if listing as threatened or endangered is warranted under the Endangered Species Act of 1973, as amended (Act; 16 U.S.C. 1531 *et seq.*). We request information from the public, other concerned governmental agencies, Native American Tribes, the scientific community, industry, or any other interested parties on the status of the roundtail chub throughout its range, including:

(1) Information from the United States and Mexico regarding the species' historical and current population status, distribution, and trends; taxonomy; genetics; biology and ecology; and habitat selection.

(2) Information that supports or refutes the appropriateness of considering the lower Colorado River basin population of roundtail chub to be discrete, as defined in the DPS Policy, including, but not limited to:

(a) Information indicating that lower Colorado River basin roundtail chub are markedly separated from other populations of roundtail chub due to physical, physiological, ecological, or behavioral factors.

(b) Information indicating whether or not the lower Colorado River basin population of roundtail chub is delimited by international governmental boundaries within which significant differences in control of exploitation, management of habitat, conservation status, or regulatory mechanisms exist.

(3) Information that supports or refutes the appropriateness of considering the lower Colorado River

basin population of roundtail chub to be significant, as defined in the DPS Policy, including, but not limited to:

(a) Information indicating that the ecological setting, including such factors as temperature, moisture, weather patterns, plant communities, etc., in which the lower Colorado River basin population of roundtail chub persists is unusual or unique when compared to that of roundtail chub found elsewhere in the United States or Mexico.

(b) Information indicating that loss of the lower Colorado River basin population of roundtail chub would or would not result in a significant gap in the range of the taxon.

(c) Information indicating that the lower Colorado River basin population of roundtail chub differs markedly from other populations of roundtail chub in its genetic characteristics.

(4) Information on the effects of potential threat factors in the United States and Mexico that are the basis for a listing determination under section 4(a) of the Act, which are:

(a) The present or threatened destruction, modification, or curtailment of the subspecies' habitat or range;

(b) Overutilization for commercial, recreational, scientific, or educational purposes;

(c) Disease or predation;

(d) The inadequacy of existing regulatory mechanisms; or

(e) Other natural or manmade factors affecting its continued existence.

Please note that submissions merely stating support or opposition to the action under consideration without providing supporting information, although noted, will not be considered in making a determination, because section 4(b)(1)(A) of the Act directs that determinations as to whether any species is a threatened or endangered species must be made "solely on the basis of the best scientific and commercial data available." At the conclusion of the status review, we will determine whether listing is warranted, not warranted, or warranted but precluded by other pending proposals.

You may submit your information concerning this status review by one of the methods listed in the **ADDRESSES** section. We will not consider submissions sent by e-mail or fax or to an address not listed in the **ADDRESSES** section.

If you submit information via <http://www.regulations.gov>, your entire submission—including any personal identifying information—will be posted on the Web site. If your submission is made via a hardcopy that includes

personal identifying information, you may request at the top of your document that we withhold this personal identifying information from public review. However, we cannot guarantee that we will be able to do so. We will post all hardcopy submissions on <http://www.regulations.gov>.

Information and materials we receive will be available for public inspection on <http://www.regulations.gov>, or by appointment, during normal business hours, at the U.S. Fish and Wildlife Service, Arizona Ecological Services Office (see **FOR FURTHER INFORMATION CONTACT**).

**Background**

Section 4(b)(3)(A) of the Act requires that we make a finding on whether a petition to list, delist, or reclassify a species presents substantial scientific or commercial information indicating that the petitioned action may be warranted. We are to base this finding on information provided in the petition and supporting information submitted with the petition. To the maximum extent practicable, we are to make this finding within 90 days of our receipt of the petition and publish our notice of the finding promptly in the **Federal Register**. Section 4(b)(3)(B) also requires that, for any petition to revise the Lists of Threatened and Endangered Wildlife and Plants that contains substantial scientific or commercial information that the action may be warranted, we make a finding within 12 months of the date of the receipt of the petition on whether the petitioned action is: (a) Not warranted, (b) warranted, or (c) warranted but precluded by other pending proposals. Such 12-month findings are to be published promptly in the **Federal Register**.

On April 14, 2003, we received a petition from the Center for Biological Diversity requesting that we list a DPS of the roundtail chub in the lower Colorado River basin as endangered or threatened, that we list the headwater chub (*Gila nigra*) as endangered or threatened, and that we designate critical habitat concurrently with the listing for both species. On July 12, 2005, we published our 90-day finding that the petition presented substantial scientific information indicating that listing the headwater chub and a DPS of the roundtail chub in the lower Colorado River basin may be warranted and initiated a 12-month status review (70 FR 39981).

On May 3, 2006, we published our 12-month finding that listing was warranted for the headwater chub, but precluded by higher priority listing actions, and that listing of a DPS of the

roundtail chub in the lower Colorado River basin was not warranted because populations of roundtail chub in the lower Colorado River basin did not meet our definition of a DPS (71 FR 26007).

On September 7, 2006, we received a complaint from the Center for Biological Diversity for declaratory and injunctive relief, challenging our decision not to list the lower Colorado River basin population of the roundtail chub as an endangered species under the Act. On November 5, 2007, in a stipulated settlement agreement, we agreed to commence a new status review of the lower Colorado basin population of the roundtail chub and to submit a 12-month finding to the **Federal Register** by June 30, 2009.

At this time, we are soliciting new information on the status of and potential threats to the roundtail chub. We will base our new determination as to whether listing of a DPS for roundtail chub in the lower Colorado River basin is warranted on a review of the best scientific and commercial information available, including all information we receive as a result of this notice. For more information on the biology, habitat, and range of the roundtail chub, please refer to our previous 90-day finding published in the **Federal Register** on July 12, 2005 (70 FR 39981), and our previous 12-month finding published in the **Federal Register** on May 3, 2006 (71 FR 26007).

#### Author

The primary authors of this notice are the staff members of the Arizona Ecological Services Office.

**Authority:** The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: February 20, 2009.

**Ken Stansell,**

*Acting Director, U.S. Fish and Wildlife Service.*

[FR Doc. E9-4155 Filed 3-2-09; 8:45 am]

**BILLING CODE 4310-55-P**

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 20

[FWS-R9-MB-2009-0003; 91200-1231-9BPP]

RIN 1018-AW46

#### Migratory Bird Hunting; Application for Approval of Tungsten-Iron-Fluoropolymer Shot as Nontoxic for Waterfowl Hunting

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of application for nontoxic shot approval.

**SUMMARY:** We, the U.S. Fish and Wildlife Service, announce that Tundra Composites, LLC, of White Bear Lake, Minnesota, has applied for our approval of shot composed of alloys of tungsten, iron, and fluoropolymer as nontoxic for waterfowl hunting in the United States. The alloys are 41.5 to 95.2 percent tungsten, 1.5 to 52.0 percent steel, and 3.5 to 8.0 percent fluoropolymer by weight. We have initiated review of the shot under the criteria we have set out in our nontoxic shot approval procedures in our regulations.

**DATES:** Our comprehensive review of the application information is to conclude by May 4, 2009.

**ADDRESSES:** You may review the Tundra Composites application at the Fish and Wildlife Service, Division of Migratory Bird Management, 4501 North Fairfax Drive, Arlington, VA 22203-1610.

**FOR FURTHER INFORMATION CONTACT:** Ron Kokel, Wildlife Biologist, Division of Migratory Bird Management, (703) 358-1967.

**SUPPLEMENTARY INFORMATION:** The Migratory Bird Treaty Act of 1918 (Act) (16 U.S.C. 703-712 and 16 U.S.C. 742 a-j) implements 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 Act. The Act authorizes the Secretary of the Interior to regulate take of migratory birds in the United States. Under this authority, we control the hunting of migratory game birds through regulations in 50 CFR part 20. We prohibit the use of shot types other than those listed in the Code of Federal Regulations (CFR) at 50 CFR 20.21(j) for hunting waterfowl and coots and any species that make up aggregate bag limits.

Since the mid-1970s, we have sought to identify types of shot for waterfowl hunting that are not toxic to migratory birds or other wildlife when ingested. We have approved nontoxic shot types and added them to the migratory bird hunting regulations in 50 CFR 20.21(j). We will continue to review all shot types submitted for approval as nontoxic.

Tundra Composites has submitted its application to us with the counsel that it contained all of the specified information for a complete Tier 1 submittal, and has requested unconditional approval pursuant to the Tier 1 timeframe. Having determined that the application is complete, we have initiated a comprehensive review of the Tier 1 information under 50 CFR 21.134. After review, we will either publish a notice of review to inform the public that the Tier 1 test results are inconclusive, or we will publish a proposed rule to approve the candidate shot. If the Tier 1 tests are inconclusive, the notice of review will indicate what other tests we will require before we will again consider approval of the Tungsten-Iron-Fluoropolymer shot as nontoxic. If the Tier 1 data review results in a preliminary determination that the candidate material does not pose a significant toxicity hazard to migratory birds, other wildlife, or their habitats, the Service will commence with a rulemaking proposing to approve the candidate shot and add it to our list at 50 CFR 20.21(j).

Dated: February 25, 2009.

**Jerome Ford,**

*Acting Director, U.S. Fish and Wildlife Service.*

[FR Doc. E9-4455 Filed 3-2-09; 8:45 am]

**BILLING CODE 4310-55-P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 300

RIN 0648-AX72

#### Identification and Certification of Nations Whose Fishing Vessels Are Engaged in Illegal, Unreported, or Unregulated Fishing or Bycatch of Protected Living Marine Resources

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

**ACTION:** Notice of public hearing; request for comments.