

EPA's comments on EISs available to the public. Accordingly, on March 31, 2010, EPA discontinued the publication of the notice of availability of EPA comments in the **Federal Register**.

*EIS No. 20100374, Draft EIS, USFWS, MT, Charles M. Russell National Wildlife Refuge and UL Bend National Wildlife Refuge Comprehensive Conservation Plan, To Provide Alternatives and Identify Consequences, Fergus, Petroleum, Garfield, McCone, Valley, and Phillips Counties, MT, Comment Period Ends: 11/16/2010, Contact: Laurie Shannon 303-236-4317.*

*EIS No. 20100375, Final EIS, USFWS, 00, Western Snowy Plover Habitat Conservation Plan, Proposed Issuance of an Incidental Take Permit, Oregon Parks and Recreation Department, Oregon Coast, OR, CA, WA, Wait Period Ends: 10/25/2010, Contact: Laura Todd 541-867-4558.*

*EIS No. 20100376, Draft EIS, USFS, CA, Concow Hazardous Fuels Reduction Project, Propose to Reduce Hazardous Forest Fuels, Plus Establish and Maintain Spaces—Defensible Fuel Profile Zones (DFPZs), Feather River Ranger District, Plumas National Forest, Towns of Paradise, Magalia, Concow, Butte County, CA, Comment Period Ends: 11/08/2010, Contact: Carol Spinos 530-532-8932.*

*EIS No. 20100377, Final EIS, USFS, CA, Tehachapi Renewable Transmission Project, New Information on Changed Conditions Caused by the Station Fire, Construct, Operate and Maintain New and Upgraded 500 kV and 220kV Transmission Lines and Substations, Special Use Authorization, Angeles National Forest, Los Angeles County, CA, Wait Period Ends: 10/25/2010, Contact: Justin Seastrand 626-574-5278.*

*EIS No. 20100378, Draft Supplement, USFS, OR, North Fork Burnt River Mining Project, To Provide Additional Information and to Address the Deficiencies Identified by the District Court of Oregon on August 4, 2006, Proposal for Mineral Plans of Operation, Implementation, Wallowa-Whitman National Forest, Unity Ranger District of the Whitman Unit, Blue Mountains, Town of Unity, Baker County, OR, Comment Period Ends: 11/08/2010, Contact: Sophia Miller 541-263-1735.*

*EIS No. 20100379, Draft EIS, TVA, KY, Tennessee Valley Authority (TVA) Integrated Resource Plan (IRP), To Address the Demand for Power in the TVA Service Area, KY, Comment Period Ends: 11/08/2010, Contact: Charles P. Nicholson 865-632-3582*

*EIS No. 20100380, Final EIS, USACE, 00, Sabine-Neches Waterway Channel Improvement Project, Proposed Ocean Dredged Material Disposal Site Designation, Southeast Texas and Southwest Louisiana, Wait Period Ends: 10/25/2010, Contact: Janelle Stokes 409-766-3039.*

*EIS No. 20100381, Draft Supplement, USAF, FL, Eglin Base Realignment and Closure, Proposed Beddown of the Joint Strike Fighter (JSF) and Establishment of an Initial Joint Training Site (IJTS), Implementation, Okaloosa, Walton, and Santa Rosa Counties, FL, Comment Period Ends: 11/08/2010, Contact: Mike Spaits 85-882-2836.*

*EIS No. 20100382, Final EIS, NPS, CA, Warner Valley Comprehensive Site Plan, Addressing Natural and Cultural Resource Conflicts, Parking and Circulation Improvements in Warner Valley, Implementation, Lassen Volcanic National Park, Plumas County, CA, Wait Period Ends: 10/25/2010, Contact: Louise Johnson 530-595-4444 Ext. 5170.*

*EIS No. 20100383, Draft Supplement, USFS, NM, Santa Fe National Forest Oil & Gas Leasing, Updated and New Information, Implementation, San Juan Basin, Cuba Ranger District, NM, Comment Period Ends: 11/08/2010, Contact: Jennifer Cramer 505-438-5449.*

*EIS No. 20100384, Final Supplement, USFS, AK, Programmatic EIS—Exxon Valdez Oil Spill Restoration Plan DOI/DOC, New Circumstances Bearing on the Council's Restoration Effort, Implementation, Prince William Sound, Gulf of Alaska, AK, Wait Period Ends: 10/25/2010, Contact: Laurel Jennings 206-526-4535.*

*EIS No. 20100385, Final EIS, NSA, MD, Fort George G. Meade, Maryland to Address Campus Development, Site M as an Operational Complex and to Construct and Operate Consolidated Facilities for Intelligence Community Use, Fort George G. Meade, MD, Wait Period Ends: 10/25/2010, Contact: Jeffrey D. Williams 301-688-2970.*

Dated: September 21, 2010.

**Robert W. Hargrove,**  
Director, NEPA Compliance Division, Office of Federal Activities.

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## ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OPPT-2010-0681; FRL-8847-5]

### Lead in Ammunition and Fishing Sinkers; Disposition of TSCA Section 21 Petition

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** On August 3, 2010, several groups filed a petition under the Toxic Substances Control Act (TSCA) section 21 requesting that EPA prohibit under TSCA section 6(a) the manufacture, processing, and distribution in commerce of (1) lead bullets and shot; and (2) lead fishing sinkers. On August 27, 2010, EPA denied the first request due to a lack of authority to regulate lead in bullets and shot under TSCA. EPA's decision is based on the exclusion of shells and cartridges from the definition of "chemical substance" in TSCA section 3(2)(B)(v). EPA is still considering the second request and will respond to that portion of the petition within the 90-day period provided in section 21 of TSCA. This notice explains EPA's reasons for the denial of the request specific to lead bullets and shot.

**FOR FURTHER INFORMATION CONTACT:** For technical information contact: Christina Wadlington, National Program Chemicals Division (7404T), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (202) 566-1859; e-mail address: wadlington.christina@epa.gov.

For general information contact: The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554-1404; e-mail address: TSCA-Hotline@epa.gov.

#### SUPPLEMENTARY INFORMATION:

##### I. General Information

###### A. Does this action apply to me?

This action is directed to the public in general. This action may, however, be of interest to you if you manufacture, process, import, or distribute in commerce lead shot or bullets. If you have any questions regarding this action, consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

###### B. How can I get copies of this document and other related information?

EPA has established a docket for this action under docket identification (ID)

number EPA-HQ-OPPT-2010-0681. All documents in the docket are listed in the docket index available at <http://www.regulations.gov>. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available electronically at <http://www.regulations.gov>, or, if only available in hard copy, at the OPPT Docket. The OPPT Docket is located in the EPA Docket Center (EPA/DC) at Rm. 3334, EPA West Bldg., 1301 Constitution Ave., NW., Washington, DC. The EPA/DC Public Reading Room hours of operation are 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number of the EPA/DC Public Reading Room is (202) 566-1744, and the telephone number for the OPPT Docket is (202) 566-0280. Docket visitors are required to show photographic identification, pass through a metal detector, and sign the EPA visitor log. All visitor bags are processed through an X-ray machine and subject to search. Visitors will be provided an EPA/DC badge that must be visible at all times in the building and returned upon departure.

## II. Background

### A. What is a TSCA section 21 petition?

Under section 21 of TSCA (15 U.S.C. 2042), any person can petition EPA to initiate a rulemaking proceeding for the issuance, amendment, or repeal of a rule under TSCA section 4, 6, or 8 or an order under TSCA section 5(e) or 6(b)(2). A TSCA section 21 petition must set forth the facts that are claimed to establish the necessity for the action requested. EPA is required to grant or deny the petition within 90 days of its filing. If EPA grants the petition, the Agency must promptly commence an appropriate proceeding. If EPA denies the petition, the Agency must publish its reasons for the denial in the **Federal Register**. A petitioner may commence a civil action in a U.S. district court to compel initiation of the requested rulemaking proceeding within 60 days of either a denial or, if the Agency does not resolve the petition, the expiration of the 90-day period.

### B. What criteria apply to a decision on a TSCA section 21 petition?

Section 21(b)(1) of TSCA requires that the petition "set forth the facts which it is claimed establish that it is necessary" to issue the rule or order requested. 15

U.S.C. 2620(b)(1). Thus, TSCA section 21 implicitly incorporates the statutory standards that apply to the requested actions. In addition, TSCA section 21 establishes standards a court must use to decide whether to order EPA to initiate rulemaking in the event of a lawsuit filed by the petitioner after denial of a TSCA section 21 petition. 15 U.S.C. 2620(b)(4)(B). Accordingly, EPA generally relies on the standards in TSCA section 21 and in the provisions under which actions have been requested to evaluate petitions. However, because of the absence of legal authority under TSCA to grant the petitioners' first request, this request was resolved without reaching the factual argument set forth by the petitioners. The request was denied based on the scope of EPA's statutory authority.

### C. Summary of TSCA Section 21 Petition Received

On August 3, 2010, Center for Biological Diversity, American Bird Conservancy, Association of Avian Veterinarian, Project Gutpile and Public Employees for Environmental Responsibility filed a petition under TSCA section 21 requesting that EPA prohibit under TSCA section 6(a) the manufacture, processing, and distribution in commerce of (1) lead bullets and shot; and (2) lead fishing sinkers. The petition asserts that EPA has the authority to regulate lead in bullets and shot because "lead shot and bullets are properly classified as 'chemical substances' subject to TSCA regulation." (Ref. 1, pp. 57-58).

### III. Disposition of the Request With Respect to Lead in Bullets and Shot

On August 27, 2010, EPA denied the first request due to a lack of authority to regulate lead in bullets and shot under TSCA. EPA's decision is based on the exclusion of firearms, shells and cartridges from the definition of "chemical substance" in TSCA section 3(2)(B)(v). This exclusion functions to carve out a discrete set of substances from regulation under TSCA: those used in firearms and ammunition. This plain reading of the statute is consistent with EPA's longstanding interpretation of the six TSCA exclusions at TSCA section 3(2)(B).

The statutory definition of "chemical substance" excludes "any article the sale of which is subject to the tax imposed by section 4181 of the Internal Revenue Code of 1986 (26 U.S.C.A. 4181) (determined without regard to any exemptions from such tax provided by section 4182 or 4221 or any other provision of such code)." 15 U.S.C.

2602(2)(B)(v). Section 4181 imposes a tax on firearms, shells and cartridges. 26 U.S.C. 4181. Bullets and shot, and any lead within them, are contained in shells and cartridges and are therefore excluded from the chemical substance definition. In addition, EPA's plain reading of TSCA is consistent with EPA's long-standing interpretation of TSCA's definition of "chemical substance" and with the purpose of the exemption.

### V. Further Consideration of the Request With Respect to Lead in Fishing Sinkers

EPA is still considering the second request contained in the August 3, 2010 petition and will respond to that portion of the petition within the 90-day period provided in section 21 of TSCA.

### VI. References

1. American Bird Conservancy, Petition to the Environmental Protection Agency to Ban Lead Shot, Bullets and Fishing Sinkers under the Toxic Substances Control Act. August 3, 2010.

### List of Subjects

Environmental protection, Bird, Lead, Lead bullets, Lead fishing sinkers, Lead shot.

Dated: September 21, 2001.

**Steve A. Owens,**

*Assistant Administrator, Office of Chemical Safety and Pollution Prevention.*

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## ENVIRONMENTAL PROTECTION AGENCY

[FRL-9206-6]

### 2010 Fall Meeting of the Ozone Transport Commission

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of meeting.

**SUMMARY:** The United States Environmental Protection Agency is announcing the 2010 Fall Meeting of the Ozone Transport Commission (OTC). This OTC meeting will explore options available for reducing ground-level ozone precursors in a multi-pollutant context. The Commission will be evaluating potential measures and considering actions in areas such as performance standards for electric generating units (EGUs) on high electric demand days, oil and gas boilers serving EGUs, small natural gas boilers, stationary generators, energy security/energy efficiency, architectural industrial and maintenance coatings, consumer products, institution