

U.S. Fish and Wildlife Service controls the hunting of migratory game birds through regulations in 50 CFR part 20. Use of shot types other than those listed in 50 CFR 20.21(j)(1) for hunting waterfowl and coots and any species that make up aggregate bag limits is prohibited.

Since the mid-1970s, the Service has 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. We will continue to review all shot types submitted for approval as nontoxic.

Nice Shot has submitted its application 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 time frame. The Service has determined that the application is complete, and has initiated a comprehensive review of the Tier 1 information. After the review, the Service will either publish a Notice of Review to inform the public that the Tier 1 test results are inconclusive or publish a proposed rule for approval of the candidate shot. If the Tier 1 tests are inconclusive, the Notice of Review will indicate what other tests will be required before we will again consider approval of the Tungsten-Tin-Iron 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.

Dated: May 19, 2005.

**Matt Hogan,**

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

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## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 20

RIN 1018-AU28

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

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

**ACTION:** Advance notice of proposed rulemaking.

**SUMMARY:** The U.S. Fish and Wildlife Service (Service) hereby provides public notice that Nice Shot, Inc. of Albion, Pennsylvania, has applied for approval of 58 percent tungsten, 38 percent tin, and 4 percent iron shot as nontoxic for waterfowl hunting in the United States. The Service has initiated review of the shot under the criteria set out in Tier 1 of the nontoxic shot approval procedures given at 50 CFR 20.134.

**DATES:** A comprehensive review of the Tier 1 information is to be concluded by August 1, 2005.

**ADDRESSES:** The Nice Shot, Inc., application may be reviewed in Room 4091 at the Fish and Wildlife Service, Division of Migratory Bird Management, 4501 North Fairfax Drive, Arlington, Virginia.

**FOR FURTHER INFORMATION CONTACT:** George T. Allen, Wildlife Biologist, Division of Migratory Bird Management, (703) 358-1825.

**SUPPLEMENTARY INFORMATION:** The Migratory Bird Treaty Act of 1918 (Treaty Act) (16 U.S.C. 703-712) 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 Treaty Act. The Treaty Act authorizes the Secretary of the Interior to regulate take of migratory birds in the United States. Under this authority, the