

compliance on them. We have analyzed this proposed rule under that Order and have determined that it does not have implications for federalism.

#### Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 or more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

#### Taking of Private Property

This proposed rule would not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

#### Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

#### Protection of Children

We have analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

#### Indian Tribal Governments

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

#### Energy Effects

We have analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a “significant energy action” under that order because

it is not a “significant regulatory action” under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

#### Environment

We prepared an “Environmental Assessment” in accordance with Commandant Instruction M16475.1D, and determined that this rule will not significantly affect the quality of the human environment. The “Environmental Assessment” and “Finding of No Significant Impact” is available in the docket where indicated under ADDRESSES.

#### List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR Part 100 as follows:

#### PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

1. The authority citation for part 100 continues to read as follows:

**Authority:** 33 U.S.C. 1233; Department of Homeland Security Delegation No. 0170.1.

2. Add § 100.532 to read as follows:

##### § 100.532 Nanticoke River, Sharptown, MD.

(a) *Regulated Area.* The regulated area includes all waters of the Nanticoke River, near Sharptown, Maryland, between Maryland S.R. 313 Highway Bridge and Nanticoke River Light 43 (LLN–24175), bounded by a line drawn between the following points: southeasterly from latitude 38°32′46″ N, longitude 075°43′14″ W, to latitude 38°32′42″ N, longitude 75°43′09″ W, thence northeasterly to latitude 38°33′04″ N, longitude 075°42′39″ W, thence northwesterly to latitude 38°33′09″ N, longitude 75°42′44″ W, thence southwesterly to latitude 38°32′46″ N, longitude 75°43′14″ W. All coordinates reference Datum NAD 1983.

(b) *Definitions.* The following definitions apply to this section:

*Coast Guard Patrol Commander* means a commissioned, warrant, or petty officer of the Coast Guard who has been designated by the Commander, Coast Guard Activities Baltimore.

*Official Patrol* means any vessel assigned or approved by Commander, Coast Guard Activities Baltimore with a commissioned, warrant, or petty officer

on board and displaying a Coast Guard ensign.

#### (c) *Special local regulations:*

(1) Except for persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area.

(2) The operator of any vessel in this area shall:

(i) Stop the vessel immediately when directed to do so by any Official Patrol; and

(ii) Proceed as directed by any Official Patrol.

(d) *Enforcement period.* This section will be enforced annually on the last Saturday and Sunday in June. Notice of the specific event times will be given via marine Safety Radio Broadcast on VHF–FM marine band radio channel 22 (157.1 MHz).

Dated: October 10, 2003.

**Ben R. Thomason, III,**

*Captain, U.S. Coast Guard, Acting Commander, Fifth Coast Guard District.*

[FR Doc. 03–26868 Filed 10–23–03; 8:45 am]

**BILLING CODE 4910–15–P**

#### DEPARTMENT OF THE INTERIOR

#### Fish and Wildlife Service

#### 50 CFR Part 20

#### Migratory Bird Hunting; Application for Approval of Hevi-Steel as a Nontoxic Shot Material for Waterfowl Hunting

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

**ACTION:** Notice of application.

**SUMMARY:** The U.S. Fish and Wildlife Service (Service) is providing public notification that ENVIRON-Metal, Inc. of Sweet Home, Oregon, has applied for approval of HEVI-Steel shot as nontoxic for waterfowl hunting in the United States. The Service has initiated review of Hevi Steel under the criteria set out in Tier 1 of the nontoxic shot approval procedures.

**DATES:** A comprehensive review of the Tier 1 information is to be concluded by December 23, 2003.

**ADDRESSES:** ENVIRON-Metal’s application may be reviewed in Room 4091 at the Fish and Wildlife Service, Division of Migratory Bird Management, 4501 N. Fairfax Drive, Arlington, Virginia, 22203–1610. Comments on this notice may be submitted to the Division of Migratory Bird Management at 4401 North Fairfax Drive, MS MBSP–4107Arlington, VA 22203–1610. Comments will become part of the Administrative Record for the review of

the application. The public may review comments at Room 4091 at the Fish and Wildlife Service, Division of Migratory Bird Management, 4501 North Fairfax Drive, Arlington, Virginia, 22203-1610.

**FOR FURTHER INFORMATION CONTACT:**

Brian Millsap, Chief, Division of Migratory Bird Management, (703) 358-1714, or John J. Kreilich, Jr., Wildlife Biologist, Division of Migratory Bird Management, (703) 358-1928.

**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, the Fish and Wildlife Service controls the hunting of migratory game birds through regulations in 50 CFR part 20.

Since the mid-1970s, the Service has sought to identify types of shot for waterfowling that, when spent, do not pose a significant toxic hazard to migratory birds and other wildlife when ingested. We have approved several types of shot as nontoxic and added them to the migratory bird hunting regulations in 50 CFR 20.21. We believe that compliance with the use of nontoxic shot will continue to increase with the approval and availability of other nontoxic shot types. Therefore, we continue to provide producers of shot with the opportunity to submit for approval alternative types of nontoxic shot.

ENVIRON-Metal, Inc. 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. We have determined that the application is complete, and have initiated a comprehensive review of the Tier 1 information. After the review, we 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 approval of the HEVI-Steel shot as nontoxic is again considered. If the Tier 1 data review results in a preliminary determination that the candidate material does not

pose a significant hazard to migratory birds, other wildlife, or their habitats, the Service will commence with a rulemaking proposing to approve the candidate shot.

Dated: October 10, 2003.

**Matt Hogan,**

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

[FR Doc. 03-26934 Filed 10-23-03; 8:45 am]

**BILLING CODE 4310-55-P**

**DEPARTMENT OF THE INTERIOR**

**Fish and Wildlife Service**

**50 CFR Part 20**

**Migratory Bird Hunting: Application for Approval of Silvex Metal as a Nontoxic Shot Material for Waterfowl Hunting**

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

**ACTION:** Notice of application.

**SUMMARY:** The U.S. Fish and Wildlife Service (Service) is providing public notification that Victor Oltrogge of Arvada, Colorado, has applied for approval of Silvex shot as nontoxic for waterfowl hunting in the United States. The Service has initiated review of Silvex under the criteria set out in Tier 1 of the nontoxic shot approval procedures.

**DATES:** A comprehensive review of the Tier 1 information is to be concluded by December 23, 2003.

**ADDRESSES:** Mr. Oltrogge's application may be reviewed in Room 4091 at the Fish and Wildlife Service, Division of Migratory Bird Management, 4501 N. Fairfax Drive, Arlington, Virginia, 22203-1610. Comments on this notice may be submitted to the Division of Migratory Bird Management at 4401 North Fairfax Drive, MS MBSP-4107, Arlington, VA 22203-1610. Comments will become part of the Administrative Record for the review of the application. The public may review comments at Room 4091 at the Fish and Wildlife Service, Division of Migratory Bird Management, 4501 North Fairfax Drive, Arlington, Virginia, 22203-1610.

**FOR FURTHER INFORMATION CONTACT:** Brian Millsap, Chief, Division of Migratory Bird Management, (703) 358-1714, or John J. Kreilich, Jr., Wildlife Biologist, Division of Migratory Bird Management, (703) 358-1928.

**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, the Fish and Wildlife Service controls the hunting of migratory game birds through regulations in 50 CFR part 20.

Since the mid-1970s, the Service has sought to identify types of shot for waterfowling that, when spent, do not pose a significant toxic hazard to migratory birds and other wildlife when ingested. We have approved several types of shot as nontoxic and added them to the migratory bird hunting regulations in 50 CFR 20.21. We believe that compliance with the use of nontoxic shot will continue to increase with the approval and availability of other nontoxic shot types. Therefore, we continue to provide producers of shot with the opportunity to submit for approval alternative types of nontoxic shot.

Mr. Oltrogge submitted his application with the counsel that it contained all of the specified information for a complete Tier 1 submittal and requested unconditional approval pursuant to the Tier 1 time frame. We have determined that the application is complete, and have 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 approval of the Silvex shot as nontoxic is again considered. If the Tier 1 data review results in a preliminary determination that the candidate material does not pose a significant hazard to migratory birds, other wildlife, or their habitats, the Service will commence with a rulemaking proposing to approve the candidate shot.

Dated: October 10, 2003.

**Matt Hogan,**

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

[FR Doc. 03-26935 Filed 10-23-03; 8:45 am]

**BILLING CODE 4310-55-P**