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[FR Doc. 04-5625 Filed 3-12-04; 8:45 am]

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#### ENVIRONMENTAL PROTECTION AGENCY

##### 40 CFR Part 52

[VA 133-5066b; FRL-7636-1]

#### Approval and Promulgation of Air Quality Implementation Plans; Virginia; Revisions to Regulations for General Compliance Activities and Source Surveillance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

**SUMMARY:** EPA is proposing to approve the State Implementation Plan (SIP) revisions submitted by the State of Virginia for the purpose of updating certain requirements related to applicability, compliance, testing and monitoring to be consistent with Federal requirements. In the Final Rules section of this **Federal Register**, EPA is approving the State's SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time.

**DATES:** Comments must be received in writing by April 14, 2004.

**ADDRESSES:** Comments may be submitted either by mail or electronically. Written comments should be mailed to Makeba Morris, Chief, Air Quality Planning Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Electronic comments should be sent either to [morris.makeba@epa.gov](mailto:morris.makeba@epa.gov) or to <http://www.regulations.gov>, which is an alternative method for submitting electronic comments to EPA. To submit comments, please follow the detailed instructions described in the Supplementary Information section. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; and the Virginia Department of Environmental Quality, 629 East Main Street, Richmond, Virginia, 23219.

**FOR FURTHER INFORMATION CONTACT:** Kathleen Anderson, (215) 814-2173, or by e-mail at [anderson.kathleen@epa.gov](mailto:anderson.kathleen@epa.gov).

**SUPPLEMENTARY INFORMATION:** For further information, please see the information provided in the direct final action, with the same title, that is located in the "Rules and Regulations" section of this **Federal Register** publication.

You may submit comments either electronically or by mail. To ensure proper receipt by EPA, identify the appropriate rulemaking identification number VA133-5066 in the subject line on the first page of your comment. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked "late." EPA is not required to consider these late comments.

1. *Electronically.* If you submit an electronic comment as prescribed below, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment. Also include this contact information on the outside of any disk or CD ROM you submit, and in any cover letter accompanying the disk or CD ROM. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. EPA's policy is that EPA

will not edit your comment, and any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

i. *E-mail.* Comments may be sent by electronic mail (e-mail) to [morris.makeba@epa.gov](mailto:morris.makeba@epa.gov), attention VA133-5066. EPA's e-mail system is not an "anonymous access" system. If you send an e-mail comment directly without going through [Regulations.gov](http://www.regulations.gov), EPA's e-mail system automatically captures your e-mail address. E-mail addresses that are automatically captured by EPA's e-mail system are included as part of the comment that is placed in the official public docket.

ii. *Regulations.gov.* Your use of [Regulation.gov](http://www.regulations.gov) is an alternative method of submitting electronic comments to EPA. Go directly to <http://www.regulations.gov>, then select "Environmental Protection Agency" at the top of the page and use the "go" button. The list of current EPA actions available for comment will be listed. Please follow the online instructions for submitting comments. The system is an "anonymous access" system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment.

iii. *Disk or CD ROM.* You may submit comments on a disk or CD ROM that you mail to the mailing address identified in the **ADDRESSES** section of this document. These electronic submissions will be accepted in WordPerfect, Word or ASCII file format. Avoid the use of special characters and any form of encryption.

2. *By Mail.* Written comments should be addressed to the EPA Regional office listed in the **ADDRESSES** section of this document.

For public commenters, it is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing at the EPA Regional Office, as EPA receives them and without change, unless the comment contains copyrighted material, confidential business information (CBI), or other information whose disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in the official public rulemaking file. The entire printed comment, including the

copyrighted material, will be available at the Regional Office for public inspection.

### Submittal of CBI Comments

Do not submit information that you consider to be CBI electronically to EPA. You may claim information that you submit to EPA as CBI by marking any part or all of that information as CBI (if you submit CBI on disk or CD ROM, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2.

In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the official public regional rulemaking file. If you submit the copy that does not contain CBI on disk or CD ROM, mark the outside of the disk or CD ROM clearly that it does not contain CBI. Information not marked as CBI will be included in the public file and available for public inspection without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

### Considerations When Preparing Comments to EPA

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at your estimate.
5. Provide specific examples to illustrate your concerns.
6. Offer alternatives.
7. Make sure to submit your comments by the comment period deadline identified.
8. To ensure proper receipt by EPA, identify the appropriate regional file/rulemaking identification number in the subject line on the first page of your response. It would also be helpful if you provided the name, date, and **Federal Register** citation related to your comments.

Dated: March 2, 2004.

Donald S. Welsh,

Regional Administrator, Region III.

[FR Doc. 04-5638 Filed 3-12-04; 8:45 am]

BILLING CODE 6560-50-P

**DEPARTMENT OF THE INTERIOR**

**Fish and Wildlife Service**

**50 CFR Part 20**

**RIN 1018-AT32**

**Migratory Bird Hunting; Approval of Three Shot Types—Tungsten-Bronze-Iron, Tungsten-Iron, and Tungsten-Tin-Bismuth—as Nontoxic for Hunting Waterfowl and Coots**

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

**ACTION:** Proposed rule.

**SUMMARY:** We (Fish and Wildlife Service) propose to approve three shot types, Tungsten-Bronze-Iron [formulated of tungsten, bronze (copper and tin), and iron], Tungsten-Iron (formulated of tungsten and iron), and Tungsten-Tin-Bismuth (formulated of tungsten, tin, and bismuth), as nontoxic for hunting waterfowl and coots. We assessed possible effects of all three shot types, and have determined that none of the types presents any significant toxicity threat to wildlife or their habitats; therefore, further testing is not necessary for any of the types. In addition, approval of these shot types may encourage greater numbers of waterfowl hunters to refrain from the illegal use of lead shot, thereby reducing lead risks to species and habitats.

**DATES:** We must receive comments on the proposed rule no later than April 14, 2004.

**ADDRESSES:** You may submit comments, identified by RIN 1018-AT32, by any of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.
- E-mail: [migratorybirds@fws.gov](mailto:migratorybirds@fws.gov).
- Fax: 703-358-2272.
- Mail: Chief, Division of Migratory Bird Management, U.S. Fish and

Wildlife Service, 4401 North Fairfax Drive, Mail Stop MBSP-4107, Arlington, Virginia 22203-1610. You may inspect comments during normal business hours at the same address.

- Hand Delivery/Courier: Division of Migratory Bird Management, U.S. Fish and Wildlife Service, 4501 North Fairfax Drive, Room 4091, Arlington, Virginia 22203-1610.

**Instructions:** All submissions received must include Regulatory Information Number (RIN) 1018-AT32 at the beginning. All comments received, including any personal information provided, will be available for public inspection at the above (“Hand Delivery/Courier”) address. For detailed instructions on submitting comments and additional information on the rulemaking process, see the “Public Participation” heading in the **SUPPLEMENTARY INFORMATION** section of this document.

**FOR FURTHER INFORMATION CONTACT:** Brian Millsap, Chief, Division of Migratory Bird Management, telephone (703) 358-1714; Dr. George T. Allen, Wildlife Biologist, Division of Migratory Bird Management, telephone (703) 358-1825; or John J. Kreilich, Jr., Wildlife Biologist, Division of Migratory Bird Management, (703) 358-1928.

**SUPPLEMENTARY INFORMATION:**

**Background**

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.

Deposition of shot and release of shot components in waterfowl hunting locations are potentially harmful to many organisms. Research has shown

that the effects of ingestion of 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 first addressed the issue of lead poisoning in waterfowl in a 1976 Environmental Impact Statement (EIS), and later readdressed the issue 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, and set a ban on lead for waterfowl and coot hunting beginning in 1991. Since then, we have sought to consider other potential nontoxic shot candidates; we believe that other nontoxic shot types should be made available for public use in hunting. Steel, bismuth-tin, tungsten-iron, tungsten-polymer, tungsten-matrix, tungsten-nickel-iron, and tungsten-tin-iron-nickel types are now approved as nontoxic. [Our previously approved tungsten-iron shot, an alloy of approximately 40 percent tungsten and 60 percent iron, announced with a final rule in the **Federal Register** on August 19, 1999 (64 FR 45399), differs in composition from the newly proposed tungsten-iron shot, which is an alloy of approximately 22 percent tungsten and 78 percent iron.] Compliance with the use of nontoxic shot for waterfowl hunting has increased over the last few years (Anderson *et al.* 2000). We believe that it will continue to increase as other nontoxic shot types are approved and available in growing numbers.

The purpose of this proposed rule is to approve the use of Tungsten-Bronze-Iron (TBI) shot, Tungsten-Iron (TI) shot, and Tungsten-Tin-Bismuth (TTB) shot for waterfowl and coot hunting.

**Applications for Approval as Nontoxic Shot Types**

The following applicants have applied to us for approval of the following shot types and compositions, and we have announced these applications in the **Federal Register**:

Applicant	Shot type (abbreviation in this document)	Shot formulation by weight	Density	Federal Register citation
International Nontoxic Composites Corporation.	tungsten-bronze-iron (TBI)	51.1% tungsten, 44.4% copper, 3.9% tin, 0.6% iron.	12.1 grams (g)/centimeter (cm) <sup>3</sup> .	68 FR 65023, November 18, 2003
ENVIRON-Metal, Inc. ....	tungsten-iron (TI) (under product name HEVI-Steel™).	22% tungsten, 78% iron ...	9 g/cm <sup>3</sup> .....	68 FR 60897, October 24, 2003