

the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. <http://www.Regulations.gov>.

**Instructions:** You must include the agency name and docket number [RSPA-02-11654 (HM-228)] or the Regulatory Identification Number (RIN 2137-AD18) for this notice at the beginning of your comment. You should identify the docket number RSPA-02-11654 (HM-228) at the beginning of your comments. You should submit two copies of your comments, if you submit them by mail. If you wish to receive confirmation that RSPA received your comments, you should include a self-addressed stamped postcard. Internet users may submit comments at <http://www.Regulations.gov> and may access all comments received by DOT at <http://dms.dot.gov>. Note that all comments received will be posted without change to <http://dms.dot.gov> including any personal information provided. Please see the Privacy Act section of this rule.

**Docket:** You may view the public docket through the Internet at <http://dms.dot.gov> or in person at the Docket management System office at the above address.

**FOR FURTHER INFORMATION CONTACT:** Deborah Boothe, Office of Hazardous Materials Standards, (202) 366-8553, Research and Special Programs Administration, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

On November 10, 2004, the Research and Special Programs Administration (RSPA) published a notice of proposed rulemaking (NPRM) (69 FR 65294) under Docket RSPA-02-11654 (HM-228) to propose changes to the requirements in the Hazardous Materials Regulations (HMR) for the transportation of hazardous material by aircraft. The HMR (49 CFR parts 171-180) govern the transportation of hazardous materials in commerce by all modes of transportation, including aircraft (49 CFR 171.1(a)(1)). Parts 172 and 173 of the HMR include requirements for classification and packaging of hazardous materials, hazard communication, and training of employees who perform functions subject to the requirements in the HMR.

Part 175 contains additional requirements applicable to aircraft operators transporting hazardous materials aboard an aircraft, and authorizes passengers and crew members to carry hazardous materials

on board an aircraft under certain conditions.

RSPA and the Federal Aviation Administration (FAA) are proposing changes to part 175 and other sections of the HMR applicable to transportation of hazardous materials by aircraft. These changes are being proposed in order to clarify requirements to promote safer transportation practices; promote compliance and enforcement; eliminate unnecessary regulatory requirements; convert certain exemptions into regulations of general applicability; finalize outstanding petitions for rulemaking; facilitate international commerce; and make these requirements easier to understand.

On November 19, 2004, the Air Transport Association (ATA) requested an extension of the comment period by an additional 90 days until April 29, 2005. ATA indicated the part 175 provisions are of particular significance to ATA carriers and the carriers will wish to submit detailed comments. ATA stated that the current comment period spans the Thanksgiving, Christmas and New Year holiday period, which is also the operational rush period for both passenger and cargo airlines. ATA also indicated that responsible persons at several key carriers have pre-existing commitments for early 2005 and that ATA will not be able to hold the relevant carrier discussions and prepare comments by January 31, 2005. We are willing to extend the comment period to provide ATA and others additional time to provide comments. However, we believe that an extension of 45 days should be sufficient to accommodate commenters' need for additional time.

Therefore, we are denying the request for extension of the comment period until April 29, 2005. Accordingly, the closing date of the comment period is extended to until March 18, 2005.

Issued in Washington, DC, on January 13, 2005 under the authority delegated in 49 CFR Part 106.

**Robert A McGuire,**

*Associate Administrator for Hazardous Materials Safety.*

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**DEPARTMENT OF THE INTERIOR**

**Fish and Wildlife Service**

**50 CFR Part 20**

**RIN 1018-AU04**

**Migratory Bird Hunting; Application for Approval of Tungsten-Iron-Copper-Nickel 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 Spherical Precision, Inc. of Tustin, California, has applied for approval of 40 to 76 percent tungsten, 10 to 37 percent iron, 9 to 16 percent copper, and 5 to 7 percent nickel 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 March 22, 2005.

**ADDRESSES:** The Spherical Precision, 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. 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 the record at the Division of Migratory Bird Management, Room 4091, 4501 North Fairfax Drive, Arlington, Virginia.

**FOR FURTHER INFORMATION CONTACT:** Brian Millsap, Chief, Division of Migratory Bird Management, (703) 358-1714, or George T. Allen, Wildlife Biologist, Division of Migratory Bird Management, (703) 358-1825.

**SUPPLEMENTARY INFORMATION:** The Migratory Bird Treaty Act of 1918 (Act) (16 U.S.C. 703-712 and 16 U.S.C. 742a-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 waterfowl hunting that are not toxic to migratory birds or 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. 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. We will continue to review all shot types submitted for approval as nontoxic.

Spherical Precision 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-Iron-Copper-Nickel 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: January 3, 2005.

**Steve Williams,**

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

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