

(n) Approval—An attainment demonstration for the 1997 8-hour ozone standard to satisfy requirements of section 182(c)(2)(A) of the Clean Air Act, and a Reasonably Available Control Measure (RACM) analysis to satisfy requirements of section 172(c)(1) of the Clean Air Act for the Greater Connecticut ozone nonattainment area, submitted by the Connecticut Department of Energy and Environmental Protection on February 1, 2008.

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## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

#### 49 CFR Part 219

[Docket No. FRA-2001-11213, Notice No. 17]

#### Alcohol and Drug Testing: Determination of Minimum Random Testing Rates for 2014

**AGENCY:** Federal Railroad Administration (FRA), DOT.

**ACTION:** Notice of determination.

**SUMMARY:** According to data from FRA's Management Information System, the rail industry's random drug testing positive rate has remained below 1.0 percent for the last two years. FRA's Administrator has therefore determined that the minimum annual random drug testing rate for the period January 1, 2014, through December 31, 2014, will remain at 25 percent of covered railroad employees. In addition, because the industry-wide random alcohol testing violation rate has remained below 0.5 percent for the last two years, the Administrator has determined that the minimum random alcohol testing rate will remain at 10 percent of covered railroad employees for the period January 1, 2014, through December 31, 2014. Railroads remain free, as always, to conduct random testing at higher rates.

**DATES:** This notice of determination is effective December 26, 2013.

**FOR FURTHER INFORMATION CONTACT:** Jerry Powers, FRA Drug and Alcohol Program Manager, W38-105, Federal Railroad Administration, 1200 New Jersey Avenue SE., Washington, DC 20590, (telephone 202-493-6313); or Sam Noe, FRA Drug and Alcohol Program Specialist, (telephone 615-719-2951).

Issued in Washington, DC on December 20, 2013.

**Karen J. Hedlund,**

*Deputy Administrator.*

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## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 20

[Docket No. FWS-R9-MB-2011-0077; FF09M21200-134-FXMB1231099BPP0]

RIN 1018-AY59

#### Migratory Bird Hunting; Revision of Language for Approval of Nontoxic Shot for Use in Waterfowl Hunting

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

**ACTION:** Final rule.

**SUMMARY:** We, the U.S. Fish and Wildlife Service, revise our regulations regarding the approval of nontoxic shot types to make the regulations easier to understand. The language governing determination of Estimated Environmental Concentrations (EECs) in terrestrial and aquatic ecosystems is altered to make clear the shot size and number of shot to be used in calculating the EECs. We specify the pH level to be used in calculating the EEC in water. We also move the requirement for in vitro testing to Tier 1, which will allow us to better assess applications and minimize the need for Tier 2 applications. We add language for withdrawal of shot types that have been demonstrated to have detrimental environmental or biological effects, or for which no suitable field-testing device is available. We expect these changes to reduce the time required for nontoxic shot approvals. Finally, we add fees to cover our costs in evaluating these applications.

**DATES:** This rule is effective on January 27, 2014.

**FOR FURTHER INFORMATION CONTACT:** Dr. George Allen, 703-358-1825.

#### 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 U.S. Fish and Wildlife Service (FWS or USFWS) regulates the hunting of migratory game birds through regulations in 50 CFR part 20.

Since the mid-1970s, we have sought to identify shot types that are not significant toxicity hazards to migratory birds or other wildlife. Producers of potential nontoxic shot types submit them for FWS approval under 50 CFR 20.134 as nontoxic for waterfowl hunting.

We revise the regulations to clarify them for applicants and to provide for withdrawal of approval of a shot type that is not readily detectable in the field or has environmental effects or direct toxicological effects on biota.

#### Comments on the Proposed Rule

We published a proposed rule on this regulations revision on March 4, 2013 (78 FR 14060). We received eight comments or sets of comments on the proposed rule. We respond to the significant comments below and explain subsequent changes we are making to the proposed regulations.

*Comment.* We agree . . . that there is no need to publish a "Notice of Application" in the **Federal Register**.

*Comment.* ". . . I speak principally for the handloading hunter when I explain how simple it should be to identify his shotshells as non-lead in nature. The shot he might be using will be of two types usually; either steel or tungsten/alloy balls. Steel is easy to detect by simple magnet identification. Tungsten alloys usually deflect at least slightly when they are exposed to a rare earth magnet. A simple exam of the pellets involves using a needle nose pliers to open up the shell and squeeze the shot, and makes obvious to the agent how much softer the lead ball is compared to a tungsten/alloy ball. The shell is able to be reclosed usually on the spot and no big harm or incon[en]ience has been done to either hunter or agents.

Now, it is important to understand that these Tungsten alloys are not purposely made to be non magnetic. When we make them, if we use high enough concentrations of iron to make them more magnetic in nature, they spuriously loose [sic] density and become harder, both of which is unacceptable to the user . . . So why do we want to create entrepreneurial as well as manufacturing hurdles when it is usually accepted hunters are doing the right thing and using non-toxic shells. Simple common sense should