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### NEPA Consideration

In compliance with the requirements of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(C)), and the Council on Environmental Quality's regulation for implementing NEPA (40 CFR 1500–1508), we have prepared an Environmental Assessment (EA) for approval of TINT shot. The EA is available to the public at the location indicated in the **ADDRESSES** section.

### Endangered Species Act Considerations

Section 7 of the Endangered Species Act (ESA) of 1972, as amended (16 U.S.C. 1531 *et seq.*), provides that Federal agencies shall insure that any action authorized, funded or carried out \* \* \* is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of (critical) habitat \* \* \*. We have completed a Section 7 consultation under the ESA for this rule. The result of our consultation under Section 7 of the ESA is available to the public at the location indicated in the **ADDRESSES** section.

### Executive Order 12866

This rule is not a significant regulatory action subject to OMB review under Executive Order 12866. OMB makes the final determination under E.O. 12866.

a. This rule will not have an annual economic effect of \$100 million or adversely affect an economic sector, productivity, jobs, the environment, or other units of government. A cost-benefit and economic analysis is not required.

b. This rule will not create inconsistencies with other agencies' actions because the Service is the sole agency responsible for regulating activities under the Migratory Bird Treaty Act.

c. This rule will not materially affect entitlements, grants, user fees, loan programs, or the rights and obligations of their recipients because it has no mechanism to affect entitlements, grants, user fees, loan programs or the rights and obligations of their recipients.

d. This rule will not raise novel legal or policy issues because the Service has already approved six other nontoxic shot types.

### Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) requires the preparation of flexibility analyses for rules that will have a significant economic impact on a substantial number of small entities, which

includes small businesses, organizations, or governmental jurisdictions. This rule approves an additional type of nontoxic shot that may be sold and used to hunt migratory birds; this rule provides one shot type in addition to the existing six that are approved. We have determined, however, that this rule will have no effect on small entities since the approved shot merely will supplement nontoxic shot already in commerce and available throughout the retail and wholesale distribution systems. We anticipate no dislocation or other local effects, with regard to hunters and others.

### Small Business Regulatory Enforcement Fairness Act

Similarly, this rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act.

a. This rule does not have an annual effect on the economy of \$100 million or more.

b. This rule will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. This rule does not deal with traded commodities and, therefore, does not have an impact on prices for consumers.

c. This rule does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

### Paperwork Reduction Act

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. We have examined this regulation under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) and found it to contain no information collection requirements.

### Unfunded Mandates Reform Act

We have determined and certify pursuant to the Unfunded Mandates Reform Act, 2 U.S.C. 1502, *et seq.*, that this rule-making will not impose a cost of \$100 million or more in any given year on local or State government or private entities. This rule does not impose an unfunded mandate of more than \$100 million per year or have a significant or unique effect on State, local, or tribal governments or the private sector because it is the Service's responsibility to regulate the take of migratory birds in the United States.