

(2) negotiable securities of the United States having market value at the time of deposit of not less than the required dollar amount of the bond;

(3) a surety bond provided by a third party that is certified by the Department of the Treasury and listed in Treasury Circular 570 as financial assurance for the obligations for specific operations, or providing blanket assurance for multiple defined operations conducted by the operator such as within a particular State or nation-wide, and/or;

(4) an irrevocable letter of credit provided by an institution acceptable to the authorized officer.

(b) In determining the amount of the required financial assurance, the authorized officer shall give consideration to the reclamation cost estimate which shall be submitted by the operator prior to the approval of the final plan of operations, and the estimated cost of stabilizing, rehabilitating, and reclaiming the area of operations.

(c) In the event that an approved plan of operations is modified in accordance with § 228.4 (d) and (e), the authorized officer will review the financial assurance for adequacy and, if necessary, will adjust the financial assurance amount to conform to the operations plan as modified.

(d) When reclamation has been completed in accordance with § 228.8(g), the authorized officer will notify the operator that obligations covered by the financial assurance have been met: *Provided, however*, that when the Forest Service has accepted any portion of the reclamation as completed, the authorized officer shall notify the operator of such acceptance and proportionally reduce the required financial assurance amount thereafter to be required for the remaining obligations of the operator.

(e) When an operator is required to continue to operate or maintain certain aspects of the operation after the mine has closed, the authorized officer may require the operator to establish a trust fund to ensure that adequate funds are available for long-term post-closure reclamation activities required by the regulations or the approved plan of operations following mine closure. The authorized officer shall determine which activities may be secured through a trust fund, and which activities may be secured through another form of financial assurance. Establishing a trust fund does not relieve the operator of the responsibility to provide long-term management, maintenance, and reclamation of the site. A trust fund for long-term post closure obligations shall be comprised of financial instruments

limited to negotiable securities of the United States Government; State and Municipal securities or bonds; money market funds; certificates of deposits; investment-grade securities; and stock equity shares listed on a national exchange.

**Andrea Delgado Fink,**  
*Chief of Staff, Natural Resources and Environment.*

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## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 32

[Docket No. FWS–HQ–NWRS–2023–0038;  
FXRS12610900000–234–FF09R20000]

RIN 1018–BG71

#### National Wildlife Refuge System; 2023–2024 Station-Specific Hunting and Sport Fishing Regulations

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

**ACTION:** Final rule.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), expand hunting opportunities on three National Wildlife Refuges (NWRs). We also make changes to existing station-specific regulations in order to reduce the regulatory burden on the public, increase access for hunters and anglers on Service lands and waters, and comply with a Presidential mandate for plain language standards. Finally, the best available science, analyzed as part of this rulemaking, indicates that lead ammunition and tackle have negative impacts on both wildlife and human health. In this rule, Blackwater, Chincoteague, Eastern Neck, Erie, Great Thicket, Patuxent Research Refuge, Rachel Carson, and Wallops Island NWRs each adopt a non-lead requirement, which will take effect on September 1, 2026. While the Service continues to evaluate the future of lead use in hunting and fishing on Service lands and waters, this rulemaking does not include any opportunities increasing or authorizing the new use of lead beyond fall 2026.

**DATES:** This rule is effective October 27, 2023, except for the amendments to 50 CFR 32.38 (amendatory instruction 5), 32.39 (amendatory instruction 6), 32.57 (amendatory instruction 11), and 32.65 (amendatory instruction 15), which are effective September 1, 2026.

**FOR FURTHER INFORMATION CONTACT:** Kate Harrigan, (703) 358–2440. Individuals in

the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

#### SUPPLEMENTARY INFORMATION:

##### Background

The National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd–668ee), as amended (Administration Act), closes NWRs in all States except Alaska to all uses until opened. The Secretary of the Interior (Secretary) may open refuge areas to any use, including hunting and/or sport fishing, upon a determination that the use is compatible with the purposes of the refuge and National Wildlife Refuge System (Refuge System) mission. The action also must be in accordance with provisions of all laws applicable to the areas, developed in coordination with the appropriate State fish and wildlife agency(ies), consistent with the principles of sound fish and wildlife management and administration, and otherwise in the public interest. These requirements ensure that we maintain the biological integrity, diversity, and environmental health of the Refuge System for the benefit of present and future generations of Americans.

We annually review hunting and sport fishing programs to determine whether to include additional stations or whether individual station regulations governing existing programs need modifications. Changing environmental conditions, State and Federal regulations, and other factors affecting fish and wildlife populations and habitat may warrant modifications to station-specific regulations to ensure the continued compatibility of hunting and sport fishing programs and to ensure that these programs will not materially interfere with or detract from the fulfillment of station purposes or the Service's mission.

Provisions governing hunting and sport fishing on refuges are in title 50 of the Code of Federal Regulations at part 32 (50 CFR part 32), and on hatcheries at part 71 (50 CFR part 71). We regulate hunting and sport fishing to:

- Ensure compatibility with refuge and hatchery purpose(s);
- Properly manage fish and wildlife resource(s);
- Protect other values;
- Ensure visitor safety; and
- Provide opportunities for fish- and wildlife-dependent recreation.

On many stations where we decide to allow hunting and sport fishing, our general policy of adopting regulations identical to State hunting and sport fishing regulations is adequate to meet these objectives. On other stations, we must supplement State regulations with more-restrictive Federal regulations to ensure that we meet our management responsibilities, as outlined under Statutory Authority, below. We issue station-specific hunting and sport fishing regulations when we open wildlife refuges and fish hatcheries to migratory game bird hunting, upland game hunting, big game hunting, or sport fishing. These regulations may list the wildlife species that you may hunt or fish; seasons; bag or creel (container for carrying fish) limits; methods of hunting or sport fishing; descriptions of areas open to hunting or sport fishing; and other provisions as appropriate.

### Statutory Authority

The Administration Act, as amended by the National Wildlife Refuge System Improvement Act of 1997 (Improvement Act; Pub. L. 105–57), governs the administration and public use of refuges, and the Refuge Recreation Act of 1962 (Recreation Act; 16 U.S.C. 460k–460k–4) governs the administration and public use of refuges and hatcheries.

Amendments enacted by the Improvement Act were built upon the Administration Act in a manner that provides an “organic act” for the Refuge System, similar to organic acts that exist for other public Federal lands. The Improvement Act serves to ensure that we effectively manage the Refuge System as a national network of lands, waters, and interests for the protection and conservation of our Nation’s wildlife resources. The Administration Act states first and foremost that we focus our Refuge System mission on conservation of fish, wildlife, and plant resources and their habitats. The Improvement Act requires the Secretary, before allowing a new use of a refuge, or before expanding, renewing, or extending an existing use of a refuge, to determine that the use is compatible with the purpose for which the refuge was established and the mission of the Refuge System. The Improvement Act established as the policy of the United States that wildlife-dependent recreation, when compatible, is a legitimate and appropriate public use of the Refuge System, through which the American public can develop an appreciation for fish and wildlife. The Improvement Act established six wildlife-dependent recreational uses as the priority general public uses of the Refuge System. These uses are hunting,

fishing, wildlife observation and photography, and environmental education and interpretation.

The Recreation Act authorizes the Secretary to administer areas within the Refuge System and Hatchery System for public recreation as an appropriate incidental or secondary use only to the extent that doing so is practicable and not inconsistent with the primary purpose(s) for which Congress and the Service established the areas. The Recreation Act requires that any recreational use of refuge or hatchery lands be compatible with the primary purpose(s) for which we established the refuge and not inconsistent with other previously authorized operations.

The Administration Act and Recreation Act also authorize the Secretary to issue regulations to carry out the purposes of the Acts and regulate uses.

We develop specific management plans for each refuge prior to opening it to hunting or sport fishing. In many cases, we develop station-specific regulations to ensure the compatibility of the programs with the purpose(s) for which we established the refuge or hatchery and the Refuge and Hatchery System mission. We ensure initial compliance with the Administration Act and the Recreation Act for hunting and sport fishing on newly acquired land through an interim determination of compatibility made at or near the time of acquisition. These regulations ensure that we make the determinations required by these acts prior to adding refuges to the lists of areas open to hunting and sport fishing in 50 CFR parts 32 and 71. We ensure continued compliance by the development of comprehensive conservation plans and step-down management plans, and by annual review of hunting and sport fishing programs and regulations.

### Summary of Comments and Responses

On June 23, 2023, we published in the **Federal Register** (88 FR 41058) a proposed rule to expand hunting and fishing opportunities at three refuges for the 2023–2024 season. We accepted public comments on the proposed rule for 60 days, ending August 22, 2023. By that date, we received more than 18,500 comments on the proposed rule. More than 95 percent of these comments were identical or nonsubstantive comments that were outside the scope of the proposed rule. We received 326 unique comments, and 228 of those comments were substantive. We discuss the substantive comments we received below by topic. Beyond our responses below, additional station-specific information on how we responded to

comments on particular hunting or fishing opportunities at a given refuge or hatchery can be found in that station’s final hunting and/or fishing package, each of which can be located in Docket No. FWS–HQ–NWRS–2023–0038 on <https://www.regulations.gov>.

*Comment (1):* We received several comments expressing general support for the proposed hunting expansions in the rule. These comments of general support either expressed appreciation for the increased hunting access in the proposed rule overall, expressed appreciation for increased access at particular refuges, or both. In addition to this general support, some commenters requested additional hunting and fishing opportunities. On the topic of additional opportunities, a few commenters also noted that the proposed rule had relatively fewer openings and expansions than other rules in recent years.

*Our Response:* Hunting and fishing on Service lands is a tradition that dates back to the early 1900s. In passing the Improvement Act, Congress reaffirmed that the Refuge System was created to conserve fish, wildlife, plants, and their habitats, and would facilitate opportunities for Americans to participate in compatible wildlife-dependent recreation, including hunting and fishing on Refuge System lands. We prioritize wildlife-dependent recreation, including hunting and fishing, when doing so is compatible with the purpose of the refuge and the mission of the Refuge System.

We will continue to open and expand hunting and sport fishing opportunities across the Refuge System; however, as detailed further in our response to *Comment (2)*, below, opening or expanding hunting or fishing opportunities on Service lands is not a quick or simple process. The annual regulatory cycle begins in June or July of each year for the following hunting and sport fishing season (the planning cycle for this 2023–2024 final rule began in June 2022). This annual timeline allows us time to collaborate closely with our State, Tribal, and Territorial partners, as well as other partners including nongovernmental organizations, on potential opportunities. It also provides us with time to complete environmental analyses and other requirements for opening or expanding new opportunities. Therefore, it would be impracticable for the Service to complete multiple regulatory cycles in one calendar year due to the logistics of coordinating with various partners. Once we determine that a hunting or sport fishing opportunity can be carried

out in a manner compatible with individual station purposes and objectives, we work expeditiously to open it.

This also applies to commenter requests for changes in the season dates, days of the week, hours open, methods of take, or other logistical requirements that would align our hunting and fishing regulations more closely with State hunting and fishing regulations, such as requests to allow Sunday hunting where State governments have removed previous prohibitions. The Service is committed to aligning with State regulations as closely as possible, while keeping in mind our conservation mission and unique ecosystem preservation and biodiversity responsibility among public lands, and has revised hundreds of regulations in recent rulemakings in the interest of alignment with State regulations. Nevertheless, we must complete our own evaluation and decision-making processes prior to changing any standing policies and regulations where they differ from newly adopted State regulations. We have completed such evaluations in Virginia for Wallops Island National Wildlife Refuge, where Sunday hunting is now open, and for Chincoteague National Wildlife Refuge, where Sunday hunting is incompatible with other refuge uses. Additional refuges will be evaluated over time.

This rule does contain relatively fewer opportunities than other recent annual rulemakings, but within the wider context of the full history of these annual rulemakings, it is near the median size. The size of our rulemakings always varies from year to year, and there are a few different contributing reasons for the size of this year's rule relative to larger rules such as the 2021–2022 final rule (86 FR 48822; August 31, 2021). First, we successfully streamlined our regulations and aligned with State regulations where possible at many stations in recent years, which means that during this streamlining effort there were many more stations proposing changes than there otherwise would have been in these annual rules. Some of these streamlining and alignment efforts even produced increased access and expanded opportunities, as season dates were extended or methods of take were added for certain NWRs. Second, due to the success of our efforts in recent years to create new hunting and fishing opportunities, there were fewer opening and expansions proposed this year. Many of these opportunities were identified and evaluated over the course of multiple years. This limits the size of our rules in subsequent years because

we need time to identify and evaluate more potential openings and expansions. Third, there is ultimately a finite number of compatible hunting and fishing opportunities possible on the Refuge System at a given time; as we approach that limit, the opportunities contained in our annual rulemakings will necessarily decrease. Once we have maximized access throughout the Refuge System, we will only be able to increase access when we acquire new acres.

We did not make any changes to the rule as a result of these comments.

*Comment (2):* Several commenters expressed general opposition to any hunting or fishing in the Refuge System. Some of these commenters stated that hunting was antithetical to the purposes of a “refuge,” which, in their opinion, should serve as an inviolate sanctuary for all wildlife. The remaining commenters generically opposed expanded hunting or fishing opportunities at specific stations.

*Our Response:* The Service prioritizes facilitating wildlife-dependent recreational opportunities, including hunting and fishing, on Service land in compliance with applicable Service law and policy. For refuges, the Administration Act, as amended, stipulates that hunting (along with fishing, wildlife observation and photography, and environmental education and interpretation), if found to be compatible, is a legitimate and priority general public use of a refuge and should be facilitated (16 U.S.C. 668dd(a)(3)(D)). Thus, we only allow hunting of resident wildlife on Refuge System lands if such activity has been determined compatible with the established purpose(s) of the refuge and the mission of the Refuge System as required by the Administration Act. For the three stations expanding hunting in this rule, we determined that the proposed actions were compatible.

Each station manager makes a decision regarding hunting and fishing opportunities only after rigorous examination of the available information, consultation and coordination with States and Tribes, and compliance with the National Environmental Policy Act (NEPA; 42 U.S.C. 4321 *et seq.*) and section 7 of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), as well as other applicable laws and regulations. The many steps taken before a station opens or expands a hunting or fishing opportunity on the refuge ensure that the Service does not allow any opportunity that would compromise the purpose of the station or the mission of the Refuge System.

Hunting of resident wildlife on Service lands generally occurs consistent with State regulations, including seasons and bag limits. Station-specific hunting regulations can be more restrictive (but not more liberal) than State regulations and often are more restrictive in order to help meet specific refuge objectives. These objectives include resident wildlife population and habitat objectives, minimizing disturbance impacts to wildlife, maintaining high-quality opportunities for hunting and other wildlife-dependent recreation, minimizing conflicts with other public uses and/or refuge management activities, and protecting public safety.

The word “refuge” includes the idea of providing a haven of safety as one of its definitions, and as such, hunting might seem an inconsistent use of the Refuge System. However, again, the Administration Act stipulates that hunting, if found compatible, is a legitimate and priority general public use of a wildlife refuge. Furthermore, we manage refuges to support healthy wildlife populations that in many cases produce harvestable surpluses that are a renewable resource. As practiced on refuges, hunting and fishing do not pose a threat to wildlife populations. It is important to note that taking certain individuals through hunting does not necessarily reduce a population overall, as hunting can simply replace other types of mortality. In some cases, however, we use hunting as a management tool with the explicit goal of reducing a population; this is often the case with exotic and/or invasive species that threaten ecosystem stability. Therefore, facilitating hunting opportunities is an important aspect of the Service's roles and responsibilities as outlined in the legislation establishing the Refuge System, and the Service will continue to facilitate these opportunities where compatible with the purpose of the specific refuge and the mission of the Refuge System.

We did not make any changes to the rule as a result of these comments.

*Comment (3):* We received comments from the Association of Fish and Wildlife Agencies on the proposed rule. The Association of Fish and Wildlife Agencies expressed general support for increased access for hunters and anglers, but expressed concern about the individual refuges proposing non-lead requirements that take effect in fall 2026. The Association of Fish and Wildlife Agencies also expressed appreciation for increased communication between the Service and State agencies on the use of lead

ammunition and tackle, and advocated for more collaboration.

*Our Response:* The Service appreciates the support of, and is committed to working with, our State partners to identify additional opportunities for expansion of hunting and sport fishing on Service lands and waters. We welcome and value State partner input on all aspects of our hunting and fishing programs.

In response to the Association of Fish and Wildlife Agencies, we have not made any modifications to the rule. We appreciate the support for the hunting expansions in this rulemaking and value our shared commitment to compatible hunter and angler access on the National Wildlife Refuge System. On the topic of lead ammunition and tackle use, see our response to *Comment (5)*, below, regarding our plan to require non-lead ammunition and/or tackle by fall 2026 at individual refuges. On the topic of collaboration with State agencies in determining the regulations and policies governing lead ammunition and tackle use on the Refuge System, we welcome such coordination and collaboration. We appreciate State agency efforts to educate the public about non-lead ammunition and tackle and to implement voluntary uptake programs encouraging hunters and anglers to voluntarily switch to non-lead ammunition and tackle, and we have long been engaged in similar efforts at our agency. We have also introduced non-lead ammunition and tackle requirements when and where necessary on individual refuges, after consultation with relevant State agencies. For example, all of the non-lead requirements in this rule involved discussions with State agencies throughout the process. Going forward, we will continue to invite input and involvement from our State partners as we continue to evaluate the future of lead use on Service lands and waters as part of an open and transparent process to find the best methods to address lead's impact on human and ecological health.

*Comment (4):* The majority of commenters expressed concern over the use of lead ammunition and/or lead fishing tackle on Service lands and waters. Nearly all of these commenters expressed support for the non-lead requirements in the proposed rule. Some of these commenters urged the Service to make these requirements effective before 2026. Most of these commenters urged the Service to eliminate, whether immediately or after a set transition period, the use of lead ammunition and tackle throughout the Refuge System. Many commenters

expressed concerns about raptor species, including the bald eagle (*Haliaeetus leucocephalus*), and other species that scientific studies have shown to be especially susceptible to adverse health impacts from lead ammunition and tackle.

*Our Response:* The Service appreciates the concerns from commenters about the issue of bioavailability of lead in the environment and is aware of the potential impacts of lead on fish and wildlife. See, for example, the recent study from the U.S. Geological Survey (USGS) with Service collaboration, Vincent Slabe, et al. "Demographic implications of lead poisoning for eagles across North America," which is available online at <https://www.usgs.gov/news/national-news-release/groundbreaking-study-finds-widespread-lead-poisoning-bald-and-golden>. Accordingly, the Service pays special attention to species susceptible to lead uptake and to sources of lead that could impact ecological and human health.

Historically, the principal cause of lead poisoning in waterfowl was the high densities of lead shot in wetland sediments associated with migratory bird hunting activities (Kendall et al. 1996). In 1991, as a result of high bird mortality, the Service instituted a nationwide ban on the use of lead shot for hunting waterfowl and coots (see 50 CFR 32.2(k)). However, lead ammunition is still used for other types of hunting, and lead tackle is used for fishing on private and public lands and waters, including within the Refuge System.

Due to the continued lead use outside of waterfowl hunting, there remains concern about the bioavailability of spent lead ammunition (bullets) and fishing tackle on the environment, the health of fish and wildlife, and human health. The Service is aware of fish and wildlife species, including endangered and threatened species, that are susceptible to the build-up of lead in their systems coming directly from their food sources or secondhand through the food ingested by their food sources. There is also evidence that some species are susceptible to direct ingestion of lead ammunition or tackle due to their foraging behaviors. For example, the Service recognizes that ingested lead fishing tackle has been found to be a leading cause of mortality in adult common loons (Grade, T. et al., 2017, Population-level effects of lead fishing tackle on common loons. *The Journal of Wildlife Management* 82(1): pp. 155–164). The impacts of lead on human health and safety have been a focus of

several scientific studies. We are familiar with studies that have found the ingestion of animals harvested via the use of lead ammunition increased levels of lead in the human body (e.g., Buenz, E. (2016). Lead exposure through eating wild game. *American Journal of Medicine*, 128: p. 458).

It is because of lead's potential for ecological health impacts that, in this rulemaking, the Service has continued to take a "measured approach in not adding to the use of lead on refuge lands" (see 87 FR 35136, June 9, 2022). Accordingly, the opportunities in this final rule either do not involve the use of ammunition or tackle (i.e., waterfowl hunting or archery), already require the use of non-lead ammunition or tackle, or are being authorized at refuges that will require the use of non-lead ammunition or tackle by fall 2026. This measured approach is also part of the Service's larger commitment to evaluating the use of lead in order to determine what is the best course for the future of lead use throughout the Refuge System and whether lead use is addressed going forward through non-lead requirements or different methods, including, but not limited to, national action, individual refuge actions, or some combination.

In response to commenters' position that 3 years is too long for non-lead use requirements at individual stations to take effect, the Service did not make any changes to the rule. Each individual station that will require non-lead ammunition and/or tackle starting in fall 2026 determined that this timing would best serve the refuge's objectives, capacities, purposes, and mission. These determinations were made to the exclusion of both shorter and longer time frames for hunters and anglers to transition to the use of non-lead equipment. These determinations were made with consideration of all impacted parties (e.g., refuge wildlife, hunters and anglers, other visitors, refuge law enforcement) and balancing the Service's interest in reducing the potential for adverse lead impacts against the Service's interest in not placing an undue compliance burden on hunters and anglers. If, in the future, the Service sets any non-lead requirement timetables for one or more refuges, we will similarly consider the input of all relevant stakeholders and the impacts of our decision on all relevant stakeholders as we weigh the competing interests and reach the determination that best serves the public interest.

In response to the commenters urging the Service to eliminate the use of lead ammunition and fishing tackle throughout the Refuge System, the

Service is committed to doing what best serves the public interest and our conservation mission, including facilitating compatible wildlife-dependent recreational hunting and fishing. As we committed to do in our 2021–2022 rulemaking (see 86 FR 48822 at 48830, August 31, 2021) and our 2022–2023 rulemaking (see 87 FR 57108 at 57122, September 16, 2022), the Service has been and continues to evaluate lead use in hunting and fishing on Service lands and waters. The reason this rule is crafted such that it is not expected to add to the use of lead on refuges beyond 2026 is so that the Service can continue to evaluate the future of lead use and to seek input from partners, as we conduct a transparent process to determine what actions and methods are appropriate for addressing lead's potential for adverse environmental and ecological health impacts.

We did not make any changes to the rule as a result of these comments.

*Comment (5):* A substantial number of commenters expressed opposition to the Service requiring the use of non-lead ammunition and/or fishing tackle on Service lands and waters. This included multiple campaigns of duplicate comments and 47 unique comments. Some of these commenters simply expressed a general opposition to the concept of non-lead requirements, but the rest put forward one or more points in arguing against non-lead ammunition and/or tackle requirements. The concerns collectively expressed by these more substantive comments are addressed in *Comment (6)* through *Comment (14)*, below.

*Our Response:* The Service has allowed, and with the promulgation of this rule continues to allow, the use of lead ammunition and/or tackle in hunting and sport fishing in most of the Refuge System. The vast majority of stations and the vast majority of individual hunting and fishing opportunities currently permit lead use, which follows our general alignment with State regulations, as the vast majority of States permit the use of lead ammunition and tackle. Lead ammunition and tackle are currently allowed where we have previously determined the activity is not likely to result in dangerous levels of lead exposure. However, the Service has made clear that we take the issue of lead use seriously, and as the stewards of the Refuge System, we are evaluating what is best for the resources belonging to the American public regarding the future use of lead ammunition and tackle on Service lands and waters. The best available science, analyzed as part of

this rulemaking, demonstrates that lead ammunition and tackle have negative impacts on both human health and wildlife, and those impacts are more acute for some species.

We did not make any changes to the rule as a result of these comments.

*Comment (6):* Many of the comments opposed to regulations concerning the use of lead ammunition and tackle questioned the sufficiency of scientific support for non-lead requirements. Some of the commenters also claimed there is specifically a lack of scientific evidence of “population-level” lead impacts and this means non-lead requirements are unwarranted, including one comment suggesting that “population-level” impact requires “a species-specific population decline.” Other commenters raised concerns that the available scientific studies were not conducted at the physical site of the individual refuges implementing non-lead requirements.

*Our Response:* We refer commenters concerned about scientific evidence in support of the rulemaking to the analyses of environmental impacts in the NEPA and ESA section 7 documentation for each refuge in the rulemaking and the cumulative impacts report accompanying the rulemaking. For our NEPA and ESA section 7 analyses, we considered peer-reviewed scientific studies evaluating the impacts of lead to humans, to wildlife generally, and to specific species—including endangered and threatened species and species especially susceptible to lead ammunition or tackle exposure. While this evidence is not determinative as to whether non-lead ammunition and tackle should be required in all cases, given the full range of factors to consider on the topic of lead use, it is inaccurate to claim that there is no scientific evidence of adverse impacts to human or ecological health from lead ammunition and tackle or that the Service has not presented such evidence as part of this rulemaking. Each refuge in this rule used the best available science and the expertise and sound professional judgment of refuge staff to determine that our management strategies, including promulgated non-lead requirements, are based on sound science and the specific circumstances of that individual refuge.

Moreover, we also reject the related claim that scientific evidence of so-called “population-level” impacts to wildlife is both a prerequisite to Service action and lacking in the available science. Depending on the situation, we may manage wildlife at the “population level” or at the “individual level,” such as acting to protect individuals of an

endangered or threatened species. Similarly, depending on the situation, we may adopt regulations, policies, or practices that respond to or prevent adverse impacts at the population level or to individual animals and plants. In fact, there are clear cases where we need to act preventatively or early to control invasive species, pests, or animal diseases, since they are much more difficult to eradicate when there is “population-level” damage. “Population-level” impacts are not necessary for regulation to the exclusion of any other factors, although in the past the Service and others have regulated lead use based, at least in part, on addressing impacts to whole populations, as demonstrated impacts to waterfowl populations and the population of California condors prompted the 1991 nationwide prohibition on waterfowl hunting with lead ammunition and the 2019 prohibition on hunting with lead ammunition in California, respectively. In any case, the scientific literature demonstrates that lead use has “population-level” impacts.

There is evidence of population-level impacts and potential population-level impacts to waterfowl and upland game bird species from lead fishing tackle and lead ammunition through direct ingestion. Lead fishing tackle presents a risk of lead poisoning to many waterfowl species, including loons and swans (Pokras and Chafel 1992; Rattner et al. 2008; Strom et al. 2009). The primary concerns are discarded whole or fragmented lead sinkers, as well as other lead tackle and even lead ammunition released into the water, that rest on river and lake bottoms where diving birds ingest them alongside pebbles, as pebbles are necessary to break down food through grinding in their digestive systems. This results in lead poisoning because the grinding action breaks down the pieces of ingested lead into fine lead particles inside of the birds that can then enter their blood streams. Studies have consistently found impacts of ingested lead fishing tackle are a leading cause of mortality in adult common loons (Pokras and Chafel 1992; Scheuhammer and Norris 1995; Franson et al. 2003; Pokras et al. 2009; Grade et al. 2017; Grade et al. 2019). Strom, et al., assessed lead exposure in Wisconsin birds and found that approximately 25 percent of the trumpeter swan fatalities from 1991 through 2007 were attributed to ingested lead (Strom et al. 2009). Also, lead ammunition discarded on land presents a similar risk of lead poisoning from upland game birds swallowing

discarded ammunition alongside the pebbles they use for digestion.

Another source of population-level impacts and potential population-level impacts from lead is indirect ingestion by birds of prey and other scavengers from consuming animals shot with lead ammunition. The primary concerns for birds of prey are lead fragments from lead ammunition that remains in the carcasses and gut piles of hunted animals that are scavenged by these birds. The fine fragments of lead, observable in x-rays of harvested game animals, are ingested because they are embedded in the meat and other animal tissues being scavenged and then enter the digestive systems and blood streams of the birds of prey. Many studies have looked at the impacts of this lead exposure to eagle health (see, e.g., Kramer and Redig 1997; O'Halloran et al. 1998; Kelly and Kelly 2005; Golden et al. 2016; Hoffman 1985a, 1985b; Pattee 1984; Stauber 2010). This includes the recent study, published in 2022, from the USGS with Service collaboration, Vincent Slabe, et al. "Demographic implications of lead poisoning for eagles across North America," which is available online at <https://www.usgs.gov/news/national-news-release/groundbreaking-study-finds-widespread-lead-poisoning-bald-and-golden>. This study explicitly finds that lead poisoning is "causing population growth rates to slow for bald eagles by 3.8 percent and golden eagles by 0.8 percent annually." These growth-slowng impacts to populations are statistically significant and, in the case of bald eagles, are occurring for a species that was previously endangered and is still in the process of recovering to historical levels. Thus, it is inaccurate to claim there are not known "population-level" impacts from lead use.

A few commenters offer a definition that would leave out these effects to eagles in claiming that "population-level" impact requires "a species-specific population decline." This definition, however, is flawed in specifying that a species must be in overall decline, because overall decline tells us nothing about the amount of impact lead is having on a species, and even the amount of impact must be considered in a larger context. First, the exact same size of adverse impact from lead use to a population can be present whether the species is in decline, stable, or growing overall because many other factors impact populations. To illustrate, a  $-3$  percent impact to a species from lead could reduce growth if all other factors would otherwise produce 5 percent growth ( $5 - 3 = 2$ );

could prevent growth if all other factors would otherwise produce 3 percent growth ( $3 - 3 = 0$ ); and could increase decline if all other factors would otherwise produce a 1 percent decline ( $-1 - 3 = -4$ ). Second, for similar reasons, in the case of impacts of different sizes there could be a larger impact to a species experiencing overall growth than to a species experiencing an overall decline. To illustrate, a large  $-5$  percent impact might not be part of an overall decline, such as when the species would otherwise be growing at 7 percent ( $7 - 5 = 2$ ), while a smaller  $-0.01$  percent impact might be part of an overall decline, such as when the species would otherwise be declining at  $-3$  percent ( $-3 - 0.01 = -3.01$ ). Thus, overall decline alone tells us nothing about the impact of lead use, or any other individual factor, on a species population. Furthermore, the Service would not rely even on the size of the impact to a population alone, as the same impact can be of greater or lesser concern, depending on the status of the species (e.g., abundant species, recovering species, endangered or threatened species), the source of the impact (i.e., sources inherent to hunting, such as gun noise and hunter foot traffic, or sources that can be eliminated from hunting activities, such as lead use, off-road vehicles, and litter), the trade-offs involved in addressing the impact (i.e., impediments to conservation are prioritized over costs to hunters and anglers, which are prioritized over costs to commercial users, with respect to avoiding trade-offs), and other factors. These are the reasons why the Service does not let our decision making, when addressing impacts to wildlife health, rely solely on the concept of "population-level" impacts.

Similarly, the Service also rejects the notion advanced by multiple commenters that the available scientific evidence must be site-specific, in the sense that a given study was conducted at the physical location of the refuge in question or is otherwise tied to the particular refuge and, by extension, the hunting and fishing activities and the wildlife occurring there. This idea that the Service must demonstrate that the "units in question have experienced a particular problem with lead exposure" is inconsistent with effective conservation science and misunderstands the Service's mission and statutory obligations. The commenters' position is inconsistent with effective conservation science because it ignores fundamental scientific concepts of statistical

sampling and extrapolation. While there can be important regional and local differences in many threats to wildlife, in science-based management of wildlife it is standard practice to use professional expertise to account for any such differences while applying studies where the underlying data represent a representative sample of the population or a population from a different region or locality. In addition to being sound, widely accepted approaches, the use of statistical sampling and extrapolation are critical to conservation science, as it would be impractical, if not impossible, for researchers to directly study widely distributed wildlife species in every location where they occur. Instead, studies are carefully designed to maximize extrapolation, and wildlife biologists account for local differences when applying study results. With respect to the non-lead requirements in this rulemaking, expert Service personnel ensured valid extrapolation, and some of the cited studies, including the USGS study of bald and golden eagles, took statistical samples nationwide to ensure nationwide applicability of the results.

Additionally, site-specific scientific studies are not required for any other aspect of our wildlife management and to require them would operate opposite our established processes and statutory obligations. First, individual refuges routinely use scientific studies that utilize statistical sampling and/or are expertly extrapolated to inform all our refuge management practices. The Service employs this approach when analyzing highly localized actions, such as altering waterways and hydrology; controversial actions, such as pest management; and difficult-to-reverse actions, such as species reintroductions. There is nothing distinguishing the question of permitting or prohibiting lead use from other management action determinations that have impacts on wildlife or ecosystem health that necessitates departing from the Service's typical approach to ensuring our management is guided by the best available science and sound professional judgment. Moreover, the Service is not willing to consider site-specific science as a precondition for our management actions, as this would effectively grind management to a halt. The Service cannot feasibly conduct localized studies for every routine action, including allowing refuge visitation, controlling invasive species, and opening and expanding hunting and fishing opportunities. In fact, this is precisely why the applicable statutes and regulations specify use of the best

available science, which ensures that informed decisions are made with the best data at hand. We cannot operate under the requirement that site-specific scientific evidence must be obtained and used for management actions, especially in this case where the best available scientific evidence has a clear consensus.

Second, the Service's mission and statutory obligations require refuges to be closed to hunting and fishing by default, and this changes only when we have determined they are compatible with our conservation mission and have promulgated regulations to open designated areas to hunting and fishing. Hunting and fishing access and opportunities are thus constrained by the regulations to only those activities that are compatible. Thus, the Service has an obligation to demonstrate, using the best available science, that any given aspect of hunting or fishing on the Refuge System is compatible with our mission. The Service has also built into our compatibility process the need to reevaluate compatibility determinations after a set period, either 10 or 15 years, depending on the use, because new science or new conditions could compel the Service to change our compatibility determinations. In the case of the use of lead, our past determinations that lead ammunition and lead tackle were permissible to use on Refuge System lands does not change this fundamental structure of our processes. The use of lead ammunition and tackle, like any other visitor activity, can only be allowed on a refuge if, and only for as long as, the refuge applies the best available science and sound professional judgment to find it compatible. The commenters' suggestion would require that the use of lead be assumed compatible if used historically is therefore counter to our mission and statutory obligations. The Service will continue to revisit our compatibility determinations, as required, while considering the best available science and applying sound professional judgment. Similarly, refuge managers have the well-established authority to temporarily and immediately close refuge activities, including hunting and fishing opportunities, in the interest of wildlife health or public safety. This emergency authority also recognizes that our mission requires us to prioritize wildlife conservation over human activities, even if they have been previously authorized, whenever new information or new conditions bring the two into conflict. The Service is weighing all relevant factors in determining the best

approach to lead use, but requiring that refuges prove adverse site-specific impacts before closing to certain human activities is inconsistent with our compatibility process.

We did not make any changes to the rule as a result of these comments.

*Comment (7):* Many commenters opposed to requirements to use non-lead ammunition and tackle claimed non-lead ammunition and non-lead tackle are more expensive than lead ammunition and tackle. Some of these commenters further expressed the concern that non-lead ammunition and tackle requirements "price people out" of participating in hunting and fishing.

*Our Response:* We do not agree that non-lead ammunition and tackle are prohibitively expensive, especially in comparison to lead ammunition and tackle. However, we recognize that there could be some cost burden of compliance for hunting and fishing opportunities where non-lead ammunition or tackle is required. For example, non-lead ammunition is very close in price to premium lead ammunition but can be more expensive than some lead ammunition. Notably, the Maine Department of Inland Fisheries and Wildlife and others have recognized that this cost difference is less than \$10 per box of ammunition, with boxes typically lasting multiple hunting seasons (see online at <https://www.maine.gov/ifw/hunting-trapping/hunting/nonlead-ammunition.html>). When we have restricted lead use, we have first ensured that the ecological health and conservation benefits outweigh any potential for cost burden on hunters and anglers. We are confident that non-lead ammunition and tackle are not cost-prohibitive, as hunting and angling continues on all Refuge System stations where we have restricted lead use. Moreover, we have not seen declines in hunting use attributable to non-lead ammunition requirements. In other words, hunting-use day declines at stations that require non-lead ammunition do not appear to deviate from general trends of declining hunting participation that affect all stations in the Refuge System. We similarly have not seen growth slowed at stations requiring non-lead tackle such that it is out of step with general growth trends in angler participation. Where we have seen meaningful declines is in the price of non-lead alternatives, as there has been a continuous trend for years of decreasing prices for non-lead ammunition and tackle alternatives, and the 1991 nationwide ban on lead ammunition for waterfowl hunting shows that regulations can spur innovation and

production, which brings the prices down for non-lead options.

Finally, even though the cost burden of compliance with non-lead ammunition and tackle requirements on individual refuges is not onerous, the Service is considering various measures to incentivize hunters and anglers to transition from lead to non-lead ammunition and tackle and mitigate the costs of the transition. The Service would focus any such efforts toward low-income and subsistence hunters and anglers who stand to be most impacted by any additional costs in obtaining non-lead rather than lead ammunition and tackle. The Service takes this environmental justice concern seriously. We look forward to working closely with our State agency and hunting and fishing organization partners to potentially implement future initiatives and programs to mitigate the costs of and incentivize the transition for these groups as part of our transparent process of finding the best solution to lead use impacts.

We did not make any changes to the rule as a result of these comments.

*Comment (8):* Many commenters opposed to non-lead ammunition and tackle requirements asserted that there is limited availability of non-lead ammunition and non-lead tackle compared to that of lead ammunition and tackle, such that requiring non-lead ammunition and tackle would prevent people from participating in hunting and fishing. Some of these commenters further noted that the availability of non-lead ammunition is more limited for older models of firearms than it is for newer models. A few commenters also, tangentially to the topic of availability, claimed that the Gun Control Act of 1968 (GCA; 18 U.S.C. 921 *et seq.*) and associated Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) regulations concerning armor piercing ammunition hinder the production and thus availability of non-lead ammunition.

*Our Response:* We do not agree that non-lead ammunition and tackle are insufficiently available to hunters and anglers in localities where we have restricted the use of lead ammunition or tackle, either in the past or through this rulemaking. However, we recognize that there could be some compliance burden in identifying and locating non-lead ammunition and tackle for hunting and fishing opportunities, where required. Where we have restricted lead use in the past or will restrict it through this rulemaking, we have ensured that the ecological health and conservation benefits outweigh any potential for compliance burden on hunters and

anglers, including the ease of locating available non-lead ammunition and tackle. As with the costs of non-lead options, for opportunities where non-lead ammunition and tackle are required, the Service has not seen declines in hunting or fishing participation that can be attributed to non-lead ammunition and tackle being less widely available than lead ammunition and tackle. Also, as with costs, there are existing trends of increasing availability of non-lead alternatives, and the 1991 national ban on lead ammunition for waterfowl hunting demonstrates that regulations requiring the use of non-lead ammunition can promote increased availability. Finally, the same types of programs that the Service is considering employing to mitigate transition costs and incentivize transition to non-lead alternatives would also help to address concerns about availability. The Service would focus any such efforts toward low-income and subsistence hunters and anglers who stand to be most impacted by any lack of availability when seeking to obtain non-lead ammunition and tackle. The Service takes this environmental justice concern seriously. We look forward to working closely with our State agency and hunting and fishing organization partners to potentially implement future initiatives and programs to mitigate non-lead ammunition and tackle availability concerns and incentivize the transition for these groups as part of our transparent process of finding the best solution to lead use impacts.

Additionally, we recognize that non-lead ammunition may be less available than lead ammunition, in general, for some older models of firearms, as well as certain calibers. Where lead use is restricted, this could theoretically be an obstacle to participation in certain hunting opportunities, depending on method of take restrictions. However, non-lead options are already increasing and can be expected to continue to increase, including options for older firearm models and less commonly used calibers. In the case of the individual refuges in this rule that will require non-lead ammunition use by fall 2026, appropriate non-lead ammunition is available for each type of hunting (*i.e.*, migratory bird, upland game, and big game) and each individual hunting opportunity such that hunters will still be able to participate in all of the opportunities at these refuges. In the future, the Service will remain cognizant of the need to be sure that there are appropriate non-lead options in the market for any given opportunity

for which we decide to require non-lead ammunition. We will also ensure the same for fishing opportunities and any potential requirement for non-lead fishing tackle.

Finally, the claim that the Gun Control Act of 1968 (GCA) and associated ATF regulations concerning armor piercing ammunition hinder the production and thus availability of non-lead ammunition is beyond the scope of this rulemaking. Moreover, the Service lacks any authority to change provisions of the GCA or associated ATF regulations. The Service does, however, believe that the ATF's existing framework for exemptions to the definition of armor piercing ammunition for ammunition that is "primarily intended to be used for sporting purposes," as explicitly authorized by the GCA, should be sufficient to allow for the availability of non-lead ammunition for hunters (see the ATF Special Advisory available online at: <https://www.atf.gov/news/pr/armor-piercing-ammunition-exemption-framework>).

We did not make any changes to the rule as a result of these comments.

*Comment (9):* Some commenters objecting to non-lead ammunition and tackle requirements claimed non-lead ammunition and non-lead tackle do not perform as effectively as lead ammunition and lead tackle.

*Our Response:* We do not agree and find that non-lead ammunition and tackle performs at least as effectively as lead ammunition and tackle. Some hunters and anglers on the Refuge System currently use non-lead ammunition and tackle, both voluntarily and as required by regulation, without any documented difference in success rates. In fact, the Service has, by policy since 2016, used non-lead ammunition for wildlife management when lethal control is necessary and has not found the performance of non-lead ammunition to impede these management activities in any way. As part of our hunter education efforts, many refuges offer field demonstrations of the effectiveness of non-lead ammunition. Scientific studies of effectiveness have supported this informal empirical evidence and found that non-lead ammunition performs as effectively as lead ammunition (see "Are lead-free hunting rifle bullets as effective at killing wildlife as conventional lead bullets? A comparison based on wound size and morphology," Trinogga, et al., *Science of The Total Environment*. Volume 443, 15 January 2013, pp. 226–232 (available online November 25, 2012) and "Performance of Lead-Free versus Lead-

Based Hunting Ammunition in Ballistic Soap," Gremse, et al., *PLoS One*. 2014; 9(7): e102015 (published online July 16, 2014)). There is no scientific evidence for the claimed differences in performance between non-lead and lead ammunition and tackle available on the market today. In fact, non-lead ammunition has a demonstrable performance advantage in that hunters kill only what they shoot because, unlike lead ammunition, non-lead ammunition will not poison non-target species. Where the Service restricts the use of lead on the Refuge System, there is no compliance burden on hunters and anglers in the form of reduced performance of ammunition or tackle.

We did not make any changes to the rule as a result of these comments.

*Comment (10):* Some commenters opposed to non-lead ammunition and tackle requirements argued that any switching from lead ammunition and tackle to non-lead ammunition and tackle should be voluntary. Among these commenters advocating that the use of non-lead ammunition should remain voluntary were both those who felt there is a need for large-scale uptake of non-lead ammunition and tackle, and those who felt it should be simply a preference decision for each hunter and angler. A few commenters further expressed that voluntarily adopting non-lead ammunition and tackle should be encouraged through hunter education and/or incentives for hunters to transition to non-lead options.

*Our Response:* The Service has encouraged and will continue to encourage voluntary use of non-lead ammunition and tackle but will also impose regulatory requirements when and where necessary. For many years, the Service has encouraged voluntary use of non-lead ammunition and tackle through our hunter and angler education programs, which have included providing scientific information about the harm lead can do and demonstrating the performance of non-lead ammunition. Voluntary adoption of non-lead ammunition and tackle is an excellent way for hunters and anglers to demonstrate commitment to the ideals of avoiding harm to non-target species, fair chase, and serving as the original conservation stewards of our country's natural resources. The Service appreciates each and every one of the hunters and anglers who have voluntarily made the switch to non-lead ammunition and tackle, whether for their own health, their family's health, or the health of wildlife. Going forward, the Service will continue to urge voluntary use of non-lead ammunition and tackle. While the Service is in the

process of evaluating the future of lead use, even if our determination were ultimately that lead use on the Refuge System needs to end, the Service would still consider all viable methods for achieving that outcome, including encouraging voluntary transition to non-lead ammunition and tackle. At the same time, we note that years of efforts toward educating hunters and encouraging non-lead use by the Service and other organizations have not yielded a significant transition to non-lead ammunition and tackle, despite some localized success stories.

The commenters' suggestion of providing incentives could be a viable tool, although it will be important to construct a fair and targeted incentive structure for individual hunters and anglers. These types of programs are under consideration, not only within the context of non-lead regulatory requirements, but may also be used more broadly to encourage voluntary use of non-lead alternatives and other method(s) of addressing lead issues.

The Refuge System, and all Service lands and waters, are different from private, State, and even other Federal public lands. We have legal obligations to prioritize wildlife health and biodiversity, to consider the compatibility of new and ongoing hunting and fishing activities, and to assess the potential impact of these activities on the natural resources under our jurisdiction. Although voluntary uptake may be part of a future with multiple methods of addressing lead use issues, the history of low compliance with voluntary adoption of non-lead ammunition and tackle prompts the Service to consider regulatory requirements to ensure compatibility. At this time, the Service is continuing to evaluate the future of lead use through an open and transparent process with input from a broad array of partners and stakeholders about how best to secure the appropriate future for the use of lead. We invite ideas and coordination from all the organizations that commented recommending voluntary uptake and/or are engaged in efforts to encourage volunteer uptake of non-lead ammunition and tackle.

We did not make any changes to the rule as a result of these comments.

*Comment (11):* A few commenters pointed to sources of lead in the environment, other than hunting and fishing with lead ammunition and tackle (e.g., naturally occurring lead in the ground, lead paint, past use of leaded gasoline and pesticides, and discarded galvanized hardware). These commenters asserted that the Service should not have non-lead ammunition

and tackle requirements because these other sources of lead cause negative health impacts for fish and wildlife.

*Our Response:* While there are of course other potential sources of lead in the environment, including other sources that may be bioavailable to wildlife, the Service does not see this as diminishing the importance or conservation benefits of requiring the use of non-lead ammunition and tackle, when and where necessary. While these other sources of lead vary in the degree of risk that they could present to wildlife, the Service is duly concerned by the health risks from any potential source of lead exposure for wildlife and humans. There are likely benefits to be had from efforts to address each of these sources in turn, but that is generally beyond the scope of this rulemaking.

Moreover, these other potential sources of lead do not change the fact that the best available science has drawn a clear link between the use of lead ammunition and tackle and its ecological health impacts. In fact, the study from Slabe, et al., cited earlier in our response to *Comment (6)*, provides strong evidence that not only is there an impact to eagles from lead ammunition specifically, but there is also strong evidence that it represents the most important source of lead exposure for the species studied (Slabe 2022). Essentially, the study demonstrated that the highest rates of acute lead poisoning in eagles, measured by liver lead concentrations, corresponded in terms of timing with the use of lead ammunition in the form of a nationwide spike in lead poisoning in winter months in the midst of hunting seasons. To the extent other sources of lead do bear on our decisions about lead ammunition and tackle use, these additional lead sources in fact weigh in favor of lead use restrictions, as lead can accumulate in wildlife from repeated exposure from one or multiple sources (see, e.g., Behmke 2015). This applies both to the sources mentioned by commenters and additional sources that were not mentioned, such as coal-fired power plants and certain heavy industry, including smelting (see Behmke 2015). Similarly, the Service is also not discouraged from requiring the use of non-lead ammunition and tackle, where appropriate, by the continued use of lead ammunition and tackle for hunting and fishing on nearby State and privately held lands and waters. The Service will act to address threats, including from visitor uses, as necessary within our authority, in the interest of our conservation mission even if, and often especially when, human activities

outside of refuge borders present similar threats.

We did not make any changes to the rule as a result of these comments.

*Comment (12):* One comment opposed to non-lead ammunition and tackle requirements maintained that lead ammunition and tackle are made of an inorganic form of lead that poses less risk of harm to humans or animals.

*Our Response:* While inorganic lead presents a low risk of adverse health impacts while it retains its solid, molded form (i.e., anglers face relatively little risk from handling lead tackle), the basis for concern about lead ammunition and tackle is that there are multiple ways for such lead to become harmful to human and ecological health. Organic lead (i.e., the banned gasoline additive tetramethyl lead) is more dangerous than inorganic lead because it can be absorbed through the skin. Yet, inorganic lead can also have serious impacts in certain forms (e.g., fragments and particles) and once inside an animal. First, as briefly described in response to *Comment (6)*, lead ammunition, including bonded lead ammunition, fragments when it hits an animal, and this distributes tiny pieces of lead within a wide radius in the soft tissues of the harvested animal (see "Fragmentation of lead-free and lead-based hunting rifle bullets under real life hunting conditions in Germany," Trinogga et al., *Ambio*. 2019 Sep; 48(9): 1056–1064 (published online March 23, 2019)). These tiny fragments of lead are then consumed by scavenger species eating carcasses or gut piles left behind or humans eating the game meat. In this tiny, fragmented form and acted on by digestive enzymes and acids, the lead derived from ammunition can then shed particles that enter the blood stream and affect systems throughout the body, presenting both chronic and acute health risks. Second, as briefly described in response to *Comment (6)*, lead ammunition and tackle that is deposited along shores or at the bottom of bodies of water can be ingested by several species of birds that forage in these locations for pebbles, as pebbles are necessary to break down food through grinding in a special organ of their digestive systems called a gizzard. This grinding process, along with digestive acids and enzymes that accompany food into the gizzard, can easily break down lead ammunition and tackle into fragments and cause it to shed particles, just as the process breaks down the stones and shells the birds intended to ingest. These lead particles are then able to enter the bloodstream and affect systems throughout the body, presenting both chronic and acute

health risks. Third, lead ammunition and tackle that ends up discarded in bodies of water may begin to dissolve and thus introduce lead particles into the water that present both chronic and acute health risks to both aquatic animals living in the water and terrestrial animals drinking from the water. This process requires high acidity in the water that dissolves lead ammunition or tackle, and it is essentially the same concern as the problem of corrosion from acidic water in lead water pipes. These particles of lead dissolved into the water are easily taken up into the bloodstream as they pass through digestive systems. It is through these known processes that lead ammunition and tackle present a risk, and the best available scientific evidence indicates that these processes are occurring at rates that are causing negative impacts on the health of both certain wildlife species and humans, and those impacts are more acute for some species. Thus, we seriously consider the impact of inorganic forms of lead, such as lead ammunition and tackle, on wildlife and human health.

We did not make any changes to the rule as a result of these comments.

*Comment (13):* Several commenters who object to the regulation of lead ammunition and tackle expressed nonsubstantive concerns centered on their views about the constitutionality and/or legality of the Service creating non-lead ammunition and tackle requirements through our regulations, or of any agency regulation. Several commenters, instead or in addition, offered nonsubstantive concerns about their personal general projections of impacts to the ammunition and tackle industry and the broader economy.

*Our Response:* The Service thoroughly addressed these and similar concerns in our 2022–2023 final rule (see 87 FR 57108 at 57117–57119, September 16, 2022). Our position remains the same on these topics in this 2023–2024 rulemaking.

We did not make any changes to the rule as a result of these comments.

*Comment (14):* A few commenters expressed concerns about the availability of copper for use in ammunition, as copper is one of the alternatives to lead used for non-lead ammunition. The comments expressed concern that due to limited sources of copper and demand for copper for other uses, an increase in demand for copper for ammunition from non-lead ammunition requirements may not be possible or could drive up the cost of non-lead ammunition.

*Our Response:* These concerns are outside the scope of this rulemaking and

thus nonsubstantive. It is outside the expertise of the Service and the scope of this rule to speculate about the current or future availability of copper, or how it could affect prices for goods made using copper. There are, however, two things the Service can say on this topic. First, by requiring the use of non-lead ammunition at eight individual refuges beginning in fall 2026 in this rule, the Service is in no way specifically requiring the use of copper ammunition. Second, as noted above in our response to *Comment (8)*, the non-lead ammunition regulations in this rulemaking impact a small portion of the market for ammunition.

We did not make any changes to the rule as a result of these comments.

*Comment (15):* We also received several comments concerning regulations for the use of and training of hunting dogs at Silvio O. Conte National Fish and Wildlife Refuge (NFWR). Two of these comments urged us to expand the season for dog training to align it with regulations in the relevant States. The majority of these comments, however, objected to the Service removing the special use permit requirement for those training or using more than two dogs, with some expressing the sentiment that any use of hunting dogs is inappropriate on Service lands.

*Our Response:* All uses proposed as part of this rulemaking or otherwise authorized as part of hunting and fishing programs in the Refuge System are thoroughly assessed for compatibility with other visitor uses, the legislated purposes for which the refuge was established, and the Service's mission. Where authorized, the use of hunting dogs is carried out safely and without significant impacts to the environment or healthy wildlife populations.

The Service has determined that allowing dog training for the full State seasons in the New Hampshire and Vermont sections of the refuge is not compatible with our conservation mission. The Service allows dog training in August and September at Conte NFWR, while each State also allows the activity to occur in June and July. We cannot allow the activity in June and July because migratory landbirds nest on the refuge during those months. Disturbance to these species during this vulnerable period may decrease nest and brooding success (Gutzwiller et al. 1998; Thompson, B. 2015). Nesting success is critical to maintain the population of game and non-game species. Many non-game species of migratory birds are declining across their range. Canada warbler, rusty

blackbird, wood thrush, and veery, for example, have been listed as species in greatest need of conservation in the Birds of Conservation Concern 2021 by the Service's Migratory Bird Program. Canada warbler, rusty blackbird, and wood thrush are also high priority bird species of greatest conservation need as identified in Vermont's 2005 and 2015 Wildlife Action Plans (Vermont Fish and Wildlife Department (VFWD) State Wildlife Action Plan 2015) and New Hampshire's Fish and Game 2015 Wildlife Action Plan (New Hampshire Fish and Game Department (NHFGD) 2015). These species breed within forested habitats of the portions of Conte NFWR in New Hampshire and Vermont. Veeries and Canada warblers nest on or near the ground and their eggs and hatchlings are vulnerable to disturbance, predation, and trampling. While hunting is a priority public use of the Refuge System under the Improvement Act, training of dogs is not. Hunting is the legal authorization to take or harvest a game species. There is no legal authorization to take any species for the purpose of dog training on the refuge. We recognize that dog training is a component of the hunting experience, and with stipulations to shorten the training season, it is currently found compatible. Migratory landbirds are a trust resource, and based on our professional opinion and available science, dog training as a compatible use during the breeding season is not supported by science.

At this time, the Service will not require individuals to obtain a refuge-specific permit for hunting with dogs or training dogs on the refuge. Hunting with and training of dogs is allowed on the refuge consistent with State regulations when found compatible with refuge purposes, as outlined in the hunt plan. The information collected from the previously required permit satisfied the refuge's need to engage with the user group. The Service will continue to monitor population trends of endangered and threatened species, and migratory birds, at the refuge. If there is evidence that trust resource populations are negatively impacted by either the training of hunting dogs or the use of hunting dogs, then we may revisit impacts associated with the use of dogs and take action to limit impacts. As with any refuge-specific regulations, we reserve the right to revisit the issue in a future annual rulemaking should anything change with respect to conditions on the refuge, the findings of the best available science on this topic, or our empirical experience with dog use on the refuge.

We did not make any changes to the rule as a result of these comments.

**Changes From the Proposed Rule**

As discussed above, under Summary of Comments and Responses, based on comments we received on the June 23, 2023, proposed rule and NEPA documents for individual refuges, we made no changes in this final rule.

**Effective Date**

We are making this rule effective upon the date of its filing at the Office of the Federal Register (see **DATES**, above), with the exception of the requirements to use non-lead ammunition and fishing tackle on Great Thicket, Rachel Carson, Blackwater, Eastern Neck, Patuxent Research Refuge, Erie, Chincoteague, and Wallops Island NWRs at 50 CFR 32.38, 32.39, 32.57, and 32.65(b)(1)(vi), (b)(2)(i), (b)(3)(i),

(b)(4)(vi), (n)(1)(vi), (n)(2)(i), and (n)(3)(i), respectively, which will take effect on September 1, 2026. We provided a 60-day public comment period for the June 23, 2023, proposed rule (88 FR 41058). We have determined that any further delay in implementing these station-specific hunting and sport fishing regulations would not be in the public interest, in that a delay would hinder the effective planning and administration of refuges' hunting and sport fishing programs. This rule does not impact the public generally in terms of requiring lead time for compliance. Rather, it relieves restrictions in that it allows activities on refuges and hatcheries that we would otherwise prohibit. Therefore, we find good cause under 5 U.S.C. 553(d)(3) to make this rule effective upon the date of its filing at the Office of the Federal Register.

**Amendments to Existing Regulations**

*Updates to Hunting and Fishing Opportunities on NWRs*

This document codifies in the Code of Federal Regulations all the Service's hunting and/or sport fishing regulations that we are updating since the last time we published a rule amending these regulations (87 FR 57108; September 16, 2022) and that are applicable at Refuge System units previously opened to hunting and/or sport fishing. We adopt these changes to better inform the general public of the regulations at each station, to increase understanding and compliance with these regulations, and to make enforcement of these regulations more efficient. In addition to finding these regulations in 50 CFR part 32, visitors to our stations may find them reiterated in literature distributed by each station or posted on signs.

TABLE 1—CHANGES FOR 2023–2024 HUNTING/SPORT FISHING SEASON

Station	State	Migratory bird hunting	Upland game hunting	Big game hunting	Sport fishing
Cahaba River NWR .....	Alabama .....	Closed .....	Already Open ...	E .....	Already Open.
Everglades Headwaters NWR .....	Florida .....	E .....	E .....	E .....	Closed.
Minnesota Valley NWR .....	Minnesota .....	E .....	E .....	E .....	Already Open.

**Key:**

E = Expansion (Station is already open to the activity; the rule will add new lands/waters, modify areas open to hunting or fishing, extend season dates, add a targeted hunt, modify season dates, modify hunting hours, etc.)

The changes for the 2023–2024 hunting/fishing season noted in the table above are each based on a complete administrative record which, among other detailed documentation, also includes a hunt plan, a compatibility determination (for refuges), and the appropriate NEPA analysis, all of which were the subject of a public review and comment process. These documents are available upon request.

The Service remains concerned that lead is an important issue, and we will continue to appropriately evaluate and regulate the use of lead ammunition and tackle on Service lands and waters. The Service has initiated stakeholder engagement to implement a deliberate, open, and transparent process of evaluating the future of lead use on Service lands and waters, working with our State partners, and seeking input and recommendations from the Hunting and Wildlife Conservation Council, other stakeholders, and the public. The best available science, analyzed as part of this rulemaking, indicates that lead ammunition and tackle have negative impacts on both wildlife and human health. Based on the best available science and sound professional

judgment, where appropriate, the Service may propose to require the use of non-lead ammunition and tackle on Service lands and waters, as we have done in certain cases already. While the Service continues to evaluate the future of lead use in hunting and fishing on Service lands and waters, we will continue to work with stakeholders and the public to evaluate lead use through the annual rulemaking process. In the interim, we will not allow for any increase in lead use on Service lands and waters. Therefore, this rule does not include any opportunities increasing or authorizing the new use of lead. Minnesota Valley NWR already requires non-lead ammunition for the migratory bird and upland game hunting opportunities being expanded, and the refuge's expansion of the big game hunt involves only archery deer hunting, which does not involve lead ammunition, as part of a special hunt program. The Cahaba River NWR is expanding archery deer hunting, which does not involve lead ammunition. Everglades Headwaters NWR is expanding existing migratory game bird, upland game, and big game hunting to new acres that will require the use of non-lead ammunition immediately in

the fall 2023 season; the rule will require non-lead ammunition only within the newly expanded acres for hunting on the refuge. This restriction on the use of lead ammunition was developed in coordination with the State of Florida's Fish and Wildlife Conservation Commission. As we noted in our September 16, 2022, final rule (87 FR 57108), in this rule, Blackwater, Chincoteague, Eastern Neck, Great Thicket, Patuxent Research Refuge, Rachel Carson, and Wallops Island NWRs will require non-lead equipment, effective on September 1, 2026. Specifically, all eight refuges will require the use of non-lead ammunition by fall 2026, and seven of the eight, excepting Chincoteague, will require the use of non-lead tackle by fall 2026 as well.

**Fish Advisory**

For health reasons, anglers should review and follow State-issued consumption advisories before enjoying recreational sport fishing opportunities on Service-managed waters. You can find information about current fish-consumption advisories on the internet at <https://www.epa.gov/fish-tech>.

**Required Determinations**

*Regulatory Planning and Review—Executive Orders 12866, 13563, and 14094*

Executive Order 14094 reaffirms the principles of E.O. 12866 and E.O. 13563 and states that regulatory analysis should facilitate agency efforts to develop regulations that serve the public interest, advance statutory objectives, and are consistent with E.O. 12866, E.O. 13563, and the Presidential Memorandum of January 20, 2021 (Modernizing Regulatory Review). Regulatory analysis, as practicable and appropriate, shall recognize distributive impacts and equity, to the extent permitted by law. E.O. 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this final rule in a manner consistent with these requirements.

E.O. 12866, as reaffirmed by E.O. 13563 and E.O. 14094, provides that the

Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget (OMB) will review all significant rules. OIRA has determined that this rule is not significant.

*Regulatory Flexibility Act*

Under the Regulatory Flexibility Act (as amended by the Small Business Regulatory Enforcement Fairness Act [SBREFA] of 1996) (5 U.S.C. 601 *et seq.*), whenever a Federal agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (*i.e.*, small businesses, small organizations, and small government jurisdictions). However, no regulatory flexibility analysis is required if the head of an agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Thus, for a regulatory flexibility analysis to be required, impacts must exceed a

threshold for “significant impact” and a threshold for a “substantial number of small entities.” See 5 U.S.C. 605(b). SBREFA amended the Regulatory Flexibility Act to require Federal agencies to provide a statement of the factual basis for certifying that a rule will not have a significant economic impact on a substantial number of small entities.

This rule expands hunting on three NWRs. As a result, visitor use for wildlife-dependent recreation on these stations will change. If the stations establishing new programs were a pure addition to the current supply of those activities, it would mean an estimated maximum increase of 586 user days (one person per day participating in a recreational opportunity; see table 2, below). Because the participation trend is flat in these activities, this increase in supply will most likely be offset by other sites losing participants. Therefore, this is likely to be a substitute site for the activity and not necessarily an increase in participation rates for the activity.

**TABLE 2—ESTIMATED MAXIMUM CHANGE IN RECREATION OPPORTUNITIES IN 2023–2024**  
[2022 Dollars in thousands]

Station	Additional hunting days	Additional fishing days	Additional expenditures (in thousands)
Cahaba River NWR .....	120	.....	\$4
Everglades Headwaters NWR .....	225	.....	9
Minnesota Valley NWR .....	241	.....	9
<b>Total</b> .....	<b>586</b>	<b>.....</b>	<b>22</b>

To the extent visitors spend time and money in the area of the station that they would not have spent there anyway, they contribute new income to the regional economy and benefit local businesses. Due to the unavailability of site-specific expenditure data, we use the national estimates from the 2016 National Survey of Fishing, Hunting, and Wildlife Associated Recreation to identify expenditures for food and lodging, transportation, and other incidental expenses. Using the average expenditures for these categories with the maximum expected additional participation of the Refuge System yields approximately \$22,000 in recreation-related expenditures (see table 2, above). By having ripple effects throughout the economy, these direct expenditures are only part of the economic impact of these recreational activities. Using a national impact multiplier for hunting activities (2.51) derived from the report “Hunting in America: An Economic Force for

Conservation” and for fishing activities (2.51) derived from the report “Sportfishing in America” yields a total maximum economic impact of approximately \$56,000 (2022 dollars) (Southwick Associates, Inc., 2018).

Since we know that most of the fishing and hunting occurs within 100 miles of a participant’s residence, then it is unlikely that most of this spending will be “new” money coming into a local economy; therefore, this spending will be offset with a decrease in some other sector of the local economy. The net gain to the local economies will be no more than \$56,000 and likely less. Since 80 percent of the participants travel less than 100 miles to engage in hunting and fishing activities, their spending patterns will not add new money into the local economy and, therefore, the real impact will be on the order of about \$22,000 annually.

Small businesses within the retail trade industry (such as hotels, gas stations, taxidermy shops, bait-and-

tackle shops, and similar businesses) may be affected by some increased or decreased station visitation. A large percentage of these retail trade establishments in the local communities around NWRs qualify as small businesses (see table 3, below). We expect that the incremental recreational changes will be scattered, and so we do not expect that the rule will have a significant economic effect on a substantial number of small entities in any region or nationally. As noted previously, we expect at most \$22,000 to be spent in total in the refuges’ local economies. The maximum increase will be less than one-tenth of 1 percent for local retail trade spending (see table 3, below). Table 3 does not include entries for those NWRs for which we project no changes in recreation opportunities in 2023–2024; see table 2, above.

TABLE 3—COMPARATIVE EXPENDITURES FOR RETAIL TRADE ASSOCIATED WITH ADDITIONAL STATION VISITATION FOR 2023–2024

[Thousands, 2022 dollars]

Station/county(ies)	Retail trade in 2017 <sup>1</sup>	Estimated maximum addition from new activities	Addition as % of total	Establishments in 2017 <sup>1</sup>	Establishments with fewer than 10 employees in 2017
Cahaba River:					
Bibb, AL .....	\$143,008	\$5	<0.1	52	39
Everglades Headwaters:					
Hardee, FL .....	223,259	3	<0.1	75	63
Highlands, FL .....	1,505,788	3	<0.1	342	246
Polk, FL .....	9,949,483	3	<0.1	1,814	1,276
Minnesota Valley:					
Carver, MN .....	1,116,550	5	<0.1	220	142

<sup>1</sup> U.S. Census Bureau.

With the small change in overall spending anticipated from this rule, it is unlikely that a substantial number of small entities will have more than a small impact from the spending change near the affected stations. Therefore, we certify that this rule will not have a significant economic effect on a substantial number of small entities as defined under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). A regulatory flexibility analysis is not required. Accordingly, a small entity compliance guide is not required.

*Congressional Review Act*

The rule is not a major rule under 5 U.S.C. 804(2), the Congressional Review Act. We anticipate no significant employment or small business effects. This rule:

- a. Will not have an annual effect on the economy of \$100 million or more. The minimal impact will be scattered across the country and will most likely not be significant in any local area.
- b. 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 will have only a slight effect on the costs of hunting opportunities for Americans. If the substitute sites are farther from the participants' residences, then an increase in travel costs will occur. The Service does not have information to quantify this change in travel cost but assumes that, since most people travel less than 100 miles to hunt, the increased travel cost will be small. We do not expect this rule to affect the supply or demand for hunting opportunities in the United States, and, therefore, it should not affect prices for hunting equipment and supplies, or the retailers that sell equipment.
- c. Will 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. This rule represents only a small proportion of recreational spending at NWRs. Therefore, this rule will have no measurable economic effect on the wildlife-dependent industry, which has annual sales of equipment and travel expenditures of \$72 billion nationwide.

*Unfunded Mandates Reform Act*

Since this rule will apply to public use of federally owned and managed refuges, it will not impose an unfunded mandate on State, local, or Tribal governments or the private sector of more than \$100 million per year. The rule will not have a significant or unique effect on State, local, or Tribal governments or the private sector. A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

*Takings (E.O. 12630)*

In accordance with E.O. 12630, this rule will not have significant takings implications. This rule will affect only visitors at NWRs and describes what they can do while they are on a Service station.

*Federalism (E.O. 13132)*

As discussed under *Regulatory Planning and Review* and *Unfunded Mandates Reform Act*, above, this rule will not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement under E.O. 13132. In preparing this rule, we worked with State governments.

*Civil Justice Reform (E.O. 12988)*

In accordance with E.O. 12988, the Department of the Interior has determined that this rule will not

unduly burden the judicial system and that it meets the requirements of sections 3(a) and 3(b)(2) of the order.

*Energy Supply, Distribution or Use (E.O. 13211)*

On May 18, 2001, the President issued E.O. 13211 on regulations that significantly affect energy supply, distribution, or use. E.O. 13211 requires agencies to prepare statements of energy effects when undertaking certain actions. Because this rule will expand hunting at three NWRs, it is not a significant regulatory action under E.O. 12866, and we do not expect it to significantly affect energy supplies, distribution, or use. Therefore, this action is not a significant energy action, and no statement of energy effects is required.

*Consultation and Coordination With Indian Tribal Governments (E.O. 13175)*

In accordance with E.O. 13175, we have evaluated possible effects on federally recognized Indian Tribes and have determined that there are no effects. We coordinate recreational use on NWRs and National Fish Hatcheries with Tribal governments having adjoining or overlapping jurisdiction before we propose the regulations.

*Paperwork Reduction Act (PRA)*

This rule does not contain any new collections of information that require approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). OMB previously approved the information collection requirements associated with application and reporting requirements associated with hunting and sport fishing and assigned OMB Control Number 1018–0140 (expires 09/30/2025). 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.

#### *Endangered Species Act Section 7 Consultation*

We comply with section 7 of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), when developing comprehensive conservation plans and step-down management plans—which includes hunting and/or fishing plans—for public use of refuges and hatcheries, and prior to implementing any new or revised public recreation program on a station as identified in 50 CFR 26.32. We complied with section 7 for each of the stations affected by this rulemaking.

#### *National Environmental Policy Act*

We analyzed this rule in accordance with the criteria of the National Environmental Policy Act of 1969 (NEPA; 42 U.S.C. 4332(C)), 43 CFR part 46, and 516 Departmental Manual (DM) 8.

A categorical exclusion from NEPA documentation applies to publication of amendments to station-specific hunting and fishing regulations because they are technical and procedural in nature, and the environmental effects are too broad, speculative, or conjectural to lend themselves to meaningful analysis (43 CFR 46.210 and 516 DM 8). Concerning the actions that are the subject of this rulemaking, we have complied with NEPA at the project level when developing each package. This is consistent with the Department of the Interior instructions for compliance with NEPA where actions are covered sufficiently by an earlier environmental document (43 CFR 46.120).

Prior to the addition of a refuge or hatchery to the list of areas open to hunting and fishing in 50 CFR parts 32 and 71, we develop hunting and fishing plans for the affected stations. We incorporate these station hunting and fishing activities in the station comprehensive conservation plan and/or other step-down management plans, pursuant to our refuge planning guidance in 602 Fish and Wildlife Service Manual (FW) 1, 3, and 4. We prepare these comprehensive conservation plans and step-down plans in compliance with section 102(2)(C) of NEPA, the Council on Environmental Quality's regulations for implementing NEPA in 40 CFR parts 1500 through 1508, and the Department of Interior's NEPA regulations at 43 CFR part 46. We invite the affected public to participate in the review, development, and implementation of these plans. Copies of all plans and NEPA compliance are

available from the stations at the addresses provided below.

#### **Available Information for Specific Stations**

Individual refuge and hatchery headquarters have information about public use programs and conditions that apply to their specific programs and maps of their respective areas. To find out how to contact a specific refuge or hatchery, contact the appropriate Service office for the States and Territories listed below:

Hawaii, Idaho, Oregon, and Washington. Regional Chief, National Wildlife Refuge System, U.S. Fish and Wildlife Service, Eastside Federal Complex, Suite 1692, 911 NE 11th Avenue, Portland, OR 97232-4181; Telephone (503) 231-6203.

Arizona, New Mexico, Oklahoma, and Texas. Regional Chief, National Wildlife Refuge System, U.S. Fish and Wildlife Service, P.O. Box 1306, 500 Gold Avenue SW, Albuquerque, NM 87103; Telephone (505) 248-6635.

Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Ohio, and Wisconsin. Regional Chief, National Wildlife Refuge System, U.S. Fish and Wildlife Service, 5600 American Blvd. West, Suite 990, Bloomington, MN 55437-1458; Telephone (612) 713-5476.

Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Puerto Rico, and the Virgin Islands. Regional Chief, National Wildlife Refuge System, U.S. Fish and Wildlife Service, 1875 Century Boulevard, Atlanta, GA 30345; Telephone (404) 679-7356.

Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, and West Virginia. Regional Chief, National Wildlife Refuge System, U.S. Fish and Wildlife Service, 300 Westgate Center Drive, Hadley, MA 01035-9589; Telephone (413) 253-8307.

Colorado, Kansas, Montana, Nebraska, North Dakota, South Dakota, Utah, and Wyoming. Regional Chief, National Wildlife Refuge System, U.S. Fish and Wildlife Service, 134 Union Blvd., Lakewood, CO 80228; Telephone (303) 236-4377.

Alaska. Regional Chief, National Wildlife Refuge System, U.S. Fish and Wildlife Service, 1011 E Tudor Rd., Anchorage, AK 99503; Telephone (907) 786-3545.

California and Nevada. Regional Chief, National Wildlife Refuge System, U.S. Fish and Wildlife Service, 2800 Cottage Way, Room W-2606,

Sacramento, CA 95825; Telephone (916) 767-9241.

#### **Primary Author**

Kate Harrigan, Division of Natural Resources and Conservation Planning, National Wildlife Refuge System, is the primary author of this rulemaking document.

#### **List of Subjects in 50 CFR Part 32**

Fishing, Hunting, Reporting and recordkeeping requirements, Wildlife, Wildlife refuges.

#### **Regulation Promulgation**

For the reasons described in the preamble, we amend title 50, chapter I, subchapter C of the Code of Federal Regulations as set forth below:

#### **PART 32—HUNTING AND FISHING**

■ 1. The authority citation for part 32 continues to read as follows:

**Authority:** 5 U.S.C. 301; 16 U.S.C. 460k, 664, 668dd-668ee, and 715i; Pub. L. 115-20, 131 Stat. 86.

■ 2. Amend § 32.24 by revising paragraphs (s)(1)(iv) and (vi) to read as follows:

#### **§ 32.24 California.**

\* \* \* \* \*

(s) \* \* \*

(1) \* \* \*

(iv) We restrict hunters in the spaced zone area of the East Bear Creek Unit and West Bear Creek Unit to their assigned zone except when they are traveling to and from the parking area, retrieving downed birds, or pursuing crippled birds.

\* \* \* \* \*

(vi) We require State-issued Type A area permits for accessing the Freitas Unit on Wednesdays, Saturdays, and Sundays.

\* \* \* \* \*

■ 3. Amend § 32.28 by revising paragraphs (e)(2) and (3) to read as follows:

#### **§ 32.28 Florida.**

\* \* \* \* \*

(e) \* \* \*

(2) *Upland game hunting.* We allow upland game hunting and the incidental take of nonnative wildlife as defined by the State on designated areas of the refuge in accordance with State regulations and applicable State Wildlife Management Area regulations and the following condition: We require the use of non-lead ammunition when hunting upland game and the incidental take of nonnative wildlife on the Corrigan Ranch/Okeechobee Unit.

(3) *Big game hunting.* We allow big game hunting and the incidental take of nonnative wildlife as defined by the State on designated areas of the refuge in accordance with State regulations and applicable State Wildlife Management Area regulations and the following condition: We require the use of non-lead ammunition when hunting big game and the incidental take of nonnative wildlife on the Corrigan Ranch/Okeechobee Unit.

■ 4. Amend § 32.35 by revising paragraph (a)(1)(v) to read as follows:

§ 32.35 Kansas.

\* \* \* \* \*

- (a) \* \* \*
(1) \* \* \*

(v) We close the Neosho River and refuge lands north of the Neosho River to all hunting from November 1 through March 1.

\* \* \* \* \*

■ 5. Effective September 1, 2026, amend § 32.38 by:

- a. Adding paragraph (b)(1)(v);
■ b. Revising paragraphs (b)(2)(i) and (b)(3)(i);
■ c. Adding paragraph (f)(1)(v); and
■ d. Revising paragraphs (f)(2)(i), (f)(3)(i), and (f)(4)(ii).

The additions and revisions read as follows:

§ 32.38 Maine.

\* \* \* \* \*

- (b) \* \* \*
(1) \* \* \*

(v) You may only use or possess approved non-lead shot shells, ammunition, and tackle while in the field (see § 32.2(k)).

(2) \* \* \*

(i) The conditions set forth at paragraphs (b)(1)(i) through (iii) and (v) of this section apply.

\* \* \* \* \*

(3) \* \* \*

(i) The conditions set forth at paragraphs (b)(1)(i) through (iii) and (v) of this section apply.

\* \* \* \* \*

(f) \* \* \*

(1) \* \* \*

(v) You may only use or possess approved non-lead shot shells, ammunition, and tackle while in the field (see § 32.2(k)).

(2) \* \* \*

(i) The conditions set forth at paragraphs (f)(1)(i), (iii), and (v) of this section apply.

\* \* \* \* \*

(3) \* \* \*

(i) The conditions as set forth at paragraphs (f)(1)(i), (iv), and (v) of this section apply.

\* \* \* \* \*

(4) \* \* \*

(ii) The condition set forth at paragraph (f)(1)(v) of this section applies.

\* \* \* \* \*

■ 6. Effective September 1, 2026, amend § 32.39 by:

- a. Adding paragraph (a)(1)(iv);
■ b. Revising paragraph (a)(2)(i);
■ c. Adding paragraphs (a)(3)(vi), (a)(4)(iii), and (b)(2)(iv);
■ d. Revising paragraph (b)(3)(i) introductory text;
■ e. Adding paragraphs (b)(3)(iv), (b)(4)(iii), and (c)(1)(v); and
■ f. Revising paragraphs (c)(2), (c)(3)(i), and (c)(4).

The additions and revisions read as follows:

§ 32.39 Maryland.

\* \* \* \* \*

(a) \* \* \*

(1) \* \* \*

(iv) You may only use or possess approved non-lead shot shells, ammunition, and tackle while in the field (see § 32.2(k)).

(2) \* \* \*

(i) The conditions set forth at paragraphs (a)(1)(iv) and (a)(3)(i) through (v) of this section apply.

\* \* \* \* \*

(3) \* \* \*

(vi) The condition set forth at paragraph (a)(1)(iv) of this section applies.

(4) \* \* \*

(iii) The condition set forth at paragraph (a)(1)(iv) of this section applies.

(b) \* \* \*

(2) \* \* \*

(iv) You may only use or possess approved non-lead shot shells, ammunition, and tackle while in the field (see § 32.2(k)).

(3) \* \* \*

(i) The general hunt regulations for this paragraph (b)(3) are:

\* \* \* \* \*

(iv) The condition set forth at paragraph (b)(2)(iv) of this section applies.

(4) \* \* \*

(iii) The condition set forth at paragraph (b)(2)(iv) of this section applies.

(c) \* \* \*

(1) \* \* \*

(v) You may only use or possess approved non-lead shot shells, ammunition, and tackle while in the field (see § 32.2(k)).

(2) *Upland game hunting.* We allow hunting of gray squirrel, eastern cottontail rabbit, and woodchuck on designated areas of the refuge subject to the following condition: The conditions set forth at paragraphs (c)(1)(i) through (iii) and (v) of this section apply.

(3) \* \* \*

(i) The conditions set forth at paragraphs (c)(1)(i), (ii), and (v) of this section apply.

\* \* \* \* \*

(4) *Sport fishing.* We allow sport fishing on designated areas of the refuge subject to the following condition: The condition set forth at paragraph (c)(1)(v) of this section applies.

■ 7. Amend § 32.40 by:

- a. Adding paragraph (a)(4)(iii); and
■ b. Revising paragraphs (b)(4) and (f)(4).

The addition and revisions read as follows:

§ 32.40 Massachusetts.

\* \* \* \* \*

(a) \* \* \*

(4) \* \* \*

(iii) We allow fishing from legal sunrise to legal sunset.

(b) \* \* \*

(4) *Sport fishing.* We allow sport fishing on designated areas of the refuge from legal sunrise to legal sunset.

\* \* \* \* \*

(f) \* \* \*

(4) *Sport fishing.* We allow sport fishing on designated areas of the refuge from legal sunrise to legal sunset.

\* \* \* \* \*

■ 8. Amend § 32.47 by:

- a. Revising paragraphs (d)(1)(i) and (iii);
■ b. Adding paragraphs (d)(1)(iv) and (v); and
■ c. Revising paragraph (d)(2)(iii).

The revisions and addition read as follows:

§ 32.47 Nevada.

\* \* \* \* \*

(d) \* \* \*

(1) \* \* \*

(i) We allow hunting on designated days. We prohibit any migratory game bird hunting after January 31.

\* \* \* \* \*

(iii) From October 1 to February 1, you may only be in possession of or use 25 or fewer shot shells per hunt day.

(iv) We only allow hunters to use watercraft to travel to and from their hunting location for each day's hunt. Watercraft must be completely immobilized while hunting, except to retrieve downed or crippled birds.

(v) We prohibit shooting 150 feet (45 meters) from the center line of roads

(including access roads and two tracks), parking areas, levees, or into or from safety zones.

(2) \* \* \*

(iii) The conditions set forth at paragraphs (d)(1)(iii) and (iv) of this section apply.

\* \* \* \* \*

■ 9. Amend § 32.48 by revising paragraph (b) to read as follows:

**§ 32.48 New Hampshire.**

\* \* \* \* \*

(b) *Silvio O. Conte National Fish and Wildlife Refuge*—(1) *Migratory game bird hunting*. We allow hunting of duck, goose, coot, Wilson’s snipe, and American woodcock on designated areas of the refuge subject to the following condition: We allow the use of dogs consistent with State regulations, except dog training is only allowed from August 1 through the last Saturday in September during daylight hours.

(2) *Upland game hunting*. We allow hunting of coyote, fox, raccoon, woodchuck, red squirrel, eastern gray squirrel, porcupine, skunk, crow, snowshoe hare, muskrat, opossum, fisher, mink, weasel, ring-necked pheasant, and ruffed grouse on designated areas of the refuge subject to the following condition: We allow the use of dogs consistent with State regulations, except dog training is only allowed from August 1 through the last Saturday in September during daylight hours.

(3) *Big game hunting*. We allow hunting of white-tailed deer, moose, black bear, and wild turkey on designated areas of the refuge subject to the following conditions:

(i) We allow the use of dogs consistent with State regulations, except dog training is only allowed from August 1 through the last Saturday in September during daylight hours.

(ii) We allow tree stands and blinds that are clearly marked with the owner’s State hunting license number.

(iii) You must remove your tree stand(s) and blind(s) no later than 72 hours after the close of the season (see § 27.93 of this chapter).

(4) *Sport fishing*. We allow sport fishing on designated areas of the refuge.

\* \* \* \* \*

■ 10. Amend § 32.56 by revising paragraph (l)(2) to read as follows:

**§ 32.56 Oregon.**

\* \* \* \* \*

(l) \* \* \*

(2) *Upland game hunting*. We allow hunting of upland game birds and

turkey on designated areas of the refuge subject to the following condition: The condition set forth at paragraph (l)(1)(i) of this section applies.

\* \* \* \* \*

■ 11. Effective September 1, 2026, amend § 32.57 by:

- a. Adding paragraph (b)(1)(v);
- b. Revising paragraphs (b)(2)(iii) and (b)(3)(ii); and
- c. Adding paragraph (b)(4)(vi).

The additions and revisions read as follows:

**§ 32.57 Pennsylvania.**

\* \* \* \* \*

(b) \* \* \*

(1) \* \* \*

(v) You may only use or possess approved non-lead shot shells, ammunition, and tackle while in the field (see § 32.2(k)).

(2) \* \* \*

(iii) The conditions set forth at paragraphs (b)(1)(iv) and (v) of this section apply.

\* \* \* \* \*

(3) \* \* \*

(ii) The conditions set forth at paragraphs (b)(1)(iv) and (v) of this section apply.

(4) \* \* \*

(vi) The condition set forth at paragraph (b)(1)(v) of this section applies.

\* \* \* \* \*

**§ 32.62 [Amended]**

■ 12. Amend § 32.62 by:

- a. Removing paragraph (h)(3)(x); and
- b. Redesignating paragraphs (h)(3)(xi) through (xiii) as paragraphs (h)(3)(x) through (xii), respectively.

■ 13. Amend § 32.64 by:

- a. Adding paragraph (a)(4)(v); and
- b. Revising paragraph (b).

The addition and revision read as follows:

**§ 32.64 Vermont.**

\* \* \* \* \*

(a) \* \* \*

(4) \* \* \*

(v) We allow fishing from legal sunrise to legal sunset.

(b) *Silvio O. Conte National Fish and Wildlife Refuge*—(1) *Migratory game bird hunting*. We allow hunting of duck, goose, coot, crow, snipe, and American woodcock on designated areas of the refuge subject to the following conditions:

(i) We allow disabled hunters to hunt from a vehicle that is at least 10 feet from the traveled portion of the refuge road if the hunter possesses a State-issued disabled hunting license and a Special Use Permit (FWS Form 3–1383–G) issued by the refuge manager.

(ii) We allow the use of dogs consistent with State regulations, except dog training is only allowed from August 1 through the last Saturday in September during daylight hours. We prohibit dog training on the Putney Mountain Unit.

(iii) We prohibit shooting from, over, or within 25 feet of the traveled portion of any road that is accessible to motor vehicles.

(2) *Upland game hunting*. We allow hunting of coyote, fox, raccoon, bobcat, woodchuck, red squirrel, eastern gray squirrel, porcupine, skunk, snowshoe hare, eastern cottontail, muskrat, opossum, weasel, pheasant, and ruffed grouse on designated areas of the refuge subject to the following conditions:

(i) The conditions set forth at paragraphs (b)(1)(ii) and (iii) of this section apply.

(ii) At the Putney Mountain Unit, we allow the use of dogs only for hunting ruffed grouse, fall turkey, squirrel, and woodcock.

(iii) We require hunters hunting at night to possess a Special Use Permit (FWS Form 3–1383–G) issued by the refuge manager.

(3) *Big game hunting*. We allow hunting of white-tailed deer, moose, black bear, and wild turkey on designated areas of the refuge subject to the following conditions:

(i) The conditions set forth at paragraphs (b)(1)(ii) and (iii) of this section apply.

(ii) You may use portable tree stands and/or blinds. You must clearly label your tree stand(s) and/or blind(s) with your hunting license number. You must remove your tree stand(s) and/or blind(s) no later than 72 hours after the close of the season (see § 27.93 of this chapter).

(iii) You may retrieve moose at the Nulhegan Basin Division with the use of a commercial moose hauler, if the hauler possesses a Special Use Permit (FWS Form 3–1383–C) issued by the refuge manager.

(4) *Sport fishing*. We allow sport fishing on designated areas of the refuge consistent with State regulations.

■ 14. Amend § 32.65 by:

- a. Adding paragraphs (b)(2)(vii) and (viii) and (c)(2)(ii); and
- b. Revising paragraph (c)(3)(i).

The additions and revision read as follows:

**§ 32.65 Virginia.**

\* \* \* \* \*

(b) \* \* \*

(2) \* \* \*

(vii) Hunting is allowed only during the regular State deer season.

(viii) We prohibit hunting on Sundays.

\* \* \* \* \*

(c) \* \* \*  
(2) \* \* \*

(iii) We prohibit hunting on Sundays.

(3) \* \* \*

(i) The conditions set forth at paragraphs (c)(1)(i), (ii), (iv), and (v) and (c)(2)(iii) of this section apply.

\* \* \* \* \*

■ 15. Effective September 1, 2026, further amend § 32.65 by:

■ a. Adding paragraph (b)(1)(vi);

■ b. Revising paragraphs (b)(2)(i) and (b)(3)(i);

■ c. Adding paragraphs (b)(4)(vi) and (n)(1)(vi); and

■ d. Revising paragraphs (n)(2)(i) and (n)(3)(i).

The additions and revisions read as follows:

**§ 32.65 Virginia.**

\* \* \* \* \*

(b) \* \* \*  
(1) \* \* \*

(vi) You may only use or possess approved non-lead shot shells and ammunition while in the field (see § 32.2(k)).

(2) \* \* \*

(i) The conditions set forth at paragraphs (b)(1)(i) and (vi) of this section apply. All occupants of a vehicle or hunt party must possess a signed refuge hunt brochure and be actively engaged in hunting unless aiding a disabled person who possesses a valid State disabled hunting license.

\* \* \* \* \*

(3) \* \* \*

(i) The conditions set forth at paragraphs (b)(1)(vi) and (b)(2)(i), (ii), and (v) through (viii) of this section apply.

\* \* \* \* \*

(4) \* \* \*

(vi) The condition set forth at paragraph (b)(1)(vi) of this section applies.

\* \* \* \* \*

(n) \* \* \*  
(1) \* \* \*

(vi) You may only use or possess approved non-lead shot shells, ammunition, and tackle while in the field (see § 32.2(k)).

(2) \* \* \*

(i) The conditions set forth in paragraphs (n)(1)(i), (iii), and (vi) of this section apply.

\* \* \* \* \*

(3) \* \* \*

(i) The conditions set forth at paragraphs (n)(1)(i), (ii), and (vi) and (n)(2)(iv) of this section apply.

\* \* \* \* \*

■ 16. Amend § 32.66 by revising paragraph (b)(4)(i) to read as follows:

**§ 32.66 Washington.**

\* \* \* \* \*

(b) \* \* \*  
(4) \* \* \*

(i) On waters open to fishing, we allow fishing only from the start of the State season to September 30, except that we allow fishing year-round on Falcon, Heron, Goldeneye, Corral, Blythe, Chukar, and Scaup Lakes.

\* \* \* \* \*

**Shannon Estenoz,**

*Assistant Secretary for Fish and Wildlife and Parks.*

[FR Doc. 2023-23847 Filed 10-27-23; 8:45 am]

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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 622**

[Docket No. 120404257-3325-02; RTID 0648-XD427]

**Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; 2023 Commercial Hook-and-Line Closure for Golden Tilefish in the South Atlantic**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Temporary rule; closure.

**SUMMARY:** NMFS implements an accountability measure for the commercial hook-and-line component of golden tilefish in the South Atlantic exclusive economic zone (EEZ). NMFS projects that commercial landings of golden tilefish harvested by hook-and-line are projected to reach the commercial component quota in the 2023 fishing year. Accordingly, NMFS closes the commercial hook-and-line component for golden tilefish in the South Atlantic EEZ for the remainder of the 2023 fishing year to protect the golden tilefish resource.

**DATES:** This temporary rule is effective from 12:01 a.m. eastern time on October 31, 2023, through December 31, 2023.

**FOR FURTHER INFORMATION CONTACT:** Mary Vara, NMFS Southeast Regional Office, telephone: 727-824-5305, email: [mary.vara@noaa.gov](mailto:mary.vara@noaa.gov).

**SUPPLEMENTARY INFORMATION:** The snapper-grouper fishery of the South Atlantic includes golden tilefish and is managed under the Fishery Management Plan for the Snapper-

Grouper Fishery of the South Atlantic Region (FMP). The South Atlantic Fishery Management Council and NMFS prepared the FMP, and the FMP is implemented by NMFS under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622. All weights in this temporary rule are given in gutted weight.

The commercial sector for golden tilefish has two components, each with its own quota: The hook-and-line and longline components (50 CFR 622.190(a)(2)). The commercial annual catch limit (ACL) for golden tilefish is allocated 25 percent to the hook-and-line component and 75 percent to the longline component. The total commercial ACL (equivalent to the total commercial quota) for golden tilefish is 331,740 lb (150,475 kg). The commercial ACL (equivalent to the commercial quota) for the hook-and-line component is 82,935 lb (37,619 kg).

Under 50 CFR 622.193(a)(1)(i), NMFS is required to close the commercial hook-and-line component for golden tilefish when its commercial ACL has been reached, or is projected to be reached, through a notification filed with the Office of the Federal Register. NMFS projects that commercial landings of South Atlantic golden tilefish by the hook-and-line component will reach the ACL by October 31, 2023. Accordingly, the commercial hook-and-line component of South Atlantic golden tilefish is closed on October 31, 2023.

For the current fishing year, NMFS has also closed the commercial longline component on April 7, 2023, and the recreational sector on July 17, 2023, for golden tilefish through 2023 (88 FR 20079, April 5, 2023; 88 FR 45369, July 17, 2023). Therefore, because the commercial longline component and recreational sector are already closed, and NMFS is closing the commercial hook-and-line component through this temporary rule, all harvest and possession of South Atlantic golden tilefish in or from the EEZ is prohibited from the effective date of this temporary rule through the end of 2023.

The operator of a vessel issued a valid Federal commercial vessel permit for South Atlantic snapper-grouper with golden tilefish on board harvested by hook-and-line must have landed and bartered, traded, or sold such golden tilefish prior to 12:01 a.m. eastern time on October 31, 2023. During the closure, the sale or purchase of golden tilefish harvested from the EEZ is prohibited. The prohibition on sale or purchase does not apply to the sale or purchase