



August 22, 2023

The Honorable Martha Williams
Director
U.S. Fish and Wildlife Service
1849 C Street NW
Washington, D.C. 20240

Re: Notice of Proposed Rulemaking
National Wildlife Refuge System;
2023-2024 Station-Specific Hunting and Sport Fishing Regulations
Docket No. FWS-HQ-NWRS-2023-0038
FXRS12610900000-234-FF09R20000
RIN 1018-BG71

Dear Director Williams:

The American Sportfishing Association (ASA) appreciates the opportunity to comment on 2023-2024 Station-Specific Hunting and Sport Fishing Regulations for the National Wildlife Refuge System.

Recreational fishing is among America's most popular outdoor recreation activities, providing the public with an easy and affordable opportunity to connect with nature and gain the mental and physical health benefits that come with recreating outdoors. For 90 years, ASA has been leading the way for sportfishing's future. As the trade association for the sportfishing industry, we look out for the interests of the industry and the entire recreational fishing community.

Recreational fishing is enjoyed by 54.5 million anglers annually¹, supporting over 800,000 jobs with a \$148 billion economic impact. The recreational fishing community is among the nation's leading conservationists, contributing \$1.7 billion annually to aquatic resource conservation through excise taxes, license fees and direct donations. National Wildlife Refuges (NWRs) serve an important mission for the nation in conserving aquatic habitats and providing public access to the outdoors.

Although the 2023-2024 rule does not include any expansions of fishing access, it does include previously announced restrictions on lead fishing tackle in seven NWRs. If approved, effective September 1, 2026, Blackwater, Eastern Neck, Erie, Great Thicket, Patuxent Research Refuge, Rachel Carson, and Wallops Island NWRs would require the use of non-lead fishing tackle. We are strongly opposed to this baseless requirement and are disappointed that the U.S. Fish and Wildlife Service (USFWS) is not acting on the best scientific information.

¹ https://www.takemefishing.org/getmedia/cb2bbb09-27e6-4d6b-8f2b-c1c479b487ff/2023_SpecialReportOnFishing_FINAL.pdf

The 2022-2023 Station-Specific Hunting and Sport Fishing Regulations first proposed what appears to be a trend of arbitrarily banning lead fishing tackle in individual NWRs. Since that regulation was first announced over a year ago, ASA has asked USFWS for scientific evidence to support the action. What little information has been provided cannot objectively be deemed as sufficient.

In justifying the proposed lead tackle restrictions, the 2023-2024 proposed rule states, “(t)he best available science, analyzed as part of this proposed rulemaking, indicates that lead ammunition and tackle have negative impacts on both wildlife and human health.” This statement is an overgeneralization that is unsubstantiated elsewhere in the proposed rule.

The closest explanation we can find to support the USFWS’s lead tackle restrictions is in the Summary of Comments and Responses to the 2022-2023 Station-Specific Hunting and Sport Fishing Regulations ([87 FR 57108](#)). There, the USFWS states, “(l)ead fishing tackle presents a risk of lead poisoning to many waterfowl species, including loons and swans.” The only supporting evidence provided is a handful of studies, most of which are one or more decades old, specific only to the common loon and trumpeter swan.

ASA does not dispute that if an individual animal consumes a lead sinker or jig, it will likely die of lead toxicosis. In the case of fishing tackle, these interactions have generally been limited to certain species of waterfowl that may incidentally ingest lost fishing weights from the floor of waterbodies. It is never the intent of an angler to intentionally discard lead sinkers or jigs in or near waterbodies, but rather this occurs by accident (e.g., when the fishing line breaks), and relatively infrequently.

Digging further into the cited species, the common loon population is increasing in North America and is assessed as a species of least concern by the International Union for Conservation of Nature (IUCN)². A 2018 literature review³ found modest impacts of lead fishing tackle on loon populations in a single state, but otherwise that “evidence for population-level impacts in other fish and wildlife species is lacking or inconclusive.” Trumpeter swans are also assessed as a species of least concern by the IUCN⁴, with a population size described as “very large” and “increasing.”

Otherwise, many of the supportive arguments in the Summary of Comments and Responses to the 2022-2023 rule as to the risks of lead to wildlife health are specific to ammunition, namely the issue of birds of prey scavenging on carcasses of animals shot by lead bullets. While we understand there to be significant concerns as to the legitimacy of this argument, and the related argument of human health risk from eating game shot with lead bullets, it is important to note that neither are applicable to fishing tackle.

² <https://www.iucnredlist.org/species/22697842/132607418>

³

https://www.fishwildlife.org/application/files/9515/3719/5026/AFWA_Lead_Fishing_Tackle_Review_2018_FINAL.pdf

⁴ <http://datazone.birdlife.org/species/factsheet/trumpeter-swan-cygnus-buccinator>

While the death of individual animals is unfortunate and should be minimized, it is important to recognize that, with rare exception, fish and wildlife are managed at the population level in the United States. If a wildlife population is declining, or at risk of declining, based on a human-caused source of mortality, it is incumbent on fish and wildlife managers to act. However, implementing restrictions on human activities to protect individuals of an otherwise healthy wildlife population is a very risky approach that undermines our nation's longstanding and highly successful model of wildlife conservation. It creates a slippery slope for restricting any number of human activities that might result in the accidental death of an individual animal.

In an attempt to justify how the USFWS has a responsibility to manage for the welfare of an individual animal, the Summary of Comments and Responses to the 2022-2023 final rule contains a confusing defense of restricting lead tackle and ammunition:

“Depending on the situation, we may manage wildlife at the ‘population level’ or at the ‘individual level,’ such as acting to protect endangered and threatened species, since their listed status may make the health of each individual important to preventing extinction.”

Protecting individual animals of an endangered species to prevent the species from becoming extinct is in fact a population-level management approach, because extinction inherently happens to a population. It is also important to note that none of the species USFWS cites for justifying its lead tackle restrictions (i.e., common loons and trumpeter swans) are anywhere close to, or at risk of, extinction.

Even if populations of common loons and trumpeter swans (or any other species) were declining as a direct result of lead tackle, the USFWS has provided no evidence of how restricting lead tackle in a handful of NWRs would contribute to their overall recovery. If lead fishing tackle were as problematic as USFWS's unsubstantiated claims make it out to be, simply restricting lead tackle in a handful of wildlife refuges without coordination with, and commensurate action by, other federal, state and Tribal land managers and wildlife agencies will not lead to any meaningful conservation.

Overall, this seems to us to be a poorly developed solution in search of a problem. It is a misapplication of science that will not have a benefit to wildlife conservation, yet will unfairly penalize anglers that wish to fish in the impacted NWRs.

We hold so strongly to our position that lead tackle restrictions must have a clear, science-based justification because mandating the use of alternatives comes with major challenges for the industry and anglers. While sinkers and jigs are available in alternative metals, namely tin, steel and tungsten, these alternatives carry tradeoffs of cost and/or performance (see Table 1). Due to high angler preference for lead tackle, these alternatives are a small portion of the overall sinker and jig market (estimated at less than 5 percent).

Different machinery, molds and processes are required to manufacture lead and non-lead products. Transitioning the industry to non-lead alternatives is not as simple as replacing the material that is fed into the manufacturing process. A government-mandated shift to non-lead

tackle would require significant expense to industry to develop and scale up non-lead production lines. While it is uncertain how many manufacturers would be able to make this transition given the substantial capital that would be required, it is certain that the end result for consumers would be substantially higher costs.

Anglers are a price-sensitive group. As state fish and wildlife agencies can attest, raising the cost of a fishing license even by a few dollars results in fewer license purchases. The same is true for fishing tackle. If anglers are required to purchase new fishing tackle that is more expensive and/or performs worse, a portion of them will simply choose not to go fishing. This is particularly true for low-income individuals.

Therefore, such restrictions must be based on a high standard of need. As stated earlier, we do not believe the USFWS has provided a clear, sound justification for restricting lead fishing tackle in these NWRs. Additionally, should clear population level impacts be found, regulations should be primarily developed by state fish and wildlife agencies and should be tailored to have the smallest negative impact on fishing as possible to achieve conservation goals. For example, while ASA continues to question the overall merit of these restrictions given the health of loon populations, in states that have implemented lead fishing tackle restrictions, these are limited to size ranges of sinkers and jigs that could feasibly be ingested by loons (see Table 2).

We request USFWS withdraw the portions of the Proposed Rule banning the use of lead tackle on NWRs, and instead focus on a collaborative approach with industry to better understand and address perceived issues surrounding lead tackle. ASA supports factual education programs that promote voluntary use of non-lead alternatives. We also support buy back/trade in programs that allow anglers to voluntarily transition from lead to non-lead tackle. We would welcome the opportunity to work with USFWS to support programs to help educate anglers on non-lead alternatives and facilitate voluntary transition. ASA maintains that as long as there is no proof of a negative impact on wildlife or the environment, anglers should be able to choose what type of tackle works best for their needs.

Sincerely,



Mike Leonard
Vice President, Government Affairs

Table 1. Descriptions of alternative materials to lead

Alternative	Description	Price as of Aug '23 (For comparison, lead = \$1.00/lb.)
Tin	Only substitute for split shot sinkers, though it has a lower specific gravity, which requires more, or larger, forms be used to match the equivalent weight of a lead sinker or jig.	\$12.00/lb.
Steel	Like tin, steel has a lower specific gravity than lead and requires a larger sinker or more sinkers to approach the performance of lead. It is significantly harder, has a higher melting point and cannot be used for split shot sinkers, which constitute nearly half of the sinker market in the U.S. Only alternative with a comparable price point to lead.	\$0.75/lb.
Tungsten	Has a higher specific gravity than lead, but because of its hardness, cannot be used for split shot.	\$18.00/lb.

Table 2. States with current lead fishing tackle restrictions

State	Items Banned	Size	Scope
New Hampshire	Jigs and sinkers	1 ounce or less	Statewide ban on sale and use in freshwater
New York	Sinkers	1/2 ounce or less	Statewide ban on sale
Maine	Jigs and sinkers	Under 2.5 inches in length or weighing under 1 ounce	Statewide sale and use
Massachusetts	Jigs and sinkers	Less than an ounce	Statewide ban on sale, but not use
Vermont	Sinkers	1/2 ounce or less	Statewide sale and use
Washington	Weights or jigs	1 1/2 inch or less along the longest axis	Use at Select lakes