

DEPARTMENT OF THE INTERIOR**Fish and Wildlife Service****50 CFR Parts 25 and 32**

RIN 1018-AC80

Refuge-Specific Hunting and Fishing Regulations**AGENCY:** Fish and Wildlife Service, Interior.**ACTION:** Final rule.

SUMMARY: The Fish and Wildlife Service (Service) adds and/or amends certain regulations governing sport fishing and hunting for migratory game bird, upland/small game, and big game on individual national wildlife refuges. Refuge Managers continuously review hunting and fishing programs to respond to visitor interest in recreation activities and to ensure compatibility with the purposes for which the individual refuges were established. Modifications to existing programs may include programs deleted, modified or expanded based on fluctuating environmental conditions, changes to State and other Federal regulations, and other factors. Modifications are also designed, to the extent practical, to make refuge hunting and fishing programs consistent with existing State hunting and fishing regulations.

EFFECTIVE DATE: December 4, 1995.

FOR FURTHER INFORMATION CONTACT: Stephen R. Vehrs, Division of Refuges, U.S. Fish and Wildlife Service; Telephone (703) 358-2029, X-5242.

SUPPLEMENTARY INFORMATION: 50 CFR part 25 contains general administrative provisions which govern national wildlife refuges. 50 CFR part 32 contains provisions governing hunting and fishing on national wildlife refuges (NWRs). Hunting and fishing are regulated on refuges to: (1) Ensure compatibility with refuge purposes, (2) properly manage the wildlife resource, (3) protect other refuge values, and (4) ensure refuge user safety. On many refuges, the Service policy of adopting State hunting regulations is adequate in meeting these objectives. On other refuges, it is necessary to supplement State regulations with more restrictive Federal regulations to ensure that the Service meets its management responsibilities, as outlined under the section entitled "Conformance with Statutory and Regulatory Authorities." Refuge-specific hunting and fishing regulations may be issued only after a wildlife refuge is opened to migratory game bird hunting, upland or other small game hunting, big game hunting

or sport fishing through publication in the Federal Register. These regulations may list the wildlife species that may be hunted or the species subject to sport fishing, seasons, bag limits, methods of hunting or fishing, descriptions of open areas, and other provisions as appropriate. Previously issued refuge-specific regulations for hunting and fishing are contained in 50 CFR part 32. Many of the amendments to these sections are being promulgated to standardize and clarify the existing language of these regulations.

In the August 16, 1995, issue of the Federal Register, 60 FR 42668, the Service published a proposed rulemaking and invited public comment on the proposed annual additions and/or modifications to the National Wildlife Refuge Hunting and Fishing Regulations. All substantive comments were reviewed and considered following a 30-day public comment period. The following represents a cross-section of the total concerns expressed.

Four State conservation agencies, one non-government organization, and 28 individuals commented on the proposed rulemaking. Nearly all comments were concerning the proposal to require the use or expansion of nontoxic shot on several refuges. This specific proposal would require the use of nontoxic shot while hunting on refuges for one or more species of wildlife other than waterfowl and coots, because of the likelihood of depositing toxic lead shot pellets on the land with resulting impacts to waterfowl and other migratory birds.

After evaluating the comments received, the Service has decided to delay nontoxic shot implementation until the 1996-97 hunting season on those refuges which were proposed to convert to nontoxic shot during the 1995-96 season. This action is being taken to allow adequate time for additional coordination and educational outreach with the affected States, hunting organizations and the general public on the effects of toxic lead shot to waterfowl and other migratory birds. Voluntary hunter use of nontoxic shotshells is requested during the 1995-96 hunting season.

The State of Wisconsin, Department of Natural Resources expressed the opinion that the Service has:

1. Not adequately documented the need for requiring nontoxic shot for hunting certain wildlife species other than ducks, geese and swans; and
2. Not provided the results of the scientific nontoxic shot studies to the public. The State believes the public is supportive of biologically sound

regulations, but opposed to regulations without justification; and

3. Proposed the required use of nontoxic shot in an inconsistent manner. The State used Necedah NWR as an example where nontoxic shot would be required to hunt ruffed grouse, but not for hunting woodcock in the same general habitat.

Response

1. Lead shot from hunters' shotguns that is deposited in wetlands, seasonally flooded habitats, and upland habitats in close proximity to these wetlands is toxic to wildlife that directly ingest lead pellets during feeding, and secondarily toxic to predators and carrion feeders that consume these toxic wildlife carcasses. The documented scientific evidence is clear in this regard, and is available as indicated at the end of this response. What has not been adequately communicated to, and considered by some hunters and habitat managers, is the deposition of toxic lead shot into marginal or fringe wetland areas by hunting activities other than waterfowl and coot hunting. Nationwide, efforts are now underway to educate and activate programs to reduce this threat to waterfowl, raptors and other susceptible wildlife species. The proposed regulations were specific to point out that a scientifically recognized toxic lead problem exists in uplands that are periodically flooded and become feeding grounds for waterfowl and secondarily for bald eagles.

Scientific research has established that lead pellets ingested by waterfowl and secondarily by raptors including bald eagles results in the death of these animals due to toxic lead poisoning. When lead shot pellets are deposited during upland or small game hunting in dry areas that are subject to seasonal flooding, waterfowl and other migratory birds that feed in these areas during the period of high water are vulnerable to lead poisoning. Scientific information on the "Toxicity of Lead Shot to Wildlife" may be obtained by calling the U.S. Fish and Wildlife Reference Service at 1-800-582-3421 or by accessing the bibliographic databases information directly on the INTERNET at "<http://www.fws.gov/fwrefser.html>".

2. News articles concerning proposed regulations to address the adverse affects of hunting upland and other small game with toxic lead shot in upland areas subject to periodic flooding and seasonal wetland areas have been published in newspapers during the last 3 years. Nontoxic shot for hunting upland and other small game was first introduced to west coast refuges in the 1991-92 hunting season,