



HOUSE COMMITTEE ON
NATURAL RESOURCES
CHAIRMAN BRUCE WESTERMAN

To: Subcommittee on Water, Wildlife and Fisheries Republican Members

From: Subcommittee on Water, Wildlife and Fisheries staff: Kiel Weaver (kiel.weaver@mail.house.gov), Doug Levine (doug.levine@mail.house.gov) and Annick Miller (annick.miller@mail.house.gov), x58331

Date: May 10, 2023

Subject: Legislative Hearing on: **H.R. 524 (Rouzer)**, To amend the Coastal Barrier Resources Act to create an exemption for certain shoreline borrow sites; **H.R. 615 (Wittman)**, Protecting Access for Hunters and Anglers Act of 2023; **H.R. 2689 (Porter)**, Trust in Government Act of 2023; and **H.R. 2872 (Garret Graves)** To amend the Permanent Electronic Duck Stamp Act of 2013 to allow States to issue electronic stamps under such Act, and for other purposes.

The Subcommittee on Water, Wildlife and Fisheries will hold a legislative hearing on: H.R. 524 (Rouzer), To amend the Coastal Barrier Resources Act to create an exemption for certain shoreline borrow sites; H.R. 615 (Wittman), Protecting Access for Hunters and Anglers Act of 2023; H.R. 2689 (Porter), Trust in Government Act of 2023; and H.R. 2872 (Garret Graves) To amend the Permanent Electronic Duck Stamp Act of 2013 to allow States to issue electronic stamps under such Act, and for other purposes, **on Wednesday, May 10, 2023 at 2 p.m. EDT in 1324 Longworth House Office Building.**

Member offices are requested to notify Thomas Shipman (Thomas.Shipman@mail.house.gov) by 4:30 p.m. on Tuesday, May 9th, if their Member intends to participate in the hearing.

I. KEY MESSAGES

- This hearing will focus on promoting hunting and fishing access for America's sportsmen and women. By further modernizing the Federal Duck Stamp program, as proposed in H.R. 2872, waterfowl hunters will have a more simplified way of purchasing the Stamp, which steers user-fees towards habitat protection.
- Similarly, H.R. 615 attempts to promote hunting and fishing access to our National Wildlife Refuge system by ensuring that the Biden administration does not impose a blanket ban on lead ammunition and fishing tackle. Such a ban would ignore science, undermine state wildlife law and raise costs for sportsmen and women.
- H.R. 524 is a return to common sense Trump-era federal policies when it comes to restoring beach habitat for communities in need.

II. WITNESSES

Panel I:

- Member panel (TBD)

Panel II:

- **Mr. Matt Strickler**, Principal Deputy Assistant Secretary, Fish and Wildlife and Parks, Department of the Interior, Washington, DC (all bills);
- **Mr. Todd Adkins**, Vice President of Government Affairs, Sportsmen’s Alliance, Columbus, Ohio (H.R. 615);
- **Mr. Bryan McClinton**, Undersecretary, Louisiana Department of Wildlife and Fisheries, Baton Rouge, Louisiana (H.R. 2872);
- **The Honorable Darryl Mills**, Mayor of Wrightsville Beach, Wrightsville Beach, North Carolina (H.R. 524); and
- **Mr. Timothy Whitehouse**, Executive Director, Public Employees for Environmental Responsibility, Poolesville, Maryland (Minority witness testifying on all bills)

III. BACKGROUND

H.R. 524, To amend the Coastal Barrier Resources Act to create an exemption for certain shoreline borrow sites (Rep. David Rouzer, R-NC)

Coastal Barrier Resources Act (CBRA or Act)

Enacted in 1982, the CBRA established the John H. Chafee Coastal Barrier Resources System (System), which is made up of undeveloped coastal barriers and other areas of the eastern seaboard and the Gulf of Mexico.¹ Section 5 of the CBRA restricts the use of new federal funding that may encourage development on or around certain coastal barriers.² The intention of these restrictions is to “minimize the loss of human life, wasteful expenditure of federal revenues, and the damage to fish, wildlife, and other natural resources associated with the coastal barriers.”³

Section 6 of the Act allows for certain exemptions to Section 5 restrictions, including for non-structural shoreline stabilization projects that are designed to mimic, enhance, or restore a natural stabilization system.⁴ This section, known as Section 6(a)(6)(G), has been interpreted by the U.S. Fish and Wildlife Service (USFWS) three times: in 1994, 2019, and 2021.⁵

¹ [Pub. L. No. 97-348, §3, Oct. 18, 1982, 96 Stat. 1653.](#)

² *Id.*

³ *Id.*

⁴ *Id.* § 6(a)(6)(G)

⁵ Congressional Research Service, Legal Sidebar: Nonstructural Shoreline Stabilization Projects, or “Beach Renourishment,” and the Coastal Barrier Resources Act (CBRA). LSB10729. <https://crsreports.congress.gov/product/pdf/LSB/LSB10729>

In 1994, the USFWS concluded that the exemption for non-structural shore stabilization projects applied only to projects stabilizing shorelines within the System.⁶ This interpretation stemmed from a beach renourishment project in Pawley's Island, South Carolina (outside the System) that required dredged sediment from the Midway Inlet Unit (within the System).⁷ The USFWS determined in its ruling that since the project was taking sediment from the System to replenish a beach outside of the System it did not qualify for an exemption.

In 2019, the USFWS revised its interpretation of Section 6(a)(6)(G), stating that as long as projects were expended within the System and were consistent with Section 6(a)(6)(G), the shoreline stabilization component could take place outside of the System.⁸ In practice, this allows for sediment to be removed from the System and applied outside of the System. However, projects that take from the System to replenish elsewhere must still mimic, enhance, or restore natural stabilization systems. The National Audubon Society challenged this interpretation in federal court, alleging that the USFWS violated the Administrative Procedures Act and National Environmental Policy Act when making its interpretation.⁹

Before the lawsuit could be remedied, the Biden administration identified the 2019 interpretation as an action for review.¹⁰ As a result, the litigation was stayed and ultimately dismissed with prejudice following publication of a new interpretation in July 2021.¹¹ The 2021 interpretation reverted to the 1994 interpretation with a slightly different rationale, stating that exemption under Section 6 must be read in connection with the prohibition of expenditures of any kind within the system under Section 5 of CBRA.¹²

The Wrightsville Beach Case

Although H.R. 615 could impact other areas, a case study on the bill's specific impact is Wrightsville Beach, a town of roughly 2,500 full-time residents along the Atlantic Coast in southeastern North Carolina. Its 4-mile-long beach welcomes thousands of visitors each year. Since the 1960s, Wrightsville Beach has been replenished by the U.S. Army Corps of Engineers (Corps) every three years with sand from Masonboro Inlet, an



Figure 1 Beach erosion along the southern end of Wrightsville Beach. Source: www.starnewsonline.com

⁶ "Memorandum: Interpretation of Section 6(a)(6)(G) of the Coastal Barrier Resources Act." Charles P. Raynor. U.S. Department of the Interior. [Interpretation of Section 6\(a\)\(6\)\(G\) of the Coastal Barrier Resources Act \(fws.gov\)](https://www.fws.gov/interpretation/section-6-a-6-g-coastal-barrier-resources-act)

⁷ Congressional Research Service, Legal Sidebar: Nonstructural Shoreline Stabilization Projects, or "Beach Renourishment," and the Coastal Barrier Resources Act (CBRA). LSB10729. <https://crsreports.congress.gov/product/pdf/LSB/LSB10729>

⁸ "Memorandum: Coastal Barrier Resources Act." Peg Romanik. U.S. Department of the Interior. 10/30/19. [Solicitor's Memo on Sand Mining Within the Coastal Barrier Resources System Under the Coastal Barrier Resources Act \(fws.gov\)](https://www.fws.gov/solicitor/memo-on-sand-mining-within-the-coastal-barrier-resources-system-under-the-coastal-barrier-resources-act)

⁹ Congressional Research Service, Legal Sidebar: Nonstructural Shoreline Stabilization Projects, or "Beach Renourishment," and the Coastal Barrier Resources Act (CBRA). LSB10729. <https://crsreports.congress.gov/product/pdf/LSB/LSB10729>

¹⁰ *Id.*

¹¹ *Id.*

¹² "Memorandum: Coastal Barrier Resources Act." Sarah Krakoff. U.S. Department of the Interior. 7/14/2021. [20210714-CBRA-Nonstructural-Shoreline-Stabilization-Legal-Memo.pdf \(fws.gov\)](https://www.fws.gov/nonstructural-shoreline-stabilization-legal-memo)

undeveloped CBRA Zone at the southern end of the island (within the System).¹³ The latest renourishment project was scheduled to take place in 2022. However, under the 2021 interpretation of CBRA, Wrightsville Beach (outside the System) is no longer allowed to use federal money to move sand from Masonboro Inlet to their beach. This had previously been allowed under an exception that was codified by the Corps in 1998, which was nullified by the 2021 interpretation.¹⁴

Without the use of Masonboro Inlet, the Corps must find an offshore borrow site outside the System with beach-compatible sand. A site was located 2.5 miles offshore, but after surveying the site, the Corps found over 300,000 tires in the sand bed.¹⁵ These tires came from an artificial reef created by the North Carolina Department of Environmental Quality's Division of Marine Fisheries. The presence of the tires has delayed the renourishment project because of the need for additional surveying and environmental compliance. The project was originally slated to begin in March 2022, but has now been pushed until after hurricane season.¹⁶

New Hanover County, North Carolina, which contains Wrightsville Beach, stated: "the use of this offshore borrow site is an extreme and unnecessary risk given Masonboro Inlet's borrow site's quality, quantity, accessibility, minimal ecological detriments and regulatory compliance."¹⁷ This bill would allow the Corps to use Masonboro Inlet to renourish Wrightsville Beach.

H.R. 524 has one cosponsor, Rep. Nancy Mace (R-SC). The Mayor of Wrightsville Beach will testify in support of the legislation while the Biden administration will likely testify in opposition to it.

H.R. 615, Protecting Access for Hunters and Anglers Act of 2023 (Rep. Rob Wittman, R-VA)

The National Wildlife Refuge System (NWRS)

The NWRS is a network of USFWS administered lands, submerged lands, and waters that provide habitat for fish and wildlife resources across the United States and U.S. territories.¹⁸ The NWRS is made up of 567 national wildlife refuges (refuges), 38 wetland management districts, 5 marine national monuments, and 63 refuges with wilderness areas.¹⁹ These units make up nearly 900 million acres, with over 90 million acres of refuges in non-insular areas.²⁰

¹³ "Wrightsville Beach renourishment project uncovers hundreds of thousands of tires in the ocean." Liz McLaughlin. WRAL News. 8/4/22. [Wrightsville Beach renourishment project uncovers hundreds of thousands of tires in the ocean \(wral.com\)](https://www.wral.com/news/local/Wrightsville-Beach-renourishment-project-uncovers-hundreds-of-thousands-of-tires-in-the-ocean/2022/08/04/)

¹⁴ "New Biden administration policy could jeopardize beach renourishment formula for local towns." Preston Lennon. Port City News. 7/25/21. <https://portcitydaily.com/local-news/2021/07/25/biden-policy-beach-renourishment-cbra/>

¹⁵ *Id.*

¹⁶ "Wrightsville Beach prepares to weather another hurricane season as it waits for sand." Gareth McGrath. Wilmington StarNews. 1/13/23. [Wrightsville Beach waits for new sand as another hurricane season looms \(starnewsonline.com\)](https://www.starnewsonline.com/story/news/local/2023/01/13/wrightsville-beach-waits-for-new-sand-as-another-hurricane-season-looms/7000000001/)

¹⁷ "It's been 57 months since WB was renourished – and it is delayed again." Brenna Flanagan. Port City Daily. 2/5/23. [It's been 57 months since WB was renourished — and it is delayed again | Port City Daily](https://portcitydaily.com/local-news/2023/02/05/its-been-57-months-since-wb-was-renourished-and-it-is-delayed-again/)

¹⁸ "U.S. Fish and Wildlife Service: An Overview." Christopher R. Field. Congressional Research Service. 7/20/18. [U.S. Fish and Wildlife Service: An Overview \(congress.gov\)](https://www.congress.gov/resources/document/544001/CRS-Reports-RL34601/summary)

¹⁹ "Visit a National Wildlife Refuge Facility." U.S. Fish & Wildlife Service. [Visit Us | U.S. Fish & Wildlife Service \(fws.gov\)](https://www.fws.gov/nwr)

²⁰ "U.S. Fish and Wildlife Service: An Overview." Christopher R. Field. Congressional Research Service. 7/20/18. [U.S. Fish and Wildlife Service: An Overview \(congress.gov\)](https://www.congress.gov/resources/document/544001/CRS-Reports-RL34601/summary)

The NWRS is governed by the National Wildlife Refuge System Administration Act of 1966, which consolidated areas into one unified system.²¹ In 1997, Congress passed the National Wildlife System Improvement Act (Public Law 105-57) which established that “the mission of the System is to administer a national network of lands and waters for the conservation, management, and where appropriate, restoration of the fish, wildlife, and plant resources and their habitats within the United States for the benefit of present and future generations of Americans.”²² In addition, the 1997 Act specified that wildlife-dependent recreation, including hunting and fishing, shall be priority uses of the NWRS when it is compatible with the mission and purpose of a given unit.²³

Benefits of Sportsmen’s Access on the NWRS

Hunting is allowed at nearly 400 refuges, 35 wetland management districts, and 20 national fish hatcheries.²⁴ Each of these units are managed differently and, in some cases, hunting is only allowed for certain species or in certain sections of a particular refuge. In addition, hunting and fishing in the NWRS is governed in compatibility with state laws around hunting seasons and licensing.²⁵

According to USFWS, “as practiced on refuges, hunting does not pose a threat to the wildlife populations – and in some instances it is necessary for sound wildlife management.”²⁶ Science-based hunting is used as a tool to manage species populations, like deer, that if they become overpopulated can threaten habitat for other vital species. The harvesting of wildlife on refuges is intended to be regulated on a case-by-case basis based on the conditions at each refuge unit, not by a one-sized fits all mandate system-wide.²⁷

In addition, revenues generated from hunting and fishing activities result in billions of dollars in conservation funding each year. The Pittman-Robertson Wildlife Restoration Act of 1937 (Pittman-Robertson) requires that the sale of hunting materials, such as firearms, ammunition, and archery equipment, have an excise tax attached to it that is paid by manufacturers and, ultimately, consumers.²⁸ The receipts from this excise tax are deposited directly into the Federal Aid to Wildlife Restoration Fund in the U.S. Treasury. USFWS then provides this funding to the states to spend on wildlife restoration, multi-state species conservation, and hunter education and safety programs.²⁹ In Fiscal Year (FY) 2023, the USFWS apportioned \$1.2 billion in receipts from Pittman-Robertson, of that apportionment, \$962 million was made available for wildlife

²¹ 16 U.S.C. 668dd et seq.

²² 16 U.S.C. §668dd(a)(2).

²³ For more information on hunting and fishing within the National Wildlife Refuge System, see CRS Report R45103, Hunting and Fishing on Federal Lands and Waters: Overview and Issues for Congress, by R. Eliot Crafton.

²⁴ “Hunting.” U.S Fish and Wildlife Service. [Hunting | U.S. Fish & Wildlife Service \(fws.gov\)](https://www.fws.gov/hunting)

²⁵ *Id.*

²⁶ “Why Hunting is Allowed on National Wildlife Refuges.” U.S. Fish and Wildlife Service. [Why Hunting Is Allowed on Refuges | U.S. Fish & Wildlife Service \(fws.gov\)](https://www.fws.gov/why-hunting-is-allowed-on-national-wildlife-refuges)

²⁷ *Id.*

²⁸ “The Pittman-Robertson Wildlife Restoration Act.” Erin H. Ward, Pervaze A. Sheikh, and Mark K. DeSantis. Congressional Research Service. [The Pittman-Robertson Wildlife Restoration Act \(congress.gov\)](https://www.congress.gov/pittman-robertson-wildlife-restoration-act)

²⁹ *Id.*

restoration.³⁰ Similarly for fishing, the Dingell-Johnson Act directs manufacturer-levied excise taxes on fishing equipment to be used for fisheries conservation.³¹ In FY23, this program generated \$425 million to states for fisheries conservation.³²

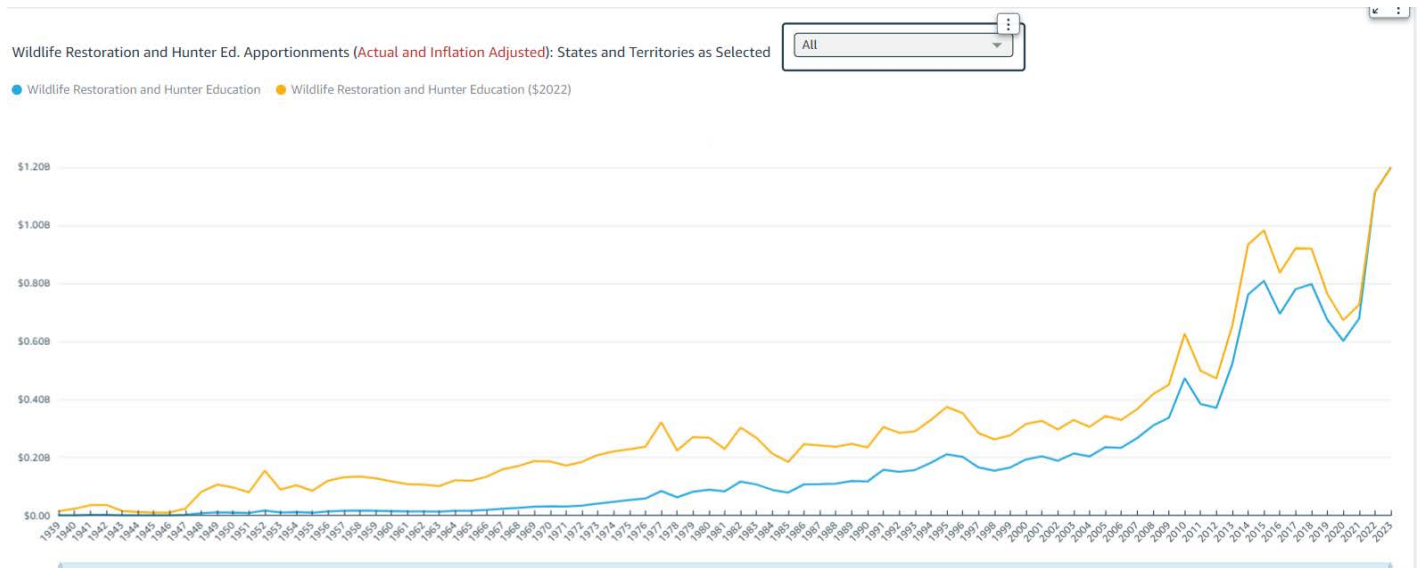


Figure 2 Source: <https://tracs.fws.gov/wildlifeRestorationAndHunterEducationApportionments.html>

Center of Biological Diversity Lawsuit

On August 18, 2020, the Department of the Interior (DOI) announced it was expanding hunting and fishing opportunities on 2.3 million acres across 147 refuges and national fish hatcheries.³³ In response, the Center for Biological Diversity (CBD) filed suit against the DOI in the U.S. District Court for the District of Montana on November 29, 2021.³⁴ In its suit, CBD stated the effects of lead ammunition and tackle would negatively impact endangered species that inhabit the NWRs.³⁵

The Biden administration reached a settlement agreement with CBD in November 2022 that mandated USFWS to take steps to protect wildlife “harmed by expanded hunting and fishing” on refuges.³⁶ Also included in the settlement are USFWS promises to expand lead ammunition bans as a part of the 2023-2024 annual rule governing management of the NWRs. USFWS also

³⁰ “Certificate of Apportionment Pittman-Robertson Wildlife Restoration Act FY23”, Martha Williams. U.S. Fish and Wildlife Service. 1/30/23. [Certificate of Apportionment Pittman-Robertson Wildlife Restoration.pdf \(fws.gov\)](#)

³¹ “Sport Fish Restoration.” U.S. Fish and Wildlife Service. [Sport Fish Restoration | U.S. Fish & Wildlife Service \(fws.gov\)](#)

³² “FY 23 – Certificate of Apportionment for Dingell-Johnson Sport Fish Restoration.” Martha Williams. U.S. Fish and Wildlife Service. 1/30/23. [Certificate of Apportionment for Dingell-Johnson Sport Fish Restoration.pdf \(fws.gov\)](#)

³³ “Secretary Bernhardt Announces Historic Expansion of Hunting and Fishing Opportunities on Public Lands.” U.S. Fish and Wildlife Service. 8/18/20. [Secretary Bernhardt Announces Historic Expansion of Hunting and Fishing Opportunities on Public Lands | U.S. Fish & Wildlife Service \(fws.gov\)](#)

³⁴ “Greens sue to block expanded hunting on wildlife refuges.” Michael Doyle. E&E News. 11/29/21. [Greens sue to block expanded hunting on wildlife refuges - E&E News \(eenews.net\)](#)

³⁵ *Id.*

³⁶ “Biden’s war on hunting faces blowback from Republicans, sportsmen groups.” Thomas Catenucci. Fox News. 4/30/23. <https://www.foxnews.com/politics/bidens-war-hunting-faces-blowback-republicans-sportsmen-groups>

agreed to respond to CBD’s petition to ban lead ammunition and fishing tackle across all refuges.³⁷

Before the settlement was reached, the USFWS announced on September 16, 2022, that it would open two refuges that were previously closed to hunting and fishing, and expand hunting and fishing opportunities at sixteen refuges.³⁸ That announcement also included a ban on the use of lead ammunition and tackle in the Patoka River refuge by fall 2026 and a proposed lead ban at eight other refuges.³⁹

Lead Ammunition vs. Alternatives

According to recent studies, traditional lead ammunition is substantially cheaper than the cost of alternatives, including copper. In 2021, the National Shooting Sports Foundation concluded that lead-free hunting ammunition is on average 24.66 percent more expensive than lead ammunition.⁴⁰ In addition, the cost of raw materials to manufacture lead alternatives compared to traditional lead is substantial, with copper being four times more expensive than lead (\$8.49/kg vs. \$2.17/kg).⁴¹ This price difference could increase if a NWRS-wide ban on lead ammunition and fishing tackle is put in place, as the demand for copper and other alternatives will most likely increase due to market conditions. Increasing costs on consumers could result in a substantial decrease in hunting and fishing participation, which increased substantially during the pandemic after years of decline.⁴²

H.R. 615 is cosponsored by 39 Republican members. A Senate companion has been introduced by U.S. Senator Steve Daines (R-MT) and is cosponsored by 26 Republican Senators. A witness from the sportsmen’s community will testify in support of the House measure while the Biden administration will likely testify in opposition to it.

H.R.2689, Trust in Government Act (Rep. Katie Porter, D-CA)

The bill would make several changes to most of the federal departments and agencies, including the Departments of State, the Interior, the Treasury, Agriculture, Veterans Affairs and Homeland Security. As such, H.R. 2689 was referred to eleven Congressional Committees, including the Natural Resources Committee.

Relevant to this Committee, the bill requires the Secretary of the Interior to “design and deliver a centralized, modernized electronic permitting system to accept and process applications for permits.” This language mirrors language from President Joe Biden’s Executive Order (E.O.) 14058, which directs the Secretary of the Interior to redesign the USFWS website to support a

³⁷ *Id.*

³⁸ [87 FR 57108](#)

³⁹ *Id.*

⁴⁰ “2021 Economic Impact of Ban on Traditional Ammunition in the United States.” National Shooting Sports Foundation.

https://naturalresources.house.gov/uploadedfiles/2021_economic_impact_banning_traditional_ammo_united_states_pdf.pdf

⁴¹ <https://markets.businessinsider.com/commodities/copper-price> and <https://markets.businessinsider.com/commodities/lead-price>

⁴² “Hunting pastime spikes during pandemic. Conservationists are glad. Here’s why.” Alex Brown. The Washington Post.

[Hunting pastime spikes during pandemic. Conservationists are glad. Here’s why. - The Washington Post](#)

centralized, modernized electronic permitting system to accept and process applications for permits. However, the USFWS already has an electronic permitting system, which launched in 2020 as mandated by the 21st Century Integrated Digital Experience Act (Public Law 115-336).⁴³

Permitting at the Department of the Interior

The DOI oversees roughly 480 million acres of federal lands (about 20 percent of the land area of the United States), nearly 56 million acres of tribal lands, more than 700 million acres of subsurface minerals, and about 2.5 billion acres of the outer continental shelf.⁴⁴ This includes 424 units of the national park system, 568 national wildlife refuges, 71 fish hatcheries, 23 national conservation areas and similarly designated areas, and 28 national monuments.⁴⁵ DOI is also the largest supplier and manager of water in the 17 western states, and the second largest producer of hydropower in the United States.⁴⁶

Many activities that take place on federal lands require a permit. There is not a single definition of “permit” across DOI agencies. For example, the term is sometimes used to authorize a particular land use, such as by the Bureau of Land Management (BLM) in issuing permits for livestock grazing.⁴⁷ At other times, the term is used more generally, as covering the authorizations for a variety of land uses. Other terms that could also be viewed as a “permit” include leases, special use authorizations, and rights-of-way. Due to the inconsistency in the use of the term “permit” it would be difficult, if not impossible, to determine the number of DOI permits currently managed. An administration witness may provide some clarity on this issue. The cost associated with moving every DOI agency’s permitting system and the cybersecurity requirements for keeping these documents in one centralized system is unclear.

The Trump administration issued Executive Order (E.O.) 13807 in an attempt to reduce unnecessary duplication and uncertainty in the federal environmental review, authorization and permitting process.⁴⁸ Following E.O. 13807, DOI in 2017 issued Secretarial Order (S.O.) 3355, which provided several directives to streamline environmental assessments including reviewing the DOI’s current National Environmental Policy Act (NEPA) procedures and providing recommendations to streamline the process.⁴⁹ Specific to energy resources, DOI issued S.O.

⁴³ U.S. Fish and Wildlife Service, Press Release: “Service Launches New Electronic Permitting System to Streamline and Improve Permitting Process.” October 21, 2020. <https://www.fws.gov/press-release/2020-10/service-launches-new-electronic-permitting-system-streamline-and-improve>

⁴⁴ U.S. Department of the Interior, FY 2024, Departmental Highlights. <https://www.doi.gov/sites/doi.gov/files/fy2024-bib-departmental-overview-508.pdf>

⁴⁵ *Id.*

⁴⁶ U.S. Bureau of Reclamation, About Us. <https://www.usbr.gov/main/about/fact.html>

⁴⁷ U.S. Bureau of Land Management, Livestock Grazing on Public Lands. <https://www.blm.gov/programs/natural-resources/rangelands-and-grazing/livestock-grazing>

⁴⁸ Presidential Executive Order on Establishing Discipline and Accountability in the Environmental Review and Permitting Process for Infrastructure, Executive Order 13807, August 15, 2017. <https://trumpwhitehouse.archives.gov/presidential-actions/presidential-executive-order-establishing-discipline-accountability-environmental-review-permitting-process-infrastructure/>

⁴⁹ Department of the Interior, Secretarial Order (S.O.) 3355, August 31, 2017. https://www.doi.gov/sites/doi.gov/files/elips/documents/so-3355_0.pdf

3358, which created the Executive Committee for Expedited Permitting.⁵⁰ These efforts were reversed under the Biden administration.⁵¹

Republican Alternatives and H.R. 1, the Lower Energy Costs Act

Natural Resources Republicans recently advanced H.R. 1577, the Building United States Infrastructure through Limited Delays and Efficient Reviews (BUILDER) Act. The legislation was included in H.R. 1, the Lower Energy Costs Act, which passed the House of Representatives on March 30, 2023, with bipartisan support. The BUILDER Act would modernize NEPA to make infrastructure project reviews more efficient, reduce project costs, spur economic development, and rebuild America while upholding environmental protection standards.

The Biden administration may express general support for the bill and discuss the USFWS's efforts to expand its electronic permitting system. H.R. 2689 has twelve Democratic cosponsors.

H.R. 2872, to amend the Permanent Electronic Duck Stamp Act of 2013 to allow States to issue electronic stamps under such Act, and for other purposes (Rep. Garret Graves, R-LA)

This legislation seeks to further modernize the Federal Duck Stamp (Duck Stamp) issuance process to mirror what many states are implementing for their respective migratory bird stamps.

The Duck Stamp was created when President Franklin Delano Roosevelt signed the Migratory Bird Hunting Stamp Act (16 USC 718) into law in 1934.⁵² That law required waterfowl and other migratory bird hunters, ages 16 and over, to purchase and possess a valid Duck Stamp prior to taking migratory waterfowl. The Duck Stamp is national in scope and can be used to hunt in multiple states.⁵³ A migratory bird that is allowed to be taken under a Duck Stamp include duck, goose, coot, dove, woodcock, rail and snipe species.⁵⁴ While migratory bird hunters must purchase the Duck Stamp, others purchase it for stamp collection purposes and/or to use it as a pass to enter national wildlife refuges that charge entry fees.⁵⁵ Duck Stamps can be purchased at many sporting goods stores and national wildlife refuges, some post offices and online.⁵⁶ Each year, the USFWS oversees an art contest through a juried art competition. The winning design serves as the following hunting year's Duck Stamp (see latest winners below).⁵⁷

⁵⁰ Department of the Interior, Secretarial Order (S.O.) 3358, October 25, 2017.

⁵¹ https://www.doi.gov/sites/doi.gov/files/elips/documents/so-3358_0.pdf

⁵² Executive Order on Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis, January 20, 2021. <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/20/executive-order-protecting-public-health-and-environment-and-restoring-science-to-tackle-climate-crisis/>

⁵³ 16 U.S.C. 718, <https://www.govinfo.gov/content/pkg/USCODE-2017-title16/pdf/USCODE-2017-title16-chap7-subchapIV-sec718.pdf>

⁵⁴ *Id.*

⁵⁵ Iowa Department of Natural Resources, Migratory Game Birds. <https://www.iowadnr.gov/hunting/migratory-game-birds>

⁵⁶ U.S. Fish and Wildlife Service, Federal Duck Stamp. <https://www.fws.gov/service/duck-stamps>

⁵⁷ *Id.*



First Place - Joseph Hautman



Second Place - Frank Mittelstadt



Third Place - Robert Hautman

Figure 3: Federal Duck Stamp Winners in 2022. The First Place Duck Stamp will be used for the 2023-2024 Hunting Season. Source: USFWS (<https://www.fws.gov/media/2022-federal-duck-stamp-contest-top-three-pieces-artwork>)

Receipts from Duck Stamp sales are deposited into the Migratory Bird Conservation Fund and are not subject to further appropriations. Ninety-eight percent of the proceeds are used to “help acquire and protect the wetland habitat and purchase conservation easements,” according to the USFWS.⁵⁸ The Migratory Bird Conservation Commission, chaired by the Secretary of the Interior (Secretary) and composed of U.S. Senators, House Members and other federal Departments and agencies, oversees the expenditures of Duck Stamp proceeds.⁵⁹ Since 1934, USFWS estimated that over \$1.1 billion has been raised by Duck Stamp sales to conserve over six million acres of land within the National Wildlife Refuge System. Each Duck Stamp is on sale for three years. The 2020-2021 Duck Stamp, which is still for sale, so far has sold 1.59 million copies (down from a high of 2.36 million sold in 1955-1956).⁶⁰ Waterfowl hunting organizations, such as Ducks Unlimited⁶¹ and Delta Waterfowl,⁶² view the Duck Stamp as an important example under the North American conservation model (a user-pays system) for conserving waterfowl habitat that will benefit hunters, waterfowl and other species.

Statutory Changes to the Duck Stamp

Over the last decade, the Duck Stamp program has been statutorily amended to increase its price from \$15 to \$25 annually and to reflect technological advances such as the internet.⁶³ Prior to 2015, many migratory bird hunters and stamp collectors would have to purchase a Duck Stamp in person even though many states allowed the same individuals to buy a state migratory bird stamp over the internet.⁶⁴ As a result of this inconsistency and in an effort to modernize the program, the Permanent Electronic Duck Stamp of 2013 (Public Law 113-239) was enacted in

⁵⁸ *Id.*

⁵⁹ U.S. Fish and Wildlife Service, Migratory Bird Conservation Commission, Land Acquisition and Realty.

<https://www.fws.gov/program/land-acquisition-and-realty/migratory-bird-conservation-commission>

⁶⁰ U.S. Fish and Wildlife Service, Duck Stamp Sales by Year. <https://www.fws.gov/media/duck-stamp-sales-year>

⁶¹ Ducks Unlimited, “Great Value in Duck Stamps” <https://www.ducks.org/conservation/public-policy/federal-duck-stamp/great-value-in-duck-stamps>

⁶² Delta Waterfowl, “Duck Stamps: A Small Price to Pay for Waterfowl Conservation” <https://deltawaterfowl.org/duck-stamps-a-small-price-to-pay-for-waterfowl-conservation/>

⁶³ Smith, P. “New \$25 federal duck stamp aims to raise funds for habitat” *Journal Sentinel*, December 20, 2014. <https://archive.jsonline.com/sports/outdoors/new-25-federal-duck-stamp-aims-to-raise-funds-for-habitat-b99411831z1-286476101.html/>

⁶⁴ U.S. Fish and Wildlife Service, Federal Duck Stamp. <https://www.fws.gov/service/duck-stamps>

December 2014 to create an automated licensing system.⁶⁵ This law specifically authorized state fish and wildlife agencies, after approval from the Secretary, to issue an “electronic stamp.” The state issuing the electronic stamp would have 45 days to send the actual Duck Stamp to the purchaser. The hunter would then have to sign and affix the Duck Stamp to the paper hunting license.⁶⁶ Currently, 28 states participate in this program.⁶⁷

In common practice, this advancement means that if a waterfowl hunter in Virginia purchased both the Federal and Virginia migratory bird stamps, that hunter would have a line item for each of the stamps on their hunting license. Under Virginia law, the purchaser could opt to have the Commonwealth of Virginia send the physical Virginia stamp or simply have that line item remain on the license as proof of purchase. Under Federal law, however, the Commonwealth of Virginia must send the Federal Duck Stamp to the purchaser since the Duck Stamp line item expires 45 days after issuance. The hunter would then sign and affix the Duck Stamp to their paper Virginia license.⁶⁸

H.R. 2872 makes further progress to modernize the program and place it in synchronicity with many states while not imposing a requirement on states. The bill would specifically allow waterfowl hunters the option for immediate purchase of an electronic Duck Stamp and carry it with them on their license or on their phones for the entire waterfowl season in much the same way that some states already allow.⁶⁹ As a witness from the Louisiana Department of Wildlife and Fisheries will testify, the bill will extend the current 45 days through the end of the season. A hunter would receive the physical Duck Stamp after migratory bird seasons end in their state. However, states are not required to participate in this program and could instead follow the current 45-day requirement or carry out the original method of immediate purchase of a physical stamp that must be signed and affixed to the license. The USFWS will likely testify in support of the concept of the bill. The Association of Fish and Wildlife Agencies, the Congressional Sportsmen’s Caucus Foundation, Ducks Unlimited and other organizations representing sportsmen and women support this measure.

H.R. 2872 has one cosponsor, Rep. Mike Thompson (D-CA).⁷⁰ The Senate version, S. 788, is also bipartisan.⁷¹

⁶⁵ Permanent Electronic Duck Stamp Act of 2013, P.L. 113-239. <https://www.govinfo.gov/content/pkg/PLAW-113publ239/pdf/PLAW-113publ239.pdf>

⁶⁶ *Id.*

⁶⁷ Press Release “Manchin, Boozman, Marshall, King Introduce Bipartisan Duck Stamp Modernization Act” March 16, 2023 <https://www.manchin.senate.gov/newsroom/press-releases/manchin-boozman-marshall-king-introduce-bipartisan-duck-stamp-modernization-act>

⁶⁸ Virginia Department of Wildlife Resources, Virginia Migratory Waterfowl Conservation Stamp. <https://dwr.virginia.gov/hunting/waterfowl-stamp/>

⁶⁹ Press Release “Manchin, Boozman, Marshall, King Introduce Bipartisan Duck Stamp Modernization Act” March 16, 2023 <https://www.manchin.senate.gov/newsroom/press-releases/manchin-boozman-marshall-king-introduce-bipartisan-duck-stamp-modernization-act>

⁷⁰ H.R.2872 - To amend the Permanent Electronic Duck Stamp Act of 2013 to allow States to issue electronic stamps under such Act, and for other purposes. <https://www.congress.gov/bill/118th-congress/house-bill/2872>

⁷¹ S.788 - Duck Stamp Modernization Act of 2023 <https://www.congress.gov/bill/118th-congress/senate-bill/788>

IV. MAJOR PROVISIONS AND ANALYSIS

H.R. 524: To amend the Coastal Barrier Resources Act to create an exemption for certain shoreline borrow sites. (Rep. David Rouzer, R-NC)

- The bill amends the Coastal Barrier Resources Act ([16 U.S.C. 3505](#)) by adding a new section clarifying that restrictions on federal funding that may encourage development on or around certain coastal barriers, shall not apply to federal funds to use a borrow site located within the CBRA System if it has been in use as a sand borrow site by a coastal storm risk management project for a period of more than 15 years.

H.R. 615: Protecting Access for Hunters and Anglers Act of 2023 (Rep. Rob Wittman, R-VA)

- Would prohibit the Secretaries of the Interior and Agriculture from banning the use of lead ammunition or tackle on federal land or water that is under their jurisdiction and made available for hunting or fishing activities. In addition, the Secretaries may not issue regulations relating to the level of lead in ammunition or tackle to be used on Federal land or water.
- The bill allows the Secretaries to exempt a particular unit of federal land or water if the relevant Secretary determines a decline in wildlife population at that specific unit is primarily caused by the use of lead in ammunition or tackle, and the prohibition is consistent with state law, or state fish and wildlife policy or regulations governing that unit.

H.R.2689: Trust in Government Act (Rep. Katie Porter, D-CA)

- Requires the Secretary of the Interior to design and deliver a centralized electronic permitting system to accept and process applications for permits.
- Outside of the Natural Resources Committee’s jurisdiction, the bill requires several federal departments to make changes to “provide high-quality services to the public” these include a redesign the passport renewal process, expanding electronic tax filing options, and online purchasing under the special supplemental nutrition program for women, infants, and children.

H.R. 2872: to amend the Permanent Electronic Duck Stamp Act of 2013 to allow States to issue electronic stamps under such Act, and for other purposes (Rep. Garret Graves, R-LA)

- Ends the existing 45-day period, during which a state must send a physical copy of the Federal Duck Stamp to the purchaser and instead allows a state to send a physical copy after the migratory bird seasons end within that state. In the interim, the electronic purchase of the Duck Stamp counts as proof-of-purchase.

IV. COST

The Congressional Budget Office has not provided cost estimates for these bills.

V. ADMINISTRATION POSITION

The administration will likely oppose H.R. 524 and H.R. 615, while its position on the other two bills is unknown at this time.

VI. EFFECT ON CURRENT LAW

[H.R. 524](#)

[H.R. 2872](#)