

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

RIN 1018-AD31

Addition of Ottawa National Wildlife Refuge to the List of Open Areas for Big Game Hunting in Ohio

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The U.S. Fish and Wildlife Service (Service) proposes to add Ottawa National Wildlife Refuge to the list of areas open for big game hunting in Ohio along with pertinent refuge-specific regulations for such activities. The Service has determined that such use will be compatible with the purposes for which the refuge was established. The Service has further determined that this action is in accordance with the provisions of all applicable laws, is consistent with principles of sound wildlife management, and is otherwise in the public interest by providing additional recreational opportunities of a renewable natural resource.

DATES: Comments may be submitted on or before September 11, 1995.

ADDRESSES: Assistant Director—Refuges and Wildlife, U.S. Fish and Wildlife Service, 1849 C Street, NW., MS 670 ARLSQ, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Duncan L. Brown, Esq., at the address above; Telephone: 703-358-1744.

SUPPLEMENTARY INFORMATION: National wildlife refuges are generally closed to hunting and sport fishing until opened by rulemaking. The Secretary of the Interior (Secretary) may open refuge areas to hunting and/or fishing upon a determination that such uses are compatible with the purpose(s) for which the refuge was established. The action must also be in accordance with provisions of all laws applicable to the areas, consistent with the principles of sound wildlife management, and otherwise be in the public interest. This rulemaking proposes to open Ottawa National Wildlife Refuge to big game (white-tailed deer) hunting.

Request for Comments

Department of the Interior policy is, whenever practicable, to afford the public a meaningful opportunity to participate in the rulemaking process. A 60-day comment period is specified in order to facilitate public input. Accordingly, interested persons may

submit written comments concerning this proposed rule to the person listed above under the heading **ADDRESSES**. All substantive comments will be reviewed and considered.

Statutory Authority

The National Wildlife Refuge System Administration Act of 1966, as amended (NWRSA) (16 U.S.C. 668dd), and the Refuge Recreation Act of 1962 (RRA) (16 U.S.C. 460k) govern the administration and public use of national wildlife refuges. Specifically, Section 4(d)(1)(A) of the NWRSA authorizes the Secretary to permit the use of any areas within the National Wildlife Refuge System (Refuge System) for any purpose, including but not limited to hunting, fishing, public recreation and accommodations, and access, when he determines that such uses are compatible with the purposes for which each refuge was established. The Service administers the Refuge System on behalf of the Secretary. The RRA gives the Secretary additional authority to administer refuge areas within the Refuge System for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary purposes for which the refuges were established.

Opening Package

In preparation for this opening, the refuge unit has included in its "openings package" for Regional review and approval from the Washington Office the following documents: A hunting/fishing plan; an environmental assessment; a Finding of No Significant Impact (FONSI); a Section 7 evaluation or statement, pursuant to the Endangered Species Act, that these openings are not likely to adversely affect a listed species or its critical habitat; a letter of concurrence from the affected States; and refuge-specific regulations to administer the hunts. From a review of the totality of these documents, it has been determined that the opening of the Ottawa National Wildlife Refuge to big game hunting is compatible with the principles of sound wildlife management and will otherwise be in the public interest.

In accordance with the NWRSA and the RRA, it has been also determined that this opening for big game hunting is compatible and consistent with the primary purposes for which the refuge was established. A brief description of the hunting program is as follows:

Ottawa National Wildlife Refuge

The Ottawa National Wildlife Refuge (NWR) is situated on the southwestern

edge of Lake Erie in what was once part of a 300,000 acre forested wetland known as the Great Black Swamp. Approximately 10% of the original habitat exists—mostly as modified, impounded wetland units formerly owned by agricultural or sport-hunting interests. Ottawa NWR was established on July 28, 1961, with land acquired under the authority of the Migratory Bird Conservation Act. The primary purpose of the refuge is for use as an inviolate sanctuary, or for any other management purpose, and for administration of areas of land, water, or interest therein to conserve and protect migratory birds in accordance with treaty obligations * * * and [to conserve] other species of wildlife found therein, including adequate wildlife habitat.

The total refuge acreage is 8,318 acres of which 5,350 acres are either open pools, marsh, or moist soil units. The remaining acreage is a mixture of grassland and shrubland, fallow fields, wet meadows, forests (310 acres), and croplands (600 acres).

Ottawa NWR is an important migration stopover for migratory birds. The refuge bird list contains 267 normally observed species. The refuge supports 32 native mammal species along with 53 indigenous amphibian and reptile species.

Public hunting is to be used primarily as a management tool for balancing the white-tailed deer population objectives with other wildlife objectives, thereby inhibiting this species from impacting the quality of vegetative habitat. In addition, the proposed hunt will provide limited public hunting opportunities on the refuge. The deer population estimate at the refuge was determined from a winter helicopter survey. The refuge estimates indicate that the current deer population is at 47.3 deer per square mile. In Ohio, the buck harvest estimates indicate a pre-harvest density for Lucas and Ottawa counties of 0.6 and 0.9 deer per square mile. The refuge population estimate is 315% above the upper end of average densities reported for the agricultural Midwest region. Wildlife managers expend a lot of time and money responding to deer-vehicle accident and crop depredation complaints. Without a hunting program specifically used as a management tool, the refuge deer population may degrade habitat quality not only for that population but other important species. Controlled access, blind placement and hunting opportunity in designated management zones and seasonal restrictions will limit human disturbance of wildlife and

provide wildlife a refuge interior sanctuary.

Opening the refuge to big game hunting has been found to be compatible in a separate compatibility determination. The hunting program will be reviewed annually to ensure that a harvestable surplus of animals exist, and that sensitive habitats are protected from disturbance. A Section 7 evaluation pursuant to the Endangered Species Act was conducted. It was determined that the proposed action is not likely to adversely affect any Federally listed or proposed for listing threatened or endangered species or their critical habitats. Pursuant to the National Environmental Policy Act (NEPA), an environmental assessment was made and a Finding of No Significant Impact (FONSI) was made regarding the hunt. During the preparation of the environmental assessment, biologists and management personnel within the Ohio Division of Wildlife were consulted. Comments were solicited from the public during the draft environmental assessment phase. Articles on this assessment were carried in the local newspapers and sent to Federal, State and local legislators and conservation groups.

The Service has determined that there would be sufficient funds to administer the proposed hunt. Sufficient funds would be available within the refuge unit budget to operate such a hunt as proposed.

Paperwork Reduction Act

The information collection requirements for part 32 are found in 50 CFR part 25 and have been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* and assigned clearance number 1018-0014. The information is being collected to assist the Service in administering these programs in accordance with statutory authorities which require that recreational uses be compatible with the primary purposes for which the areas were established. The information requested in the application form is required to obtain a benefit.

The public reporting burden for the application form is estimated to average six (6) minutes per response, including time for reviewing instructions, gathering and maintaining data, and completing the form. Direct comments on the burden estimate or any other aspect of this form to the Service Information Collection Officer, U.S. Fish and Wildlife Service, 1849 C Street, NW, MS 224 ARLSQ, Washington, DC 20240; and the Office of Management and Budget, Paperwork Reduction Project (1018-0014), Washington, DC 20503.

Economic Effect

This rulemaking was not subject to Office of Management and Budget review under Executive Order 12866. In addition, a review under the Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) has revealed that the rulemaking would not have a significant effect on a substantial number of small entities, which include businesses, organizations or governmental jurisdictions. While there would be an increase in the sale of firearms, ammunition, hunting gear, etc., this proposed rule would have minimal effect on such entities as this is not a big hunting program and hunting is otherwise allowed in surrounding areas.

Federalism

This proposed rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this rule does not have sufficient Federalism implications to warrant the preparation of a Federalism Assessment.

Environmental Considerations

Pursuant to the requirements of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)), an environmental assessment has been prepared for this

opening. Based upon the Environmental Assessments, the Service issued a Finding of No Significant Impact with respect to the opening. A Section 7 evaluation was prepared pursuant to the Endangered Species Act with a finding that no adverse impact would occur to any identified threatened or endangered species.

Primary Author. Duncan L. Brown, Esq., Division of Refuges, U.S. Fish and Wildlife Service, Washington, DC, is the primary author of this rulemaking document.

List of Subjects in 50 CFR Part 32

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

Accordingly, part 32 of chapter I of Title 50 of the Code of Federal Regulations is proposed to be amended as set forth below:

PART 32—[AMENDED]

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, and 715i.

2. Section 32.54 *Ohio* is amended by revising paragraph C. of Ottawa National Wildlife Refuge to read as follows:

§ 32.54 Ohio.

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Ottawa National Wildlife Refuge

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C. Big Game Hunting. Hunting of white-tailed deer is permitted on designated areas of the refuge subject to the following conditions:

1. Permits are required.
2. Hunters are required to check in and out of the refuge each day that they hunt.
3. No shooting from refuge roads or dikes is permitted.

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Dated: June 15, 1995.

George T. Frampton, Jr.,

Assistant Secretary for Fish and Wildlife and Parks.

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