

completing and reviewing the collections of information. Send comments regarding this burden estimate or any other aspect of the collection of information, including suggestion for reducing the burden, to the Federal Communications Commission, Records Management Branch, Paperwork Reduction Project (3060-0540), Washington, DC 20554 and to the Office of Management and Budget, Paperwork Reduction Project (3060-0540), Washington, DC 20503.

#### List of Subjects

##### 47 CFR Part 43

Communications common carriers, Reporting and recordkeeping requirements, Telephone.

##### 47 CFR Part 61

Communications common carriers, Reporting and recordkeeping requirements, Telephone.

Federal Communications Commission.

**William F. Caton,**  
*Acting Secretary.*

#### Rule Changes

Parts 43 and 61 of Title 47 of the Code of Federal Regulations are amended as follows:

#### PART 43—REPORTS OF COMMUNICATION COMMON CARRIERS AND CERTAIN AFFILIATES

1. The authority citation for Part 43 continues to read as follows:

**Authority:** Sec. 4, 48 Stat. 1066, as amended; 47 U.S.C. 154, unless otherwise noted. Interpret or apply secs. 211, 219, 220, 48 Stat. 1073, 1077, as amended; 47 U.S.C. 211, 219, 220.

2. Section 43.51 is amended by revising paragraph (a) introductory text and paragraph (b) to read as follows:

##### § 43.51 Contracts and concessions.

(a) Any communications common carrier that: is engaged in domestic communications and has not been classified as nondominant pursuant to § 61.3 of this chapter or is engaged in foreign communications, and enters into a contract with another carrier, including an operating agreement with a communications entity in a foreign point for the provision of a common carrier service between the United States and that point; must file with the Commission, within thirty (30) days of execution, a copy of each contract, agreement, concession, license, authorization, operating agreement or other arrangement to which it is a party

and amendments thereto with respect to the following:

\* \* \* \* \*

(b) If the agreement referred to in this section is made other than in writing, a certified statement covering all details thereof must be filed by at least one of the parties to the agreement. Each other party to the agreement which is also subject to these provisions may, in lieu of also filing a copy of the agreement, file a certified statement referencing the filed document. The Commission may, at any time and upon reasonable request, require any communication common carrier classified as nondominant, and therefore not subject to the provisions of this section, to submit the documents referenced in this section.

\* \* \* \* \*

#### PART 61—TARIFFS

3. The authority citation for Part 61 continues to read as follows:

**Authority:** Secs. 1, 4(i), 4(j), 201-205, and 403 of the Communications Act of 1934, as amended; 47 U.S.C. 151, 154(i), 154(j), 201-205, and 403, unless otherwise noted.

##### § 61.22 [Amended]

4. Section 61.22(b) is amended by removing the second sentence.

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#### DEPARTMENT OF THE INTERIOR

##### Fish and Wildlife Service

##### 50 CFR Part 32

##### RIN 1018-AD03

#### Addition of Cape May National Wildlife Refuge to the List of Open Areas for Hunting in New Jersey

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

**ACTION:** Final rule.

**SUMMARY:** The U.S. Fish and Wildlife Service (Service) adds Cape May National Wildlife Refuge to the list of areas open for big game hunting in New Jersey 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.

**EFFECTIVE DATE:** This rule is effective October 11, 1995.

**FOR FURTHER INFORMATION CONTACT:** Stephen R. Vehrs, Division of Refuges, U.S. Fish and Wildlife Service, Washington, DC 20240; Telephone (703) 358-2029, X-5242.

**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, must be consistent with the principles of sound wildlife management, and must otherwise be in the public interest. This rulemaking opens Cape May National Wildlife Refuge to big game (white-tailed deer) hunting.

In the June 9, 1995, issue of the **Federal Register**, 60 FR 30686, the Service published a proposed rulemaking and invited public comment. All substantive comments were reviewed and considered following a 60-day public comment period.

Five organizations provided comments opposing the rule based on the rationale that recreational deer hunting was not justified nor compatible with the primary purpose for which the refuge was established. These comments also indicated an opinion that the Service failed to show adequate evidence that the proposed reduction of deer numbers through hunting is based on solid scientific evidence, and that alternative herd reduction methods were considered. Comments further indicated that an explanation was not presented that hunting could de-stabilize this deer herd and cause a compensatory rebound of offspring within the hunted population, and that the majority of the public is opposed to hunting on national wildlife refuges.

The Refuge Manager conducted a compatibility determination, on behalf of the Service, of the feasibility of deer hunting being applied as a management tool to control the refuge white-tailed deer population as well as to provide a quality wildlife dependent recreational opportunity for deer hunters. The Manager's documented findings within the compatibility determination as well as within the environmental assessment were as follows: 1. the proposed white-

tailed deer hunt was indeed compatible with the major purposes for which the refuge was established; 2. the proposed hunt was within the policy guidelines of the Service to be applied as both a herd management tool, and as a method to provide recreational opportunities for deer hunters; and that, 3. abundant scientific evidence exists which concludes that the recreational hunting of deer as a harvest technique is indeed a biologically sound practice, which could be expected to produce and sustain a healthy refuge white-tailed deer herd.

Substantive comments were also received referencing the environmental assessment completed for this hunt proposal, and that alternative number two, which parallels the program outlined in this final rule, provides for wildlife-dependent recreation while effectively protecting and controlling deer populations within the refuge. Other comments supported hunting as a management tool to control deer depredations on private land surrounding the refuge.

The Service selects the alternative herd management method as proposed in the Refuge Environmental Assessment and as adopted and presented in the final rule. Recreational deer hunting is a biologically sound management technique that provides the best herd management and depredation control.

This rule will be final upon publication. Consideration was given to delaying this final rule for a 30-day period, however, it was determined by the Service that any further delay in the implementation of this refuge-specific regulation will hinder the effective planning and administration of the hunt. Public comment was received on this proposal during the Environmental Assessment planning phase as well as the 60 day comment period for this rule. A delay of an additional 30-days would specifically jeopardize holding the hunt this year, or shorten its duration and thereby lessen the herd management effectiveness of this regulation. Therefore, the Service finds good cause to make this rule effective upon publication (5 U.S.C. 553 (d)(3)).

#### 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 the Secretary 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 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, the Secretary has determined that the opening of the Cape May 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, the Secretary has also determined that this opening for big game hunting is compatible and consistent with the primary purposes for which the refuge was established. The Secretary has also determined that funds are available to administer the programs. A brief description of the hunting program is as follows:

#### *Cape May National Wildlife Refuge*

The Cape May National Wildlife Refuge was established administratively on January 20, 1989, under the authority of the Fish and Wildlife Act of 1956 (16 U.S.C. 742a-742j; 70 Stat. 1119), as amended. The broad purposes of the refuge are for the development, advancement, management, conservation, and protection of fish and wildlife resources and for the benefit of the United States Fish and Wildlife Service, in performing its activities and services. There are approximately 16,700 acres within the approved refuge acquisition boundary. The Fish and Wildlife Service (Service) has already

purchased approximately 6,700 acres of the acquisition area. The refuge is located in the Townships of Middle, Dennis and Upper in Cape May County, New Jersey. The refuge is divided into the Great Cedar Swamp Division and the Delaware Bay Division. Both are approximately equal in size. The topography of the refuge is typical of the coastal areas of New Jersey, where uplands taper gradually to a wide band of saltmarsh. There are 22 major vegetation types found on the refuge. These communities include mixed hardwood swamps, oak/pine forests, Atlantic white cedar swamps, and estuarine communities dominated by *Spartina patens*, and saltmarsh cordgrass.

The unique configuration and location of Cape May attracts flocks of raptors, songbirds and woodcock. The refuge supports a variety of animal life, including approximately 317 species of birds, 42 species of mammals, 55 species of reptiles and amphibians, and numerous species of fish, shellfish, and other invertebrates. Furbearers of economic importance inhabiting the area include otter, muskrat, and raccoon. Small mammals such as shorttail shrews and white-footed mice are common in upland fields and shrub habitat. Gray and red foxes are also common.

State deer biologists estimate a deer density of approximately 18 deer per square mile in Cape May County's Deer Management Zone (DMZ) 34, of which the refuge is a part. The deer population has increased since 1981 with a corresponding increase in farmer complaints. The number of complaints has risen from 4 in 1990 to 12 in 1993. Crop depredation permitted kills have increased from 9 in 1990 to 36 in 1993. In order to address the below average herd health indices, and to reduce deer complaints in DMZ 34, the short-term goal of the New Jersey Division of Fish, Game and Wildlife is to reduce the herd by approximately 20 percent. There are no data on the number of hunters who have used the area within the refuge acquisition area in the past. However, the refuge estimates the annual visitation for deer hunting is less than 500 visits. Based on refuge law enforcement officers' observation during the past two firearms deer hunting seasons, hunting pressure on private land surrounding the refuge is low.

The sport hunting program will be monitored by refuge personnel, and conducted according to New Jersey Department of Environmental Protection, Division of Fish, Game and Wildlife deer hunt regulations.

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 New Jersey Division of Fish, Game and 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 appreciably increase hunter visitation to the surrounding area of the refuge before, during or after the hunt, since most hunters were already from the local area. Therefore, the rulemaking would not have a significant effect on the substantial number of small entities, such as businesses, organizations and governmental jurisdictions in the area.

#### 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 Assessment, 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

Stephen R. Vehrs, Division of Refuges, U.S. Fish and Wildlife Service, Washington, DC, is the primary author of this final rulemaking document.

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

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

Accordingly, Part 32 of chapter I of Title 50 of the Code of Federal Regulations is 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.

#### § 32.7 [Amended]

2. Section 32.7 *List of refuge units open to hunting and/or fishing* is amended by adding the alphabetical listing of "Cape May National Wildlife Refuge" under the state of New Jersey.

3. Section 32.49 *New Jersey* is amended by adding the alphabetical listing of Cape May National Wildlife Refuge to read as follows:

\* \* \* \* \*

#### § 32.49 New Jersey.

\* \* \* \* \*

#### Cape May National Wildlife Refuge

*A. Hunting of Migratory Game Birds.* [Reserved.]

*B. Upland Game Hunting.* [Reserved.]

*C. Big Game Hunting.* Hunting of white-tailed deer is permitted on designated areas of the refuge subject to the following condition: During the firearms big game season, hunters must wear, in a conspicuous manner on head, chest and back, a minimum of 400 square inches of solid-colored hunter orange clothing or material.

*D. Sport Fishing.* [Reserved.]

\* \* \* \* \*

Dated: September 25, 1995.

**George T. Frampton, Jr.,**

*Assistant Secretary for Fish and Wildlife and Parks.*

[FR Doc. 95-25146 Filed 10-10-95; 8:45 am]

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