

Great Bay National Wildlife Refuge

A. Hunting of Migratory Game Birds.

Hunting of migratory game birds is permitted on designated areas of the refuge subject to the following conditions:

1. Waterfowl hunting will not require a permit. Hunting will be allowed only from the immediate shoreline of the Bay.
2. Only portable blinds are permitted. All decoys, blinds, and boats must be removed after each day's hunt.
3. Waterfowl hunters will access shorelines by boat only.

B. Upland Game Hunting. [Reserved]

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

1. Refuge permits are required for the deer hunt.
2. Big game hunters are required to wear in a conspicuous manner on the head, chest and back a minimum of 400 square inches of solid-colored blaze orange clothing or material.

D. Sport Fishing. [Reserved]

Dated: October 20, 1995.

George T. Frampton, Jr.,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 95-29106 Filed 11-28-95; 8:45 am]

BILLING CODE 4310-55-M

50 CFR Part 32**RIN 1018-AD43**

Addition of Ohio River Islands National Wildlife Refuge to the List of Open Areas for Sport Fishing in West Virginia

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The U.S. Fish and Wildlife Service (Service) proposes to add Ohio River Islands National Wildlife Refuge to the list of areas open for sport fishing in West Virginia 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 January 29, 1996.

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:

Stephen R. Vehrs, at the address above; 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 proposed to open Ohio River Islands National Wildlife Refuge to sport fishing

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 Director 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

management plan for recreational fishing; an environmental assessment; a Finding of No Significant Impact (FONSI); a Section 7 statement, pursuant to the Endangered Species Act, that this opening is not likely to adversely affect a listed species or its critical habitat; and refuge-specific regulations to administer the fishing program. From a review of the totality of these documents, the Service has determined that the opening of the Ohio River Islands National Wildlife Refuge to sport fishing 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 Service has also determined that this opening for sport fishing is compatible and consistent with the primary purposes for which the refuge was established. A brief description of the fishing program is as follows:

Ohio River Islands National Wildlife Refuge

Established in 1990, the Ohio River Islands National Wildlife Refuge is located on the Ohio River from Shippingport, Pennsylvania to Manchester, Ohio. There are currently eighteen islands in the refuge totaling 1,020 acres. Through ongoing acquisition efforts, the refuge has the potential to include all, or portion of, 38 islands located along 362 river miles encompassing up to 3,500 acres of wildlife habitat.

The Ohio River islands and their back channels are recognized for high quality fish and wildlife, recreation, scientific, and natural heritage values. These areas provide some of the regions' highest quality riverine, wetland, and bottomland habitats, and are used by waterfowl, shorebirds, songbirds, warmwater fish, and freshwater mussels.

The Ohio River Islands National Wildlife Refuge was established under the authority of the Fish and Wildlife Act of 1956 (16 U.S.C. 742a-742j). The refuge's primary purposes is "* * * 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." The objectives of the sport fishing program are (1) to provide for the wise use of renewable natural resources, (2) provide an opportunity for sport fishing and minimal interference from other anglers and freedom to participate in a natural setting, and (3) provide sport fishing opportunity when

such use will not be detrimental to the refuge's primary objective and that will be compatible with other wildlife-oriented recreation.

A total of 55 species of fish have been collected by the West Virginia Department of Natural Resources and the Service in the vicinity of the islands. The shallow water areas against the islands, particularly the back channels, are important nursery areas for a variety of game fish. With respect to the impact on the fishery resource itself, opening the refuge to sport fishing would have a negligible impact.

The 18 refuge islands consist on only 1,020 acres and State surveys of recreational fishing indicate that only a small percentage of impact would be realized on the island habitats. The overwhelming majority of fish harvest occurs at dam tailwaters and main channel borders.

Opening the refuge to fishing has been found to be compatible in a separate compatibility determination. The fishing program will be reviewed, as appropriate, to ensure that sensitive habitats are protected from disturbance. A Section 7 evaluation pursuant to the Endangered Species Act was conducted. The Service determined that the proposed action will not 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 fishing program.

The Service has determined that there would be sufficient funds to administer the proposed fishing program. Sufficient funds would be available within the refuge unit budget to operate such a fishing program 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 Public Law 104-13 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 the proposed fishing program could increase the fishing licenses purchased and boost sales of fishing gear and tackle, the impact would not be considered significant as other surrounding areas are, also, open to fishing and the addition of the refuge to fishing waters would be only proportionally relevant to small entities. Therefore, this proposed rule would have minimal effect on such entities.

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 the opening of the refuge for sport fishing will not affect any identified threatened or endangered species or designated critical habitat.

Primary Author Stephen R. Vehrs, 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.

§ 32.68 [Amended]

2. Section 32.68 *West Virginia* is amended by adding paragraph D, under "Ohio River Islands National Wildlife Refuge" to read as follows:

§ 32.68 West Virginia.

Ohio River Islands National Wildlife Refuge

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D. Sport Fishing. Sport fishing is permitted on designated areas of the refuge pursuant to the following condition: Fishing will be conducted during West Virginia's State fishing seasons and under West Virginia's State regulations and guidelines, unless otherwise posted on the refuge.

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Dated: October 20, 1995.

George T. Frampton, Jr.,
Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 95-29107 Filed 11-28-95; 8:45 am]

BILLING CODE 4310-55-M