

between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

The action being proposed 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, as specified in Executive Order 13132, because it merely proposes to approve a change that the State requested in the attainment status of two areas, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

#### *E. Regulatory Flexibility*

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions.

The action being proposed will not have a significant impact on a substantial number of small entities because redesignations under section 107 of the Clean Air Act do not create any new requirements. Therefore, I certify that this action will not have a significant economic impact on a substantial number of small entities.

#### *F. Unfunded Mandates*

Under sections 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule

that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to the private sector, of \$100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action proposed does not include a Federal mandate that may result in estimated costs of \$100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action proposes to approve a change in the attainment status of two areas, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

#### **List of Subjects**

##### *40 CFR Part 52*

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

##### *40 CFR Part 81*

Air pollution control, National parks, Wilderness areas.

**Authority:** 42 U.S.C. 7401 *et seq.*

Dated: June 28, 2000.

**Norman Niedergang,**

*Regional Administrator, Region 5.*

[FR Doc. 00-17192 Filed 7-7-00; 8:45 am]

**BILLING CODE 6560-50-P**

## **DEPARTMENT OF THE INTERIOR**

### **Fish and Wildlife Service**

#### **50 CFR Part 17**

#### **Endangered and Threatened Wildlife and Plants; 90-Day Finding for a Petition To Revise Critical Habitat for the Cape Sable Seaside Sparrow**

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

**ACTION:** Proposed rule.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), announce a 90-day finding on a petition to revise critical habitat for the Cape Sable seaside sparrow (*Ammodramus*

*maritimus mirabilis*), under the Endangered Species Act of 1973, as amended (Act). After review of all available scientific and commercial information, we find that the petition presents substantial information indicating that revising critical habitat for this species may be warranted.

**DATES:** The finding announced in this notice was made on June 21, 2000. Send your comments and materials to reach us on or before September 8, 2000. We may not consider comments received after the above date in making our decision for the 12-month finding.

**ADDRESSES:** If you wish to comment, you may submit your comments by any one of several methods. You may mail or hand-deliver comments to the Field Supervisor, U.S. Fish and Wildlife Service, 1360 U.S. Hwy 1, Suite 5, Vero Beach, Florida 32961. You may also comment via the Internet to [heather\\_mcsharry@fws.gov](mailto:heather_mcsharry@fws.gov). See Supplementary Information for comment procedures.

**FOR FURTHER INFORMATION CONTACT:** Mr. Jay Slack at 561/562-3909, extension 234.

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

Section 4(b)(3)(D)(i) of the Act and our listing regulations (50 CFR 424.14 (c)(1)) require that we make a finding on whether a petition to revise critical habitat of a species presents substantial scientific or commercial information to demonstrate that the petitioned action may be warranted. We are to base this finding on all information available to us at the time the finding is made. To the maximum extent practicable, we are to make this finding within 90 days of the date we received the petition, and we are to publish the finding promptly in the **Federal Register**. Our regulations (50 CFR 424.14 (c)(2)(i)) further require that, in making a finding on a petition to revise critical habitat, we consider whether the petition contains information indicating that areas petitioned to be added to critical habitat contain physical and biological features essential to, and that may require special management to provide for, the conservation of the species involved.

On October 22, 1999, we published Listing Priority Guidance for Fiscal Year 2000 (64 FR 57114). The guidance clarifies the order in which we will process rulemakings, giving highest priority to processing emergency listing rules for any species determined to face a significant and imminent risk to its well-being (Priority 1). Second priority (Priority 2) is the processing of final determinations on proposed additions

to the lists of endangered and threatened wildlife and plants. Third priority (Priority 3) is the processing of new proposals to add species to the lists. The processing of administrative petition findings (petitions filed under section 4 of the Act) is the fourth priority. This 90-day petition finding is a Priority 4 action and is being completed in accordance with the current Listing Priority Guidance.

On August 26, 1999, the Biodiversity Legal Foundation submitted a petition to us to revise the critical habitat designation for the Cape Sable seaside sparrow. We received the petition on August 31, 1999. On September 29, 1999, we sent a letter to Mr. Sidney B. Maddock, Biodiversity Legal Foundation, acknowledging receipt of the petition.

The petition requested that critical habitat be revised for the Cape Sable seaside sparrow. The petitioner stated that the current designated critical habitat for the Cape Sable seaside sparrow is now inadequate and that part of the critical habitat has been destroyed by conversion to agricultural use. The petitioner asserted that substantial scientific evidence supports designation of marl prairie areas (short-to moderate-hydroperiod areas supporting sparse, clumped vegetation and producing marl soils) historically occupied by the western subpopulation of the sparrow as critical habitat and removal of privately owned agricultural areas from the critical habitat designation. This scientific information, gathered since the listing of the species, indicates that currently designated critical habitat encompassing the marl prairie areas historically occupied by the eastern subpopulations of the sparrow should also include the marl prairie areas historically occupied by the western subpopulation of the sparrow. As part of conservation of the sparrow, protection and management of the western subpopulation habitat area is essential to ensuring the continued existence of the species. The petitioner further asserted that the current designation of critical habitat does not include a detailed discussion of the constituent elements and special management considerations necessary for conservation of the species, as required by the Endangered Species Act, and that sufficient scientific evidence is now available to describe these constituent elements and any special management considerations and protection measures. The petitioner did not provide specific locations for areas to be included in or removed from the critical habitat, but referred to marl prairie areas historically occupied by the western subpopulation

of the Cape Sable seaside sparrow and privately owned habitat areas that had been converted to agricultural use.

Since the listing of the Cape Sable seaside sparrow, we have been funding scientific studies and otherwise seeking and soliciting information regarding its status, life-history, and ecology. We also have participated in and funded conservation efforts including habitat protection and management. These efforts have expanded and refined our knowledge about critical habitat for the Cape Sable seaside sparrow. We have conducted numerous section 7 consultations concerning the effects of land and water management plans on the Cape Sable seaside sparrow. Research and monitoring required for these consultations has also contributed to our database regarding critical habitat.

In 1998 we issued a draft revised recovery plan for the sparrow as part of the draft Multi-Species Recovery Plan (MSRP) for South Florida. This document provides a detailed justification for the need to review and redesignate critical habitat. We state in the document that critical habitat, as designated, does not adequately account for the distribution of the present-day core subpopulations, or the areas necessary for the birds to maintain a stable population. An important area west of Shark River Slough, which until 1993 supported one of two critical subpopulations (nearly half of the entire population), is not included within the designation and has been undergoing detrimental changes in habitat structure as a result of water management practices. Additionally, other parts of the designated critical habitat have been converted to agriculture and are no longer occupied by sparrows. Thus, the extent of the critical habitat requires significant review and redesignation. We also state that when we redesignate critical habitat, the constituent elements must be defined. We included a specific task in the draft MSRP that called for a review and revision of the current critical habitat designation based on distribution surveys.

We have reviewed the petition, the information provided in the petition, other literature, and information available in our files. The petition includes much of the information already present in our files. Available information and data indicate that marl prairies along the western flank of Shark River Slough may be essential to the survival and recovery of the Cape Sable seaside sparrow. Therefore, based on the best scientific and commercial information available, we find the petition presents substantial

information that revision of critical habitat for the Cape Sable seaside sparrow may be warranted.

We solicit information, including additional comments and suggestions from the public, other concerned governmental agencies, the scientific community, industry, or other interested parties, concerning revision of the critical habitat for the Cape Sable seaside sparrow.

After consideration of additional information, submitted during the indicated time period (see **DATES** section), we will prepare a 12-month finding, as required by section 4(b)(3)(D)(ii) of the Act and 50 CFR 424.14(c)(3).

### Comment Procedures

Please submit Internet comments as an ASCII file, avoiding the use of special characters and any form of encryption. Please also include "Attention: [Cape Sable Seaside Sparrow]" and your name and return address in your Internet message. If you do not receive a confirmation from the system that we have received your Internet message, contact us directly at the address given in the **ADDRESSES** section or by telephone at 561/562-3909. Finally, you may hand-deliver or mail comments to the address given in the **ADDRESSES** section. Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the rulemaking record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold from the rulemaking record a respondent's identity, as allowable by law. If you wish for us to withhold your name and/or address, you must state this request prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

### Author

The primary author of this document is Heather McSharry, South Florida Field Office (see **ADDRESSES** section).

**Authority:** The authority for this action is the Endangered Species Act (16 U.S.C. 1531 *et seq.*).

Dated: June 21, 2000.

**Jamie Rappaport Clark,**

*Director, Fish and Wildlife Service.*

[FR Doc. 00-17260 Filed 7-7-00; 8:45 am]

BILLING CODE 4310-55-P

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Parts 25 and 32

RIN 1018-AG01

#### 2000-2001 Refuge-Specific Hunting and Sport Fishing Regulations

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

**ACTION:** Proposed rule.

**SUMMARY:** We propose to add national wildlife refuges (refuges) to the list of areas open for hunting and/or sport fishing, along with pertinent refuge-specific regulations for such activities; and amend certain regulations on other refuges that pertain to migratory game bird hunting, upland game hunting, big game hunting, and sport fishing for the 2000-2001 season.

**DATES:** You should submit comments on or before August 9, 2000.

**ADDRESSES:** Submit written comments to Chief, Branch of Planning and Policy, Division of Refuges, U.S. Fish and Wildlife Service, 1849 C Street, NW, MS 670 ARLSQ, Washington, DC 20240. See **SUPPLEMENTARY INFORMATION** for information on electronic submission.

**FOR FURTHER INFORMATION CONTACT:** Leslie A. Marler, (703) 358-2397; Fax (703) 358-2248.

**SUPPLEMENTARY INFORMATION:** The National Wildlife Refuge System Administration Act of 1966 (NWRSA) closes national wildlife refuges to all uses until we open them. The Secretary of the Interior (Secretary) may open refuge areas to any use, including hunting and/or fishing upon a determination that such uses are compatible with the purposes of the refuge. The action also must be in accordance with provisions of all laws applicable to the areas, must be consistent with the principles of sound fish and wildlife management and administration, and otherwise must be in the public interest. These requirements ensure that we maintain the biological integrity, diversity, and environmental health of the National Wildlife Refuge System (System) for the

benefit of present and future generations of Americans.

We review refuge hunting and fishing programs annually to determine whether to include additional refuges or whether individual refuge regulations governing existing programs need modifications, deletions, or additions made to them. Changing environmental conditions, State and Federal regulations, and other factors affecting wildlife populations and habitat may warrant modifications to ensure the continued compatibility of hunting and fishing programs and that these programs will not materially interfere with or detract from the fulfillment of the mission of the System or the purposes of the refuge.

You may find provisions governing hunting and fishing on national wildlife refuges in 50 CFR part 32. We regulate hunting and fishing on refuges to:

- Ensure compatibility with the purpose(s) of the refuge;
- Properly manage the fish and wildlife resource;
- Protect other refuge values; and
- Ensure refuge user safety.

On many refuges where we decide it is proper to open them for hunting and fishing, our general policy of adopting regulations identical to State hunting and fishing regulations is adequate in meeting these objectives. On other refuges, we must supplement State regulations with more restrictive Federal regulations to ensure that we meet our management responsibilities, as outlined under the section entitled "Statutory Authority." We issue refuge-specific hunting and sport fishing regulations when we open wildlife refuges to either migratory game bird hunting, upland game hunting, big game hunting, or sport fishing. These regulations list the wildlife species that you may hunt or those species subject to sport fishing, seasons, bag limits, methods of hunting or fishing, descriptions of open areas, and other provisions as appropriate. You may find previously issued refuge-specific regulations for hunting and fishing in 50 CFR part 32. In this rulemaking, we are promulgating many of the amendments to these sections to standardize and clarify the existing language of these regulations.

Some refuges make seasonal information available in brochures or leaflets to supplement these refuge-specific regulations, which we provide for in 50 CFR 25.31.

#### Plain Language Mandate

In this rule the vast majority of the revisions to the individual refuge units are to comply with a Presidential

mandate to use plain language in regulations and do not modify the substance of the previous regulations. These types of changes include using "you" to refer to the reader and "we" to refer to the Service and using the word "allow" instead of "permit" when we do not require the use of a permit for an activity.

#### Statutory Authority

The National Wildlife Refuge System Administration Act (NWRSA) of 1966, as amended by the National Wildlife Refuge System Improvement Act of 1997 (16 U.S.C. 668dd-668ee), and the Refuge Recreation Act (RRA) of 1962 (16 U.S.C. 460k-460k-4) govern the administration and public use of national wildlife refuges.

The National Wildlife Refuge System Improvement Act (NWRISA) of 1997 is the latest amendment to the NWRSA. It amends and builds upon the NWRSA in a manner that provides an improved "Organic Act" for the System similar to those that exist for other public lands. It serves to ensure that we effectively manage the System as a national network of lands, waters, and interests for the protection and conservation of our Nation's wildlife resources. The NWRSA states first and foremost that we focus the mission of the System on conservation of fish, wildlife, and plant resources and their habitat. This Act requires the Secretary, before initiating or allowing a new use of a refuge, or before expanding, renewing, or extending an existing use of a refuge, to determine that the use is compatible and promotes public safety. The NWRISA establishes as the policy of the United States that wildlife-dependent recreation, when it is compatible, is a legitimate and appropriate public use of the System, through which the American public can develop an appreciation for fish and wildlife. The NWRISA establishes six compatible wildlife-dependent recreational uses as the priority general public uses of the System. Those priority uses are: hunting, fishing, wildlife observation, wildlife photography, environmental education, and environmental interpretation.

The RRA authorizes the Secretary to administer areas within the System for public recreation as an appropriate incidental or secondary use only to the extent that doing so is practicable and not inconsistent with the primary purpose(s) for which Congress and the Service established the areas. This act requires that any recreational use of refuge lands be compatible with the primary purpose(s) for which we established the refuge and not