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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 32

[Docket No. FWS-R9-NSR-2009-0023]
[93270-1265-0000-4A]

RIN 1018-AW49

2009-2010 Refuge-Specific Hunting and Sport Fishing Regulations—Additions

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Fish and Wildlife Service adds two refuges to the list of areas open for hunting and/or sport fishing programs and increases the activities available at eight other refuges for the 2009-2010 season. One refuge will see a decrease in activities and another refuge will see no net change in activities for the 2009-2010 season.

DATES: This rule is effective April 12, 2010.

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 closes national wildlife refuges in all States except Alaska to all uses until opened. The Secretary of the Interior (Secretary) may open refuge areas to any use, including hunting and/or sport fishing, upon a determination that such uses are compatible with the purposes of the refuge and National Wildlife Refuge System (Refuge System or our/we) mission. The action also must be in accordance with provisions of all laws applicable to the areas, developed in coordination with the appropriate State fish and wildlife agency(ies), consistent with the principles of sound fish and wildlife management and administration, and otherwise in the public interest. These requirements ensure that we maintain the biological integrity, diversity, and environmental health of the Refuge System for the benefit of present and future generations of Americans.

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

Provisions governing hunting and sport fishing on refuges are in title 50 of the Code of Federal Regulations in part 32 (50 CFR part 32). We regulate hunting and sport fishing on refuges to:

- Ensure compatibility with refuge purpose(s);
- Properly manage the fish and wildlife resource(s);
- Protect other refuge values;
- Ensure refuge visitor safety; and
- Provide opportunities for quality fish- and wildlife-dependent recreation.

On many refuges where we decide to allow hunting and sport fishing, our general policy of adopting regulations identical to State hunting and sport 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 in the "Statutory Authority" section. We issue refuge-specific hunting and sport fishing regulations when we open wildlife refuges to migratory game bird hunting, upland game hunting, big game hunting, or sport fishing. These regulations list the wildlife species that you may hunt or fish, seasons, bag or creel (container for carrying fish) limits, methods of hunting or sport fishing, descriptions of areas open to hunting or sport fishing, and other provisions as appropriate. You may find previously issued refuge-specific regulations for hunting and sport fishing in 50 CFR part 32. In this rulemaking, we are also standardizing and clarifying the language of existing regulations.

Plain Language Mandate

In this rule we made some of the revisions to the individual refuge units to comply with a Presidential mandate to use plain language in regulations; as such, these particular revisions 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 Refuge System, using the word "allow" instead of "permit" when we do not require the use of a permit for an activity, and using active voice (i.e., "We restrict entry into the refuge" vs. "Entry into the refuge is restricted").

Statutory Authority

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

Amendments enacted by the Improvement Act, which built upon the Administration Act in a manner that provides an "organic act" for the Refuge System, are similar to those that exist for other public Federal lands. The Improvement Act serves to ensure that we effectively manage the Refuge System as a national network of lands, waters, and interests for the protection and conservation of our Nation's wildlife resources. The Administration Act states first and foremost that we focus our Refuge System mission on conservation of fish, wildlife, and plant resources and their habitats. The Improvement Act requires the Secretary, before 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 with the purpose for which the refuge was established and the mission of the Refuge System. The Improvement Act established as the policy of the United States that wildlife-dependent recreation, when compatible, is a legitimate and appropriate public use of the Refuge System, through which the American public can develop an appreciation for fish and wildlife. The Improvement Act established six wildlife-dependent recreational uses as the priority general public uses of the Refuge System. These uses are: hunting, fishing, wildlife observation and photography, and environmental education and interpretation.

The Recreation Act authorizes the Secretary to administer areas within the Refuge 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. The Recreation Act requires that any recreational use of refuge lands be compatible with the primary purpose(s) for which we established the refuge and

not inconsistent with other previously authorized operations.

The Administration Act and Recreation Act also authorize the Secretary to issue regulations to carry out the purposes of the Acts and regulate uses.

We develop specific management plans for each refuge prior to opening it to hunting or sport fishing. In many cases, we develop refuge-specific regulations to ensure the compatibility of the programs with the purpose(s) for which we established the refuge and the Refuge System mission. We ensure initial compliance with the Administration Act and the Recreation Act for hunting and sport fishing on newly acquired refuges through an interim determination of compatibility made at or near the time of acquisition. These regulations ensure that we make the determinations required by these acts prior to adding refuges to the lists of areas open to hunting and sport fishing in 50 CFR part 32. We ensure continued compliance by the development of comprehensive conservation plans, specific plans, and by annual review of hunting and sport fishing programs and regulations.

Response to Comments Received

In the December 29, 2009, **Federal Register** [74 FR 68968], we published a proposed rulemaking identifying changes pertaining to migratory game bird hunting, upland game hunting, big game hunting, and sport fishing to existing refuge-specific language on certain refuges for the 2009-2010 season. We received five comments (three from the same commenter) on the proposed rule during a 30-day comment period. One commenter supported the decision to open Turnbull National Wildlife Refuge (NWR) in Washington for hunting, and another commenter was generally supportive of all proposed openings with a concern raised about the proposed cut in weekend waterfowl hunting opportunities at Mathews Brake NWR in Mississippi. That concern is addressed below in Comment/Response 4.

Comment 1: The commenter believes hunting is incompatible with the public interest, that it is discriminatory in nature and disenfranchises millions of residents in the United States.

Response 1: We disagree. The 1997 National Wildlife Refuge System Administration Act stipulates that hunting (along with fishing, wildlife observation and photography, and environmental education and interpretation), if found to be compatible, is a legitimate and priority general public use of a refuge that

should be facilitated. The Administration Act authorizes the Secretary to allow use of any refuge area for any purpose as long as those uses are compatible. In the case of each refuge opening/expansion in this rule, the refuge managers went through the compatibility process (which allows for public comment), in addition to complying with the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*) [NEPA] (which also allows for public comment) to make the determination before opening or expanding their refuge to allow for hunting. We made no change to this rulemaking as a result of this comment.

Comment 2: The same commenter asked for an extension of time to further comment on the proposed rule and felt that we discriminate by not allowing email or facsimile comments on the proposed rule.

Response 2: We disagree that the comment period is insufficient. The process of opening refuges is done in stages, with the fundamental work being done on the ground at the refuge and in the community where the program is administered. In these stages, the public is provided other opportunities to comment, for example, on the comprehensive conservation plans, the compatibility determinations, and the hunt plans and accompanying NEPA documents. The final stage is when we publish the proposed rule in the **Federal Register** for additional comment, commonly providing a 30-day comment period.

We make every attempt to collect all of the proposals from the refuges nationwide and process them expeditiously to maximize the time available for public review. We believe that a 30-day comment period, through the broader publication following the earlier public involvement, gives the public sufficient time to comment and allows us to establish hunting and fishing programs in time for the upcoming seasons. Many of these rules also relieve restrictions and allow the public to participate in wildlife-dependent recreational activities on a number of refuges. Even after issuance of a final rule, we accept comments, suggestions, and concerns for consideration for any appropriate subsequent rulemaking.

As to no longer accepting facsimile or email comments, this change occurred on December 10, 2007, when the Service became a participating agency in the Federal Government's eRulemaking program, including the Federal Docket Management System (FDMS). FDMS is the agency side of Regulations.gov. Rulemaking documents are directly

loaded from the **Federal Register** into Regulations.gov for public review. FDMS enables agencies, including the Service, to manage their administrative records (dockets) electronically and to post public comments on Regulations.gov. At the time that the Service began participating in FDMS, the Service determined that, for rulemaking documents, we use only the following methods for the public to comment: (1) Online through Regulations.gov; (2) by U.S. mail; or (3) by hand delivery. This helps ensure efficiency in allowing public review of our dockets.

Comment 3: The same commenter wondered if we are "conserving" fish, why are most species extinct at present. He or she continued, "If you are conserving birds, why are 40 [bald] eagles in an entire state considered adequate for ecological purposes?" The commenter lives on the east coast, so our assumption is that he or she is referring to bald eagles.

Response 3: This rule opened no new refuges to fishing; four of the refuges remain closed to fishing and the remaining eight refuges were already open to fishing. We allow no fishing for species that are listed as either threatened or endangered. We comply with section 7 of the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*) when developing comprehensive conservation plans and step-down management plans and have consulted with Ecological Services offices for each of the affected refuge openings. In no case was there a finding that hunting activities would affect threatened or endangered species.

The Service removed bald eagles from the Federal List of Endangered and Threatened Wildlife in the lower 48 States on August 8, 2007. We based our determination on a thorough review of all available information, which indicated that the threats to this species had been eliminated or reduced to the point that the species has recovered and no longer meets the definition of threatened or endangered under the Endangered Species Act. According to the July 9, 2007, final rule published in the **Federal Register** (72 FR 37346), we went from 487 breeding pairs in 1963 to 9,789 breeding pairs in 2007. The recovery of the bald eagle is due in part to the reduction in levels of persistent organochlorine pesticides (such as DDT) occurring in the environment and habitat protection and management actions. The protections provided to the bald eagle under the Bald and Golden Eagle Protection Act (16 U.S.C. 668-668c) and the Migratory Bird Treaty Act

(16 U.S.C. 703-712) continue to remain in place after delisting of the species.

Comment 4: A commenter expressed concern over the proposed reduction of total migratory bird hunting days (by 200 in weekend waterfowl hunting opportunities) at Mathews Brake NWR in Mississippi. The commenter encourages us and the refuge administrators to work with the local hunting community to find ways to reopen those days and to provide enhanced weekend hunting opportunities.

Response 4: Mathews Brake has long had the reputation of being a consistently good waterfowl hunting area, and it annually attracts hunters from many different States. Good hunting sites are very limited, producing a fierce competition among hunters, especially on opening day and weekends. As an example, 2008 opening day of waterfowl season had a total of 84 boats trying to vie for the places to hunt within the limited area. As described in Objective 6B of the 2006 Comprehensive Conservation Plan for the Theodore Roosevelt National Wildlife Refuges Complex, of which Mathews Brake is part, one of our objectives for this hunt program is to “provide hunters with a high-quality, safe hunting experience on refuge lands...” Limiting the number of hunting parties to 20, with one boat per party, alleviates many of the safety issues that were occurring (such as night time boat races to the best spots), yet still allows a quality hunting experience for those chosen through our draw system, and helps limit disturbance to the wildlife resource values of Mathews Brake.

We do allow up to four hunters per party, thus providing weekend and opening day hunting opportunities on Mathews Brake for up to 80 hunters per day. We are also aware that there will be hunters applying for the Mathews Brake NWR weekend/opening day waterfowl hunts that will not be selected. We provide unlimited weekend waterfowl hunting on three other national wildlife refuges within the Theodore Roosevelt NWR Complex, all with what we consider good hunting. For example, Morgan Brake NWR, located approximately 10 miles south from Mathews Brake, has 2,966 acres open; Hillside NWR, 15 miles south from Mathews Brake, has 9,723 acres available for hunting; and Panther Swamp, located 40 miles south, has 10,731 acres open for weekend waterfowl hunting. North of Mathews Brake we allow unlimited weekend waterfowl hunting at Dahomey, Tallahatchie, and Coldwater National Wildlife Refuges. There should be no problem for individuals not selected to hunt at Mathews Brake to find suitable waterfowl hunting on nearby refuges. We made no change to this regulation as a result of this comment.

Effective Date

This rule is effective upon publication in the **Federal Register**. We have determined that any further delay in implementing these refuge-specific hunting and sport fishing regulations would not be in the public interest, in that a delay would hinder the effective planning and administration of the hunting and fishing programs. We provided a 30-day public comment

period for the December 29, 2009, proposed rule. An additional delay would jeopardize holding the hunting and/or fishing programs this year or shorten their duration and thereby lessen the management effectiveness of this regulation. This rule does not impact the public generally in terms of requiring lead time for compliance. Rather it relieves restrictions in that it allows activities on refuges that we would otherwise prohibit. Therefore, we find good cause under 5 U.S.C. 553(d)(3) to make this rule effective upon date of publication.

Amendments to Existing Regulations

This document codifies in the Code of Federal Regulations all of the Service’s hunting and/or sport fishing regulations that are applicable at Refuge System units previously opened to hunting and/or sport fishing. We are doing this to better inform the general public of the regulations at each refuge, to increase understanding and compliance with these regulations, and to make enforcement of these regulations more efficient. In addition to now finding these regulations in 50 CFR part 32, visitors to our refuges will usually find them reiterated in literature distributed by each refuge or posted on signs.

We have cross-referenced a number of existing regulations in 50 CFR parts 26, 27, and 32 to assist hunting and sport fishing visitors with understanding safety and other legal requirements on refuges. This redundancy is deliberate, with the intention of improving safety and compliance in our hunting and sport fishing programs.

TABLE 1 – CHANGES FOR 2009-2010 HUNTING/FISHING SEASON

National Wildlife Refuge	State	Migratory Bird Hunting	Upland Game Hunting	Big Game Hunting	Fishing
Hillside	MS	Previously published	Previously published	B (turkey)	Previously published
Holt Collier	MS	Closed	Previously published	C	Closed
Mathews Brake	MS	F	Previously published	Previously published	Previously published
Morgan Brake	MS	Previously published	Previously published	A/B (hog)	Previously published
Panther Swamp	MS	D	Previously published	E	Previously published
Yazoo	MS	C	Previously published	Previously published	Closed
Nisqually	WA	G	Closed	Closed	Previously published
Turnbull	WA	H	Closed	H (elk)	Closed
Waccamaw	SC	A	A	A	Previously published
Lake Andes	SD	H	H	H	Closed
Red River	LA	A	A	A/B (hog, turkey)	Previously published

TABLE 1 – CHANGES FOR 2009-2010 HUNTING/FISHING SEASON—Continued

National Wildlife Refuge	State	Migratory Bird Hunting	Upland Game Hunting	Big Game Hunting	Fishing
San Luis	CA	A	Previously published	Closed	Previously published

A= Refuge already open to activity but added new land which increased activity

B= Refuge already open to activity but added new species to hunt

C= Refuge already opened to activity but expanded the activity through increased type of hunt (e.g., youth waterfowl)/different weaponry now allowed

D= Refuge already opened to activity, added new land but adjusted hunt days, so *no net increase*

E= No increase in hunt days; rather a redistribution of hunt area/days to make for safer, quality hunt

F= *Decrease* in hunter days due to limiting of weekend waterfowl hunters

G= New activity on a refuge previously opened to other activities

H= New refuge opened, new activity

In the State of Mississippi, we revised the public hunting plan and make the following changes for the Theodore Roosevelt National Wildlife Refuge Complex (comprised of six refuges: Hillside, Holt Collier, Mathews Brake, Morgan Brake, Panther Swamp, and Yazoo NWRs):

- Revision of the hunt plan for Holt Collier NWR (which is currently covered by the Yazoo NWR hunt plan) reflecting different weaponry and changing 14 days of the hunt from archery to archery/muzzleloader for big game hunting;

- For Panther Swamp NWR: addition of deer hunting using muzzleloaders and modern weapons and waterfowl hunting on 2,900 acres of the Carter Unit; on the recently acquired 761-acre tract, expansion of deer and feral hog hunting (with no corresponding increase in hunters); and a redistribution/reduction of waterfowl hunting areas/hunt days throughout the refuge, including the Carter Unit and recently acquired 761-acre tract;

- Addition of turkey hunting on Hillside NWR;

- Addition of youth waterfowl hunting allowed on Yazoo NWR;

- Limited weekend waterfowl hunt participation at Mathews Brake NWR, decreasing the number of hunters; and

- Increase in deer/feral hog hunting on 366 acres at Morgan Brake NWR.

On Waccamaw NWR in South Carolina we added six new refuge parcels and with this rule increase all allowable hunting activities on 1,905 acres and feral hog hunting on 1,200 acres. On Nisqually NWR in Washington we have added 191 acres of tidal flats that we open to migratory bird hunting. On Red River NWR in Louisiana we have added approximately 6,000 acres of land that we open to all

three hunting activities, and we add feral hog and turkey hunting. On San Luis NWR in California we have added approximately 2,000 acres of land (East Bear Creek Unit) that we open for migratory game bird hunting.

Fish Advisory

For health reasons, anglers should review and follow State-issued consumption advisories before enjoying recreational sport fishing opportunities on Service-managed waters. You can find information about current fish consumption advisories on the internet at: <http://www.epa.gov/ost/fish/>.

Regulatory Planning and Review

The Office of Management and Budget (OMB) has determined that this rule is not significant under Executive Order 12866 (E.O. 12866). OMB bases its determination on the following four criteria:

(a) Whether the rule will have an annual effect of \$100 million or more on the economy or adversely affect an economic sector, productivity, jobs, the environment, or other units of the government.

(b) Whether the rule will create inconsistencies with other Federal agencies' actions.

(c) Whether the rule will materially affect entitlements, grants, use fees, loan programs, or the rights and obligations of their recipients.

(d) Whether the rule raises novel legal or policy issues.

Regulatory Flexibility Act

Under the Regulatory Flexibility Act (as amended by the Small Business Regulatory Enforcement Fairness Act [SBREFA] of 1996) (5 U.S.C. 601 *et seq.*), whenever a Federal agency is required to publish a notice of rulemaking for any proposed or final rule, it must

prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (i.e., small businesses, small organizations, and small government jurisdictions). However, no regulatory flexibility analysis is required if the head of an agency certifies that the rule would not have a significant economic impact on a substantial number of small entities. Thus, for a regulatory flexibility analysis to be required, impacts must exceed a threshold for "significant impact" and a threshold for a "substantial number of small entities." See 5 U.S.C. 605(b). SBREFA amended the Regulatory Flexibility Act to require Federal agencies to provide a statement of the factual basis for certifying that a rule would not have a significant economic impact on a substantial number of small entities.

This rule adds two national wildlife refuges to the list of refuges open to hunting, increases hunting activities on eight national wildlife refuges, decreases activities at one national wildlife refuge and has a net change of zero at one national wildlife refuge. As a result, visitor use for wildlife-dependent recreation on these national wildlife refuges will change. If the refuges establishing new hunting programs were a pure addition to the current supply of such activities, it would mean an estimated increase of 3,675 user days of hunting (Table 2). Because the participation trend is flat in hunting activities since 1991, this increase in supply will most likely be offset by other sites losing participants. Therefore, this is likely to be a substitute site for the activity and not necessarily an increase in participation rates for the activity.

TABLE 2. ESTIMATED CHANGE IN HUNTING OPPORTUNITIES IN 2009/2010

Refuge	Additional Hunting Days	Additional Hunting Expenditures
Hillside	90	\$9,635
Holt Collier	150	\$16,059
Mathews Brake	-200	(\$21,412)
Morgan Brake	25	\$2,677
Panther Swamp	0	0
Yazoo	100	\$10,706
Nisqually	700	\$74,942
Turnbull	95	\$10,171
Waccamaw	75	\$8,030
Lake Andes	180	\$19,271
Red River	1,600	\$171,297
San Luis	860	\$92,072
Total	3,675	\$393,448

To the extent visitors spend time and money in the area of the refuge that they would not have spent there anyway, they contribute new income to the regional economy and benefit local businesses. Due to the unavailability of site-specific expenditure data, we use the national estimates from the 2006 National Survey of Fishing, Hunting, and Wildlife Associated Recreation to identify expenditures for food and lodging, transportation, and other incidental expenses. Using the average expenditures for these categories with the maximum expected additional participation of the Refuge System yields approximately \$393,000 in hunting-related expenditures (Table 2). By having ripple effects throughout the economy, these direct expenditures are only part of the economic impact of waterfowl hunting. Using a national impact multiplier for hunting activities (2.67) derived from the report "Economic Importance of Hunting in

America" yields a total economic impact of approximately \$1.1 million (2008 dollars) (Southwick Associates, Inc., 2007). Using a local impact multiplier would yield more accurate and smaller results. However, we employed the national impact multiplier due to the difficulty in developing local multipliers for each specific region.

Since we know that most of the fishing and hunting occurs within 100 miles of a participant's residence, then it is unlikely that most of this spending would be "new" money coming into a local economy; therefore, this spending would be offset with a decrease in some other sector of the local economy. The net gain to the local economies would be no more than \$1.1 million, and most likely considerably less. Since 80 percent of the participants travel less than 100 miles to engage in hunting and fishing activities, their spending patterns would not add new money into the local economy and, therefore, the

real impact would be on the order of \$210,000 annually.

Small businesses within the retail trade industry (such as hotels, gas stations, taxidermy shops, bait and tackle shops, etc.) may be impacted from some increased or decreased refuge visitation. A large percentage of these retail trade establishments in the local communities around national wildlife refuges qualify as small businesses (Table 3). We expect that the incremental recreational changes will be scattered, and so we do not expect that the rule will have a significant economic effect on a substantial number of small entities in any region or nationally. As noted previously, we expect approximately \$210,000 to be spent in total in the refuges' local economies. The maximum increase (\$1.1 million if all spending were new money) at most would be less than 1 percent for local retail trade spending.

TABLE 3. COMPARATIVE EXPENDITURES FOR RETAIL TRADE ASSOCIATED WITH ADDITIONAL REFUGE VISITATION FOR 2009/2010 (THOUSANDS, 2008 DOLLARS)

Refuge/County(ies)	Retail Trade in 2002 (2008 \$)	Estimated Maximum Addition from New Activities	Addition as % of Total	Establishments in 2007	Establ. With < 10 emp in 2007
Hillside					
Holmes, MS	\$112,887.5	\$4.5	0.004%	79	56

TABLE 3. COMPARATIVE EXPENDITURES FOR RETAIL TRADE ASSOCIATED WITH ADDITIONAL REFUGE VISITATION FOR 2009/2010 (THOUSANDS, 2008 DOLLARS)—Continued

Refuge/County(ies)	Retail Trade in 2002 (2008 \$)	Estimated Maximum Addition from New Activities	Addition as % of Total	Establishments in 2007	Establ. With < 10 emp in 2007
Holt Collier					
Washington MS	\$723,963.8	\$7.5	0.001%	281	201
Mathews Brake					
Leflore, MS	\$364,678.3	-\$10.0	-0.003%	183	136
Morgan Brake					
Holmes, MS	\$112,887.5	\$1.3	0.001%	79	56
Panther Swamp					
Yazoo, MS	\$229,806.9	\$0.0	0%	91	66
Yazoo					
Washington, MS	\$723,963.8	\$5.0	0.001%	281	201
Nisqually					
Thurston, WA	\$2,676,041.6	\$35.2	0.001%	794	535
Turnbull					
Spokane, WA	\$5,825,795.2	\$4.8	0%	1,698	1,105
Waccamaw					
Horry, SC	\$3,858,832.9	\$1.3	0%	1,681	1,239
Georgetown, SC	\$669,980.1	\$1.3	0%	371	275
Marion, SC	\$286,986.1	\$1.3	0%	151	112
Lake Andes					
Charles Mix, SD	\$76,157.9	\$9.0	0.012%	61	45
Red River					
Natchitoches Parish, LA	\$375,577.5	\$80.4	0.021%	149	101
San Luis					
Merced, CA	\$1,917,683.1	\$43.2	0.002%	582	395

With the small change in overall spending anticipated from this rule, it is unlikely that a substantial number of small entities will have more than a small impact from the spending change near the affected refuges. Therefore, we certify that this rule will not have a significant economic effect on a substantial number of small entities as defined under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). An initial/final Regulatory Flexibility Analysis is not required. Accordingly, a Small Entity Compliance Guide is not required.

Small Business Regulatory Enforcement Fairness Act

The rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. We anticipate no significant employment or small business effects.

This rule:

a. Will not have an annual effect on the economy of \$100 million or more. The minimal impact will be scattered across the country and will most likely not be significant in any local area.

b. Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or

local government agencies, or geographic regions. This rule will have only a slight effect on the costs of hunting opportunities for Americans. If the substitute sites are farther from the participants' residences, then an increase in travel costs will occur. The Service does not have information to quantify this change in travel cost but assumes that, since most people travel less than 100 miles to hunt, the increased travel cost will be small. We do not expect this rule to affect the supply or demand for hunting opportunities in the United States and, therefore, it should not affect prices for

hunting equipment and supplies, or the retailers that sell equipment.

c. Will not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises. This rule represents only a small proportion of recreational spending at national wildlife refuges. Therefore, this rule will have no measurable economic effect on the wildlife-dependent industry, which has annual sales of equipment and travel expenditures of \$72 billion nationwide.

Unfunded Mandates Reform Act

Since this rule will apply to public use of federally owned and managed refuges, it will not impose an unfunded mandate on State, local, or Tribal governments or the private sector of more than \$100 million per year. The rule will not have a significant or unique effect on State, local, or Tribal governments or the private sector. A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

Takings (E.O. 12630)

In accordance with E.O. 12630, this rule will not have significant takings implications. This regulation will affect only visitors at national wildlife refuges and describe what they can do while they are on a refuge.

Federalism (E.O. 13132)

As discussed in the *Regulatory Planning and Review* and Unfunded Mandates Reform Act sections above, this rule will not have sufficient Federalism implications to warrant the preparation of a Federalism Assessment under E.O. 13132. In preparing this rule, we worked with State governments.

Civil Justice Reform (E.O. 12988)

In accordance with E.O. 12988, the Office of the Solicitor has determined that the rule will not unduly burden the judicial system and that it meets the requirements of sections 3(a) and 3(b)(2) of the Order. The regulation clarifies established regulations and results in better understanding of the regulations by refuge visitors.

Energy Supply, Distribution or Use (E.O. 13211)

On May 18, 2001, the President issued E.O. 13211 on regulations that significantly affect energy supply, distribution, and use. E.O. 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. Because this rule

increases activities at eight refuges and opens two new refuges, it is not a significant regulatory action under E.O. 12866 and is not expected to significantly affect energy supplies, distribution, and use. Therefore, this action is not a significant energy action and no Statement of Energy Effects is required.

Consultation and Coordination with Indian Tribal Governments (E.O. 13175)

In accordance with E.O. 13175, we have evaluated possible effects on federally recognized Indian tribes and have determined that there are no effects. We coordinate recreational use on national wildlife refuges with Tribal governments having adjoining or overlapping jurisdiction before we propose the regulations.

Paperwork Reduction Act

This regulation does not contain any information collection requirements other than those already approved by the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) (OMB Control Numbers are 1018-0102 and 1018-0140). See 50 CFR 25.23 for information concerning that approval. An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

Endangered Species Act Section 7 Consultation

We comply with section 7 of the Endangered Species Act when developing Comprehensive Conservation Plans (CCPs) and step-down management plans (which would include hunting and/or fishing plans) for public use of refuges, and prior to implementing any new or revised public recreation program on a refuge as identified in 50 CFR 26.32. Section 7 consultation has been completed on each of the affected refuges.

National Environmental Policy Act

We analyzed this rule in accordance with the criteria of the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4332(C)) and 516 Departmental Manual (DM) 6, Appendix 1.

A categorical exclusion from NEPA documentation applies to publication of proposed amendments to refuge-specific hunting and fishing regulations since it is technical and procedural in nature, and the environmental effects are too broad, speculative, or conjectural to lend themselves to meaningful analysis

(516 DM 2, Appendix 1.10). Concerning the actions that are the subject of this rulemaking, we complied with NEPA at the project level where we developed each proposal. This is consistent with the Department of the Interior instructions for compliance with NEPA where actions are covered sufficiently by an earlier environmental document (516 DM 3.2A). We completed an Environmental Assessment, along with a Finding of No Significant Impact, for each refuge in this rulemaking except for Nisqually NWR. For Nisqually, we completed a Categorical Exclusion, along with an Environmental Action Statement. The action in Nisqually is to open 191 acres already open to hunting to allow boat access for hunting; the impact from this action was previously analyzed in Nisqually NWR's Final CCP and EIS from 2004.

Prior to the addition of a refuge to the list of areas open to hunting and fishing in 50 CFR part 32, we develop hunting and fishing plans for the affected refuges. We incorporate these proposed refuge hunting and fishing activities in the refuge CCPs and/or other step-down management plans, pursuant to our refuge planning guidance in 602 Fish and Wildlife Service Manual (FW) 1, 3, and 4. We prepare these CCPs and step-down plans in compliance with section 102(2)(C) of NEPA, and the Council on Environmental Quality's regulations for implementing NEPA in 40 CFR parts 1500–1508. We invite the affected public to participate in the review, development, and implementation of these plans. Copies of all plans and NEPA compliance are available from the refuges at the addresses provided below.

Available Information for Specific Refuges

Individual refuge headquarters retain information regarding public use programs and conditions that apply to their specific programs and maps of their respective areas. If the specific refuge you are interested in is not mentioned below, then contact the appropriate Regional offices listed below:

Region 1—Hawaii, Idaho, Oregon, and Washington. Regional Chief, National Wildlife Refuge System, U.S. Fish and Wildlife Service, Eastside Federal Complex, Suite 1692, 911 N.E. 11th Avenue, Portland, Oregon 97232-4181; Telephone (503) 231-6214.

Turnbull National Wildlife Refuge, 26010 South Smith Road, Cheney, Washington 99004; Telephone (509) 235-4723.

Region 2—Arizona, New Mexico, Oklahoma, and Texas. Regional Chief, National Wildlife Refuge System, U.S.

Fish and Wildlife Service, Box 1306, 500 Gold Avenue, Albuquerque, New Mexico 87103; Telephone (505) 248-7419.

Region 3—Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Ohio, and Wisconsin. Regional Chief, National Wildlife Refuge System, U.S. Fish and Wildlife Service, 1 Federal Drive, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111; Telephone (612) 713-5401.

Region 4—Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Puerto Rico, and the Virgin Islands. Regional Chief, National Wildlife Refuge System, U.S. Fish and Wildlife Service, 1875 Century Boulevard, Atlanta, Georgia 30345; Telephone (404) 679-7166.

Region 5—Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, and West Virginia. Regional Chief, National Wildlife Refuge System, U.S. Fish and Wildlife Service, 300 Westgate Center Drive, Hadley, Massachusetts 01035-9589; Telephone (413) 253-8306.

Region 6—Colorado, Kansas, Montana, Nebraska, North Dakota, South Dakota, Utah, and Wyoming. Regional Chief, National Wildlife Refuge System, U.S. Fish and Wildlife Service, 134 Union Blvd., Lakewood, Colorado 80228; Telephone (303) 236-8145.

Lake Andes National Wildlife Refuge, 38672 291 Street, Lake Andes, South Dakota 57356; Telephone (605) 487-7603.

Region 7—Alaska. Regional Chief, National Wildlife Refuge System, U.S. Fish and Wildlife Service, 1011 E. Tudor Rd., Anchorage, Alaska 99503; Telephone (907) 786-3545.

Region 8—California and Nevada. Regional Chief, National Wildlife Refuge System, U.S. Fish and Wildlife Service, 2800 Cottage Way, Room W-2606, Sacramento, California 95825; Telephone (916) 414-6464.

Primary Author

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List of Subjects in 50 CFR Part 32

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

■ For the reasons set forth in the preamble, we amend title 50, chapter I, subchapter C of the Code of Federal Regulations as follows:

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-668ee, and 715i.

■ 2. Amend §32.7 “What refuge units are open to hunting and/or sport fishing?” by:

- a. Adding Lake Andes National Wildlife Refuge, in alphabetical order, in the State of South Dakota; and
 - b. Adding Turnbull National Wildlife Refuge, in alphabetical order, in the State of Washington.
- 3. Amend §32.24 California by revising paragraphs A.9. through A.12. and adding paragraph A.13. of San Luis National Wildlife Refuge to read as follows:

§ 32.24 California.

* * * * *

San Luis National Wildlife Refuge

A. Migratory Game Bird Hunting. * * *

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9. We restrict hunters in the spaced zone area of the East Bear Creek Unit to their assigned zone except when they are traveling to and from the parking area, retrieving downed birds, or when shooting to retrieve crippled birds.

10. Access to the Freitas Unit free-roam hunting area is by boat only with a maximum of 5 mph. Prohibited boats include air-thrust and/or inboard water-thrust types.

11. We prohibit the use of motorized boats in the free-roam units with the exception of the Freitas Unit.

12. We do not allow vehicle trailers of any type or size to be in the refuge hunt areas at any time or to be left unattended at any location on the refuge.

13. Dogs must remain under the immediate control of their owners at all times (see §26.21(b) of this chapter).

* * * * *

■ 4. Amend §32.37 Louisiana by revising paragraphs A., B., and C. of Red River National Wildlife Refuge to read as follows:

§ 32.37 Louisiana.

* * * * *

Red River National Wildlife Refuge

A. *Migratory Game Bird Hunting.* We allow hunting of waterfowl (duck, goose, coot, gallinule, rail, and snipe), woodcock, and dove on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Hunters must possess and carry a signed refuge permit.

2. We allow waterfowl hunting until 12 p.m. (noon) during the State season.

3. We allow dove hunting on the days noted in the refuge brochure.

4. Hunters may enter the refuge no earlier than 4 a.m.

5. We prohibit hunting within 100 feet (30 m) of the maintained rights of way of roads, from or across ATV trails, and from above-ground oil, gas, or electrical transmission facilities.

6. We prohibit leaving boats, blinds, and decoys unattended.

7. We only allow dogs to locate, point, and retrieve when hunting for migratory game birds.

8. Youth hunters under age 16 must remain within sight and normal voice contact of an adult age 21 or older. Each adult may supervise no more than two youth hunters.

9. We prohibit any person or group to act as a hunting guide, outfitter, or in any other capacity that pays other individual(s), pays or promises to pay directly or indirectly for service rendered to any other person or persons hunting on the refuge, regardless of whether such payment is for guiding, outfitting, lodging, or club membership.

B. *Small Game Hunting.* We allow hunting of quail, squirrel, rabbit, raccoon, coyote, and opossum on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Conditions A1, A4, A5, A7, and A8 (to hunt small game) apply.

2. We allow hunting of raccoon and opossum during the daylight hours of rabbit and squirrel season. We allow night hunting during December and January. We prohibit the selling of raccoon and opossum taken on the refuge for human consumption.

3. We allow the use of dogs to hunt squirrel and rabbit during January and February.

4. To use horses and mules to hunt raccoon and opossum at night, hunters must first obtain a Special Use Permit at the refuge office.

5. Hunters may enter the refuge no earlier than 4 a.m. and must exit no later than 2 hours after legal shooting hours.

6. We allow coyote hunting during all open refuge hunts with weapons legal for the ongoing hunt.

C. *Big Game Hunting.* We allow hunting of white-tailed deer, feral hogs, and turkey on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Conditions A1, A4, A5, A7, and A8 (to hunt big game; each adult may supervise no more than one youth hunter) and B6 apply.

2. We allow general gun deer hunting on the days noted. We allow archery

deer hunting during the entire State season.

3. The daily bag limit is one either-sex deer. State season limit applies.

4. Deer hunters must wear hunter orange as required by State deer hunting regulations on Wildlife Management Areas.

5. We prohibit possession or distribution of bait while in the field and hunting with the aid of bait, including any grain, salt, mineral, or any nonnatural occurring food attractant on the refuge.

6. We allow hog hunting during all open refuge hunts with weapons legal for the ongoing hunt.

7. We allow turkey hunting on the days noted in the brochure.

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- 5. Amend §32.43 Mississippi by:
 - a. Revising Hillside National Wildlife Refuge;
 - b. Revising Holt Collier National Wildlife Refuge;
 - c. Revising Mathews Brake National Wildlife Refuge;
 - d. Revising Morgan Brake National Wildlife Refuge;
 - e. Revising Panther Swamp National Wildlife Refuge; and
 - f. Revising Yazoo National Wildlife Refuge to read as follows:

§ 32.43 Mississippi.

* * * * *

Hillside National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of goose, duck, merganser, coot, and dove in accordance with State regulations subject to the following conditions:

1. Youth hunters age 15 and under must possess and carry a hunter safety course card or certificate. Each youth hunter must remain within sight and normal voice contact of an adult age 21 or older. Each hunter age 16 and older must possess and carry a valid signed refuge Public Use Permit certifying that he or she understands and will comply with all regulations. One adult may supervise no more than one youth hunter.

2. Before hunting or fishing, all participants must display their User Information Card in plain view on the dashboard of their vehicle so that the Permit Number is readable.

3. Failure to display the User Information Card will result in the loss of the participant's annual refuge Public Use Permit.

4. We prohibit hunting or entry into areas designated as "CLOSED" (see refuge brochure map).

5. We prohibit possession of alcoholic beverages (see §32.2(j)).

6. We prohibit use of plastic flagging tape.

7. You must park vehicles in such a manner as not to obstruct roads, gates, turn rows, or firelanes (see §27.31(h) of this chapter).

8. We are open for hunting during the State season except during the muzzleloader deer hunt.

9. Valid permit holders may take the following furbearers in season incidental to other refuge hunts with legal weapons used for that hunt: raccoon, opossum, coyote, beaver, bobcat, and nutria.

10. We allow ATVs only on designated trails (see §27.31 of this chapter) (see refuge brochure map) from September 15 through February 28.

11. You may possess or use only approved nontoxic shot (see §32.2(k)) while in the field.

12. You may take migratory birds with shotguns shooting only approved nontoxic shot.

13. Hunters must remove all decoys, blind material (see §27.93 of this chapter), and harvested waterfowl from the area no later than 1 p.m. each day.

14. We allow goose, duck, merganser and coot hunting from ½ hour before legal sunrise until 12 p.m. (noon). We allow entry into the refuge at 4 a.m.

15. There is no early teal season.

16. We open for dove hunting on specified dates and areas within the first and second State seasons. The first two Saturdays of the first season require a Limited Hunt Permit assigned by random computer drawing. At the end of the hunt you must return the permit with information concerning your hunt. If you fail to return this permit, you will not be eligible for any limited hunts the next year. Contact the refuge headquarters for specific dates and open areas.

B. Upland Game Hunting. We allow hunting of squirrel, rabbit, quail, and raccoon on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Conditions A1 through A10 apply.

2. We allow shotguns with only approved nontoxic shot (see §32.2(k)), and .22 and .17 caliber rimfire rifles for taking small game.

3. We allow dogs for hunting squirrel and quail and for the February rabbit hunt.

4. During the rabbit and quail hunts, any person hunting or accompanying another person hunting must wear at least 500 square inches (3,250 cm²) of unbroken, fluorescent-orange material visible above the waistline as an outer garment.

5. Beginning the first day after the deer muzzleloader hunt, we restrict

entry into the Turkey Point area until March 1.

6. With exception for raccoon hunting, we limit refuge ingress and egress to the period of 4 a.m. to 1½ hours after legal sunset.

7. We prohibit horses and mules.

C. Big Game Hunting. We allow hunting of white-tailed deer and turkey on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Conditions A1 through A10, and B5 through B7 apply.

2. During all gun and muzzleloader deer hunts: all participants must wear at least 500 square inches (3,250 cm²) of unbroken, fluorescent-orange material visible above the waistline as an outer garment while hunting and en route to and from hunting areas.

3. We prohibit organized drives for deer.

4. Hunting or shooting within or adjacent to open fields and tree plantations less than 5 feet (1.5 m) in height must be from a stand a minimum of 10 feet (3 m) above the ground.

5. We prohibit hunting or shooting into a 100-foot (30-m) zone along either side of pipelines, power line rights-of-way, designated roads, trails, or around parking lots (see refuge brochure map). You are considered hunting if you occupy a stand or blind or have an arrow nocked in a bow.

6. We designate deer check station dates, locations, and requirements in the refuge brochure.

7. We allow hunters to possess and hunt from only one stand or blind. Complex Headquarters will use a specific method to identify stands and blinds. We prohibit the use of climbing spikes or hunting from a tree in which metal objects have been screwed or driven (see §32.2(i)). Hunters may place a deer stand or blind 48 hours prior to a hunt and must remove it within 48 hours after each designated hunt. Hunters may place turkey blinds the day of the hunt and remove them after each day's hunt.

8. During designated muzzleloader hunts, we allow archery equipment and muzzleloaders loaded with a single ball.

9. Turkey hunting opportunities will consist of three limited draw hunts within the State season time frame. These hunts require a Limited Hunt Permit assigned by random computer drawing. At the end of the hunt you must return the permit with information concerning your hunt. If you fail to return this permit, you will not be eligible for any limited hunts the next year. Contact refuge headquarters for specific requirements, hunts, and application dates.

10. Hunts and hunt dates are available at the refuge headquarters in July, and we post them in the refuge brochure.

11. We prohibit all other public use on the refuge during all gun and muzzleloader deer hunts.

D. Sport Fishing. We allow fishing on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We close all refuge waters during the gun and muzzleloader deer hunt.

2. We allow fishing in the borrow ponds along the north levee (see refuge brochure map) throughout the year except during the gun and muzzleloader deer hunt.

3. We open all other refuge waters March 1 through November 15.

4. We prohibit trot lines, limb lines, jugs, seines, and traps.

5. We prohibit fishing from bridges.

6. We allow frogging during the State bullfrog season.

7. We allow ATVs on designated trails (see § 27.31 of this chapter) (see refuge brochure map) September 15 through February 28.

8. With the exception for frogging during the State season, we limit refuge ingress and egress for fishing to the period of 4 a.m. to 1½ hours after legal sunset.

Holt Collier National Wildlife Refuge

A. Migratory Game Bird Hunting. [Reserved]

B. Upland Game Hunting. We allow hunting of rabbit and furbearers on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Youth hunters age 15 and under must possess and carry a hunter safety course card or certificate. Each youth hunter must remain within sight and normal voice contact of an adult age 21 or older. Each hunter age 16 and older must possess and carry a valid signed refuge Public Use Permit certifying that he or she understands and will comply with all regulations. One adult may supervise no more than one youth hunter.

2. Before hunting or fishing, all participants must display their User Information Card in plain view on the dashboard of their vehicle so that the Permit Number is readable.

3. Failure to display the User Information Card will result in the loss of the participant's annual refuge Public Use Permit.

4. We prohibit hunting or entry into areas designated as "CLOSED" (see refuge brochure map).

5. We prohibit possession of alcoholic beverages (see §32.2(j)).

6. We prohibit use of plastic flagging tape.

7. You must park vehicles in such a manner as not to obstruct roads, gates, turn rows, or firelanes (see §27.31(h) of this chapter).

8. We are open for hunting during the State season except during the muzzleloader deer hunt.

9. Valid permit holders may take the following furbearers in season incidental to other refuge hunts with weapons legal for that hunt: raccoon, opossum, coyote, beaver, bobcat, and nutria.

10. We allow shotguns with only approved nontoxic shot (see §32.2(k)), and .22 and .17 caliber rimfire rifles for taking small game.

11. We allow rabbit and quail hunting with dogs in February.

12. During the rabbit and quail hunts, any person hunting or accompanying another person hunting must wear at least 500 square inches (3,250 cm²) of unbroken, fluorescent-orange material visible above the waistline as an outer garment.

13. With exception for raccoon hunting, we limit refuge ingress and egress to the period of 4 a.m. to 1½ hours after legal sunset.

14. We prohibit horses and mules.

C. Big Game Hunting. We allow hunting of white-tailed deer on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Conditions B1 through B7, B9, B13, and B14 apply.

2. During the muzzleloader deer hunt all participants must wear at least 500 square inches (3,250 cm²) of unbroken, fluorescent-orange material visible above the waistline as an outer garment while hunting and en route to and from hunting areas.

3. We prohibit organized drives for deer.

4. Hunting or shooting within or adjacent to open fields and or tree plantations less than 5 feet (1.5 m) in height must be from a stand a minimum of 10 feet (3 m) above the ground.

5. We prohibit hunting or shooting into a 100-foot (30-m) zone along either side of pipelines, power line rights-of-way, designated roads, trails, or around parking lots (see refuge brochure map). We consider it hunting if you occupy a stand or blind or have an arrow nocked in a bow.

6. We designate deer check station dates, locations, and requirements in the refuge brochure.

7. We allow hunters to possess and hunt from only one stand or blind.

Complex Headquarters will use a specific method to identify stands and

blinds. We prohibit the use of climbing spikes or hunting from a tree into which hunters have screwed or driven metal objects (see §32.2(i)). Hunters may place a deer stand or blind 48 hours prior to a hunt and must remove it within 48 hours after each designated hunt.

8. During designated muzzleloader hunts, we allow archery equipment and muzzleloaders loaded with a single ball.

9. Hunts and hunt dates are available at the refuge headquarters in July, and we post them in the refuge brochure.

10. We prohibit all other public use on the refuge during muzzleloader deer hunts.

D. Sport Fishing. [Reserved]

Mathews Brake National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of goose, duck, merganser, and coot in accordance with State regulations subject to the following conditions:

1. We allow hunting during the open State season. The first 2 days of the season and all weekends, with the exception of youth weekends, are limited draw hunts. These hunts require a Limited Hunt Permit assigned by random computer drawing. At the end of the hunt you must return the permit with information concerning your hunt. If you fail to return this permit, you will not be eligible for any limited hunts the next year. Contact refuge headquarters for specific requirements, hunts, and application dates.

2. Youth hunters age 15 and under must possess and carry a hunter safety course card or certificate. Each youth hunter must remain within sight and normal voice contact of an adult age 21 or older. Hunters age 16 and older must possess and carry a valid signed refuge Public Use Permit certifying that he or she understands and will comply with all regulations. One adult may supervise no more than one youth hunter.

3. Before hunting or fishing, all participants must display their User Information Card in plain view on the dashboard of their vehicle so that the Permit Number is readable.

4. Failure to display the User Information Card will result in the loss of the participant's annual refuge Public Use Permit.

5. We prohibit hunting or entry into areas designated as "CLOSED" (see refuge brochure map).

6. We prohibit possession of alcoholic beverages (see §32.2(j)).

7. We prohibit use of plastic flagging tape.

8. You must park vehicles in such a manner as not to obstruct roads, gates,

turn rows, or firelanes (see §27.31(h) of this chapter).

9. Valid permit holders may take the following furbearers in season incidental to other refuge hunts with legal weapons used for that hunt: raccoon, opossum, coyote, beaver, bobcat, and nutria.

10. You may possess or use only approved nontoxic shot (see §32.2(k)) while in the field.

11. You may take migratory birds with shotguns shooting only approved nontoxic shot.

12. Hunters must remove all decoys, blind material (see §27.93 of this chapter), boats, and harvested waterfowl from the area no later than 1 p.m. each day.

13. We allow goose, duck, merganser, and coot hunting from $\frac{1}{2}$ hour before legal sunrise until 12 p.m. (noon). We allow entry into the refuge at 4 a.m.

14. There is no early teal season.

15. Beginning the day before duck season opens and ending the last day of duck season, we close refuge waters to all public use from 1 p.m. until 4 a.m.

B. Upland Game Hunting. We allow hunting of squirrel, rabbit, and raccoon on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Conditions A2 through A9 and A15 apply.

2. We allow shotguns with only approved nontoxic shot (see §32.2(k)) and .22 and .17 caliber rimfire rifles for taking small game.

3. We allow dogs for hunting squirrel and for the February rabbit hunt.

4. During the rabbit hunts, any person hunting or accompanying another person hunting must wear at least 500 square inches (3,250 cm²) of unbroken, fluorescent-orange material visible above the waistline as an outer garment.

5. We prohibit horses and mules.

6. Beginning the day before waterfowl season, we restrict hunting to the waterfowl hunting area (see refuge brochure map).

C. Big Game Hunting. We allow archery hunting of white-tailed deer on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Conditions A2 through A9, A15, and B5 apply.

2. We allow archery hunting October 1 through January 31.

3. State bag limits apply.

4. We prohibit organized drives for deer.

5. Hunting or shooting within or adjacent to open fields or tree plantations less than 5 feet (1.5 m) in height must be from a stand a minimum of 10 feet (3 m) above the ground.

6. We prohibit hunting or shooting into a 100-foot (30-m) zone along either side of pipelines, power line rights-of-way, designated roads, trails, or around parking lots (see refuge brochure map). We consider it hunting if you occupy a stand or blind or have an arrow nocked in a bow.

7. We designate deer check station dates, locations, and requirements in the refuge brochure.

8. We allow hunters to possess and hunt from only one stand or blind. Complex Headquarters will use a specific method to identify stands and blinds. We prohibit the use of climbing spikes or hunting from a tree into which hunters have screwed or driven metal objects (see §32.2(i)). A hunter may place a deer stand or blind 48 hours prior to a hunt and must remove it within 48 hours after each designated hunt.

D. Sport Fishing. We allow fishing on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We allow fishing in all refuge waters throughout the year, except in the waterfowl sanctuary, which we close from the first day of duck season through March 1 (see refuge brochure map).

2. Beginning the day before duck season opens and ending March 1, we close refuge waters to all public use from 1 p.m. until 4 a.m.

3. We prohibit trot lines, limb lines, jugs, seines, and traps.

4. We allow frogging during the State bullfrog season.

5. With the exception for frogging during the State season, we limit refuge ingress and egress for fishing to the period from 4 a.m. to 1 $\frac{1}{2}$ hours after legal sunset.

Morgan Brake National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of goose, duck, merganser, and coot on the refuge in accordance with State regulations subject to the following conditions:

1. Youth hunters age 15 and under must possess and carry a hunter safety course card or certificate. Each youth hunter must remain within sight and normal voice contact of an adult age 21 or older. Hunters age 16 and older must possess and carry a valid signed refuge Public Use Permit certifying that he or she understands and will comply with all regulations. One adult may supervise no more than one youth hunter.

2. Before hunting or fishing, all participants must display their User Information Card in plain view on the dashboard of their vehicle so that the Permit Number is readable.

3. Failure to display the User Information Card will result in the loss of the participant's annual refuge Public Use Permit.

4. We prohibit hunting or entry into areas designated as "CLOSED" (see refuge brochure map).

5. We prohibit possession of alcoholic beverages (see §32.2(j)).

6. We prohibit use of plastic flagging tape.

7. You must park vehicles in such a manner as not to obstruct roads, gates, turn rows, or firelanes (see §27.31(h) of this chapter).

8. We are open for hunting during the State season except during the muzzleloader deer hunt.

9. Valid permit holders may take the following furbearers in season incidental to other refuge hunts with legal weapons used for that hunt: raccoon, opossum, coyote, beaver, bobcat, and nutria.

10. We allow ATVs only on designated trails (see §27.31 of this chapter) (see refuge brochure map) from September 15 through February 28.

11. You may possess or use only approved nontoxic shot (see §32.2(k)) while in the field.

12. You may take migratory birds with shotguns shooting only approved nontoxic shot.

13. Hunters must remove all decoys, blind material (see §27.93 of this chapter), and harvested waterfowl from the area no later than 1 p.m. each day.

14. We allow goose, duck, merganser, and coot hunting from $\frac{1}{2}$ hour before legal sunrise until 12 p.m. (noon). We allow entry into the refuge at 4 a.m.

15. There is no early teal season.

B. Upland Game Hunting. We allow hunting of squirrel, rabbit, quail, and raccoon on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Conditions A1 through A11 apply.

2. We allow shotguns with only approved nontoxic shot (see §32.2(k)), and .22 and .17 caliber rimfire rifles for taking small game.

3. We allow dogs for hunting squirrel and quail and for the February rabbit hunt.

4. During the rabbit and quail hunts, any person hunting or accompanying another person hunting must wear at least 500 square inches (3,250 cm²) of unbroken, fluorescent-orange material visible above the waistline as an outer garment.

5. Beginning the first day after the deer muzzleloader hunt, we restrict hunting through the remainder of the season(s) to the designated waterfowl hunting area (see refuge brochure map).

6. With exception for raccoon hunting, we limit refuge ingress and egress to the period of 4 a.m. to 1½ hours after legal sunset.

7. We prohibit horses and mules.

C. Big Game Hunting. We allow hunting of white-tailed deer on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Conditions A1 through A7, A9, A10, B5, and B6 apply.

2. During muzzleloader deer hunts all participants must wear at least 500 square inches (3,250 cm²) of unbroken, fluorescent-orange material visible above the waistline as an outer garment while hunting and en route to and from hunting areas.

3. We prohibit organized drives for deer.

4. Hunting or shooting within or adjacent to open fields or tree plantations less than 5 feet (1.5 m) in height must be from a stand a minimum of 10 feet (3 m) above the ground.

5. We prohibit hunting or shooting into a 100-foot (30-m) zone along either side of pipelines, power line rights-of-way, designated roads, trails, or around parking lots (see refuge brochure map). We consider it hunting if you occupy a stand or blind or have an arrow nocked in a bow.

6. We designate deer check station dates, locations, and requirements in the refuge brochure.

7. We allow hunters to possess and hunt from only one stand or blind. Complex Headquarters will use a specific method to identify stands and blinds. We prohibit the use of climbing spikes or hunting from a tree into which hunters have screwed or driven metal objects. Hunters may place a deer stand or blind 48 hours prior to a hunt and must remove it within 48 hours after each designated hunt.

8. During designated muzzleloader hunts, we allow archery equipment and muzzleloaders loaded with a single ball.

9. Hunts and hunt dates are available at the refuge headquarters in July, and we post them in the refuge brochure.

10. We prohibit all other public use on the refuge during all muzzleloader deer hunts.

D. Sport Fishing. We allow fishing on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We close all refuge waters during the muzzleloader deer hunt.

2. From November 16 to February 28, we allow fishing in refuge waters north of Providence Road.

3. We open all other refuge waters March 1 through November 15.

4. We prohibit trot lines, limb lines, jugs, seines, and traps.

5. We allow frogging during the State bullfrog season.

6. With the exception for frogging during the State season, we limit refuge ingress and egress for fishing to the period of 4 a.m. to 1½ hours after legal sunset.

7. Conditions A2 through A10 apply.

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Panther Swamp National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of goose, duck, merganser, and coot in accordance with State regulations subject to the following regulations:

1. Youth hunters age 15 and under must possess and carry a hunter safety course card or certificate. Each youth hunter must remain within sight and normal voice contact of an adult age 21 or older. Each hunters age 16 and older must possess and carry a valid signed refuge Public Use Permit certifying that he or she understands and will comply with all regulations. One adult may supervise no more than one youth hunter.

2. Before hunting or fishing, all participants must display their User Information Card in plain view on the dashboard of their vehicle so that the Permit Number is readable.

3. Failure to display the User Information Card will result in the loss of the participant's annual refuge Public Use Permit.

4. We prohibit hunting or entry into areas designated as "CLOSED" (see refuge brochure map).

5. We prohibit possession of alcoholic beverages (see §32.2(j)).

6. We prohibit use of plastic flagging tape.

7. You must park vehicles in such a manner as not to obstruct roads, gates, turn rows, or firelanes (see §27.31(h) of this chapter).

8. We are open for hunting during the State season except during the limited draw hunts.

9. Valid permit holders may take the following furbearers in season incidental to other refuge hunts with legal weapons used for that hunt: raccoon, opossum, coyote, beaver, bobcat, and nutria.

10. We allow ATVs on designated trails (see §27.31 of this chapter) (see refuge brochure map) from September 15 through February 28.

11. You may possess or use only approved nontoxic shot (see §32.2(k)) while in the field.

12. You may take migratory birds with shotguns shooting only approved nontoxic shot.

13. Hunters must remove all decoys, blind material (see §27.93 of this chapter), and harvested waterfowl from the area no later than 1 p.m. each day.

14. We allow goose, duck, merganser, and coot hunting from ½ hour before legal sunrise until 12 p.m. (noon). We allow entry into the refuge at 4 a.m.

15. There is no early teal season.

16. We allow hunting of snow geese during the Light Goose Conservation order seasons by Special Use Permit.

17. Waterfowl hunting in Unit 1 will be on Monday, Tuesday, and Wednesday. Waterfowl hunting in Unit 2 will be Friday, Saturday, and Sunday (see refuge brochure for details).

18. We reserve the last weekend of December for youth waterfowl hunting. One adult hunter age 21 or older, who we also allow to hunt, must accompany each youth hunter age 15 and under.

B. Upland Game Hunting. We allow hunting of squirrel, rabbit, quail, and raccoon on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Conditions A1 through A10 apply.

2. We allow shotguns with only approved nontoxic shot (see §32.2(k)), and .22 and .17 caliber rimfire rifles for taking small game.

3. We allow dogs for hunting squirrel and quail and for the February rabbit hunt.

4. During the rabbit and quail hunts, any person hunting or accompanying another person hunting must wear at least 500 square inches (3,250 cm²) of unbroken, fluorescent-orange material visible above the waistline as an outer garment.

5. Beginning the first day after the last limited draw deer hunt until March 1, we restrict all entry into the lower twist area.

6. With exception for raccoon hunting, we limit refuge ingress and egress to the period of 4 a.m. to 1½ hours after legal sunset.

7. We prohibit horses and mules.

C. Big Game Hunting. We allow hunting of white-tailed deer and turkey on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Conditions A1 through A7, A9, A10, B5, and B7 apply.

2. We allow shotguns shooting only approved nontoxic shot (see §32.2(k)) and archery equipment for turkey hunting.

3. You must immediately tag all deer harvested prior to moving it during limited hunts; we provide the tags.

4. During all gun and muzzleloader deer hunts all participants must wear at least 500 square inches (3,250 cm²) of

unbroken, fluorescent-orange material visible above the waistline as an outer garment while hunting and en route to and from hunting areas.

5. We prohibit organized drives for deer.

6. Hunting or shooting within or adjacent to open fields or tree plantations less than 5 feet (1.5 m) in height must be from a stand a minimum of 10 feet (3 m) above the ground.

7. We prohibit hunting or shooting into a 100-foot (30-m) zone along either side of pipelines, power line rights-of-way, designated roads, trails, or around parking lots (see refuge brochure map). We consider it hunting if you occupy a stand or blind or have an arrow nocked in a bow.

8. We designate deer check station dates, locations, and requirements in the refuge brochure.

9. We allow hunters to possess and hunt from only one stand or blind. Complex Headquarters will use a specific method to identify stands and blinds. We prohibit the use of climbing spikes or hunting from a tree into which hunters have screwed or driven metal objects. Hunters may place a deer stand or blind 48 hours prior to a hunt and must remove it within 48 hours after each designated hunt. Hunters may place turkey blinds the day of the hunt and remove them after each day's hunt.

10. During designated muzzleloader hunts, we allow archery equipment and muzzleloaders loaded with a single ball.

11. The limited draw hunts require a Limited Hunt Permit assigned by random computer drawing. At the end of the hunt you must return the permit with information concerning your hunt. If you fail to return this permit, you will not be eligible for any limited hunts the next year. Contact refuge headquarters for specific requirements, hunts, and application dates.

12. Hunts and hunt dates are available at the refuge headquarters in July, and we post them in the refuge brochure.

13. We prohibit all other public use on the refuge during all limited draw hunts.

D. Sport Fishing. We allow fishing on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We close all refuge waters during all limited draw hunts.

2. We open waters between the East and West levee, the Landside Ditch, and the portion of Panther Creek adjacent to the West Levee year-round except during limited draw hunts.

3. We open all other refuge waters March 1 through November 15.

4. We prohibit trot lines, limb lines, jugs, seines, and traps.

5. We allow frogging during the State bullfrog season.

6. With the exception for frogging during the State season, refuge ingress and egress for fishing is limited to the period of 4 a.m. to 1½ hours after legal sunset.

7. Conditions A1 through A7 and A10 apply.

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Yazoo National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of duck, goose, merganser, coot, and dove on the refuge in accordance with State regulations subject to the following conditions:

1. Youth hunters age 15 and under must possess and carry a hunter safety course card or certificate. Each youth hunter must remain within sight and normal voice contact of an adult age 21 or older. Each hunters age 16 and older must possess and carry a valid signed refuge Public Use Permit certifying that he or she understands and will comply with all regulations. One adult may supervise no more than one youth hunter.

2. Before hunting or fishing, all participants must display their User Information Card in plain view on the dashboard of their vehicle so that the Permit Number is readable.

3. Failure to display the User Information Card will result in the loss of the participant's annual refuge Public Use Permit.

4. We prohibit hunting or entry into areas designated as "CLOSED" (see refuge brochure map).

5. We prohibit possession of alcoholic beverages (see §32.2(j)).

6. We prohibit use of plastic flagging tape.

7. You must park vehicles in such a manner as not to obstruct roads, gates, turn rows, or firelanes (see §27.31(h) of this chapter).

8. We are open for hunting during the State season except during the muzzleloader deer hunt.

9. Valid permit holders may take the following furbearers in season incidental to other refuge hunts with legal weapons used for that hunt: raccoon, opossum, coyote, beaver, bobcat, and nutria.

10. You may possess only approved nontoxic shot (see §32.2(k)) while in the field.

11. You may take migratory birds with shotguns shooting only approved nontoxic shot.

12. Hunters must remove all decoys, blind material (see §27.93 of this chapter), and harvested waterfowl from the area no later than 1 p.m. each day.

13. We allow goose, duck, merganser, and coot hunting from ½ hour before legal sunrise until 12 p.m. (noon). We allow entry into the refuge at 4 a.m.

14. There is no early teal season.

15. We allow hunting of snow geese during the Light Goose Conservation Order seasons by Special Use Permit.

B. Upland Game Hunting. We allow hunting of squirrel, rabbit, quail, and raccoon on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We allow hunting during the open State season except during limited draw hunts.

2. Conditions A1 through A9 apply.

3. We allow shotguns with only approved nontoxic shot (see §32.2(k)), and .22 and .17 caliber rimfire rifles for taking small game.

4. We allow dogs for hunting squirrel and quail and for the February rabbit hunt.

5. During the rabbit and quail hunts, any person hunting or accompanying another person hunting must wear at least 500 square inches (3,250 cm²) of unbroken, fluorescent-orange material visible above the waistline as an outer garment.

6. With exception for raccoon hunting, refuge ingress and egress is limited to the period of 4 a.m. to 1½ hours after legal sunset.

7. We prohibit horses and mules.

8. We allow rabbit hunting on the Herron and Brown Tracts. Contact refuge headquarters for hunt dates, maps, and additional information.

C. Big Game Hunting. We allow hunting of white-tailed deer and turkey on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Conditions A1 through A7, A9, B6, and B7 apply.

2. We allow shotguns shooting only approved nontoxic shot (see §32.2(k)) and archery equipment for turkey hunting.

3. You must immediately tag all deer harvested prior to moving it during limited hunts; we provide the tags.

4. During all gun and muzzleloader deer hunts all participants must wear at least 500 square inches (3,250 cm²) of unbroken, fluorescent-orange material visible above the waistline as an outer garment while hunting and en route to and from hunting areas.

5. We prohibit organized drives for deer.

6. Hunting or shooting within or adjacent to open fields or tree plantations less than 5 feet (1.5 m) in height must be from a stand a minimum of 10 feet (3 m) above the ground.

7. We prohibit hunting or shooting into a 100-foot (30-m) zone along either side of pipelines, power line rights-of-way, designated roads, trails, or around parking lots (see refuge brochure map). We consider it hunting if you occupy a stand or blind or have an arrow nocked in a bow.

8. We designate deer check station dates, locations, and requirements in the refuge brochure.

9. We allow hunters to possess and hunt from only one stand or blind. Complex Headquarters will use a specific method to identify stands and blinds. We prohibit the use of climbing spikes or hunting from a tree into which hunters have screwed or driven metal objects. Hunters may place a deer stand or blind 48 hours prior to a hunt and must remove it within 48 hours after each designated hunt. Hunters may place turkey blinds the day of the hunt and remove them after each day's hunt.

10. During designated muzzleloader hunts, we allow archery equipment and muzzleloaders loaded with a single ball.

11. Hunts and hunt dates are available at the refuge headquarters in July, and we post them in the refuge brochure.

12. We prohibit all other public use on the refuge during all limited draw hunts.

13. We allow archery deer hunting on the Herron and Brown Tracts. Contact refuge headquarters for hunt dates, maps, and additional information.

D. Sport Fishing. [Reserved]

■ 6. Amend §32.60 South Carolina by revising paragraphs A.2., A.4., A.6., A.10., B., C.15., C.16., C.19., and D. of Waccamaw National Wildlife Refuge to read as follows:

§ 32.60 South Carolina.

* * * * *

Waccamaw National Wildlife Refuge

A. Migratory Game Bird Hunting. * * *

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2. An adult at least age 21 must supervise all youth hunters age 15 and under. Youth hunters must have successfully completed a State-approved hunter education course.

* * * * *

4. We allow scouting Monday through Friday during the waterfowl season. Anyone scouting may not use a firearm and must be off the refuge by 2 p.m.

* * * * *

6. We prohibit permanent blinds (see §27.93 of this chapter). Hunters must remove portable blinds and decoys at the end of each day's hunt.

* * * * *

10. We prohibit hunting on any unit for wildlife species not officially opened

to hunting or entering any areas posted as "Closed" or "No Hunting Zones."

B. Upland Game Hunting. We allow hunting of gray squirrel, raccoon, and opossum on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Conditions A1, A2, A9, and A10 apply.

2. We allow hunting only on days designated annually by the refuge within the State season. We allow upland game hunting only on designated refuge areas within Refuge Unit 1.

3. We require nontoxic shot in shotguns when hunting. We allow .22-caliber rimfire rifles.

C. Big Game Hunting. * * *

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15. We allow hunters to use flagging to mark the site of hunter entry from roads or trails and again at the stand site. We allow hunters to use clothes pins with reflective tape between entry and stand sites to mark the route to the stand. Hunters must label all such markers with their full name and remove them at the end of the hunt.

16. We require hunters to wear an outer garment visible above the waist that contains a minimum of 500 square inches (3,250 cm²) of solid, fluorescent-orange material at all times during big game hunts except for wild turkey.

* * * * *

19. We limit turkey hunts to annual quota hunts. We will select hunters by a random drawing. The selected hunters must possess signed Refuge Turkey Hunt Permits at all times during the hunt.

* * * * *

D. Sport Fishing. We allow fishing in accordance with State regulations.

■ 7. Amend §32.61 South Dakota by adding Lake Andes National Wildlife Refuge in alphabetical order to read as follows:

§ 32.61 South Dakota.

* * * * *

Lake Andes National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow migratory game bird hunting on designated areas of the refuge in accordance with State regulations.

B. Upland Game Hunting. We allow upland game hunting on designated areas of the refuge in accordance with State regulations.

C. Big Game Hunting. We allow big game hunting on designated areas of the refuge in accordance with State regulations.

D. Sport Fishing. [Reserved]

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■ 8. Amend §32.67 Washington by: ■ a. Adding paragraph A. of Nisqually National Wildlife Refuge; and ■ b. Adding Turnbull National Wildlife Refuge in alphabetical order to read as follows:

§ 32.67 Washington.

* * * * *

Nisqually National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of goose, duck, and coot on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We allow hunters to possess and carry no more than 25 approved nontoxic shells while hunting in the field (see §32.2(k)).

2. Hunters may access the hunt areas by boat only. The maximum speed limit is 5 miles per hour for boats in all refuge waters.

* * * * *

Turnbull National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of duck, goose, and coot within 50 yards (45 m) of hunting sites designated by the refuge manager on the north side of Upper Turnbull Slough in accordance with State regulations subject to the following conditions:

1. We only allow waterfowl (duck, goose, coot) hunting during the State's Youth Migratory Bird Hunt.

2. We prohibit the use of motorized boats.

3. We prohibit the construction or use of permanent blinds, pit blinds, stands, or scaffolds (see §27.93 of this chapter).

4. We only allow authorized vehicles on designated routes of travel and require hunters to park in designated parking area (see §27.31(h) of this chapter). We prohibit ATVs and ORVs.

5. Hunters may possess and carry no more than 25 nontoxic shotshells per hunter per day while in the field (see §32.2(k)).

6. We prohibit shooting or discharging any firearm from, across, or along a public highway, designated route of travel, road, road shoulder, road embankment, or designated parking area.

7. We allow hunter access from 2 hours before legal sunrise until 1 hour after legal sunset.

8. Hunters must possess a nontransferable refuge special access permit that names hunters, their hunt partners, and accompanying adult.

B. Upland Game Hunting. [Reserved]

C. Big Game Hunting. We allow hunting of elk on designated areas of the

refuge in accordance with State regulations subject to the following conditions:

1. We conduct the refuge hunt by State permit only. We require hunters to possess and carry current Washington State elk licenses, valid for the refuge hunt unit, and a refuge special access permit.
2. We allow only authorized vehicles on designated routes of travel and require hunters to park in designated parking areas (see §27.31(h) of this chapter). We prohibit ATVs and ORVs.
3. We allow hunter access from 2 hours before legal sunrise until 5 hours after legal sunset. Hunters needing additional time for retrieval must notify refuge staff or a State fish and wildlife officer.
4. We prohibit possession of a bow with the arrow nocked within any safety zone or Closed Area.
5. Safety zones of 500 feet (150 m) are in effect around existing structures. We prohibit shooting from or into any safety zone or Closed Area.
6. One person may assist hunters only during elk retrieval. We require this person to remain with the hunter at all times during retrieval. We require all hunters/helpers to possess a nontransferable refuge special access permit.
7. Refuge staff or a State Fish and Wildlife Officer must accompany hunters during retrieval of a wounded elk that moves outside the hunt unit in Closed Areas.
8. Hunters must use nontoxic ammunition or remove or bury the visceral remains of harvested animals.

D. Sport Fishing. [Reserved]

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Dated: April 1, 2010.

Thomas L. Strickland,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 2010-8307 Filed 4-9-10; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 040205043-4043-01]

RIN 0648-XU96

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Snapper-Grouper Fishery of the South Atlantic; Closure

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and

Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; closure.

SUMMARY: NMFS closes the commercial fishery for golden tilefish in the exclusive economic zone (EEZ) of the South Atlantic. This closure is necessary to protect the golden tilefish resource.

DATES: This rule is effective 12:01 a.m., local time, April 12, 2010, through December 31, 2010.

FOR FURTHER INFORMATION CONTACT:

Catherine Bruger, telephone 727-824-5305, fax 727-824-5308, e-mail *Catherine.Bruger@noaa.gov*.

SUPPLEMENTARY INFORMATION: The snapper-grouper fishery of the South Atlantic is managed under the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP). The FMP was prepared by the South Atlantic Fishery Management Council and is implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act by regulations at 50 CFR part 622.

The commercial quota for golden tilefish in the South Atlantic is 295,000 lb (133,810 kg) for the current fishing year, January 1 through December 31, 2010, as specified in 50 CFR 622.42(e)(2).

Under 50 CFR 622.43(a), NMFS is required to close the commercial fishery for golden tilefish when its quota has been reached, or is projected to be reached, by filing a notification to that effect with the Office of the **Federal Register**. NMFS has determined that the commercial quota for South Atlantic golden tilefish will be reached by April 12, 2010. Accordingly, the commercial fishery for South Atlantic golden tilefish is closed effective 12:01 a.m., local time, April 12, 2010, through December 31, 2010.

The operator of a vessel with a valid commercial vessel permit for South Atlantic snapper-grouper having golden tilefish onboard must have landed and bartered, traded, or sold such golden tilefish prior to 12:01 a.m., local time, April 12, 2010. During the closure, the bag limit and possession limits specified in 50 CFR 622.39(d)(1)(ii) and (d)(2), respectively, apply to all harvest or possession of golden tilefish in or from the South Atlantic EEZ, and the sale or purchase of golden tilefish taken from the EEZ is prohibited. The prohibition on sale or purchase does not apply to sale or purchase of golden tilefish that were harvested, landed ashore, and sold prior to 12:01 a.m., local time, April 12, 2010, and were held in cold storage by

a dealer or processor. For a person on board a vessel for which a Federal commercial or charter vessel/headboat permit for the South Atlantic snapper-grouper fishery has been issued, the sale and purchase provisions of the commercial closure for golden tilefish would apply regardless of whether the fish are harvested in state or Federal waters, as specified in 50 CFR 622.43(a)(5)(ii).

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, (AA), finds that the need to immediately implement this action to close the fishery constitutes good cause to waive the requirements to provide prior notice and opportunity for public comment pursuant to the authority set forth in 5 U.S.C. 553(b)(B), as such procedures would be unnecessary and contrary to the public interest. Such procedures would be unnecessary because the rule itself has been subject to notice and comment, and all that remains is to notify the public of the closure.

Allowing prior notice and opportunity for public comment is contrary to the public interest because of the need to immediately implement this action to protect the fishery since the capacity of the fishing fleet allows for rapid harvest of the quota. Prior notice and opportunity for public comment would require time and would potentially result in a harvest well in excess of the established quota.

For the aforementioned reasons, the AA also finds good cause to waive the 30-day delay in the effectiveness of this action under 5 U.S.C. 553(d)(3).

This action is taken under 50 CFR 622.43(a) and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: April 7, 2010.

Emily H. Menashes,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2010-8296 Filed 4-7-10; 4:15 pm]

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