

# **Sport Hunting and Fishing Decision Document Package for Bandon Marsh NWR**



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**Sport Hunting and Fishing  
Decision Document Package  
for  
Bandon Marsh NWR**



**Contents**

**1. Hunting and Fishing Plan**

MIGRATORY BIRD HUNTING  
AND FISHING PLAN

BANDON MARSH  
NATIONAL WILDLIFE REFUGE

COOS COUNTY, OREGON

U.S. FISH AND WILDLIFE SERVICE

DECEMBER 1985

PREPARED BY: Douglas D. Mackey  
Outdoor Recreation Planner

DATE: 1/10/86

SUBMITTED BY: Palmer C. Sekora  
Refuge Manager

DATE: 1/10/86

CONCURRED: Sanford R. Wilbur  
Refuge District Supervisor

DATE: 2/5/86

APPROVED: W. B. Chambers  
Assistant Regional Director-Wildlife Resources

DATE: 2/7/86

APPROVED: Richard J. Myshak  
Regional Director

DATE: 2/12/86

## I. INTRODUCTION

### A. GEOGRAPHIC SETTING

The Bandon Marsh National Wildlife Refuge is located in southwestern Oregon (Coos County) approximately 22 miles south of Coos Bay (pop. 14,700) and immediately north of the city of Bandon (pop. 2,500) (Figure 1). The refuge consists of 289 acres of salt marsh in the Coquille River estuary.

The general setting is typically salt marsh and beach sand dune area. The refuge is bordered on the north and west sides by the Coquille River, on the south by salt marsh and on the east by a narrow strip of privately owned forested lands. The area is quite visible from the town of Bandon, Bullards State Park, and from Highway 101 where it crosses the Coquille River. The refuge abuts Highway 101 at its northeastern corner.

### B. BIOLOGICAL SETTING

Some of the most important functions of the salt marsh are providing spawning and nursery areas for fish and shellfish; habitat for fish and wildlife is also important.

The refuge is utilized by some 115 species of migratory birds, including marsh, shore, and waterbirds, waterfowl, and raptors; eight species of mammals; 45 species of fish and several invertebrate organisms, such as crabs, clams, worms, etc.

The largest number of birds normally occurs during the fall and spring shorebird migrations. The peak of the 1983 fall migration was in August and early September when an average peak 3000 birds were seen (range 2400-4000). During the months of September to February, the number of birds using the refuge is consistent; the mean peak number of birds in 1984 was 1580 (range 1120-2000). The lowest number of birds occurred during March and early April 1984 when a mean of 588 birds was recorded (range 450-710). The spring shorebird migration begins in mid-April and continues into early May; in 1984, a peak average of 2500 birds was seen on the refuge (range 1225-3400). After the spring migration the numbers of birds using the marsh declines considerably. The mean number seen in three visits made from mid-May to early June, 1984 was 117 (range 76-165).

Certain shorebirds have shown differential timing of use of the refuge during fall and spring migrations. Sanderlings are common in the fall, wintering at the refuge and usually leaving the area by the middle of April. Marbled godwits are present during the fall and red knots only during the spring migration. A number of species are more numerous during the fall than in the spring, it is possible that many birds do not stop at the refuge in the spring on their flight north to the breeding grounds. This group includes black-bellied plovers, dowitchers, turnstones and willets. Dunlins appear to be winter users, with maximum numbers occurring in January and February.



Mallards were year round residents whereas all other waterfowl species had a distinctive seasonal use pattern. Buffleheads were common during the winter months, northern pintails and American wigeons during the fall.

Great blue herons, northern harriers, killdeer, and western gulls occur throughout the year and nest in areas adjacent to the refuge.

A number of songbirds were found nesting in the upland forest along the eastern margin of the refuge including rufous hummingbirds and Wilson's warblers. Marsh wrens and savannah sparrows were breeding in the high marsh vegetation. Mallards and American bitterns were suspected of nesting there also, however nest searches for the latter were unsuccessful.

The only endangered species known to utilize the area is the brown pelican in September. The peregrine falcon hunts in the Coquille Estuary and the bald eagle hunts and feeds throughout the year in this general area. Although not specifically recorded on the refuge, the Aleutian Canada goose passes through this area during migrations.

The marsh is rich in organic matter and nutrients and is utilized by salmon (spring chinook, fall chinook, coho), steelhead, sea-run cutthroat, and numerous other species of fish (shad, perch, striped bass).

Mammals occurring on the refuge include vagrant shrews, Townsend voles, deer mice, black-tailed deer, river otter, beaver, raccoon, and harbor seals during high tides. Other than the rodents and shrews none occur in any number and are only occasionally observed.

## II. CONFORMANCE WITH STATUTORY AUTHORITIES

Bandon Marsh National Wildlife Refuge was established in 1983 under the authority of the Fish and Wildlife Act of 1956 to provide resting, feeding and nesting habitat for migratory birds. It currently is administered as a part of the Western Oregon Refuge Complex. Bandon Marsh has long been used by local recreationists for migratory bird hunting, clamming, and fishing.

Following publication of the Refuge Specific Hunting and Fishing Regulations in the Federal Register, migratory bird hunting and fishing would be permitted in accordance with State and Federal seasons and regulations. Hunting and fishing pressures are light because the area, (and access to it), is somewhat remote, and most participants come from this lowly populated area. Consequently these recreational activities will not interfere with or distract from the conservation of fish and other wildlife and their habitats. Therefore, migratory bird hunting and fishing on Bandon Marsh National Wildlife Refuge are in compliance with the Refuge Recreation Act.

The estimated annual cost to administer the migratory bird hunting and fishing programs is approximately 1,000. These funds are available within the Western Oregon Refuge Complex annual budget of approximately 400,000. Therefore, the migratory bird hunting and fishing programs of Bandon Marsh National Wildlife Refuge are in compliance with the Refuge Recreation Act..

### III. STATEMENT OF OBJECTIVES

The Bandon Marsh National Wildlife Management Plan, February 1985, objective number 3 reads:

TO PERMIT APPROVED WILDLIFE RELATED RECREATION WHILE DISCOURAGING NON-CONFORMING AND NON-WILDLIFE ORIENTED ACTIVITIES.

At the time of acquisition the Service informed the public that was harvesting wildlife, that certain activities, (specifically - migratory bird hunting, clamming, and fishing), would be permitted so long as they were found compatible with other refuge management objectives.

### IV. ASSESSMENT OF RESOURCE

Bandon Marsh National Wildlife Refuge provides the type of avian habitat that is used primarily by shorebirds. The two types of migratory bird hunting that occur on the refuge are waterfowl and pigeon. No detailed population or harvest records exist for any of the species using the refuge. Approximately ten aerial waterfowl censuses have been taken each year since 1981. The totals for waterfowl species listed as harvestable within State and Federal guidelines average 35 per count. Adjacent wetlands, within the watershed upriver 15 miles, are known to hold up to 2,000 ducks during the waterfowl season. Estimates from local hunters put total waterfowl harvest at approximately 300 birds, annually.

Clam population and harvest records do not exist. An estimated 2,500 hours are spent clamming per year by visitors. Local clammers report no noticeable decline in their annual harvest.

Angling visits total an estimated 500 hours, annually. No record of species or numbers of fish taken exists. The take from sites on the refuge probably represents less than 1/100th of 1% of the take for the river as a whole.

### V. DESCRIPTION OF HUNTING PROGRAM

#### A. AREAS OF REFUGE SUPPORTING TARGET SPECIES

Each hunted species is present in habitats characteristic for that species. (See map on page 6)

#### B. AREAS OPENED

All portions of the refuge will be open to migratory bird hunting.

### C. REGULATIONS

The refuge will be open to migratory bird hunting during established State seasons, and all applicable State and Federal regulations regarding hours weapons, bag limits, etc. will be enforced.

The hunting technique will be free-roaming. Excessive disturbance to vegetation for the purpose of constructing blinds is prohibited.

Species hunted are only those listed in the Migratory Bird Hunting Regulations, State of Oregon.

### D. PROCEDURES FOR COORDINATION WITH THE STATE

The Oregon Department of Fish and Wildlife will be consulted with regard to any changes in the hunting program.

Periodic, non-routine patrols will be coordinated with the Oregon State Police.

### E. METHODS OF ENFORCEMENT

Members of the Western Oregon Refuge Complex staff with law enforcement authority will patrol the refuge during hunting seasons. The refuge complex staff includes four Refuge Officers.

### F. FUNDING AND MANPOWER REQUIREMENTS

The hunting program costs, including signing, a hunting & fishing regulation handout, and law enforcement effort, are minimal and will be absorbed by the refuge complex budget.

## VI. MEASURES TAKEN TO AVOID CONFLICTS WITH OTHER OBJECTIVES

### A. BIOLOGICAL CONFLICTS

Excessive hunting pressure could result in higher than anticipated harvest levels, or increased disturbance of non-game species present in the vicinity of hunters. Patrol of the refuge and correspondence with local residents and officials will ensure that hunting activity does not become excessive.

### B. PUBLIC USE CONFLICTS

Waterfowl hunting is one of the major public uses on the refuge during the fall and winter. Weather patterns during this time of year are rainy, cloudy, cold, and generally stormy.

## VII. CONDUCT OF THE HUNT

### A. FEDERAL REGISTER SPECIAL REGULATIONS

These regulations will list the location of the refuge, habitats and corresponding game species, and the following species that may be hunted:

Geese, ducks, (including mergansers), coots, snipe, doves and pigeons; only as listed in the Migratory Bird Regulations, State of Oregon.

### B. MEDIA USED TO PUBLICIZE THE HUNT

The refuge handout on hunting, Oregon Migratory Bird Hunting Synopsis and the Bandon newspaper will carry information about hunting at Bandon Marsh National Wildlife Refuge.

### C. HUNTER REQUIREMENTS

Hunters must comply with all State and Federal regulations.



## VIII. DESCRIPTION OF FISHING PROGRAM

### A. AREAS OF REFUGE SUPPORTING TARGET SPECIES

Each harvested species is present in habitats characteristic for that species. (See map on page 6)

### B. AREAS OPENED

All portions of the refuge will be open to fishing, (includes shell-fishing).

### C. REGULATIONS

The refuge will be open to fishing during established State seasons, and all applicable State and Federal regulations regarding hours harvest techniques, bag limits, etc. will be enforced.

Excessive disturbance to vegetation for the purpose of harvesting fish or shellfish is prohibited.

Species harvested are only those listed in the State Fishing Regulations, State of Oregon.

### D. PROCEDURES FOR COORDINATION WITH THE STATE

The Oregon Department of Fish and Wildlife will be consulted with regard to any changes in the fishing program.

Periodic, non-routine patrols will be coordinated with the Oregon State Police.

### E. METHODS OF ENFORCEMENT

Members of the Western Oregon Refuge Complex staff with law enforcement authority will patrol the refuge during fishing seasons. The refuge complex staff includes four Refuge Officers.

### F. FUNDING AND MANPOWER REQUIREMENTS

The fishing program costs, including signing, a hunting & fishing regulation handout, and law enforcement effort, are minimal and will be absorbed by the refuge complex budget.

## IX. MEASURES TAKEN TO AVOID CONFLICTS WITH OTHER OBJECTIVES

### A. BIOLOGICAL CONFLICTS

Excessive fishing pressure could result in higher than anticipated harvest levels, or increased disturbance of wildlife species present in the vicinity of people fishing. Patrol of the refuge and correspondence with local residents and officials will ensure that fishing activity does not become excessive.

## B. PUBLIC USE CONFLICTS

Fishing is one of the major public uses. Shellfishing is the single most popular recreational use of the refuge. No record of conflicting public uses has been reported to date, (ie. bird-watchers being disturbed by shellfishing activity).

## X. CONDUCT OF THE FISHING PROGRAM

### A. FEDERAL REGISTER SPECIAL REGULATIONS

These regulations will list the location of the refuge, habitats and corresponding state regulations listing species, seasons, bag limits etc.

### B. MEDIA USED TO PUBLICIZE THE FISHING PROGRAM

The refuge handout on hunting & fishing, Oregon Fishing Regulations and the Bandon newspaper will carry information about fishing at Bandon Marsh National Wildlife Refuge.

### C. FISHING REQUIREMENTS

People fishing must comply with all State and Federal regulations.

**Sport Hunting and Fishing  
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Bandon Marsh NWR**



**Contents**

**2. EA/FONSI**

UNITED STATES FISH AND WILDLIFE SERVICE

ENVIRONMENTAL ACTION MEMORANDUM

Within the spirit and intent of the Council on Environmental Quality's regulations for implementing the National Environmental Policy Act (NEPA) and other statutes, orders, and policies that protect fish and wildlife resources, I have established the following administrative record and have determined that the action of opening Brandon Marsh NWR to sport hunting and fishing is found not to have significant environmental effects as determined by the attached Environmental Assessment and Finding of No Significant Impact.

Other supporting documents:

- Refuge Sport Hunting and Fishing Plan
- Section 7 Evaluation
- Letter of Concurrence

  
Regional Director                      Date

ENVACC\ECM\EDGE\ECM\

ASSESSMENT OF  
MIGRATORY BIRD HUNTING AND FISHING

BANDON MARSH  
NATIONAL WILDLIFE REFUGE

DEPARTMENT OF THE INTERIOR  
U.S. FISH AND WILDLIFE SERVICE

JANUARY 10, 1986

PREPARED BY: Douglas W. Mackey DATE: 1/10/86  
Outdoor Recreation Planner

SUBMITTED BY: Palmer C. Sokala DATE: 1/10/86  
Refuge Manager

CONCURRED: Sanford R. Wilbur DATE: 2/5/86  
Refuge District Supervisor

APPROVED: T. B. Chamberlain DATE: 2/7/86  
Acting Assistant Regional Director-Wildlife Resources

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## SECTION I: PURPOSE AND NEED FOR ACTION

### Proposed Action

The Fish and Wildlife Service proposes to open Bandon Marsh National Wildlife Refuge to fishing and migratory bird hunting within the framework of State and Federal Laws.

### Overview

Bandon Marsh NWR was established in April of 1983 to provide protection for 289 acres of salt water marsh located in the mouth of the Coquille River, Coos County, Oregon.

Prior to acquisition by the Service the area was used for bird watching, photography, ecology research, clamming, fishing and migratory bird hunting.

Refuge Specific Regulations were developed in 1985 to open the refuge to non-consumptive wildlife oriented public uses such as bird watching and photography.

A decision needs to be made relative to clamming, fishing, and migratory bird hunting. This document examines the question of opening the refuge to fishing and/or hunting.

### Relationship to Service Objectives

The Bandon Marsh Management Plan, drafted in February 1985, contains three goal statements:

1. To protect and preserve the existing salt marsh and tidal flats in an unaltered, natural condition to support a diversity of fish and wildlife.

2. To cooperate with other agencies, institutions of higher education, private organizations and individuals in providing technical assistance and research opportunities.

3. TO PERMIT APPROVED WILDLIFE RELATED RECREATION WHILE DISCOURAGING NON-CONFORMING AND NON-WILDLIFE ORIENTED ACTIVITIES.

Levels of public use in each of the listed consumptive activities are targeted to remain as they were prior to acquisition.

	Activity Hours/Year
Clamming.....	2,500
Fishing.....	200
Migratory bird Hunting....	500

Where compatible with refuge specific management objectives, the development of these wildlife related activities will meet objectives set forth in the Refuge Manual, Migratory Bird Program Management Document, and the USFWS Minimum Public Use Requirements.

#### Expected Accomplishments of the Action

Opening this refuge to fishing and hunting will provide recreational opportunities that are of interest to the general public. Hunting and fishing activities will, however, be conducted only in so far as they are compatible with wildlife management objectives.

## SECTION II. ALTERNATIVES INCLUDING THE PROPOSED ACTION

### Alternative A - No Action

If no action is taken, the refuge will remain legally closed to hunting, fishing and clamming. Local residents who have used this parcel of land to harvest these resources would have to be informed regarding the change of ownership and subsequent change in rules.

An appropriate public relations/awareness effort would take place in conjunction with Law Enforcement efforts on site to effect compliance.

### Alternative B - Open Fishing, maintain closure on Hunting.

Rule making packages would be submitted to open the refuge to fishing only. Hunting would continue to be illegal since it would not be opened. The public visiting the refuge for the purposes of migratory bird hunting would have to be informed regarding the change of ownership and subsequent change in rules. Again the appropriate public relations/awareness effort would be required in conjunction with law enforcement efforts on site to ensure compliance.

### Alternative C - Open Migratory Bird Hunting, maintain closure on Fishing

Rule making packages would be submitted to open the refuge to migratory bird hunting only. Fishing would continue to be illegal since it would not be opened. The public visiting the refuge for the purposes of harvesting clams or to fish would have to be informed about the change of ownership and subsequent change in the rules. Again the appropriate public relations/awareness effort would take place in conjunction with law enforcement efforts on site to ensure compliance.

## Alternative D - Open Migratory Bird Hunting and Fishing

This alternative essentially would make it legal for the visiting public to continue to harvest clams, fish and migratory bird much as they have done during the last several decades, prior to USFWS ownership.

Public notice would be made through a news release, the Oregon Department of Fish and Wildlife synopsis of hunting and fishing regulations and appropriate personal contacts.

Levels of use would remain relatively low. A slight increase in public use may occur due to the increased awareness that these activities are available.

Communication with the Oregon Department of Fish and Wildlife and State Police would be increased relative to these "new" refuge activities. Law Enforcement visits by the staff of the USFWS - Western Oregon Refuge Complex would be required to monitor the situation and ensure compliance.

## SECTION III. AFFECTED ENVIRONMENT

### General Description

The Bandon Marsh National Wildlife Refuge is located in southwestern Oregon (Coos County) approximately 22 miles south of Coos Bay (pop. 14,700) and immediately north of the city of Bandon (pop. 2,500) (Figure 1). The refuge consists of 289 acres of salt marsh in the Coquille River estuary.

The general setting is typically salt marsh and beach sand dunes. The refuge is bordered on the north and west sides by the Coquille

River, on the south by salt marsh and on the east by a narrow strip of privately owned forested lands. The area is quite visible from the town of Bandon, Bullards Beach State Park, and Highway 101 where it crosses the Coquille River.

The refuge is wholly within Coos County, which is within the fourth Congressional District.

### Wildlife

The salt marsh provides very important spawning and nursery areas for fish and shellfish and also provides food, cover and resting areas for a variety of other wildlife.

The refuge is utilized by some 115 species of migratory birds, including marsh, shore, and waterbirds, waterfowl, and raptors; eight species of mammals; 45 species of fish and several invertebrate organisms, such as crabs, clams, worms, etc.

The largest concentrations of birds normally occur during the fall and spring shorebird migrations. The peak of the 1983 fall migration occurred in August and early September when an average peak of 3000, (range 2400-4000), birds were seen each day. During the months of September to February, the number of birds using the refuge has been consistent; the mean peak number of birds in 1984 was 1580 (range 1120-2000). The period of lowest use occurred during March and early April 1984 when a mean of 588 birds was recorded (range 450-710). The spring shorebird migration begins in mid-April and continues into early May; in 1984, a peak average of 2500 birds was seen on the refuge (range 1225-3400). After the spring migration, the numbers of birds using the marsh

declines considerably. The mean number seen in three visits made from mid-May to early June, 1984 was 117 (range 76-165).

Certain shorebirds have shown differential timing with regard to use of the refuge during migration. Sanderlings are common in the fall, wintering at the refuge and usually leaving the area by the middle of April. Marbled godwits are present during the fall but red knots only during the spring migration. A number of species are more numerous during the fall than in the spring; possibly some birds do not stop at the refuge in the spring on their flight north to the breeding grounds. This group includes black-bellied plovers, dowitchers, turnstones and willets. Dunlins appear to be winter users, with maximum numbers occurring in January and February.

Mallards were year round residents whereas all other waterfowl species had distinctive seasonal use patterns. Buffleheads were common during the winter months, northern pintails and American wigeons during the fall.

Great blue herons, northern harriers, killdeer, and western gulls occur throughout the year and nest in areas adjacent to the refuge.

A number of songbirds were found nesting in the upland forest along the eastern margin of the refuge including rufous hummingbirds and Wilson's warblers. Marsh wrens and savanah sparrows were breeding in the high marsh vegetation. Mallards and American bitterns were suspected of nesting there also.

The only endangered species known to utilize the area is the brown pelican in September. Peregrine falcons hunt in the Coquille Estuary



and bald eagles hunt and feed in this general area throughout the year. Although not specifically recorded on the refuge, the Aleutian Canada geese pass through this area during migration.

The marsh is rich in organic matter and nutrients and is utilized by salmon (spring chinook, fall chinook, coho), steelhead, sea-run cutthroat, and numerous other species of fish (shad, perch, striped bass).

Mammals occurring on the refuge include vagrant shrews, Townsend voles, deer mice, black-tailed deer, river otter, beaver, raccoon, and harbor seals during high tides. Other than the rodents and shrews none occur in any number and are only occasionally observed.

#### SECTION IV: ENVIRONMENTAL CONSEQUENCES

None of the alternatives would be expected to have any significant impact on air, water, or soil quality.

##### Alternative A - No Action

##### 1. Biological Considerations

In this case, "no action" would result in lower harvest levels of clams and migratory birds from the refuge itself. Local harvest levels, (within the watershed - from the mouth of the Coquille River upriver 15 miles, including tributaries), of all species involved would not significantly change with or without on-refuge wildlife harvest. The on-refuge harvest probably accounts for less than 1% of the local population of each harvested species.

The entry of people does cause some disturbance of nonharvested

species. Many relocate elsewhere on the refuge and resume their pre-disturbance activity. This disturbance could decrease slightly if wildlife harvest uses were to cease.

Migratory bird hunters would continue to harvest birds from other locations nearby. It is possible that the additional off-refuge harvest would equal previous on-refuge harvest.

## 2. Social Considerations

In effect this alternative would seem like a closure to those who have been using the refuge to legally harvest wildlife.

At the the time of acquisition, the Service indicated consumptive wildlife activities would continue to be be permitted in much the same manner they had prior to acquisition, as long as these activities were compatible with the management objectives. Departure from the stated intentions of the Service to formally open the refuge to consumptive uses would necessitate a full review of the Refuge Management Plan, including opportunities for public involvement.

### Alternative B - Open Fishing maintain closure on Hunting

#### 1. Biological Considerations

Angling and clamming have occurred at Bandon Marsh for decades. Exact harvest levels are unknown. Opening the refuge to fishing only, would permit current impacts on the biological community to continue at approximately the same levels. The exception would be the impacts caused by migratory bird hunters; With no migratory bird hunting, hunters would be forced to hunt in other areas.

Shellfish harvest, specifically clams, occurs on the tide flats. Soil or vegetative impacts are neutralized by subsequent tides.

## 2. Social Considerations

This alternative would maintain the pre-refuge status of public use with the exception of migratory bird hunting.

Again, since the Service indicated that migratory bird hunting would be permitted as it had prior to establishment of the refuge, the Service would need to review the Management Plan, and provide opportunities for public involvement.

### Alternative C - Open Migratory Bird Hunting, maintain closure on Fishing

## 1. Biological Considerations

Opening the refuge to migratory bird hunting would presumeably sustain current impacts on migratory bird populations at about the same levels. Fish and shellfish would not be harvested on refuge. Anglers would probably use other access points within the same watershed. The clam population may increase slightly.

## 2. Social Considerations

This alternative puts the Service in the position of not opening the refuge to a public use which had been permitted previously. At the time of acquisition, the Service indicated fishing would be an acceptable activity unless it was found to be incompatible with refuge objectives.

Current estimates indicate that more individuals are involved

in clamming than in all of the other public use activities combined. The public would actively seek input.

Law Enforcement activity would be required from both Federal and State officers to effectively enforce this alternative.

#### Alternative D - Open Migratory Bird Hunting, Open Fishing

##### 1. Biological Considerations

Since public use for wildlife harvest purposes should remain approximately the same as in previous years, the biological community should experience little change due to human activity.

As mentioned in Alternative A, harvest levels, (within the watershed - from the mouth of the Coquille River upriver 15 miles, including tributaries), of all species involved would not change significantly with or without on-refuge wildlife harvest. The on-refuge harvest accounts for less than 1% of the fish, shellfish and migratory birds harvested in this area. All entry by the public causes some disturbance to wildlife. Many of the effected shorebirds relocate elsewhere on the refuge and resume their pre-disturbance activity. Opening the refuge to migratory bird hunting and fishing probably will not change the level of this disturbance significantly.

##### 2. Social Considerations

Since this alternative represents the "status quo," public response of any kind would probably be minimal. Some reaction to the opening of the refuge to hunting may occur, but all of the documents, developed in public view, creating the refuge indicate that hunting

would be permitted.

The fact that this resource is now a National Wildlife Refuge and is listed and mapped as such may cause increased use.

Several law enforcement visits will be required each year to monitor use levels and ensure compliance with state and federal laws.

## V. APPENDICES

### CONSULTATION AND COORDINATION WITH OTHERS

1. Oregon Department of Fish and Wildlife
2. Oregon State Police - Game Agents
3. Port of Bandon
4. Hunting records of Mr. Edgar Capps; interview; June 8, 1983  
(Other harvest records unknown)
5. Use of the Bandon Marsh National Wildlife Refuge  
by Birds, Mammals and Humans. August 1983 - May 1984.  
A Report to USFWS, by Janet Hodder and Michael Graybill.  
July 27, 1984

### MAPS

1. Refuge
2. Refuge with overlay of specific use areas.



Interview with Edgar Capps,,June 8, 1983

By: Palmer Sekora  
Complex Manager, Western Oregon Refuges - USFWS

- Up to November 11 - Good Hunting, lots of water in upper valley
- Lots of migrating ducks in August and September.
- Don't need blinds, use the sun as a blind.  
Hunts by the tides, hunts when the barometer is high.  
Other hunters hunt on the flats...
- Approximately 15 hunters hunt on opening day and next day(s).  
Use subsidies, except Wednesdays. Not over 10, (locals), use the marsh regularly.

Harvest Data - includes E. Capps and son.

Year	# Ducks	Notes	Year	# Ducks	Notes
1965-6	81		1973-4	39	
1966-7	55		1974-5	did not hunt	
1967-8	65		1975-6	13	
1968-9	30		1976-7	62	
1969-70	71		1977-80	no data	
1970-1	66		1980-1	35 (24 teal, 2 shov, 5 mal, 4 pin)	
1971-2	40		1981-2	~30 (mostly teal)	
1972-3	75		1982-3	7 (only opening day)	

Average for years with data, (incl. 1981-2 @ 30) = 47.79 or 48 birds/yr.

Teal seen and harvested primarily green-wing, some cinnamon, rare blue wing

No canvasbacks or redheads; no wood ducks over mudflats only into sloughs

# BANDON MARSH NATIONAL WILDLIFE REFUGE

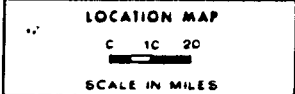
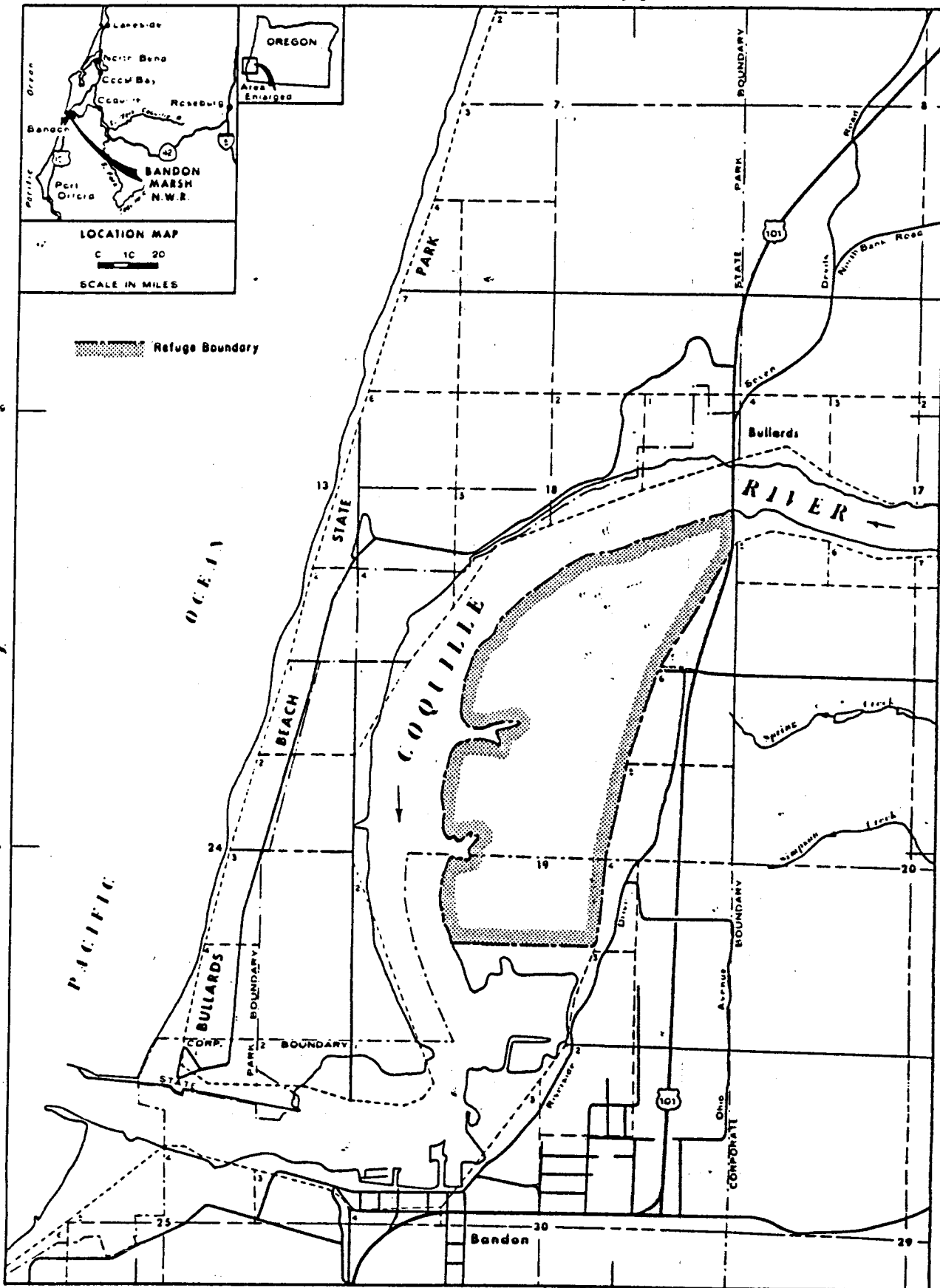
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DEPARTMENT OF THE INTERIOR

COOS COUNTY, OREGON

UNITED STATES  
FISH AND WILDLIFE SERVICE

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Refuge Boundary

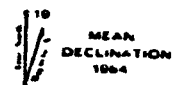
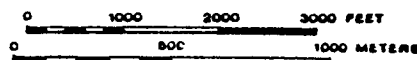
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PORTLAND OREGON  
REV

MARCH 1984

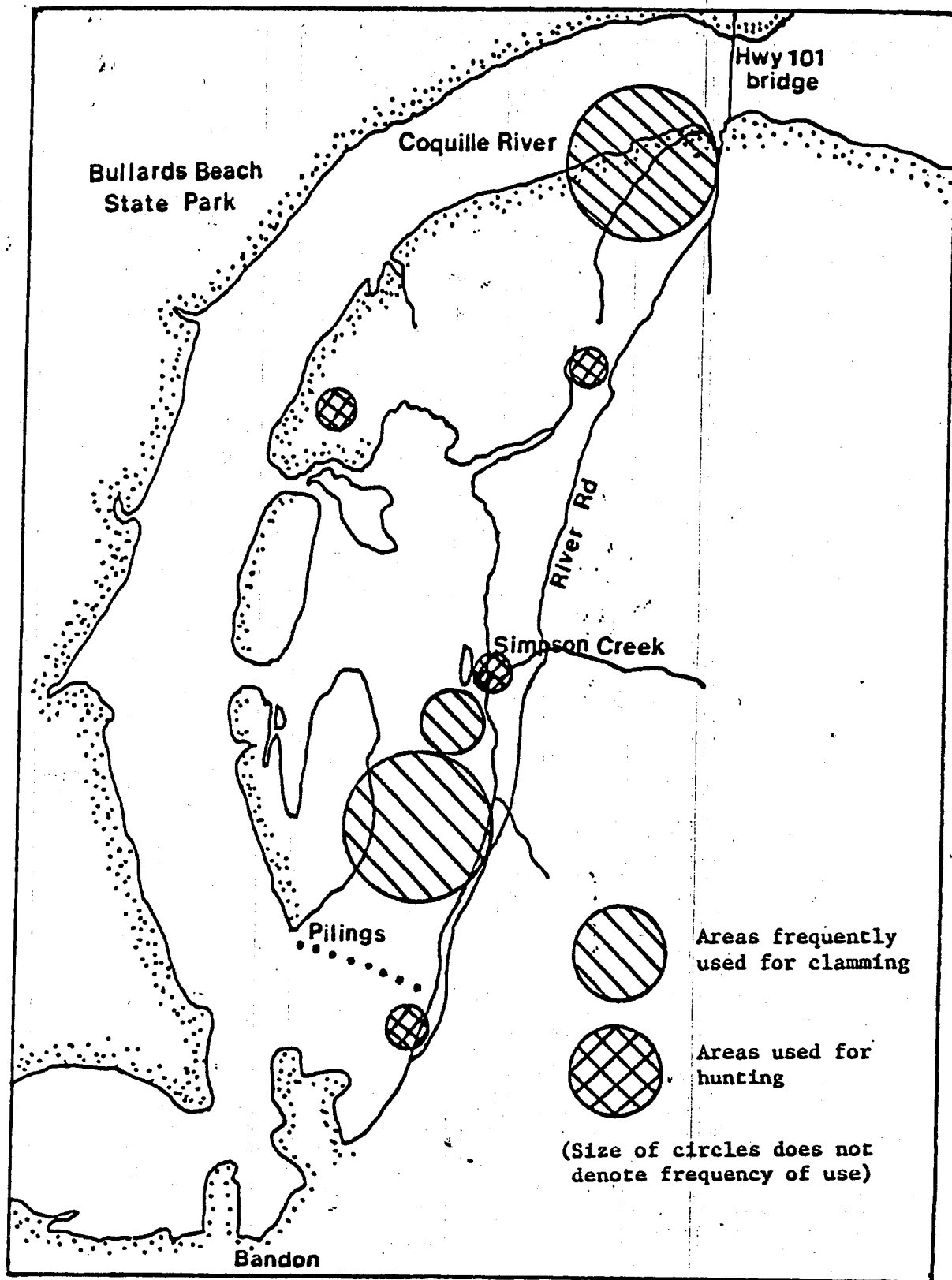
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WILLAMETTE MERIDIAN



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Human Activities at the Bandon Marsh National Wildlife Refuge.



FINDING OF NO SIGNIFICANT IMPACT

OPENING OF REFUGE

TO MIGRATORY BIRD HUNTING AND FISHING

BANDON MARSH NATIONAL WILDLIFE REFUGE

BANDON, OREGON

The U.S. Fish and wildlife Service proposes to open migratory bird hunting and fishing on the refuge to provide wildlife related recreation that is compatible with the management objectives for the refuge. All migratory bird hunting and fishing would occur within the present framework of state and federal laws.

Alternatives considered include (A) no action, (B) open fishing, maintain closure on migratory bird hunting (C) open migratory bird hunting, maintain closure on fishing, and (D) open migratory bird hunting and fishing.

Study of the environmental and socio-economic effects of the proposal has shown them not to represent a negative impact on the quality of the human environment.

Based on a review and evaluation of the information contained in the supporting references cited below, I have determined that the proposed opening of Bandon Marsh National Wildlife Refuge to migratory bird hunting and fishing is not a major Federal action which would significantly affect the quality of the human environment within the meaning of Section 102(2)(C) of the National Environmental Policy Act of 1969. Accordingly, the preparation of an environmental impact statement on the proposed action is not required.



Regional Director



Date

References:  
Environmental Assessment  
Section 7 Consultation

**Sport Hunting and Fishing  
Decision Document Package  
for  
Bandon Marsh NWR**



**Contents**

**3. Section 7 Evaluation**

# Memorandum

February 7, 1986

To: Assistant Regional Director-Wildlife Resources  
Region 1, Portland, Oregon

From: Assistant Regional Director-Federal Assistance  
Region 1, Portland, Oregon

Subject: Internal Section 7 Consultation, Public Use  
Programs, Western Oregon Refuges (1-1-86-FW-35)

This is in response to your request for Section 7 consultation on the subject programs, relative to the effects on the threatened bald eagle and the endangered Aleutian Canada goose, California brown pelican, and peregrine falcon.

The information you provided indicates that public hunting programs are the only activities that may affect these species on the subject refuges.

## Biological Opinion

It is my Biological Opinion that the public use programs on the Western Oregon Refuges are not likely to jeopardize the continued existence of the listed bald eagle, peregrine falcon, Aleutian Canada goose, or California brown pelican.

## Project Description

The following refuges are included within the Western Oregon Refuges Complex: William L. Finley, Ankeny, and Baskett Slough in the Willamette Valley; and Bandon Marsh, Cape Meares, Three Arch Rocks, and Oregon Islands in coastal Oregon. Three Arch Rocks and Oregon Islands are closed to public use. Each of the others supports an active ongoing recreation program. Nature observation, photography, and outdoor classroom use on each. Hunting, primarily for waterfowl, occurs most years on the Willamette Valley refuges and at Bandon Marsh. Fishing and clamming are minor uses at Bandon Marsh.



## Species Account

### Bald Eagle

See our Biological Opinion (1-1-85-FW-31), dated September 10, 1985 on the hunting programs at San Luis NWR for a discussion of the general biology of the eagle. As to specific relative to this consultation, no eagle nesting is known to occur on any of these areas, although they nest near Cape Meares NWR. Small numbers occur along the coast at all seasons, with numbers increasing somewhat in winter. Some may visit refuge islands or Bandon Marsh, but there were no specific records in 1984. A few winter on and near the Willamette Valley refuges (peak of 3 on W L. Finely in 1984, on 1 at Baskett Slough).

### Peregrine Falcon

See our Biological Opinion (1-1-85-FW-27), dated September 9, 1985, on the hunting program at San Pablo Bay NWR for a discussion of the general biology of the peregrine falcon. As for specifics relative to this consultation, small numbers of peregrines visit the Oregon Coast and Willamette Valley in winter, and individuals occasionally are seen on these refuges. In 1984, all 3 Willamette Valley refuges had 1 or more sightings (1 each time).

### Aleutian Canada Goose

See our Biological Opinion (1-1-85-FW-31), dated September 10, 1985, on the hunting programs at San Luis NWR for a discussion of the general biology of this goose. As for specifics relative to this consultation, Aleutian Canada geese occasionally stop to roost on refuge islands, and have been recorded on several occasions in the Willamette Valley.

### California Brown Pelican

See our Biological Opinion (1-1-85-FW-27), dated September 9, 1985, on the hunting program at San Pablo Bay NWR for a discussion of the general biology of the pelican. As for specifics relative to this consultation, brown pelicans move north along the Oregon Coast in late summer and fall, following the nesting season in Mexico and Southern California. Numbers vary from year to year. They roost on refuge islands, and feed in the estuary adjacent to Bandon Marsh NWR.

## Analysis of Impacts

Only hunting has potential to impact any of these species, and that potential would be limited to the possibility of an individual endangered species being shot accidentally or maliciously. Non-toxic steel shot is required of all waterfowl hunters, negating the possibility of secondary poisoning to an

eagle that ate ducks killed with lead shot. In 1984 and 1985, Canada goose hunting was greatly restricted in Western Oregon to protect cackling Canada and dusky Canada geese. These restrictions are expected to continue, so the occasional Aleutian Canada goose that might visit a refuge hunting area would not likely be shot accidentally.

Since 1982, average yearly use by hunters has been as follows:

---

	<u>Deer</u> <u>Hunters</u>	<u>Upland</u> <u>Birds</u>	<u>Waterfowl Hunters</u>	
			<u>No. Days</u>	<u>Total Hunters</u>
Finley	75	1000	* 20-25	* 1000-1500
Ankeny	0	1000	* 20-25	* 500-700
Baskett Slough	0	1000	* 20-25	* 500-700
Bandon **	0	0	?	Max. 15/day

---

\* 1984-85 season shortened to 9 shoot days, less than one-half usual number of hunters; no waterfowl season in 1985-86.

\*\* Bandon Marsh has an unsupervised hunt, open each day during waterfowl season. There are about 10 local hunters who use the area on an intermittent basis.

Considering the low numbers of hunters overall, and the extremely low levels of endangered species in hunting areas, any impact on endangered species in hunting areas, any impact on endangered species is unlikely. The "worst case" situation would still not appreciably reduce the likelihood of survival for any one of these species.

#### Biological Opinion

Based on our review of the above information and information in our files, it is our Biological Opinion that the 1985 public use programs at the Western Oregon Refuges is not likely to jeopardize the continued existence of the bald eagle, Aleutian Canada goose, California brown pelican or peregrine falcon.

### Incidental Take

Section 9 of the Endangered Species Act prohibits any taking, killing, harassment or harming of listed species without special exemption. Under the terms of Section 7(b)(4)(iii) and 7(o)(2) of the Act, taking that is incidental to and not a purpose of the agency action is not considered taking within the bounds of the Act, provided that such taking is in compliance with the terms and conditions of this Opinion.

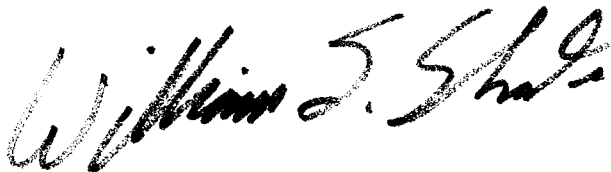
Because of the low numbers and/or seasonal use of the refuges by these species we set the level of incidental take at 0 (zero).

We establish the following terms and conditions that must be complied with to:

1. If the death of any California brown pelican, bald eagle, Aleutian Canada goose, or peregrine falcon is determined to be a result of any hunting program activities (e.g. shooting), then the hunting program shall be terminated, and the consultation reinitiated.

This concludes formal consultation on this project. If the project is in any way significantly modified or if new information becomes available on listed species or impacts to listed species, reinitiation of Section 7 consultation should be considered.

Attachments

A handwritten signature in dark ink, reading "William J. Shafer". The signature is written in a cursive, flowing style with a large initial 'W'.

## SECTION 7 EVALUATION

1. Region 1
2. Project Office: Western Oregon Refuges
3. Program: Interpretation and Recreation
4. Species Considered:
  - American Peregrine Falcon
  - Bald Eagle
  - California Brown Pelican
  - Aleutian Canada Goose
5. Name and Description: Consumptive and non-consumptive public use on The Western Oregon National Wildlife refuges.
6. Locations: William L Finley NWR, Ankeny NWR, Baskett Slough NWR, Oregon Islands NWR, Three Arch Rocks NWR, and Cape Meares NWR.
7. Objectives of the action: To permit public uses on the above listed areas where and when compatible with USFWS directives and individual refuge objectives.
8. Explanation: No consumptive use of coastal refuges occurs. The Willamette Valley refuges (Finley, Ankeny, Biskett, Slough) have small hunting programs involving waterfowl (none in Winter 1985-1986), deer, and upland game birds.

Nonconsumptive uses (permitted seasonable on all refuges but Oregon Islands and Three Arch Rocks) include wildlife observation, photography, hiking, and environmental education. Total use at one time is generally light.

Brown Pelicans occur along the Oregon coast in late summer and early fall, as birds move north from breeding grounds in Mexico and Southern California. Peregrins and bald eagles may occasionally occur in summer, but no breeding is known to occur on refuges. Peregrines and eagles are more regular in winter, but are still found in very low numbers. Aleutian Canada geese may occasionally visit offshore or Willamette Valley refuges in winter.
9. Conclusion: Public use programs on these refuges are not likely to benefit any species. Adverse effects are also unlikely. Use of refuge areas by brown pelicans occurs in summer and early fall. There may be substantial numbers at that time, but there are no refuge activities likely to import them. Other listed species occur in such low numbers and sporadically that the likelihood of adverse impact is very low. Nevertheless, it is not impossible that an individual endangered species might be shot on a refuge when firearms use is permitted and encouraged. Therefore, a "may affect" conclusion is warranted.
10. Recommendation: As the potential for adverse effect is extremely low,

continue program as is.

SECTION 7 EVALUATION CONCURRENCE

Project Leader *Sanford R. Wilbur* Date *1/31/86*

Comments: *"may affect", but highly unlikely*

SE Project Leader *Russell D. Peters* Date *2/6/86*

Comments:

*Act 11* ARD-AWR *Sanford R. Wilbur* Date *1/31/86*

Comments:

ARD-AFA \_\_\_\_\_ Date \_\_\_\_\_

Comments:

Regional Director \_\_\_\_\_ Date \_\_\_\_\_

Comments:

Prepared by *Western Oregon Refugees* Date *May 1979*  
*Updated 1/30/86*

## Section 7 Evaluation

1. Case Number:

2. Project Office: Western Oregon Refuge Complex  
for Bandon Marsh NWR

3. Program Wildlife Management (Public Use)

4-1. Listed Species:

a. Within the action area:

Aleutian Canada Goose (Branta canadensis leucopareia)  
American Peregrine Falcon (Falco peregrinus anatum)  
Bald Eagle (Haliaeetus leucocephalus)  
California Brown Pelican (Pelecanus occidentalis californicus)

4-2. Candidate Species to be considered

None recorded to date. Referred to SESO in accordance with Region 1 Policy.

5. Name and Description: Migratory bird hunting and fishing in the saltmarsh, tide flats, and uplands of Bandon Marsh NWR.

6. Location: All areas within Bandon Marsh NWR, Coos County, Oregon.  
(See map)

7. Objectives of the Action: One of the objectives of the National Wildlife Refuge System is to provide the general public with recreational experiences oriented toward fish and wildlife resources (2RM 1.5D). In this regard, migratory bird hunting and fishing are considered acceptable traditional forms of wildlife oriented recreation that are compatible with refuge objectives. There is moderate demand for hunting and fishing opportunities in the Bandon Area, therefore allowing migratory bird hunting and fishing on Bandon Marsh NWR will help meet some of this demand.

During the acquisition period, the U.S. Fish and Wildlife Service indicated that the 289 acres within the refuge would be available to the public for migratory bird hunting and fishing. Development of a migratory bird hunting and fishing program will fulfill this commitment.

8. Explanation of Impacts of Action on Listed Species:

Migratory bird hunting and fishing occurred prior to and since the area was established as a refuge. Band-tailed pigeon occurs mostly on the upland areas adjacent to the east boundary. No impacts are likely to occur here. Up to the present, waterfowl hunting has occurred annually on the west of the refuge in the salt marsh. Access is by foot from the

middle of the east boundary. Shellfishing occurs in the tide flats, and some angling occurs adjacent to the Coquille River.

The following is an account by species of pertinent natural history information and possible anticipated impacts of the proposed migratory bird hunting and fishing plan on the endangered species that could occur within the action area. Review of the known bird survey work done at Bandon Marsh indicates no record of any of the four following species:

Aleutian Canada Goose - This species may pass through the lower Coquille River area adjacent to Bandon Marsh NWR during migration. No record sightings from or within the vicinity of Bandon Marsh exist.

It is highly unlikely that these birds would be present within range of hunters using Bandon Marsh. It is possible that their fall migration could overlap the beginning of waterfowl hunting season. Should they stop to use the refuge they could be mistakenly harvested. No record exists of any Canada goose ever being harvested at Bandon Marsh.

American Peregrine Falcon - This species is not known to use Bandon Marsh NWR. The abundance of shorebird and presence of some waterfowl populations seasonally present in this area does provide a prey base for this aerial predator. There is a remote possibility that migratory bird hunters would encounter this bird. It is extremely unlikely that a peregrine would be mistaken for a game bird. Intentional shooting of peregrines is also unlikely in light of the strict enforcement of laws protecting this bird.

Bald Eagle - This species is not known to use Bandon Marsh NWR. The abundance fish in the Coquille River adjacent to the refuge does provide an appropriate food source for bald eagles. There is a remote possibility that migratory bird hunters would encounter this bird. It is extremely unlikely that a bald eagle would be shot, unless done intentionally. The strict enforcement of laws protecting this bird are an effective deterrent.

California Brown Pelican - Post-breeding brown pelicans do migrate along the Oregon coast. They fish near shore, but to date no record exists of use at Bandon Marsh.

## 9. Conclusion

1. Aleutian Canada Goose - May Effect
2. American Peregrine Falcon - May Effect
3. Bald Eagle - May Effect
4. California Brown Pelican - Will Not Effect

10. Recommendation: We believe that the implementation of this migratory bird and fishing plan will not negatively affect the populations of endangered species that may occur in the action area, while permitting compatible public uses. On going and increased monitoring programs for endangered species and increased law enforcement capabilities of the refuge will provide adequate indication in the event

of any negative impacts. Our recommendation is to approve this migratory bird hunting and fishing program.

#### LITERATURE CITED

Hodder, Janet and Michael Graybil, 1984. Use of Bandon Marsh National Wildlife Refuge by Birds, Mammals, and Humans, August 1983 - May 1984.



SECTION 7 EVALUATION CONCURRENCE

Project Leader

Palmer C. Sekola

Date

1/10/86

Comments:

SE Project Leader

Russell D. Peterson

Date

2/6/86

Comments:

ARD-AWR

Samuel R. Weller

Date

1/31/86

Comments:

"may effect", but just barely!

ARD-AFA

Date

Comments:

Regional Director

Date

Comments:

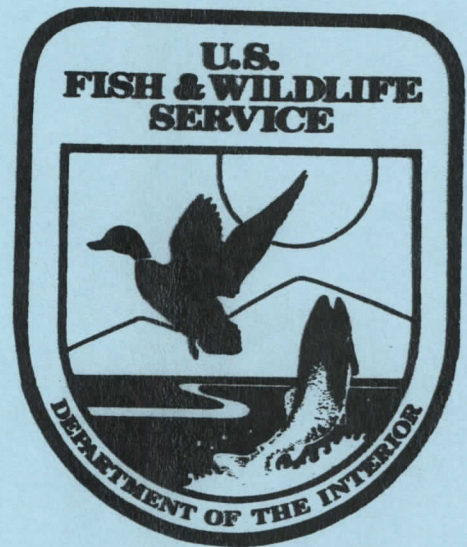
Prepared by

Douglas M. Mackay

Date

Jun 10, 1986

**Sport Hunting and Fishing  
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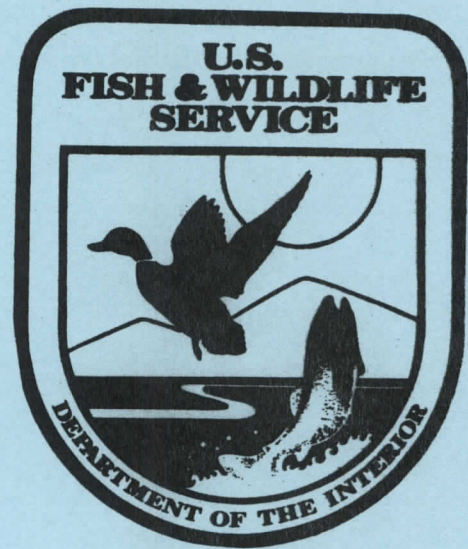
**4. Compatibility Statement**

## COMPATIBILITY STATEMENT

Bandon Marsh NWR was established in April of 1983 to provide protection for 289 acres of salt water marsh located in the mouth of the Coquille River, Coos County, Oregon. Prior to the refuge's establishment, this area had been used by the public for migratory bird hunting and fishing, during the State seasons, for wildlife observation, and for other recreational uses on a year round basis. Present population levels of the harvested species appear to be stable. The bag limits for all species harvested at Bandon Marsh National Wildlife Refuge are determined by State or by State and Federal agencies. Migratory bird hunting and fishing are subject to additional regulations to ensure that these activities will not interfere with the conservation of fish and wildlife and their habitats. Therefore, the opening of Bandon Marsh National Wildlife Refuge to migratory bird hunting and fishing is compatible with the purposes for which the refuge was established and is in compliance with the Refuge Administration Act. The annual cost of the hunting and fishing program is estimated at \$2,000. Within the annual Western Oregon Refuge Complex budget of approximately \$430,000, the necessary funds are available for the administration of this hunting and fishing program. Therefore, the opening of Bandon Marsh National Wildlife Refuge to hunting and fishing is in compliance with the Refuge Administration Act.

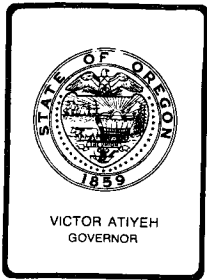


**Sport Hunting and Fishing  
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**Contents**

5. Letter of concurrence



## *Department of Fish and Wildlife*

506 SW MILL STREET, P.O. BOX 59, PORTLAND, OREGON 97207

January 10, 1986

Palmer Sekora, Manager  
Western Oregon Refuge Complex  
Route 2, Box 208  
Corvallis, OR 97333

Dear Palmer:

Thanks for the opportunity to review the Draft Migratory Bird Hunting and Fishing Plan for Bandon Marsh National Wildlife Refuge. The plan looks fine to me and I concur with its provisions.

Hope all is going well on your end.

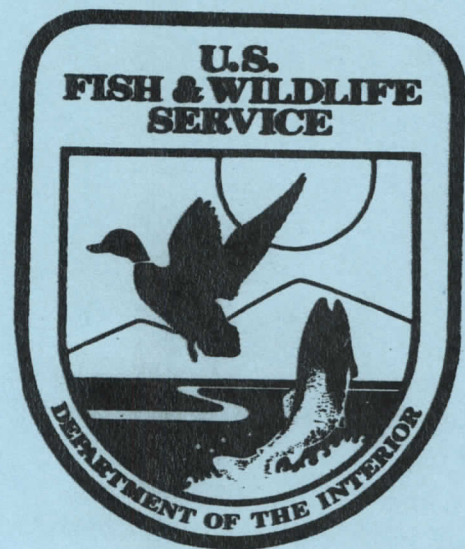
Regards,

*Ken Durbin*

Ken Durbin  
Staff Biologist  
Game Bird Management

kdp

**Sport Hunting and Fishing  
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**Contents**

REFUGE SPECIFIC HUNTING REGULATIONS

Subsection 32.12 Refuge specific regulations; migratory game birds

OREGON

Bandon Marsh National Wildlife Refuge. Hunting of geese, ducks, coots, snipe, doves and pigeons is permitted on designated areas of the refuge.

REFUGE SPECIFIC FISHING REGULATIONS

Subsection 33.41 Bandon Marsh National Wildlife Refuge. No specific fishing regulations are proposed or deemed essential at this time.

UNITED STATES GOVERNMENT

FISH AND WILDLIFE SERVICE  
PORTLAND, OREGON

# Memorandum

To: Refuge Project Leaders listed below      September 22, 1986  
Region 1

From: ARD - Refuges and Wildlife  
Portland, OR (ARW/OPR)      WR/PUM/Hunting/Fishing Regs

Subject: Publication of Final Rule Amending Certain  
Refuge-Specific Hunting Regulations

Attached for your information and files is a copy of the subject rule which was published in the Federal Register on September 11, 1986.

Refuges impacted by this rule are denoted with a large asterisk in the attached and include:

Refuge:	Page Reference:	Refuge:	Page Reference:
<u>California:</u>		<u>Nevada:</u>	
Clear Lake	32323	Pahranagat	32324
Colusa	32323		32326
Delevan	32323	Ruby Lake	32325
Kern	32323		
Kesterson	32323	<u>Oregon:</u>	
L. Klamath (CA/OR)	32323	Ankeny	32325
	32325	Bandon Marsh	32325
Merced	32323	Bear Valley	32328
Modoc	32323	Columbian W-T Deer	32325
Sacramento	32323	Klamath Forest	32325
San Luis	32323	Lewis and Clark	32325
San Pablo Bay	32323	Umatilla (OR/WA)	32325
	32324	Upper Klamath	32325
Sutter	32324		
Tule Lake	32324	<u>Washington:</u>	
<u>Idaho:</u>		Columbia	32325
Deer Flat (ID/OR)	32324	McNary	32325
	32325	Willapa	32325
Kootenai	32324		32329
Minidoka	32324		

Questions on this rule should be directed to Ed Murczek (ARW/OPR) at FTS 429-6173 or Commercial (503) 231-6173.

Attachment



**Addressee List:**

Columbia NWR  
Deer Flat NWR  
Desert NWR  
Kern NWR  
Klamath Basin NWRs  
Kootenai NWR  
Modoc NWR  
Ruby Lake NWR  
Sacramento NWR  
San Francisco Bay NWR  
San Luis NWR  
SE Idaho Refuge Complex  
Umatilla NWRs  
Western Oregon NWRs  
Willapa NWR

cc: Susal Saul, Dist. ORP for OR/WA Refuges

ECMurczek/tap

FINLAMND.ECM.EDGE.ECMIII.

## DEPARTMENT OF THE INTERIOR

## Fish and Wildlife Service

## 50 CFR Part 32

## Refuge-Specific Hunting Regulations

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

**ACTION:** Final rule.

**SUMMARY:** The Fish and Wildlife Service (Service) is amending certain regulations in 50 CFR Part 32 that pertain to migratory game bird, upland game, and big game hunting on individual national wildlife refuges (NWR). Refuge hunting programs are reviewed annually to determine whether the regulations governing individual refuge hunts should be modified. Changing environmental conditions, State and Federal regulations, and other factors affecting wildlife populations and habitats may warrant such amendments. The modifications will ensure the continued compatibility of hunting with the purposes for which the individual refuges involved were established and, to the extent practical, make refuge hunting programs consistent with State regulations.

**EFFECTIVE DATE:** September 11, 1986.

**FOR FURTHER INFORMATION CONTACT:** Nancy A. Marx, Division of Refuges, Fish and Wildlife Service, 18th and C Streets, NW., Room 2843, Washington, DC 20240; Telephone (202) 343-3922.

**SUPPLEMENTARY INFORMATION:** 50 CFR Part 32 contains the provisions that govern hunting on NWRs. Hunting is regulated on refuges to: (1) Ensure compatibility with refuge purposes, (2) properly manage the wildlife resources, (3) protect other refuge values, and (4) ensure refuge user safety. On many refuges, the Service policy of adopting State hunting regulations is an adequate way of meeting these objectives. On other refuges, it is necessary to supplement State regulations with refuge-specific hunting regulations which will ensure that the Service meets its management responsibilities as outlined under the section entitled "Conformance with Statutory and Regulatory Authorities." Refuge-specific hunting regulations are issued only after the final publication of the opening of a refuge to migratory game bird, upland game, or big game hunting. These regulations may list the wildlife species that may be hunted, the seasons, bag limits, methods of hunting, descriptions of open areas, and other provisions. Previously issued refuge-specific regulations for migratory game bird, upland game, and big game hunting are

contained in 50 CFR 32.12, 32.22 and 32.32 respectively.

The Service reviews refuge hunting programs annually to determine if modifications in the regulations governing individual refuge hunts are necessary. Changing environmental conditions, State and Federal regulations, and other factors affecting wildlife populations and habitats may warrant that refuge-specific hunting regulations be modified, relaxed, or made more stringent. This ensures the continued compatibility of hunting with the purposes for which individual refuges were established and, to the extent practical, makes refuge hunting programs consistent with State regulations. This rule amends and supplements certain refuge-specific regulations in 50 CFR Part 32, §§ 32.12, 32.22, and 32.32, that pertain to migratory game bird, upland game, and big game hunting, respectively. In this rule, swans have been added to the take at Mattamuskeet and Swanquarter NWRs and desert bighorn sheep to Imperial NWR. A non-toxic shot regulation has also been added to several refuges. This final rule was published as a proposal on July 2, 1986, at 51 FR 24179.

The policy of the Department of the Interior is, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, written comments received during the 30-day comment period for the proposed rule are addressed in the following section.

#### Responses to Comments Received

Written comments were received from one private organization and several Service regional offices in response to the proposed rulemaking. Corrections, deletions and additions have been made in response to comments from the Service's regional offices. Substantive issues raised by the one organization were the same as raised by them on the proposed rule opening seventeen refuges to hunting and/or fishing. In the interest of reducing the paperwork burden of the government, it is suggested that 51 FR 30655 (final rule opening seventeen refuges to hunting and/or fishing) be referenced for Service responses to those issues. Several new issues were presented on this proposed rule on refuge-specific regulations that are addressed below:

**Issue:** The use of dogs for hunting on Alligator River NWR will adversely impact the reintroduction of red wolves on the refuge.

**Service Response:** The habits of the red wolf, the topography of Alligator River NWR, an analysis of the hunters

who have traditionally hunted the refuge, the use of dogs for hunting and many other factors have been thoroughly studied before reintroduction of the red wolf to the refuge was decided upon. Most of the refuge is inaccessible and what hunting is done usually takes place on the periphery of the refuge where there is expected to be minimal if any wolf activity. The appropriate documentation, evaluations and assessments have been completed and the finding is that hunting with dogs on the refuge "will have no impact" on the continued existence of the red wolf, nor would it adversely affect the success of the reintroduction effort.

**Issue:** Lack of data supporting the addition of swans to the huntable species at Mattamuskeet and Swanquarter NWRs.

**Response:** The appropriate documentation has been completed for amending the hunting programs on these refuges and the finding is that the addition of swans to the hunting programs would be compatible with the refuges purposes and objectives.

#### Conformance With Statutory and Regulatory Authorities

The National Wildlife Refuge System Administration Act of 1966, as amended (16 U.S.C. 666dd), and the Refuge Recreation Act of 1962 (16 U.S.C. 460k) govern the administration and public use of NWRs. Specifically, section 4(d)(1)(A) of the Refuge Administration Act authorizes the Secretary of the Interior to permit the use of any area within the Refuge System for any purpose, including but not limited to hunting, fishing, and public recreation, accommodations, and access, when he determines that such uses are compatible with the major purposes for which the areas were established.

The Refuge 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 it is practicable and not inconsistent with the primary purpose for which the areas were established. The Refuge Recreation Act also authorizes the Secretary to issue regulations to carry out the purposes of the Act.

Hunting plans are developed for each hunting program on a refuge prior to opening it to hunting. In many cases, refuge-specific hunting regulations are included in the hunting plan to ensure the compatibility of the hunting programs with the purposes for which the refuge was established. Initial compliance with the Refuge Administration and Refuge Recreation

Acts is ensured when the hunting plans are developed, and the determinations required by these acts are made prior to the addition of refuges to the lists of areas open to hunting in 50 CFR. Continued compliance is ensured by annual review of hunting programs and regulations.

#### Economic Effect

Executive Order (E.O.) 12291, "Federal Regulation," of February 17, 1981, requires the preparation of regulatory impact analyses for major rules. A major rule is one likely to result in an annual effect on the economy of \$100 million or more; a major increase in costs or prices for consumers, individual industries, government agencies or geographic regions; or significant adverse effects on the ability of U.S.-based enterprises to compete with foreign-based enterprises. The Regulatory Flexibility Act (5 U.S.C. 601 et seq.) further requires the preparation of flexibility analyses for rules that will have a significant effect on a substantial number of small entities, which include small businesses, organizations or governmental jurisdictions.

The proposed amendments to the codified refuge-specific hunting regulations would make relatively minor adjustments to existing hunting programs. The regulations are not expected to have any gross economic effect and will not cause major increases in costs or prices for consumers, individual industries, Federal, State, or local governments, agencies, or geographic regions. The benefits accruing to the public are expected to exceed by a large margin the costs of administering this rule. Accordingly, the Department of the Interior has determined that this rule is not a "major rule" within the meaning of E.O. 12291 and would not have a significant economic effect on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

#### Paperwork Reduction Act

The Service has received approval from the Office of Management and Budget (OMB) for the information collection requirements of these regulations pursuant to the Paperwork Reduction Act (44 U.S.C. 3501 et seq.). These requirements are presently approved by OMB as cited below:

Type of information collection	OMB Approval No.
Economic and Public Use Permits	1018-0014

These regulations impose no new reporting or recordkeeping requirements that must be cleared by OMB.

It is also the intent of this rulemaking to update obsolete OMB approval numbers cited in § 32.41.

#### Environmental Considerations

The "Final Environmental Statement for the Operation of the National Wildlife Refuge System" [FES 76-59] was filed with the Council on Environmental Quality on November 12, 1976; a notice of availability was published in the *Federal Register* on November 19, 1976 (41 FR 51131). Compliance with the National Environmental Policy Act (NEPA) (42 U.S.C. 4332(C)) and the Endangered Species Act (16 U.S.C. 1531-1543) is ensured when hunting plans are developed, and the determinations required by these acts are made prior to the addition of refuges to the lists of areas open to hunting in 50 CFR. Refuge-specific hunting regulations are subject to a categorical exclusion from the NEPA process if they do not significantly alter the existing use of a particular national wildlife refuge. The changes proposed in this rulemaking would not substantially alter the existing uses of the refuges involved.

In view of the rapidly approaching hunting seasons, there is an immediate need to place these regulations into effect. The absence of refuge-specific hunting regulations during the early stages of the hunting seasons would be contrary to the public interest, hunter safety and wildlife conservation. Thus, the Department concludes that good cause exists within the meaning of 5 U.S.C. 553(d)(3) of the Administrative Procedure Act to make these regulations effective upon publication in the *Federal Register*.

Information regarding hunting permits and the conditions that apply to individual refuge hunts and maps of the hunt areas are available at refuge headquarters. This information may also be obtained from the regional offices of the U.S. Fish and Wildlife Service at the addresses listed below:

#### Region 1

California, Hawaii, Idaho, Nevada, Oregon and Washington.

Assistant Regional Director—Refuges and Wildlife, U.S. Fish and Wildlife Service, Lloyd 500 Building, Suite 1692, 500 NE Multnomah Street, Portland, Oregon 97232; Telephone (503) 231-6214.

#### Region 2

Arizona, New Mexico, Oklahoma and Texas.

Assistant Regional Director—Refuges and Wildlife, U.S. Fish and Wildlife Service, Box 1306, Albuquerque, New Mexico 87103; Telephone (505) 766-1829.

#### Region 3

Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Ohio and Wisconsin.

Assistant Regional Director—Refuges and Wildlife, U.S. Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111; Telephone (612) 725-3507.

#### Region 4

Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North and South Carolina, Tennessee, Puerto Rico and the Virgin Islands.

Assistant Regional Director—Refuges and Wildlife, U.S. Fish and Wildlife Service, Richard B. Russell Federal Building, 75 Spring Street, SW, Atlanta, Georgia 30303; Telephone (404) 221-3538.

#### Region 5

Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia and West Virginia.

Assistant Regional Director—Refuges and Wildlife, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Massachusetts 02158; Telephone (617) 965-9222.

#### Region 6

Colorado, Kansas, Montana, Nebraska, North Dakota, South Dakota, Utah and Wyoming.

Assistant Regional Director—Refuges and Wildlife, U.S. Fish and Wildlife Service, Box 25486, Denver Federal Center, Denver, Colorado 80225; Telephone (303) 236-8145.

#### Region 7

Alaska (Hunting on Alaska refuges is in accordance with State hunting regulations. There are no refuge-specific hunting regulations for these refuges.)

Assistant Regional Director—Refuges and Wildlife, U.S. Fish and Wildlife Service, 1011 E. Tudor Rd., Anchorage, Alaska 99503; Telephone (907) 786-3538.

Nancy A. Marx, Division of Refuges, U.S. Fish and Wildlife Service, Washington, DC 20240, is the primary



author of this proposed rulemaking document.

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

Hunting, National Wildlife Refuge System, Wildlife, Wildlife refuges.

#### PART 32—[AMENDED]

Accordingly, Part 32 of Chapter I of Title 50 of the Code of Federal Regulations is amended as set forth below:

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, 690d, 715i, 718d, 725, 44 U.S.C. 3501 et seq.

2. Section 32.12 is amended by revising paragraphs (b) introductory text, (b)(2) and (4); adding paragraph (b)(7); redesignating paragraph (c) as (c)(1); revising newly redesignated (c)(1); and adding paragraph (c)(2); redesignating paragraph (d)(1)(v) as (d)(1)(vi); and adding new paragraph (d)(1)(v); adding paragraphs (e)(1)(viii), (e)(3)(viii) and (e)(4)(vii), revising paragraphs (f)(1), (2) introductory text, (3) introductory text and (7) introductory text and (ii); (4)(v), (5)(iv), (6)(vi), (8)(iv), (9)(v), and (12)(iv); redesignating paragraphs (f)(13) through (14) as (f)(14) through (15); adding paragraphs (f)(13) and (15)(vii); revising paragraph (f)(14); revising paragraphs (i)(2)(ii); adding paragraphs (k)(3)(iv) and (v), and (5)(iv); revising paragraph (k)(6) introductory text; revising paragraphs (l)(2)(i), (ii) and (iv); redesignating paragraph (m) as (m)(1), (i), (ii), (iii) and (iv); and revising the paragraph heading of (m) and the introductory text of (m)(1); and adding paragraph (m)(2), adding paragraph (n)(5), redesignating paragraphs (p)(1) and (2) as (p)(2) and (3); and revising newly redesignated paragraphs (p)(2) and (3); and adding paragraph (p)(1); adding paragraph (q)(1)(iv); revising paragraphs (q)(2) (i), (ii), and (iii); revising paragraph (q)(3)(iv); adding paragraph (q)(3)(v); revising paragraphs (v)(2)(iii), (v)(3)(iii), (v)(4)(iii) and (v)(6)(iii); adding paragraphs (x)(1)(iii) and (11); revising paragraphs (x)(10)(y), and (z)(1)(i) and (2); redesignating paragraphs (dd)(1) through (4) as (dd)(2) through (5); and revising newly redesignated paragraphs (dd)(3) and (5); and adding paragraph (dd)(1); adding paragraph (gg)(3)(vii); revising paragraph (hh)(1)(iii); redesignating paragraphs (hh)(2) through (12) as (hh)(3) through (13); and revising newly redesignated paragraphs (hh)(6), (7) and (12); adding paragraphs (hh)(2), (5)(iii), (8)(iv) and (11)(vi); redesignating paragraphs (11)(1) through (3) as (11)(2) through (4); and revising newly

redesignated paragraph (11)(2)(ii); adding paragraphs (11)(1), (qq)(1)(iii), (4)(iv), (7)(v) and (8)(v); and revising paragraphs (qq)(2) and (rr)(3) as follows:

§ 32.12 Refuge-specific regulations; migratory game birds.

(b) *Alabama and Georgia-Eufaula National Wildlife Refuge.* Hunting of geese, ducks, coots, mourning doves, snipe and woodcock is permitted on designated areas of the refuge subject to the following conditions:

(2) Hunting of Canada geese, ducks and coots is permitted only on Mondays, Wednesdays and Saturdays until noon.

(4) Waterfowl and coot hunters shall possess and use, while in the field, only non-toxic shot.

(7) Canada geese may be harvested only until the refuge harvest quota is reached.

(c) *Arizona—(1) Buenos Aires National Wildlife Refuge.* Hunting of geese, ducks, coots and mourning and white-winged doves is permitted on designated areas of the refuge.

(2) *San Bernardino National Wildlife Refuge.* Hunting of mourning and white-winged doves is permitted on designated areas of the refuge.

(d) *Arizona and California—(1) Cibola National Wildlife Refuge.*

(v) Waterfowl and coot hunters shall possess and use, while in the field, only non-toxic shot.

(e) *Arkansas—(1) Felsenthal National Wildlife Refuge.*

(viii) Hunting of woodcock is permitted beginning with the State season through January 31.

(3) *Overflow National Wildlife Refuge.*

(viii) Hunting of woodcock is permitted beginning with the State season through January 31.

(4) *White River National Wildlife Refuge.*

(vii) Duck and coot hunters shall possess and use, while in the field, only non-toxic shot.

(f) *California—(1) Clear Lake National Wildlife Refuge.* Hunting of geese, ducks, coots, gallinules and common snipe is permitted on designated areas of the refuge subject to the following conditions:

(i) Air-thrust and inboard water-thrust boats are not permitted.

(ii) Waterfowl and coot hunters shall possess and use, while in the field, only non-toxic shot.

(2) *Colusa National Wildlife Refuge.* Hunting of geese, ducks, coots, gallinules and common snipe is permitted on designated areas of the refuge subject to the following condition: Waterfowl and coot hunters shall possess and use, while in the field, only non-toxic shot.

(3) *Delevan National Wildlife Refuge.* Hunting of geese, ducks, coots, gallinules, and common snipe is permitted on designated areas of the refuge subject to the following condition: Waterfowl and coot hunters shall possess and use, while in the field, only non-toxic shot.

(4) *Kern National Wildlife Refuge.*

(v) Only nonmotorized boats are permitted.

(5) *Kesterson National Wildlife Refuge.*

(iv) Hunters may not possess more than 25 shells after leaving their assigned parking lot.

(6) *Lower Klamath National Wildlife Refuge.*

(vi) Waterfowl and coot hunters shall possess and use, while in the field, only non-toxic shot.

(7) *Merced National Wildlife Refuge.*

Hunting of geese, ducks, coots and gallinules is permitted on designated areas of the refuge subject to the following conditions:

(ii) Hunters may not use or possess more than 25 shells per day.

(8) *Modoc National Wildlife Refuge.*

(iv) Waterfowl and coot hunters shall possess and use, while in the field, only non-toxic shot.

(9) *Sacramento National Wildlife Refuge.*

(v) Waterfowl and coot hunters shall possess and use, while in the field, only non-toxic shot.

(12) *San Luis National Wildlife Refuge.*

(iv) Hunters may not possess more than 25 shells after leaving their assigned parking lot.

(13) *San Pablo Bay National Wildlife Refuge.* Hunting of ducks, geese and coots is permitted on designated areas of the refuge subject to the following conditions:

(i) All personal property, except floating blinds must be removed from the refuge at the end of each hunting day. Floating blinds may be left overnight, but must be removed from the refuge at the end of the waterfowl hunting season.

(ii) The construction and use of permanent blinds is prohibited. Hunters may use portable blinds and temporary or floating blinds constructed primarily of biodegradable materials.

(iii) Blinds may be used by any hunter on a first-come basis each day.

(iv) Digging into levees is prohibited.

(14) *Sutter National Wildlife Refuge*. Hunting of geese, ducks, coots, gallinules and common snipe is permitted on designated areas of the refuge subject to the following condition: Waterfowl and coot hunters shall possess and use, while in the field, only non-toxic shot.

(15) *Tule Lake National Wildlife Refuge*.

(vii) Waterfowl and coot hunters shall possess and use, while in the field, only non-toxic shot.

(i) *Florida*—

(2) *Lower Suwannee National Wildlife Refuge*.

(ii) Hunting of ducks and coots is permitted on the Levy County portion of the refuge.

(k) *Idaho*—

(3) *Deer Flat National Wildlife Refuge*.

(iv) Nonmotorized boats are restricted to the area bounded by the water's edge and extending to a point 200 yards lakeward in hunting area 1 on the Lake Lowell sector.

(v) Waterfowl and coot hunters shall possess and use, while in the field, only non-toxic shot.

(5) *Kootenai National Wildlife Refuge*.

(iv) Waterfowl and coot hunters shall possess and use, while in the field, only non-toxic shot.

(6) *Minidoka National Wildlife Refuge*. Hunting of geese, ducks and coots is permitted on designated areas of the refuge subject to the following condition: Waterfowl and coot hunters shall possess and use, while in the field, only non-toxic shot.

(1) *Illinois*—

(2) *Crab Orchard National Wildlife Refuge*.

(i) Waterfowl hunting is permitted on the controlled areas of Grassy Point, Carterville and Greenbriar land areas, plus Orchard, Turkey, Sawmill and Grassy Islands, from sunrise to 12:00

noon each day during the goose season. Goose hunting on these areas, including lake shorelines, is permitted only from existing refuge blinds. Only selected hunters are allowed on the islands during the goose hunting season.

(ii) Goose hunters must use or possess only 15 shells per hunter.

(iv) Only portable or temporary blinds may be used. Blinds may not be located beyond the shoreline of refuge waters.

(m) *Iowa*—(1) *Desoto National Wildlife Refuge*. Hunting of geese, ducks and coots is permitted on designated areas of the refuge subject to the following conditions:

(2) *Union Slough National Wildlife Refuge*. Hunting of migratory game birds is permitted on designated areas of the refuge subject to the following condition: Waterfowl and coot hunters shall possess and use, while in the field, only non-toxic shot.

(n) *Iowa, Illinois and Missouri*—*Mark Twain National Wildlife Refuge*.

(5) Waterfowl and coot hunters shall possess and use, while in the field, only non-toxic shot.

(p) *Kansas*—(1) *Flint Hills National Wildlife Refuge*. Hunting of geese, ducks, coots, mourning doves and snipe is permitted on designated areas of the refuge subject to the following condition: Waterfowl and coot hunters shall possess and use, while in the field, only non-toxic shot.

(2) *Kirwin National Wildlife Refuge*. Hunting of geese, ducks, coots, mourning doves and snipe is permitted on designated areas of the refuge subject to the following condition: Waterfowl and coot hunters shall possess and use, while in the field, only non-toxic shot.

(3) *Quivira National Wildlife Refuge*. Hunting of geese, ducks, coots, rails, mourning doves, common snipe and woodcock is permitted on designated areas of the refuge subject to the following condition: Waterfowl and coot hunters shall possess and use, while in the field, only non-toxic shot.

(q) *Louisiana*—(1) *Bogue Chitto National Wildlife Refuge*.

(iv) Retrievers are permitted.

(2) *D'Arbonne National Wildlife Refuge*.

(i) Hunting of ducks and coots is permitted until noon each day.

(ii) Boats, decoys and blinds must be removed from the refuge following each day's hunt.

(iii) Hunting is not permitted during the special teal season.

(3) *Delta National Wildlife Refuge*.

(iv) When in season, snipe, rails and gallinules may be taken during the waterfowl hunt.

(v) Retrievers are permitted.

(v) *Mississippi*—

(2) *Hillside National Wildlife Refuge*.

(iii) Duck and coot hunters shall possess and use, while in the field, only non-toxic shot.

(3) *Mathews Brake National Wildlife Refuge*.

(iii) Duck and coot hunters shall possess and use, while in the field, only non-toxic shot.

(4) *Morgan Brake National Wildlife Refuge*.

(iii) Duck and coot hunters shall possess and use, while in the field, only non-toxic shot.

(6) *Panther Swamp National Wildlife Refuge*.

(iii) Duck and coot hunters shall possess and use, while in the field, only non-toxic shot.

(x) *Montana*—(1) *Benton Lake National Wildlife Refuge*.

(iii) Hunters shall possess and use, while in field, only non-toxic shot.

(10) *Red Rock Lakes National Wildlife Refuge*. Hunting of geese, ducks and coots is permitted on designated areas of the refuge subject to the following condition: Waterfowl and coot hunters shall possess and use, while in the field, only non-toxic shot.

(11) *Swan River National Wildlife Refuge*. Hunting of geese, ducks and coots is permitted on designated areas of the refuge subject to the following condition: Waterfowl and coot shall possess and use, while in the field, only non-toxic shot.

(y) *Nebraska*—*Valentine National Wildlife Refuge*. Hunting of mourning doves, geese, ducks and coots is permitted on designated areas of the refuge subject to the following condition: Waterfowl and coot hunters shall possess and use, while in the field, only non-toxic shot.

(z) *Nevada*—(1) *Pahranaagat National Wildlife Refuge*.

(i) Permits are required for dove hunting from opening day through the following Monday.



(2) *Ruby Lake National Wildlife Refuge*. Hunting of geese, ducks, coots, gallinules and snipe is permitted on designated areas of the refuge subject to the following condition: Waterfowl and coot hunters shall possess and use, while in the field, only non-toxic shot.

(dd) *North Carolina—(1) Alligator River National Wildlife Refuge*. Hunting of mourning doves, geese, swans, ducks, coots, snipe and woodcock is permitted on designated areas of the refuge subject to the following condition: The use of hunting dogs is permitted on designated areas of the refuge.

(3) *Mattamuskeet National Wildlife Refuge*. Hunting of swans, ducks and coots is permitted on designated areas of the refuge subject to the following conditions:

(5) *Swanquarter National Wildlife Refuge*. Hunting of swans, ducks, geese and coots is permitted on designated areas of the refuge subject to the following conditions:

(gg) *Oklahoma—*

(3) *Tishomingo National Wildlife Refuge*.

(vii) Waterfowl hunters shall possess and use, while in the field, only non-toxic shot.

(hh) *Oregon—(1) Ankeny National Wildlife Refuge*.

(iii) Waterfowl, coot and snipe hunting is permitted only on Wednesdays, Saturdays and Sundays.

(2) *Bandon Marsh National Wildlife Refuge*. Hunting of geese, ducks, coots, snipe, doves and pigeons is permitted on designated areas of the refuge.

(5) *Deer Flat National Wildlife Refuge*.

(iii) Waterfowl and coot hunters shall possess and use, while in the field, only non-toxic shot.

(6) *Klamath Forest National Wildlife Refuge*. Hunting of geese, ducks, coots and common snipe is permitted on designated areas of the refuge subject to the following conditions:

(i) The use of air-thrust and inboard water-thrust boats is not permitted.

(ii) Waterfowl and coot hunters shall possess and use, while in field, only non-toxic shot.

(7) *Lewis and Clark National Wildlife Refuge*. Hunting of geese, ducks, coots and snipe is permitted on designated areas of the refuge subject to the

following condition: Waterfowl and coot hunters shall possess and use, while in the field, only non-toxic shot.

(8) *Lower Klamath National Wildlife Refuge*.

(iv) Waterfowl and coot hunters shall possess and use, while in the field, only non-toxic shot.

(11) *Umatilla National Wildlife Refuge*.

(vi) Waterfowl and coot hunters shall possess and use, while in the field, only non-toxic shot.

(12) *Upper Klamath National Wildlife Refuge*. Hunting of geese, ducks, coots and common snipe is permitted on designated areas of the refuge subject to the following conditions:

(i) The use of air-thrust and inboard water-thrust boats is not permitted.

(ii) Waterfowl and coot hunters shall possess and use, while in the field, only non-toxic shot.

(11) *Tennessee—(1) Chickasaw National Wildlife Refuge*. Hunting of ducks, geese and coots is permitted on designated areas of the refuge subject to the following conditions:

(i) Hunting of waterfowl is permitted until noon each day.

(ii) Only portable blinds and blinds made of native vegetation are permitted.

(iii) Decoys and blinds must be removed after each day's hunt.

(2) *Cross Creeks National Wildlife Refuge*.

(ii) Hunting is permitted on Saturdays and Sundays beginning with the State December duck season through the last day of the State goose season.

(qq) *Washington—(1) Columbia National Wildlife Refuge*.

(iii) Waterfowl and coot hunters shall possess and use, while in the field, only non-toxic shot.

(2) *Columbia White-Tailed Deer National Wildlife Refuge*. Hunting of geese, ducks, coots and common snipe is permitted on designated areas of the refuge subject to the following condition: Waterfowl and coot hunters shall possess and use, while in the field, only non-toxic shot.

(4) *McNary National Wildlife Refuge*.

(iv) Waterfowl and coot hunters shall possess and use, while in the field, only non-toxic shot.

(7) *Umatilla National Wildlife Refuge*.

(v) Waterfowl and coot hunters shall possess and use, while in the field, only non-toxic shot.

(8) *Willapa National Wildlife Refuge*.

(v) Waterfowl and coot hunters shall possess and use, while in the field, only non-toxic shot.

(rr) *Wisconsin—*

(3) *Trempealeau National Wildlife Refuge*. Hunting of geese, ducks and coots is permitted on designated areas of the refuge subject to the following conditions:

3. Section 32.22 is amended by revising paragraphs (a)(2)(ii) and (4)(iii); adding paragraphs (a)(4)(v), (b)(3) and (c)(1)(iv) and (v); revising paragraph (c)(2)(i); adding paragraph (c)(2)(iv); revising paragraphs (c)(3), (d)(2)(iii), (d)(3) introductory text and (d)(4)(iii); adding paragraphs (d)(6)(v) and (vi); redesignating paragraphs (e)(8) and (9) as (e)(9) and (10); adding paragraph (e)(8); revising paragraphs (h)(3)(ii), (i)(2) introductory text, (l)(1) and (2), and (q)(1)(ii) and (2); adding paragraphs (q)(1)(iii), (3)(iii) and (6)(iii); revising paragraphs (t), (v)(1)(ii) and (z)(1); adding paragraph (v)(1)(iii); redesignating paragraphs (cc)(1) and (2) as (cc)(2) and (3); and revising newly redesignated (cc)(3)(i) and (iv); adding paragraph (cc)(1); revising paragraphs (hh)(4) introductory text; redesignating paragraphs (jj)(1) through (4) as (jj)(2) through (5); adding paragraph (jj)(1); and revising newly redesignated (jj)(2) and (5) as follows:

§ 32.22 *Refuge-specific regulations; upland game.*

(a) *Alabama—*

(2) *Choctaw National Wildlife Refuge*.

(ii) Hunting of squirrel and rabbit is permitted during the State season only through December 15.

(4) *Wheeler National Wildlife Refuge*.

(iii) Hunting of raccoon and opossum is permitted during the month of February.

(v) Dogs are permitted for raccoon, opossum and rabbit hunts only.

(b) *Arizona—*

(3) *San Bernardino National Wildlife Refuge*. Hunting of quail and cottontail rabbits is permitted on designated areas of the refuge subject to the following conditions:

(i) Only shotguns are permitted.

(ii) Cottontail rabbit season shall open on September 1 and close on the last day of the State quail season.

(c) *Arizona and California—(1) Cibola National Wildlife Refuge*.

(iv) Hunting is permitted from ½ hour before sunrise to sunset only.

(v) Only shotguns and bows and arrows are permitted.

(2) *Havasu National Wildlife Refuge.* \* \* \*

(i) Hunting of quail is not permitted on Pintail Slough.

(iv) Hunting is permitted from ½ hour before sunrise to sunset only.

(3) *Imperial National Wildlife Refuge.* Hunting of quail, cottontail rabbit, coyote, fox and bobcat is permitted on designated areas of the refuge subject to the following conditions:

(i) Only shotguns and bows and arrows are permitted.

(ii) Hunting of cottontail rabbit is permitted from September 1 through the last day of the State quail season.

(iii) Hunting is permitted from ½ hour before sunrise to sunset only.

(d) *Arkansas—* \* \* \*

(2) *Felsenthal National Wildlife Refuge.* \* \* \*

(iii) Hunting of raccoon and opossum is permitted from December 1-5 and January 28-30, during the hours of darkness only. Daily bag limit for raccoon is two per hunter or four per party per night.

(3) *Holla Bend National Wildlife Refuge.* Hunting of raccoon, opossum, squirrel, rabbit, beaver and coyote is permitted on designated areas of the refuge subject to the following conditions:

(4) *Overflow National Wildlife Refuge.* \* \* \*

(iii) Hunting of raccoon and opossum is permitted from December 1-5 and January 28-30 during the hours of darkness only. Daily bag limit for raccoon is 2 per hunter or 4 per party per night.

(6) *White River National Wildlife Refuge.* \* \* \*

(v) Hunters may camp in designated areas.

(vi) Loaded firearms are not permitted within 100 yards of campground.

(e) *California—* \* \* \*

(8) *San Pablo Bay National Wildlife Refuge.* Hunting of pheasants is permitted on designated areas of the refuge.

(h) *Florida—* \* \* \*

(3) *St. Marks National Wildlife Refuge.* \* \* \*

(ii) Hunting is permitted beginning the second Friday in December through the last Sunday in January.

(i) *Georgia—* \* \* \*

(2) *Savannah National Wildlife*

*Refuge.* Hunting of squirrel is permitted on designated areas of the refuge subject to the following conditions:

(1) *Illinois, Iowa and Missouri—Mark Twain National Wildlife Refuge.* \* \* \*

(1) Hunting is permitted on the Big Timber Division and Turkey and Otter Islands.

(2) Hunting of squirrel is permitted on the Keithburg Division from the opening of the State season until the start of the Illinois waterfowl hunting season.

Hunting of squirrel is permitted on the Gardner Division from the opening of the State season through September 30.

(q) *Louisiana—(1) Bogue Chitto National Wildlife Refuge.* \* \* \*

(ii) Hunting of raccoon and opossum is permitted beginning the last day of the State deer season to the end of the State trapping season.

(ii) Daily bag limit for raccoon is two per hunter or four per party per night.

(2) *Catahoula National Wildlife Refuge.* Hunting of squirrel and rabbit is permitted on designated areas of the refuge subject to the following conditions:

(i) Hunting is permitted from the opening day of the State season through October 31.

(ii) Daily permits are required.

(3) *D'Arbonne National Wildlife Refuge.* \* \* \*

(iii) Daily bag limit for raccoon is two per hunter or four per party per night.

(6) *Upper Quachita National Wildlife Refuge.* \* \* \*

(iii) Daily bag limit for raccoon is two per hunter or four per party per night.

(t) *Michigan-Seney National Wildlife Refuge.* Hunting of grouse and snowshoe hare is permitted on designated areas of the refuge.

(v) *Mississippi—(1) Bogue Chitto National Wildlife Refuge.* \* \* \*

(ii) Hunting of raccoon and opossum is permitted beginning on the day after the close of the State gun-deer season through the end of the State season.

(iii) Daily bag limit for raccoon is two per hunter or four per party per night.

(z) *Nevada—(1) Pahrangat National Wildlife Refuge.* Hunting of quail and rabbit is permitted on designated areas of the refuge subject to the following condition: Hunting of jackrabbit is permitted only during the regular State season for cottontail rabbit.

(cc) *North Carolina—(1) Alligator River National Wildlife Refuge.* Hunting of squirrel, rabbit, quail, raccoon and opossum is permitted on designated areas of the refuge subject to the following condition: The use of hunting dogs is permitted on designated areas of the refuge.

(3) *Pee Dee National Wildlife Refuge.* \* \* \*

(i) Hunting of squirrel is permitted for 14 consecutive days beginning Monday following the third Saturday in November.

(iv) Hunting of raccoon and opossum is permitted the first day of the State season through the third Saturday in November.

(hh) *South Carolina—* \* \* \*

(4) *Savannah National Wildlife Refuge.* Hunting of squirrel is permitted on designated areas of the refuge subject to the following conditions:

(jj) *Tennessee—(1) Chickasaw National Wildlife Refuge.* Hunting of squirrel, rabbit, quail, raccoon, and opossum is permitted on designated areas of the refuge subject to the following conditions:

(i) Seasons and bag limits are in accordance with State regulations for the Upper Anderson-Tully Wildlife Management Area.

(ii) Hunting of upland game, except raccoon, is not permitted during firearm deer hunts.

(2) *Cross Creeks National Wildlife Refuge.* Hunting of squirrel is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Hunting is permitted during the first 14 days of October.

(5) *Tennessee National Wildlife Refuge.* Hunting of squirrel and raccoon is permitted on designated areas of the refuge subject to the following conditions:

(i) Hunting of squirrel is permitted during the first four weeks of the State season.

(ii) Hunting of raccoon is permitted during the first 10 days of the State season.

4. Section 32.32 is amended by revising paragraphs (a)(1)(iii), (2)(i) and (ii); adding paragraphs (a)(2)(iv), (v) and (vi); removing paragraph (c)(1)(ii); revising paragraphs (a)(3)(ii) and (iii) and (c)(2); adding paragraphs (d)(1)(iv) and (v); revising paragraphs (d)(2)



introductory text, (d)(2)(ii), and (iv); adding paragraphs (d)(2)(vii) and (viii); revising paragraphs (d)(4) introductory text and (d)(4)(ii); removing paragraphs (d)(4)(iii) and (iv); redesignating paragraphs (d)(4)(v) and (vi) as (d)(4)(iii) and (iv); revising paragraphs (d)(5)(ii), (iii), (v) and (vi) and (h)(3)(ii); adding paragraph (h)(3)(v); revising paragraphs (h)(5)(ii), (iii) and (iv); removing paragraphs (h)(5)(v) and (vi); redesignating paragraphs (h)(5)(vii) through (x) as (h)(5)(v) through (viii); and revising newly redesignated paragraphs (h)(5)(vi) and (vii); revising paragraphs (h)(6)(ii) and (v); adding (h)(6)(ix); redesignating paragraphs (i)(2) through (5) as (i)(3) through (6), adding paragraph (i)(2); adding paragraphs (i)(5)(ix) and (x); revising paragraph (o)(1); revising paragraphs (r)(1) introductory text, (r)(1)(ii) and (iii); revising paragraphs (r)(2)(i), (ii) and (iii); adding paragraphs (r)(2)(iv), (v) and (vi); revising paragraph (r)(3); revising paragraph (r)(4)(i); adding paragraph (r)(5)(iii); revising paragraph (r)(7); adding paragraph (s)(5); revising paragraphs (v)(2) and (3); revising paragraphs (x)(1)(ii) and (iii); adding paragraph (x)(1)(iv); revising paragraphs (x)(2)(ii), (iii), (iv) and (v); revising paragraph (x)(6)(v); adding paragraphs (x)(6)(vi), (vii) and (viii); revising paragraphs (x)(7)(iv) and (v); redesignating paragraphs (ff)(1) through (4) as (ff)(2) through (5); and revising newly redesignated paragraphs (ff)(4)(ii), (iv), (v) and (vi); adding paragraph (ff)(1); redesignating paragraphs (ii)(1) through (5) as (ii)(2) through (6); adding paragraph (ii); revising paragraph (kk)(3)(ii); redesignating paragraphs (mm)(1) through (4) as (mm)(2) through (5); and revising newly redesignated paragraphs (mm)(2)(i) and (ii) and (3)(iii) and (iv); adding paragraphs (mm)(1), (2)(iii), and (3)(v) and (rr)(4)(iv) as follows:

**§ 32.32 Refuge-specific regulations; big game.**

**(a) Alabama—(1) Choctaw National Wildlife Refuge.**

(iii) Hunting is permitted from the opening day of the State season through December 15.

**(2) Eufaula National Wildlife Refuge.**

(i) Permits are required.

(ii) Archery hunting is permitted on the Alabama portion of the refuge during the entire State archery season except during scheduled youth hunts.

(iv) A two-day youth hunt is permitted during the Alabama and Georgia either-sex firearm season.

(v) Only persons age 16 or younger are permitted to hunt with, carry, handle or discharge a firearm.

(vi) Youth hunters are required to check in and out of the refuge during the youth hunt.

**(3) Wheeler National Wildlife Refuge.**

(ii) Archery hunting is permitted beginning November 1 through the end of the State season.

(iii) Hunting with flintlock firearms is permitted beginning January 16 through the end of the State season.

**(c) Arizona and California—(2) Imperial National Wildlife Refuge.**

Hunting of mule deer and desert bighorn sheep is permitted on designated areas of the refuge.

**(d) Arkansas—(1) Big Lake National Wildlife Refuge.**

(iv) Hunters must check out of the refuge after each day's hunt.

(v) Only portable deer stands are permitted and must be removed after each day's hunt.

(2) Felsenthal National Wildlife Refuge. Hunting of white-tailed deer and feral hogs is permitted on designated areas of the refuge subject to the following conditions:

(ii) Archery hunting is permitted only during the months of October and December except by special permit during quota deer gun hunts.

(iv) Modern gun hunting is permitted during the second Friday and Saturday of November and the Friday and Saturday following Thanksgiving.

(vii) Possession of a deer without a valid quota deer hunt permit during the modern gun hunt is prohibited.

(viii) All deer must be checked at designated check stations.

(4) Overflow National Wildlife Refuge. Hunting of white-tailed deer and feral hogs is permitted on designated areas of the refuge subject to the following conditions:

(ii) Archery hunting is permitted during the months of October and December.

**(5) White River National Wildlife Refuge.**

(ii) Hunters may camp in designated areas only.

(iii) Possessing a loaded firearm within 100 yards of a campground is prohibited.

(v) Muzzleloader hunting is permitted the first two days of the first State muzzleloader deer season.

(vi) Hunting of deer with modern guns is permitted the first three days of the first State deer gun season.

**(h) Florida—**

**(3) Lower Suwannee National Wildlife Refuge.**

(ii) Archery and muzzleloading gun hunting of deer and feral hogs is permitted on the Levy County portion of the refuge in accordance with State seasons.

(v) Modern gun hunting of deer and feral hogs is permitted on the Levy County portion of the refuge beginning the opening day of the general State gun deer season for four consecutive weeks excluding Thanksgiving Day.

**(5) St. Marks National Wildlife Refuge.**

(ii) Archery hunting is permitted for deer (either sex), turkey and hogs for 10 consecutive days beginning the first Friday in October.

(iii) Deer (either sex), turkey and hog hunting using bows and/or muzzleloaders is permitted for three consecutive days beginning the second Friday in November.

(iv) Deer, turkey (bearded only) and hog hunting is permitted for two, three consecutive day hunts beginning the third and fourth Fridays in November.

(vi) A hog-only hunt is permitted for three consecutive days beginning the first Friday in December.

(vii) Hunting of turkey (bearded only) is permitted for 10 consecutive days beginning the fourth Friday in March.

**(6) St. Vincent National Wildlife Refuge.**

(ii) Archery hunting is permitted for three consecutive days beginning on the second Thursday in January.

(iv) A primitive weapons hunt is permitted for three consecutive days beginning on the second Thursday in January.

(ix) Only still and stalk hunting are permitted.

**(i) Georgia—**

(2) Eufaula National Wildlife Refuge. Regulations are the same as paragraph (a)(2) of this section.

**(5) Piedmont National Wildlife Refuge.**



- (ix) Buckshot is prohibited.
- (x) Only persons 12 years of age or older are permitted to hunt.

(o) *Indiana—Muscatatuck National Wildlife Refuge.* \* \* \*

- (1) Permits are required during the second State muzzleloader season. Archery hunting is permitted following the second muzzleloader season.

(r) *Louisiana—(1) Bogue Chitto National Wildlife Refuge.* Hunting of white-tailed deer, turkey and feral hogs is permitted on designated areas of the refuge subject to the following conditions.

- (ii) Feral hogs may be taken during all refuge hunts except during the turkey hunt.

(iii) Bucks-only deer gun hunting is permitted on six consecutive days beginning the fourth Saturday of November and seven consecutive days beginning the fourth Saturday in December.

(2) *Catahoula National Wildlife Refuge.* \* \* \*

- (i) Daily permits are required.
- (ii) Muzzleloader hunting is permitted beginning January 2 through the end of the State muzzleloader season. Bucks only.
- (iii) Checking of bagged game at an official check station is required.
- (iv) Youth gun hunting is permitted the first and second Saturdays of November. Either sex may be taken.
- (v) Only still and stalk hunting are permitted.
- (vi) Feral hogs may be taken during all refuge hunts.

(3) *D'Arbonne National Wildlife Refuge.* Hunting of white-tailed deer and feral hogs is permitted on designated areas of the refuge subject to the following conditions:

- (i) Bucks-only deer hunting is permitted during the first seven days of the State season.

(ii) Either-sex deer hunting is permitted the first day Friday and Saturday following Thanksgiving.

(iii) Feral hogs may be taken during any refuge deer hunt.

(4) *Delta National Wildlife Refuge.* \* \* \*

- (i) Only still and stalk hunting are permitted.

(5) *Lacassine National Wildlife Refuge.* \* \* \*

- (i) Only portable tree stands may be used and must be removed from the refuge after each day's hunt.

(7) *Upper Ouachita National Wildlife Refuge.* Hunting of white-tailed deer and feral hogs is permitted on designated areas of the refuge subject to the following conditions:

- (i) Bucks-only deer hunting is permitted during the first seven days of the State season.

(ii) Either-sex deer hunting is permitted the first Friday and Saturday following Thanksgiving.

(iii) Feral hogs may be taken during any refuge deer hunt.

(8) *Kentucky and Tennessee.* \* \* \*

(5) Archery hunting is permitted for five consecutive days beginning the third Saturday in October.

(v) *Michigan.* \* \* \*

(2) *Seney National Wildlife Refuge.* Hunting of deer and bear is permitted on designated areas of the refuge subject to the following condition: The use of dogs while bear hunting is not permitted.

(3) *Shiawassee National Wildlife Refuge.* Hunting of white-tailed deer is permitted on designated areas of the refuge subjects to the following condition: Permits may be required.

(x) *Mississippi—(1) Bogue Chitto National Wildlife Refuge.* \* \* \*

(ii) Bucks-only deer gun hunting is permitted for six consecutive days beginning the fourth Saturday in November and seven consecutive days beginning on the fourth Saturday in December.

(iii) Either-sex deer gun hunting is permitted for three consecutive days beginning the Friday following Thanksgiving.

(iv) A shotgun only turkey hunt is permitted during the State season.

(2) *Hillside National Wildlife Refuge.* \* \* \*

(ii) Checking of bagged game at an official check station is required.

(iii) General gun deer (either sex) hunting is permitted for two consecutive days beginning the third Tuesday in December.

(iv) Only still and stalk hunting are permitted.

(v) Two muzzleloader hunts are permitted beginning the first and second Tuesday of the State season.

(8) *Panther Swamp National Wildlife Refuge.* \* \* \*

(v) General gun deer hunting (either sex) is permitted the first Saturday of the State season and for three consecutive days beginning the third Thursday of the State season.

(iv) An eight consecutive day bucks-only hunt is permitted beginning the second day of the State season.

(vii) A shotgun only turkey hunt is permitted during the State season.

(viii) Checking of bagged game at an official check station is required.

(7) *Yazoo National Wildlife Refuge.* \* \* \*

(iv) Muzzleloader deer hunting is permitted for five consecutive days beginning the second Tuesday in December.

(v) A general gun hunt is permitted the first day of the State's either-sex season.

(ff) *North Carolina—(1) Alligator River National Wildlife Refuge.* Hunting of white-tailed deer is permitted on designated areas of the refuge subject to the following condition: The use of hunting dogs is permitted on designated areas of the refuge.

(4) *Pee Dee National Wildlife Refuge.* \* \* \*

(ii) Muzzleloader hunting is permitted the Wednesday following the first Saturday in November.

(iv) Archery hunting is permitted during the month of October.

(v) Youth gun hunting is permitted the first Saturday in November. Only persons age 15 or younger are permitted to carry, handle or discharge a firearm.

(vi) Two consecutive day gun hunts are permitted starting the first and second Fridays in November.

\* (ii) *Oregon—(1) Bear Valley National Wildlife Refuge.* Hunting of deer only is permitted on designated areas of the refuge subject to the following conditions:

(i) Hunting opens concurrent with the State season and closes October 31.

(ii) No hunting or public entry of any kind is permitted from November 1 to March 31.

(kk) *South Carolina.* \* \* \*

(3) *Pinckney Island National Wildlife Refuge.* \* \* \*

(ii) Hunting is permitted the third Saturday in November.

(mm) *Tennessee—(1) Chickasaw National Wildlife Refuge.* Hunting of white-tailed deer and turkey is permitted on designated areas of the refuge subject to the following conditions:

(i) State permits for the Upper Anderson-Tully Wildlife Management Area are required for the turkey hunt.

(ii) Muzzleloader, gun and archery deer hunting is permitted in accordance with State regulations for the Upper

Anderson-Tully Wildlife Management Area.

(2) *Cross Creeks National Wildlife Refuge.* \* \* \*

(i) Archery hunting is permitted during the last 14 days of the State archery season.

(ii) Tagging and checking of deer at a State check station is required.

(iii) Permits are required.

(3) *Hatchie National Wildlife Refuge.* \* \* \*

(iii) Firearm deer hunting is permitted during two one-day hunts the third and fourth Saturdays in October. One deer, either sex, may be taken.

(iv) Archery hunting is permitted for the first 16 days of the State season. Two deer, either sex, may be taken.

(v) Turkey hunting is permitted during two of the three-day hunts, beginning the second and fourth Fridays of the State season. One bearded turkey may be taken.

(rr) *Washington*— \* \* \*

(4) *Willapa National Wildlife Refuge.* \* \* \*

(iv) Baiting for bear is prohibited.

§ 32.41 [Amended]

5. Section 32.41 is amended by revising the information collection and OMB approval number table to read as follows:

Type of information collection	OMB approval No.
Economic and Public Use Permits	1010-0014

Dated: August 25, 1986.

William P. Horn,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 86-20168 Filed 9-10-86; 8:45 am]

BILLING CODE 4310-55-M

50 CFR Part 36

**Kenai National Wildlife Refuge;  
Resource Protection Regulations**

AGENCY: Fish and Wildlife Service,  
Interior.

ACTION: Final rule.

**SUMMARY:** The Fish and Wildlife Service (Service) is issuing final regulations for public use and access on the Kenai National Wildlife Refuge (NWR). These rules further define the existing general regulations for the Alaska NWRs and describe the conditions under which public use and recreation, including but not limited to hunting, fishing, trapping,

and camping, will be permitted on the refuge. To protect refuge resources, to promote the safety of refuge users, and to more equitably allocate opportunities to enjoy refuge facilities, these refuge-specific regulations are promulgated pursuant to 50 CFR 36.42 (e) and (g).

**EFFECTIVE DATE:** September 11, 1986.

**FOR FURTHER INFORMATION CONTACT:**

William Knauer at (907) 786-3399; or the Refuge Manager, Kenai National Wildlife Refuge, P.O. Box 2139, Soldotna, Alaska 99669; Telephone (907) 262-7021.

**SUPPLEMENTARY INFORMATION:**

Regulations in this rule supplement and amend the Management Regulations for Alaska National Wildlife Refuges (50 CFR Part 36), published at 46 FR 31827 on June 17, 1981. The rule has been developed in accordance with the public participation and closure procedures for Alaska NWRs described in 50 CFR 36.42. The regulations contained herein supersede the special regulations for Kenai NWR contained in 50 CFR 26.34. Those special regulations were promulgated to protect Alaska refuge resources and to ensure public safety while still allowing traditional activities and recreational use.

Kenai NWR was used by nearly one-half million visitors in 1985, and the number of visitors is increasing. These regulations for access and public use are designed to protect the refuge's fish, wildlife, and habitat resources from the effects of intensive unregulated public use. They will also assist in protecting the health and safety of the many people who use the refuge.

These regulations are consistent with the preferred management alternative in the Kenai NWR Comprehensive Conservation Plan (CCP), for which a Record of Decision was signed on June 27, 1985. A detailed examination of their need is available for review at the refuge headquarters and the regional office (address above). The need for regulations and the appropriateness of these regulations for Kenai NWR will be reviewed on a regular basis and changes will be proposed as necessary both to protect the resources and to reduce any regulatory burden.

Department of the Interior policy is, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. On March 5, 1986, the proposed rule setting out resource protection regulations for Kenai NWR was published in the Federal Register (51 FR 7593), with a 60-day comment period. During that period and after notice in statewide and local newspapers and on local radio, public hearings were held in Soldotna, Homer,

and Anchorage, Alaska. The State of Alaska and one other commenter responded that they felt there was inadequate notification of the meetings, so the Service held an additional hearing in Anchorage.

**Responses to Comments**

During the comment period, 33 letters were received. Substantive comments are outlined and responded to below:

**Issue 1:** A concern was expressed that there was not adequate notification of the public.

**Response:** The Service complied with all regulatory requirements for notification of the public; but because of the above concern, an additional public meeting was held in Anchorage. In the future, direct mailings to interested parties will be utilized to ensure widespread notice.

**Issue 2:** One commenter wished to know why subsistence was not a priority on Kenai NWR.

**Response:** The Alaska National Interest Lands Conservation Act (ANILCA) of 1980 specifically did not include subsistence as a purpose of Kenai NWR; however, the impact of these regulations on subsistence opportunities was examined in the Environmental Assessment and found to have minimal or no effect on subsistence.

**Issue 3:** One commenter suggested that pre-ANILCA lands should be treated differently than lands added by ANILCA when regulating access.

**Response:** ANILCA placed all lands under a single management authority by including them in the Kenai NWR. The regulations on pre-ANILCA lands were promulgated for purposes of resource protection. Since wildlife populations know no boundaries and the habitat conditions on lands added by ANILCA are similar to pre-ANILCA lands, managing the lands separately would not be an effective means of resource protection.

**Issue 4:** Various commenters felt that the proposed rules were overly restrictive on wheeled-aircraft access or conversely, too liberal. Two commenters thought that wheeled-aircraft access should be allowed on Sheep Creek below Glacier Lake near Dingledahl Glacier, along Fox River to Chernof Glacier, an area between Tustumena Lake and Glacier, and an area between Skilak Lake and Glacier.

**Response:** Wheeled-aircraft access on the refuge was prohibited by regulation in 1985; however, there is documented use of wheeled-aircraft along Dingledahl and Wusnesenski Glacier terminus lakes when these areas were



To: Refuge Project Leaders listed below

September 17, 1986

From: <sup>Acting</sup> ARD - Refuges and Wildlife  
Portland, OR (ARW/OPR)

WR/PUM/Hunting/Fishing Regs

Subject: Final Rule Opening <sup>Eighteen</sup> ~~Seventeen~~ Refuges to Hunting and/or Fishing

Attached for your info and files is a copy of subject rule. It was effective on August 28, which was the date of publication in the Federal Register. I suggest you file this rule with your station copy of the Decision Documents initiating the rulemaking.

This rule applies to eight Region 1 refuges as noted below:

Refuge	Type of Opening			
	Mig. Bird	Upland Game	Big Game	Fishing
1. Ash Meadows NWR	x	x		
2. Bandon Marsh NWR	x			x
3. Bear Valley NWR			x	
4. Hanalei NWR				x
5. Johnston Atoll NWR				x
6. Kakahaia NWR				x
7. San Pablo Bay NWR	x	x		
8. Sheldon NWR (Oregon)		x	x	

Of special interest to you should be the Service's responses to written comments on the proposed rule received from several organizations, agencies and individuals.

Questions regarding the final rule should be directed to Staff Specialist Ed Murczek at PTS 429-6173 or Com. (503) 231-6173.

ORIGINAL SIGNED BY  
E. B. CHAMBERLAIN, JR.

Attachment

Addressee list:

Desert NWR  
Western Oregon NWR's  
Klamath Basin NWR's  
PIA (Attn: Jerry Leinecke)  
SF Bay NWR  
Sheldon-Hart Nt. NWR's  
cc: AFA, SE  
ECMurczek/tap

OPENING.ECM.EDGE.ECMIII.

Name	Date
Sheldon	9/18
Sheldon	9/18
Walden	9/17
Fields	9/17
Mangel	9/17/86

<b>Maryland:</b>					
Mourning doves.....	September 1-October 25 and November 15-January 5.	Common moorhens and purple gallinules.....	October 16-January 18.		
Rails.....	September 1-December 16.	Canada and white-fronted geese.....	October 16-January 18.		
Woodcock.....	October 15-January 29.	Snow, blue, and Ross' geese.....	November 1-January 11 and January 24-February 27.		
Snipe.....	October 1-January 15.				
Common moorhens and purple gallinules.....	September 1-December 16.	<b>Oklahoma:</b>			
Ducks, coots, geese.....	Deferred.	Ducks, mergansers and coots.....	October 11-January 16.		
<b>Pennsylvania:</b>		<b>Texas:</b>			
Mourning doves.....	September 1-December 13.	Mourning doves (statewide).....	September 1-November 30 and January 3-January 18.		
<b>Virginia:</b>		Rails, common moorhens and purple gallinules.....	September 1-December 16.		
Woodcock and snipe.....	October 17-January 31.	White-winged doves.....	September 1-November 30 and January 3-January 18.		
Mourning doves and rails.....	September 1-November 30 and December 18-January 3.	<b>Wyoming:</b>			
<b>MISSISSIPPI FLYWAY</b>		Mourning doves.....	September 1-October 15.		
<b>Illinois:</b>		Snipe and rails.....	September 20-November 26.		
Mourning doves, woodcock and rails.....	September 1-December 16.				
Snipe.....	September 13-December 30.	<b>PACIFIC FLYWAY</b>			
Teal.....	September 13-September 21.	<b>Idaho:</b>			
Ducks, mergansers, and coots.....	October 4-January 9.	Ducks.....	October 4-January 11.		
<b>Indiana:</b>		Coots, mergansers and snipe.....	October 4-January 11.		
Woodcock.....	September 1-September 19.	Geese.....	Deferred.		
Mourning doves.....	October 27-November 26.	<b>Montana:</b>			
<b>Iowa:</b>		Mourning doves.....	September 1-October 12.		
Geese.....	October 4-January 7.	<b>New Mexico:</b>			
Ducks.....	September 20-September 30 and October 4-January 7.	Mourning doves and white-winged doves.....	September 1-November 6 and November 22-December 30.		
<b>Michigan:</b>		Band-tailed pigeons.....	September 1-November 30.		
Snipe and rails.....	September 1-December 18.	Ducks, mergansers and coots.....	October 7-January 11.		
Common moorhens, purple gallinules and geese.....	September 1-December 18.	Geese.....	October 5-January 19.		
Ducks and coots.....	October 4-January 18.	Common moorhens and purple gallinules.....	October 7-January 11.		
Geese.....	October 4-January 18.	<b>Oregon:</b>			
<b>Minnesota:</b>		Mourning doves and band-tailed pigeons.....	September 1-December 16.		
Woodcock, snipe, and rails.....	September 1-December 16.	<b>Wyoming:</b>			
Ducks, mergansers, coots, moorhens, purple gallinules and geese.....	Deferred.	Mourning doves.....	September 1-October 15.		
<b>Mississippi:</b>		Snipe and rails.....	September 20-November 26.		
Ducks, mergansers and coots.....	November 1-December 12.				
Mourning doves.....	October 28-October 12 and November 21-December 12.				
<b>Missouri:</b>					
Mourning doves.....	September 1-December 16.				
<b>Wisconsin:</b>					
Rails, woodcock, snipe, common moorhens and purple gallinules.....	September 1-December 16.				
Ducks, mergansers, and coots.....	October 4-January 18.				
<b>CENTRAL FLYWAY</b>					
<b>Montana:</b>					
Mourning doves.....	September 1-October 12.				
<b>Nebraska:</b>					
Ducks, geese, mergansers and coots.....	Deferred.				
<b>New Mexico:</b>					
Mourning doves and white-winged doves.....	September 1-November 6 and November 22-December 30.				
Band-tailed pigeons.....	September 1-November 30.				
Sandhill cranes only in Cheves, Curry, De Baca, Eddy, Lea, Quay, and Roosevelt Counties.....	October 13-January 28.				
Ducks, mergansers and coots.....	October 16-January 18.				

**Note.**—See waterfowl season footnotes for descriptions of zones. For some States, the extended falconry season dates also include general season dates.

Dated: August 22, 1986.

Susan Rocca,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 86-19356 Filed 8-27-86; 8:45 am]

BILLING CODE 4310-55-M

## 50 CFR Parts 32 and 33

### Addition of Seven National Wildlife Refuges to the Lists of Open Areas for Migratory Game Bird Hunting, Upland Game Hunting, Big Game Hunting, and Eleven Refuges for Sport Fishing

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

**ACTION:** Final rule.

**SUMMARY:** The Fish and Wildlife Service (Service) is adding 7 national wildlife refuges (NWR) to the lists of open areas for migratory game bird, upland game, and big game hunting, and 11 refuges for sport fishing. The Secretary of the Interior (Secretary) has determined that this action is in accordance with the provisions of all applicable laws, is consistent with the principles of sound wildlife management, and is otherwise in the public interest. The Secretary has further determined that such uses will be compatible with, and in some cases enhance, the major purposes for which each refuge was established. The hunting of migratory game birds, upland game and big game, and sport fishing will provide additional public recreational opportunities.

**EFFECTIVE DATE:** August 28, 1986.

**FOR FURTHER INFORMATION CONTACT:** James F. Gillett, Division of Refuges, Fish and Wildlife Service, 18th and C Streets, NW., Room 2343, Washington, DC 20240; Telephone (202) 343-4311.

**SUPPLEMENTARY INFORMATION:** National wildlife refuges, other than those in Alaska, are closed to hunting and sport fishing until opened by rulemaking. The Secretary may open refuge areas to hunting or fishing upon a determination that such uses are compatible with the major purposes for which the refuge areas were established, and that funds are available for development, operation, and maintenance of a hunting or fishing program. The action must also be in accordance with provisions of all laws applicable to the areas, must be consistent with the principles of sound wildlife management, and must otherwise be in the public interest.

On May 30, 1986, at 51 FR 19572, the Service published a proposed rule to open 7 refuges to hunting and 11 to sport fishing. Some of the hunting and fishing programs require refuge-specific hunting or fishing regulations, and these regulations were included in a separate rulemaking (51 FR 24178). The policy of the Department of the Interior is, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, written comments received on the proposed rule are addressed in the following section.

#### Responses to Comments Received

Written comments on the proposed rule were received from 19 organizations, agencies, and individuals. Substantive comments on issues not already addressed in hunting and fishing plans, environmental assessments (EA),

and section 7 endangered species analyses (all of which were available for public review during the comment period for the proposed rule) are responded to below:

**Issue:** Hunting on NWRs is illegal under the Refuge Administration Act and Refuge Recreation Act because it is incompatible with the legal responsibilities of the Refuge System to preserve, protect, and enhance wildlife.

**Service Response:** The Refuge Recreation Act states that the Secretary of the Interior is authorized to administer refuges for public recreation. The Refuge Administration Act authorizes the Secretary to permit the use of any area within the Refuge System for any purpose, including hunting. Thus, the Service believes that Congress clearly intended that recreation be an important part of a refuge management program to the extent that it is compatible with the primary purposes of a refuge. The compatibility provision applies to the purposes of individual refuges, not to the purposes of the entire Refuge System. The proposed rule contained a compatibility statement for each refuge where hunting was proposed. The purpose for which each refuge was established, and a brief description of how each hunting program is compatible with these purposes, was discussed. (These statements are also contained in the preamble of this final rule.) The hunting plans, EAs, and section 7 endangered species determinations for each refuge were also available to the public during the 30-day comment period for the proposed rule. The Service believes that these documents contain the necessary data to substantiate the compatibility of the proposed hunting programs, and that the statement that hunting on refuges is illegal is without statutory foundation.

**Issue:** The proposed refuge hunting programs violate the Refuge Recreation Act if their projected costs have not been specifically allocated within refuge budgets because they will take funds away from other refuge programs.

**Service Response:** The Service has determined that sufficient funds are available to manage the proposed refuge hunts without detracting from other refuge programs and that the hunts will only use a small percentage of the annual budgets of the refuges in question. The Refuge Recreation Act does not state that hunting programs cannot use funds that could have been used for other refuge programs. It merely requires that sufficient funding be available for refuge recreation. The allocation of a refuge's budget is made according to an annual work plan,

which includes hunting as well as other refuge programs.

**Issue:** The proposed hunting programs are a violation of the Endangered Species Act.

**Service Response:** When the hunting plans and EAs for the hunting programs were developed, consideration was given to the potential impact upon any endangered or threatened species that might use the refuges involved. For all refuges being opened to hunting in this rule, the Service prepared analyses pursuant to section 7 of the Endangered Species Act. The analyses conclude that none of the proposed hunts is likely to jeopardize endangered or threatened species or interfere with their recovery or conservation. The hunting programs were developed to minimize any potential adverse impacts on endangered and threatened species and, when needed, refuge-specific regulations were proposed to ensure that the hunting programs would not affect threatened or endangered species. The programs will be administered by wildlife professionals who have the responsibility to conserve endangered and threatened species. Service studies of the impact of migratory bird hunting nationwide on endangered species suggest losses of such species are infinitesimal. Since refuge hunting is but a small fraction of total migratory game bird hunting, no impact to endangered species from such hunting is likely.

**Issue:** The Service did not comply with the National Environmental Policy Act (NEPA) because environmental impact statements (EISs) were not prepared for the individual refuge hunting programs.

**Service Response:** EAs were prepared for each proposed hunting program and were available for public review during the comment period. Based upon these EAs, the Service found that no significant environmental impacts would ensue from the Proposed hunting programs. The Service therefore determined that no EISs were required.

**Issue:** The surplus determinations required under 50 CFR 31.1 and 31.2 have not been made.

**Service Response:** 50 CFR Part 31 is limited to recognizing general authority to dispose of surplus wildlife and lists hunting as one method of control and disposition. The Service's procedure for permitting hunting on refuges is set forth in 50 CFR Part 32. This rule involves the policy and regulations in Part 32 which essentially require that hunting be consistent with the principles of sound wildlife management and otherwise be in the public interest.

**Issue:** The proposed hunting programs, because they will be governed

principally by State regulations, will transfer authority to the States, which is illegal under the Refuge Administration Act.

**Service Response:** The regulations governing the proposed hunting programs will not transfer Service authority for managing NWRs. Refuges open to hunting are managed in accordance with the Secretary's authority under the Refuge Administration Act and the Refuge Recreation Act. The Refuge Administration Act requires hunting and fishing regulations on NWRs be consistent with State fish and wildlife laws, to the extent practicable. Moreover, the Act is not intended to affect the authority, jurisdiction, or responsibility of the States to regulate fish and resident wildlife under State law or regulations. Once the Secretary has made the mandated determinations under both of these Acts, it is Department policy to conduct hunting within the framework of State laws and regulations and to impose additional requirements, where necessary, as refuge-specific regulations.

This policy is clearly stated in 50 CFR 32.2(d): "Each person shall comply with the applicable provisions of the laws and regulations of the State wherein any area is located unless further restricted by Federal law or regulations." Under the regulations that will govern these hunts, the Service maintains its authority to enforce all State and Federal game regulations on NWRs.

**Issue:** Hunting on refuges violates the recommendations of the 1979 National Wildlife Refuge System Task Force.

**Service Response:** Task Force recommendations state that hunting is "consistent with the concept of providing habitat in refuges for healthy populations of wildlife and [is] compatible with sound wildlife management principles and practices." The Service feels that its hunting proposals are consistent with this viewpoint.

**Issue:** Some reviewers felt the biological data reported for some of the refuges in question are insufficient, or lacking, and do not justify the need for hunting.

**Service Response:** The Service recognizes hunting as an acceptable, traditional form of wildlife-oriented recreation that can be used as a management tool to effectively manipulate wildlife population levels. The primary objective of refuge hunting programs is to provide the general public with a quality recreational experience and an opportunity to utilize a renewable resource. A less often seen

need is to maintain wildlife populations at levels compatible with refuge habitat. The Service feels that the hunting plans and EAs available for public review during the comment period contain adequate biological information. The Service also endorses the generally held principle that hunting need not be allowed only when wildlife populations are so high that harvest is necessary to protect a species from the impacts of its own excessive numbers. To delay harvesting until populations reach maximum carrying capacity risks habitat damage, disease, and population crashes. Game species in suitable habitat will generate harvestable surpluses which can be taken regularly without impairing desired population trends. Refuge hunting programs are monitored and, if necessary, adjusted to ensure no detriment to desired population trends.

*Issue:* One commenter was concerned that opening Pond Island NWR to sport fishing would interfere with late nesting terns unless the proposed ban on sport fishing were extended from July 31 to August 15, in order to accommodate these late nesters.

*Service Response:* The Service has agreed to extend the date and the ban will now be from the first day of March to August 18.

*Issue:* Opening Ash Meadows to hunting would adversely impact the endangered species because proper management of the program would be lacking.

*Service Response:* The Service has recently increased its management presence at Ash Meadows, and the proposed management of the refuge hunt program during the upcoming season will be sufficient to provide resource protection and regulated public use. Active management of the refuge this summer has resulted in reestablishing water control structures, controlling salt cedar invasions and general cleanup work on the refuge. In carrying out these activities, Service staff have frequently been on site at Ash Meadows and in contact with refuge visitors and local residents. It appears that with the virtual abandonment of Amargosa and the closure of the Borax Mill, visitor use of the area is declining. Incidents of vandalism and habitat abuse have also decreased.

As stated in the proposed rule, the level of participation by hunters is expected to be extremely low. This low level is due largely to reductions in farming practices in the area which previously drew large populations of game birds.

Given the limited hunting demand in the area at the present time, the Service

believes Ash Meadows can support regulated migratory bird and upland game hunting in designated areas of the refuge without impacting other refuge resources. The Service finds no evidence that threatened and endangered species habitat has been altered by traditional hunting activity, or by other casual visitor usage such as bird watching or sightseeing. Rather, activities such as peat mining, agricultural practices, ground water pumping, mining and livestock grazing have been responsible for habitat modification threatening the existence of listed species.

During the hunting season there will be a Service person at the refuge to answer questions and direct people to hunting areas and away from the sensitive areas. State personnel in Pahrump have also agreed to assist in this effort. Waterfowl hunting will only occur at two reservoirs that are not sensitive areas. Horseshoe reservoir will be closed to hunting. Regulatory signs will be posted closing all access around sensitive springs and a general information brochure will be available for the public this fall.

In view of the limited number of hunters anticipated and the proposed management of the hunt program, the Service considers it appropriate to open Ash Meadows to hunting at this time. Controls on access, designated area restrictions, and the presence of Service and State personnel should be sufficient to protect refuge resources during the upcoming hunting season. If it is determined that further measures are warranted to adequately safeguard resources, the hunt program will be modified accordingly.

#### Conformance With Statutory and Regulatory Authorities

The National Wildlife Refuge System Administration Act (NWRSA) of 1966, as amended (16 U.S.C. 668dd), and the Refuge Recreation Act of 1962 (16 U.S.C. 460k) govern the administration and public use of NWRs. Specifically, section 4(d)(1)(A) of the NWRSA authorizes the Secretary to permit the use of any area within the Refuge System for any purpose, including but not limited to hunting, fishing, public recreation and accommodations, and access, when he determines that such uses are compatible with the major purposes for which such areas were established. The compatibility determination for each refuge affected by this rulemaking is discussed below.

The Refuge Recreation Act gives the Secretary additional authority to administer refuge areas within the Refuge System for public recreation as an appropriate incidental or secondary

use only to the extent that it is practicable and not inconsistent with the primary objectives for which the areas were established. In addition, opening refuges to hunting or fishing under the Refuge Recreation Act requires that the Secretary determine that funds be made available for the development, operation, and maintenance of these permitted forms of recreation prior to initiating such uses of refuge areas.

The Secretary has determined that the hunting and fishing openings described below are appropriate in accordance with the NWRSA and the Refuge Recreation Act, and are compatible and consistent with the primary purposes for which each of the refuges listed was established. The hunting and fishing programs are consistent with State and Federal regulatory frameworks. A discussion of the compatibility of the hunting and fishing programs with the purposes for which each refuge was established and the availability of funding for each program, as discussed in the proposed rule, follows:

Ash Meadows NWR was purchased in 1964 to protect the endemic, endangered, and rare plants and animals (primarily fish) from alteration of their terrestrial and aquatic environments [Supplemental Appropriations Act of 1963]. The refuge is currently administered by the Desert NWR Complex, is located in a sparsely populated area and does not attract a large number of visitors. The Service proposes to open the refuge to migratory game bird (waterfowl, mourning dove) and upland game (quail, pheasant, rabbit) hunting. Because of the very limited participation expected in the hunting program and the remote chance of adverse interaction by the hunters with any endangered plant or fish species, hunting would be compatible with refuge purposes. Further, an Endangered Species Act Section 7 consultation concludes that hunting "is not likely to jeopardize" the continued existence of any species listed as threatened or endangered. Opening Ash Meadows NWR to migratory game bird and upland game hunting would thus be in compliance with the NWRSA. The annual cost of the hunting program will be approximately \$9,500. Within the annual Refuge Complex budget of approximately \$387,000, the necessary funds are available for the administration of the hunting program. Therefore, opening Ash Meadows NWR to migratory game bird and upland game hunting would be in compliance with the Refuge Recreation Act.



Bandon Marsh NWR was established in 1983 by authority of the Fish and Wildlife Act of 1956 to protect migratory bird habitat. It is administered by the Western Oregon Refuge Complex. The Service proposes to open the refuge to migratory game bird (waterfowl, snipe, dove, pigeon) hunting and sport fishing. Hunting and fishing pressures will be light because the area, and access to it, are somewhat remote, and most participants would come from the surrounding lowly populated area. Consequently, it is anticipated that these activities would result in only minor trampling of the vegetation which would recover the next growing season. A section 7 consultation concludes that hunting or sport fishing are "not likely to jeopardize" the continued existence of any species listed as threatened or endangered that are using the refuge. These recreational opportunities will not interfere with or distract from the purpose for which the refuge was established, therefore, they would be in compliance with the NWRSA. The annual cost of the hunting and fishing program is estimated at \$2,000. Within the annual Refuge Complex budget of approximately \$430,000, the necessary funds are available for the administration of these hunting and fishing programs. Therefore, opening Bandon Marsh NWR to migratory game bird hunting and sport fishing would be in compliance with the Refuge Recreation Act.

Bear Valley NWR was established in 1978 by authority of the Fish and Wildlife Act of 1956 to protect a major winter roost for bald eagles. The refuge is administered by the Klamath Basin NWR Complex. The Service proposes to open the refuge to deer hunting. The refuge is closed to all public entry from November 1 through March 31, the only period of time eagles use the refuge. The hunt would occur from late August through October and will be regulated (such as vehicle access restrictions and no open fires) to insure that eagle roosting habitat is not jeopardized. A section 7 evaluation concludes that deer hunting "will not affect" the continued existence of the bald eagle. Therefore, opening Bear Valley NWR to deer hunting would be compatible with the purpose for which the refuge was established and would be in compliance with the NWRSA. Refuge administration, operation and maintenance costs are derived from the general tax fund by congressional appropriation. The estimated annual cost of \$2,500 to manage the hunt program would be available from the annual Klamath Basin NWR Complex

budget of approximately \$800,000.

Therefore, opening Bear Valley NWR to deer hunting would be in compliance with the Refuge Recreation Act.

Cedar Island NWR was established in 1964 by authority of the Migratory Bird Conservation Act to preserve migratory waterfowl habitat. It is administered by the Mattamuskeet NWR. The Service proposes to open the refuge to sport fishing which would be limited to fishing from refuge ditch banks, islands and bridges during daylight hours. Because of the restricted locations where fishing would occur, there would be very little or no disturbance to the waterfowl habitat which is salt marsh dominated by *Spartina sp.* A section 7 evaluation states that "no threatened or endangered species exist on the refuge." Opening Cedar Island NWR to sport fishing would therefore be compatible with the purpose for which the refuge was established and would be in compliance with the NWRSA. The estimated annual cost of the fishing program would be approximately \$200. Within the annual Mattamuskeet NWR budget of approximately \$406,000, the necessary funds would be available for the administration of the proposed fishing program. Therefore, opening Cedar Island NWR to sport fishing would be in compliance with the Refuge Recreation Act.

Cedar Point NWR was established in 1964 by authority of the Migratory Bird Conservation Act to protect migratory bird habitat. Sport fishing is proposed for one 15-acre borrow pond and the Cedar Point Bay. It is proposed to open the pond to fishing only during the months of June, July and August when waterfowl use is very low. Access for fishing in the Bay will be limited to boats only thereby minimizing disturbance to shorebirds. A section 7 evaluation concludes that this sport fishing program "will not affect" bald eagles around the area. By selecting only those areas where fishing would cause little disturbance to the migratory birds and their habitat and limiting fishing activities to periods of low waterfowl use, opening Cedar Point NWR to sport fishing would be compatible with the purpose for which the refuge was established and would be in compliance with the NWRSA. The estimated annual cost of administering the program is \$2,800.

Within the annual refuge budget of approximately \$230,000, the necessary funds are available for the administration of the fishing program. Therefore, opening Cedar Point NWR to sport fishing would be in compliance with the Refuge Recreation Act.

Chickasaw NWR was established in 1985 by authority of the Migratory Bird Conservation Act to manage and conserve habitat for migratory birds, but not as an inviolate sanctuary for such (as allowed by the 1978 Improvement Act). The Service proposes to open the refuge to migratory game bird (waterfowl, dove, snipe, woodcock), big game (deer, wild boar and turkey) and upland game (squirrel, rabbit, quail, raccoon, opossum) hunting. Hunting will have a beneficial effect in controlling the abundant game populations that can damage migratory bird habitat due to overpopulation. This is especially true of the deer population which could increase beyond the carrying capacity of the refuge and cause damage to the habitat through over-browsing. Further, in an Intra-Service Section 7 consultation the Region 4 Director concludes that the proposed hunting programs "are not likely to jeopardize the existence of the bald eagle or result in the destruction or adverse modification of its habitat." Opening Chickasaw NWR to migratory game bird, upland game, and big game hunting would be compatible with the purpose for which the refuge was established and would be in compliance with the NWRSA. With an estimated annual cost of \$2,500 to administer the hunting program and an annual budget of \$227,600 to operate the refuge, the necessary funds are available to administer the hunting program. Therefore, opening Chickasaw NWR to migratory game bird, upland and big game hunting would be in compliance with the Refuge Recreation Act.

Eufaula NWR was established in 1964 by authority of the Fish and Wildlife Act of 1956 to provide resting and feeding habitat for waterfowl, in a cooperative agreement with the U.S. Army Corps of Engineers. The Service proposes to open the refuge to deer hunting. Hunting will occur prior to the major arrival of migratory waterfowl in early November. The resultant deer harvest will help control the size of the herd which, if allowed to expand, could destroy the forest habitat and consume crops planted for waterfowl. A section 7 evaluation concludes that the proposed hunting program "will not affect" the bald eagle or American alligator. For these reasons, opening Eufaula NWR to big game hunting would further the purpose for which the refuge was established, and would be in compliance with the NWRSA. The estimated annual cost to administer the hunting program is \$1,000. Within the annual refuge budget of approximately \$193,000, the necessary funds are available to



are otherwise in the public interest in that they will provide recreational opportunities without impairment of the resource. Hunting and fishing plans are developed for each of these programs on a refuge prior to the opening of the refuge to these activities. In some cases, refuge-specific hunting or fishing regulations are included as a part of the hunting or fishing plan to ensure the compatibility of the programs with refuge purposes. Necessary refuge-specific regulations are included in a separate rulemaking document on refuge-specific hunting/fishing regulations.

It is also the intent of this rulemaking to make some technical corrections. One is to update an obsolete citation in § 32.1 for the Administrative Procedure Act. Another is to update a name change for Barnegat and Brigantine NWRs to Edwin B. Forsythe NWR in §§ 32.11 and 33.4; and for Charles Sheldon Antelope Range to Sheldon NWR in §§ 32.21 and 32.31. And yet another is to update the list of Alaska refuges which was made obsolete by the Alaska National Interest Lands Conservation Act of 1980. This Act changed some names and added more refuges to the list.

#### Economic Effect

Executive Order 12291, "Federal Regulation," of February 17, 1981, requires the preparation of regulatory impact analyses for major rules. A major rule is one likely to result in an annual effect on the economy of \$100 million or more; a major increase in costs or prices for consumers, individual industries, government agencies or geographic regions; or significant adverse effects on the ability of United States-based enterprises to compete with foreign-based enterprises. The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) further requires the preparation of flexibility analyses for rules that will have a significant effect on a substantial number of small entities, which include small businesses, organizations, and governmental jurisdictions.

It is estimated that the opening of these refuges to hunting and fishing will generate approximately 42,666 annual visits. Using data from the 1980 National Survey of Hunting, Fishing, and Wildlife-Associated Recreation, total annual receipts generated from purchases of food, transportation, hunting equipment, fishing gear, fees, and licenses associated with these programs are expected to be approximately \$975,706, or substantially less than \$100 million. In addition, since these estimated receipts will be spread over 12 states, the implementation of this rule should not have a significant

economic impact on the overall economy of a particular region, industry or group of industries, or level of government.

With respect to small entities, this rule will have a positive aggregate economic effect on small businesses, organizations, and governmental jurisdictions. The refuge openings will provide recreational opportunities and generate economic benefits that will not otherwise exist, and will impose no new costs on small entities. While the number of small entities likely to be effected is not known, the number is judged to be small. Moreover, the added cost to the Federal government of law enforcement, posting, etc., needed to implement activities under this rule will be less than the income generated from the implementation of these hunting and/or sport fishing programs. Accordingly, the Department of the Interior has determined that this rule is not a "major rule" within the meaning of Executive Order 12291 and will not have a significant economic effect on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

#### Paperwork Reduction Act

The Service has approval from the Office of Management and Budget (OMB) for the information collection requirements of these regulations pursuant to the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). These requirements are presently approved by OMB as cited below:

Type of information collection	OMB Approval No.
Economic and public use permits.....	1016-0014

These regulations impose no new reporting or recordkeeping requirements that must be cleared by OMB.

#### Environmental Considerations

The "Final Environmental Statement for the Operation of the National Wildlife Refuge System" [FES 76-59] was filed with the Council on Environmental Quality on November 12, 1976; a notice of availability was published in the Federal Register on November 19, 1976 (41 FR 51131). Pursuant to the requirements of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)), environmental assessments were prepared for these refuge openings. Based upon the EAs, the Service issued Findings of No Significant Impact with respect to the openings. Section 7 evaluations were prepared, where

appropriate, pursuant to the Endangered Species Act.

In view of the rapidly approaching hunting seasons, there is an immediate need to place these regulations into effect. Most State hunting seasons begin about September 1. It is Service policy to conduct hunting within the framework of State laws, regulations and seasons. To delay opening the refuges to hunting may cause confusion to the public, deny a benefit to the public and small related businesses and would not be in the best interest of the Service or the public. Thus the Department of the Interior concludes that good cause exists within the meaning of 5 U.S.C. 553(d)(3) of the Administrative Procedures Act to make these regulations effective upon publication in the Federal Register.

Nancy A. Marx, Division of Refuges, Fish and Wildlife Service, Washington, D.C., is the primary author of this rulemaking document.

#### List of Subjects

50 CFR Part 32

Hunting, National Wildlife Refuge System, Wildlife, Wildlife refuges.

50 CFR Part 33

Fishing, National Wildlife Refuge System, Wildlife refuges.

Accordingly, Parts 32 and 33, Subchapter C, Chapter I of Title 50 of the Code of Federal Regulations are amended as set forth below:

#### PART 32—(AMENDED)

1. The authority citation for Part 32 is revised to read as follows and the authority citation following § 32.41 is removed.

Authority: 5 U.S.C. 301; 16 U.S.C. 480k, 664, 666dd, 660d, 715i, 718d, 725; 44 U.S.C. 3501 *et seq.*

2. The citation for the Administrative Procedure Act in § 32.1 is revised to read as follows: " (5 U.S.C. 553)"

3. Section 32.11 is amended by revising the entry for Alaska; by removing the Barnegat and Brigantine NWRs, NJ; and by adding San Bernardino NWR, AZ, San Pablo Bay NWR, CA, Ash Meadows NWR, NV, Edwin B. Forsythe NWR, NJ, Bandon Marsh NWR, OR, and Chickasaw NWR, TN, alphabetically by State as follows:

§ 32.11 List of open areas; migratory game birds.

• • • • •

#### Alaska

Alaska Maritime National Wildlife Refuge  
Alaska Peninsula National Wildlife Refuge

Arctic National Wildlife Refuge  
 Becharof National Wildlife Refuge  
 Innoko National Wildlife Refuge  
 Izembek National Wildlife Refuge  
 Kanuti National Wildlife Refuge  
 Kenai National Wildlife Refuge  
 Kodiak National Wildlife Refuge  
 Koyukuk National Wildlife Refuge  
 Nowitna National Wildlife Refuge  
 Selawik National Wildlife Refuge  
 Tetlin National Wildlife Refuge  
 Togiak National Wildlife Refuge  
 Yukon Delta National Wildlife Refuge  
 Yukon Flats National Wildlife Refuge  
 . . . . .

#### Arizona

San Bernardino National Wildlife Refuge  
 . . . . .

#### California

San Pablo Bay National Wildlife Refuge  
 . . . . .

#### Nevada

Ash Meadows National Wildlife Refuge  
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#### New Jersey

Edwin B. Forsythe National Wildlife Refuge  
 . . . . .

#### Oregon

Bandon Marsh National Wildlife Refuge  
 . . . . .

#### Tennessee

Chickasaw National Wildlife Refuge  
 . . . . .

4. Section 32.21 is amended by revising the entry for Alaska; by removing the Charles Sheldon Antelope Range, OR; and by adding San Bernardino NWR, AZ, San Pablo Bay NWR, CA, Ash Meadows NWR, NV, Sheldon National Wildlife Refuge, OR, and Chickasaw NWR, TN, alphabetically by State as follows:

§ 32.21 List of open areas; upland game.  
 . . . . .

#### Alaska

Alaska Maritime National Wildlife Refuge  
 Alaska Peninsula National Wildlife Refuge  
 Arctic National Wildlife Refuge  
 Becharof National Wildlife Refuge  
 Innoko National Wildlife Refuge  
 Izembek National Wildlife Refuge  
 Kanuti National Wildlife Refuge  
 Kenai National Wildlife Refuge  
 Kodiak National Wildlife Refuge  
 Koyukuk National Wildlife Refuge  
 Nowitna National Wildlife Refuge  
 Selawik National Wildlife Refuge  
 Tetlin National Wildlife Refuge  
 Togiak National Wildlife Refuge  
 Yukon Delta National Wildlife Refuge  
 Yukon Flats National Wildlife Refuge  
 . . . . .

#### Arizona

San Bernardino National Wildlife Refuge  
 . . . . .

#### California

San Pablo Bay National Wildlife Refuge  
 . . . . .

#### Nevada

Ash Meadows National Wildlife Refuge  
 . . . . .

#### Oregon

Sheldon National Wildlife Refuge  
 . . . . .

#### Tennessee

Chickasaw National Wildlife Refuge  
 . . . . .

5. Section 32.31 is amended by revising the entry for Alaska; by removing the Charles Sheldon Antelope Range, OR; and by adding Eufaula NWR, GA, Bear Valley and Sheldon NWRs, OR, and Chickasaw NWR, TN, alphabetically by State as follows:

§ 32.31 List of open areas; big game.  
 . . . . .

#### Alaska

Alaska Maritime National Wildlife Refuge  
 Alaska Peninsula National Wildlife Refuge  
 Arctic National Wildlife Refuge  
 Becharof National Wildlife Refuge  
 Innoko National Wildlife Refuge  
 Izembek National Wildlife Refuge  
 Kanuti National Wildlife Refuge  
 Kenai National Wildlife Refuge  
 Kodiak National Wildlife Refuge  
 Koyukuk National Wildlife Refuge  
 Nowitna National Wildlife Refuge  
 Selawik National Wildlife Refuge  
 Tetlin National Wildlife Refuge  
 Togiak National Wildlife Refuge  
 Yukon Delta National Wildlife Refuge  
 Yukon Flats National Wildlife Refuge  
 . . . . .

#### Georgia

Eufaula National Wildlife Refuge  
 . . . . .

#### Oregon

Bear Valley National Wildlife Refuge  
 . . . . .  
 Sheldon National Wildlife Refuge  
 . . . . .

#### Tennessee

Chickasaw National Wildlife Refuge  
 . . . . .

6. The authority citation for Part 33 is revised as follows and the authority citation following § 33.4 is removed.

Authority: 5 U.S.C. 301; 16 U.S.C. 669k, 694, 698dd, 699d, 715a, 716d, 726; 44 U.S.C. 350a et seq.

7. Section 33.4 is amended by revising the entry for Alaska; by removing

Brigantine NWR, NJ; and by adding Prime Hook NWR, DE, Hanalei and Kakahaia NWRs, HI, Pond Island NWR, ME, Nantucket NWR, MA, Edwin B. Forsythe NWR, NJ, Cedar Island and Swanquarter NWRs, NC, Cedar Point and Ottawa NWRs, OH, and Bandon Marsh NWR, OR, alphabetically by State except Johnston Atoll NWR, Pacific Islands Territory which is inserted after Wyoming State to read as follows:

§ 33.4 List of open areas; sport fishing.  
 . . . . .

#### Alaska

Alaska Maritime National Wildlife Refuge  
 Alaska Peninsula National Wildlife Refuge  
 Arctic National Wildlife Refuge  
 Becharof National Wildlife Refuge  
 Innoko National Wildlife Refuge  
 Izembek National Wildlife Refuge  
 Kanuti National Wildlife Refuge  
 Kenai National Wildlife Refuge  
 Kodiak National Wildlife Refuge  
 Koyukuk National Wildlife Refuge  
 Nowitna National Wildlife Refuge  
 Selawik National Wildlife Refuge  
 Tetlin National Wildlife Refuge  
 Togiak National Wildlife Refuge  
 Yukon Delta National Wildlife Refuge  
 Yukon Flats National Wildlife Refuge  
 . . . . .

#### Delaware

Prime Hook National Wildlife Refuge  
 . . . . .

#### Hawaii

Hanalei National Wildlife Refuge  
 Kakahaia National Wildlife Refuge  
 . . . . .

#### Maine

Pond Island National Wildlife Refuge  
 . . . . .

#### Massachusetts

Nantucket National Wildlife Refuge  
 . . . . .

#### New Jersey

Edwin B. Forsythe National Wildlife Refuge  
 . . . . .

#### North Carolina

Cedar Island National Wildlife Refuge  
 Swanquarter National Wildlife Refuge  
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#### Ohio

Cedar Point National Wildlife Refuge  
 Ottawa National Wildlife Refuge  
 . . . . .

#### Oregon

. . . . .

Bandon Marsh National Wildlife Refuge  
• • • • •

Pacific Islands Territory

Johnston Atoll National Wildlife Refuge  
• • • • •

Dated: August 14, 1986.

P. Daniel Smith,

*Acting Assistant Secretary for Fish and  
Wildlife and Parks.*

[FR Doc. 86-19488 Filed 8-27-86; 8:45 am]

BILLING CODE 4310-06-M

## DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric  
Administration

50 CFR Part 672

[Docket No. 80597-8097]

Foreign Fishing; Groundfish of the Gulf  
of Alaska

AGENCY: National Marine Fisheries  
Service (NMFS), NOAA, Commerce.

ACTION: Emergency interim rule;  
extension of effective date.

**SUMMARY:** The Secretary of Commerce extends through November 30, 1986, an emergency rule amending regulations implementing the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) in effect through September 2, 1986. This extension is necessary to allow the Secretary (1) to close a regulatory area or district of the Gulf of Alaska to direct fishing for sablefish by a specific gear type prior to achievement of the share of the sablefish OY that has been allocated to that gear type, thereby providing for a bycatch, and (2) to allow continued fishing for other groundfish species in a regulatory area or district when the OY of any groundfish species has been reached, if the Regional Director determines that the resulting mortality inflicted on the species for which the OY had been reached would not constitute over fishing. The intended effect is to promote the full utilization of all groundfish species without biological harm to any one species and without inhibiting the development of fisheries that are dependent on sablefish and other groundfish species.

**EFFECTIVE DATE:** September 2, 1986 through November 30, 1986.

**FOR FURTHER INFORMATION CONTACT:** Ronald J. Berg, Fishery Management Biologist, NMFS, 907-586-7220.

**SUPPLEMENTARY INFORMATION:** Under section 305(a) of the Magnuson Fishery Conservation and Management Act (Magnuson Act), the Secretary issued an

emergency rule effective on June 3, 1986 (51 FR 20659, June 6, 1986) to allow closures as summarized above. The reasons for these actions, which are discussed in the preamble to the emergency rule, still continue and are not repeated here.

When the North Pacific Fishery Management Council voted for the species-specific fishery closures that authorize closure of the directed fishery for sablefish by any legal gear type prior to reaching its share of the OY and retaining a portion of the sablefish OY for bycatch to support groundfish fishing for other species with that gear type, it based its decision on the amount of fishing that would be conducted on available stocks for the entire 1986 fishing year. The Council's action is affirmation that this emergency rule be extended through November 30, 1986, under section 305(e)(3)(B) of the Magnuson Act.

The emergency rule is exempt from the normal review procedures of Executive Order 12291 as provided in section 8(a)(1) of that Order. This rule is being reported to the Director of the Office of Management and Budget, with an explanation of why it is not possible to follow the procedures of that Order. (16 U.S.C. 1801 *et seq.*)

List of Subjects in 50 CFR Part 672

Fisheries, Reporting requirements.

Dated: August 25, 1986.

Carmen J. Bloodin,

*Deputy Assistant Administrator for Fisheries  
Resource Management, National Marine  
Fisheries Service.*

[FR Doc. 86-19478 Filed 8-25-86; 11:28 am]

BILLING CODE 2510-27-M

50 CFR Part 654

[Docket No. 60603-6144]

Stone Crab Fishery of the Gulf of  
Mexico

AGENCY: National Marine Fisheries  
Service (NMFS), NOAA, Commerce.

ACTION: Final rule.

**SUMMARY:** NOAA issues this final rule to implement conservation and management measures as prescribed in Amendment 3 to the Fishery Management Plan for the Stone Crab Fishery of the Gulf of Mexico (FMP). This final rule provides for measures designed (1) to increase the survival rate of declawed crabs and of the eggs of egg-bearing females, (2) to allow for a hardship extension for removal of traps, and (3) to delete the FMP reporting

requirement. The intended effect is to increase productivity of the stock and to remove unnecessary reporting burdens from persons in the fishery.

**EFFECTIVE DATE:** September 25, 1986.

**ADDRESS:** Copies of the final supplemental regulatory impact review/regulatory flexibility analysis are available from Donald W. Geagan, Southeast Region, National Marine Fisheries Service, 9450 Koger Boulevard, St. Petersburg, FL 33702.

**FOR FURTHER INFORMATION CONTACT:** Donald W. Geagan, 813-893-3722.

**SUPPLEMENTARY INFORMATION:** The FMP was developed by the Gulf of Mexico Fishery Management Council (Council) under the authority of the Magnuson Fishery Conservation and Management Act (Magnuson Act) and is implemented by regulations appearing at 50 CFR Part 654. This final rule implements Amendment 3 to the FMP.

The FMP manages the stone crab fishery in the fishery conservation zone of the Gulf of Mexico off Florida. The final rule applies only to this area. The preamble to the proposed rule (51 FR 21001, June 18, 1986) contained a description and discussion of the measures implemented by this rule (i.e., maintaining stored crabs in a damp and uncompresssed condition; prohibiting declawing of egg-bearing female crabs; providing for a 10-day hardship extension for removal of traps from the water; and deletion of the requirement of mandatory reporting).

### Comments

No comments were received on the proposed rule.

### Changes From the Proposed Rule

In § 654.6, a new paragraph (a)(23) is added to aid in enforcement of the 10-day hardship extension period for removal of stone crab traps from the water.

In § 654.22, paragraph (a)(2) is modified to aid in enforcement of the 10-day hardship extension period for removal of stone crab traps from the water.

### Classification

The Regional Director determined that the amendment is necessary for the conservation and management of the stone crab fishery and that it is consistent with the Magnuson Act and other applicable law.

The Council prepared an environmental assessment (EA) for this amendment and concluded that there will be no significant impact on the environment as a result of this rule. You