

DEPARTMENT OF THE INTERIOR**Fish and Wildlife Service****50 CFR Part 32**

[FWS-R9-WSR-2008-0017; 93270-1265-0000-4A]

RIN 1018-AV20

2008-2009 Refuge-Specific Hunting and Sport Fishing Regulations (Additions)**AGENCY:** Fish and Wildlife Service, Interior.**ACTION:** Proposed rule.

SUMMARY: The Fish and Wildlife Service proposes to add one refuge to the list of areas open for hunting and/or sport fishing programs and increase the activities available at six other refuges for the 2008-2009 season.

DATES: Your comments must be postmarked on or before July 11, 2008.

ADDRESSES: You may submit comments by one of the following methods:

○ *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

○ *U.S. mail or hand delivery:* Public Comments Processing, Attn: RIN 1018-AV20; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, Suite 222; Arlington, VA 22203.

We will not accept e-mail or faxes. We will post all comments on <http://www.regulations.gov>. This generally means that we will post any personal information you provide us (see the Public Comments section below for more information). For information on specific refuges' public use programs and the conditions that apply to them or for copies of compatibility determinations for any refuge(s), contact individual programs at the addresses/ phone numbers given in "Available Information for Specific Refuges" under **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT:

Leslie A. Marler, Management Analyst, Division of Conservation Planning and Policy, U.S. Fish and Wildlife Service, 4401 N. Fairfax Drive, Suite 670, Arlington, VA 22203; (703) 358-2397; Fax (703) 358-2248.

SUPPLEMENTARY INFORMATION: The National Wildlife Refuge System Administration Act of 1966 closes national wildlife refuges in all States except Alaska to all uses until opened. The Secretary of the Interior (Secretary) may open refuge areas to any use, including hunting and/or sport fishing, upon a determination that such uses are

compatible with the purposes of the refuge and National Wildlife Refuge System (Refuge System or our/we) mission. The action also must be in accordance with provisions of all laws applicable to the areas, developed in coordination with the appropriate State fish and wildlife agency(ies), consistent with the principles of sound fish and wildlife management and administration, and otherwise in the public interest. These requirements ensure that we maintain the biological integrity, diversity, and environmental health of the Refuge System for the benefit of present and future generations of Americans.

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

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

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

On many refuges where we decide to allow hunting and sport fishing, our general policy of adopting regulations identical to State hunting and sport fishing regulations is adequate in meeting these objectives. On other refuges, we must supplement State regulations with more-restrictive Federal regulations to ensure that we meet our management responsibilities, as outlined in the "Statutory Authority" section. We issue refuge-specific hunting and sport fishing regulations when we open wildlife refuges to migratory game bird hunting, upland game hunting, big game hunting, or sport fishing. These regulations list the wildlife species that you may hunt or fish, along with seasons, bag or creel limits, methods of hunting or sport fishing, descriptions of areas open to hunting or sport fishing, and other

provisions as appropriate. You may find previously issued refuge-specific regulations for hunting and sport fishing in 50 CFR part 32. In this rulemaking, we are also proposing to standardize and clarify the language of existing regulations.

Plain Language Mandate

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

Statutory Authority*The National Wildlife Refuge System Administration Act of 1966*

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

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

when compatible, as the priority general public uses of the Refuge System. These uses are: Hunting, fishing, wildlife observation and photography, and environmental education and interpretation.

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

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

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

New Hunting and Sport Fishing Programs

In preparation for new openings, we prepare and approve, at the appropriate Regional Office and in Washington, documentation of National Environmental Policy Act (NEPA) and the Endangered Species Act; and we consult with the State and, where appropriate, Tribal wildlife management agency. The Regional Director(s) certify that the opening of these refuges to hunting and/or sport fishing has been found to be compatible with the purpose(s) for which the respective refuge(s) were established and the Refuge System mission. Copies of the compatibility determinations for these respective refuges are available by request to the Regional office noted under the heading "Available Information for Specific Refuges."

The annotated chart below summarizes our proposed changes. The key below the chart explains the symbols used:

TABLE 1.—CHANGES FOR 2008–2009 HUNTING/FISHING

| National wildlife refuge | State | Migratory bird hunting | Upland hunting | Big game hunting | Fishing |
|--------------------------|----------|----------------------------|----------------|----------------------------|-----------------------|
| Agassiz | MN | B | B | Previously published. | |
| Hamden Slough | MN | A | | A. | |
| Blackwater | MD | B | B | Previously published | Previously published. |
| Whittlesey Creek | WI | Previously published | | B. | |
| Tensas River | LA | D | D | D | Previously published. |
| Upper Ouachita | LA | D | D | C/D | D. |

- A = Refuge added and activities opened.
- B = Refuge already listed; added hunt category.
- C = Refuge already listed; added species to hunt category.
- D = Refuge already listed and opened to this activity; added land.

We are adding one refuge to the list of areas open for hunting and/or sport fishing and increasing opportunities at six refuges. We proposed these same changes in the 2006–2007 refuge-specific regulations (71 FR 41864, July 24, 2006) but did not finalize them. We are repropounding these changes with this rulemaking. We have made significant changes to the analysis of impacts under the requirements of the National Environmental Policy Act (NEPA) to address inadequacies in our "opening" process found by Judge Ricardo Urbina in his ruling in *The Fund for Animals v. Dale Hall*, 448 F. Supp. 2d.127, August 31, 2006. We believe that our new NEPA analysis satisfies our legal requirements. Due to the delays experienced because of the lawsuit, no rulemakings were published for the 2007–2008 season.

Bayou Cocodrie National Wildlife Refuge in the State of Louisiana added new lands available to all existing

opportunities, but this did not result in any regulatory changes.

We are removing Stillwater Wildlife Management Area in the State of Nevada from the list of refuges in 50 CFR part 32. The Bureau of Reclamation holds primary jurisdiction over these lands by virtue of a public lands withdrawal for drainage for the 1902 Newlands Reclamation Project. The 1948 Tripartite Agreement with the Service, Nevada Board of Fish and Game Commissioners (Nevada), and the Truckee-Carson Irrigation District (Truckee-Carson) expired and has not been renewed.

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

Fish Advisory

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

Request for Comments

You may comment and send materials on this proposed rule by any one of the methods listed in the **ADDRESSES** section. We will not accept comments sent by e-mail or fax or to an address not listed in the **ADDRESSES** section. We will not accept anonymous comments; your comment must include your first and last name, city, State, country, and postal (zip) code. Finally, we will not consider hand-delivered comments that we do not receive, or mailed comments that are not postmarked, by the date specified in the **DATES** section.

We will post your entire comment—including your personal identifying information—on <http://www.regulations.gov>. If you provide personal identifying information in addition to the required items specified in the previous paragraph, such as your street address, phone number, or e-mail address, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so.

Comments and materials we receive, as well as supporting documentation we used in preparing this proposed rule, will be available for public inspection on <http://www.regulations.gov>, or by appointment, during normal business hours, at the U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, Suite 670; Arlington, Virginia 22203; (703) 358-2397.

Public Comment

Department of the Interior policy is, whenever practicable, to afford the public a meaningful opportunity to participate in the rulemaking process. The process of opening refuges is done in stages, with the fundamental work being performed on the ground at the refuge and in the community where the program is administered. In these stages, the public is given other opportunities to comment, for example, on the comprehensive conservation plans, compatibility determinations, and environmental assessments. The second stage is this document, when we publish the proposed rule in the **Federal Register** for additional comment, commonly a 30-day comment period.

We make every attempt to collect all of the proposals from the refuges nationwide and process them expeditiously to maximize the time available for public review. We believe that a 30-day comment period, through the broader publication following the earlier public involvement, gives the public sufficient time to comment and allows us to establish hunting and fishing programs in time for the upcoming seasons. Many of these rules also relieve restrictions and allow the public to participate in recreational activities on a number of refuges. In addition, in order to continue to provide for previously authorized hunting opportunities while at the same time providing for adequate resource protection, we must be timely in providing modifications to certain hunting programs on some refuges.

We considered providing a 60-day, rather than a 30-day, comment period. However, we feel, in conjunction with previous comment periods on other

aspects of this process (comprehensive conservation plans, compatibility determinations, environmental assessments) that 30 days is adequate for public comment. Any additional delay would hinder the effective planning and administration of our hunting and fishing programs.

Even after issuance of a final rule, we accept comments, suggestions, and concerns for consideration for any appropriate subsequent rulemaking.

When finalized, we will incorporate these regulations into 50 CFR part 32. Part 32 contains general provisions and refuge-specific regulations for hunting and sport fishing on refuges.

Clarity of This Rule

Executive Order (E.O.) 12866 requires each agency to write regulations that are easy to understand. We invite your comments on how to make this proposed rule easier to understand, including answers to questions such as the following: (1) Are the requirements in the rule clearly stated? (2) Does the rule contain technical language or jargon that interferes with its clarity? (3) Does the format of the rule (e.g., grouping and order of sections, use of headings, paragraphing) aid or reduce its clarity? (4) Would the rule be easier to understand if it were divided into more (but shorter) sections? (5) Is the description of the rule in the **SUPPLEMENTARY INFORMATION** section of the preamble helpful in understanding the rule? (6) What else could we do to make the proposed rule easier to understand? Send a copy of any comments on how we could make this proposed rule easier to understand to: Office of Regulatory Affairs, Department of the Interior, Room 7229, 1849 C Street, NW., Washington, DC 20240. You may e-mail your comments to: Execsec@ios.doi.gov.

Regulatory Planning and Review

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

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

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

(c) Whether the rule will materially affect entitlements, grants, use fees, loan

programs, or the rights and obligations of their recipients.

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

Regulatory Flexibility Act

Under the Regulatory Flexibility Act (as amended by the Small Business Regulatory Enforcement Fairness Act [SBREFA] of 1996) (5 U.S.C. 601 *et seq.*), whenever a Federal agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (i.e., small businesses, small organizations, and small government jurisdictions). However, no regulatory flexibility analysis is required if the head of an agency certifies that the rule would not have a significant economic impact on a substantial number of small entities. Thus, for a regulatory flexibility analysis to be required, impacts must exceed a threshold for "significant impact" and a threshold for a "substantial number of small entities." See 5 U.S.C. 605(b). SBREFA amended the Regulatory Flexibility Act to require Federal agencies to provide a statement of the factual basis for certifying that a rule would not have a significant economic impact on a substantial number of small entities.

This proposed rule does not increase the number of recreation types allowed on the System but establishes a hunting program on one refuge and expands activities at six other refuges. As a result, opportunities for wildlife-dependent recreation on national wildlife refuges will increase. The changes in the number of allowed use(s) are likely to increase visitor activity on these national wildlife refuges. Recreational user days are expected to increase by 475 fishing days and 8,352 hunting days. However, this is likely to be a substitute site for the activity and not necessarily an overall increase in participation rates for the activity.

New recreational user days generate expenditures associated with recreational activities on refuges' wilderness areas. Due to the unavailability of site-specific expenditure data, we use the national estimates from the 2001 National Survey of Fishing, Hunting, and Wildlife Associated Recreation to identify expenditures for food and lodging, transportation, and other incidental expenses. Using the average expenditures for these categories with the maximum expected additional participation on the Refuge System yields approximately \$68,700 in fishing-

related expenditures and \$831,300 in hunting-related expenditures.

By having ripple effects throughout the economy, these direct expenditures are only part of the economic impact of recreational user days. Using a national impact multiplier for hunting activities (2.73) derived from the report "Economic Importance of Hunting in America" and a national impact multiplier for sportfishing activities (2.79) from the report "Sportfishing in America" for the estimated increase in direct expenditures yields a total economic impact of approximately \$2.4 million (2006 dollars) (Southwick Associates, Inc., 2003). (Using a local impact multiplier would yield more accurate and smaller results. However, we employed the national impact multiplier due to the difficulty in developing local multipliers for each specific region.)

Since most of the fishing and hunting occurs within 100 miles of a participant's residence, it is unlikely that most of this spending would be "new" money coming into a local economy; therefore, this spending would be offset with a decrease in some other sector of the local economy. The net gain to the local economies would be no more than \$2.5 million, and most likely considerably less. Since 80 percent of the participants travel fewer than 100 miles to engage in hunting and fishing activities, their spending patterns would not add new money into the local economy and, therefore, the real impact would be on the order of \$488,000 annually.

To the extent visitors spend time and money in the area of the refuge that they would not have spent there anyway, they contribute new income to the regional economy and benefit local businesses. Many small businesses

within the retail trade industry (such as hotels, gas stations, taxidermy shops, bait and tackle shops) may benefit from some increased refuge visitation. A large percentage of these retail trade establishments in the majority of affected counties qualify as small businesses (Table 2).

We expect that the incremental recreational opportunities will be scattered, and so we do not expect that the rule will have a significant economic effect (benefit) on a substantial number of small entities in any region or nationally. Using the estimate derived in the *Regulatory Planning and Review* section, we expect approximately \$488,000 to be spent in total in the refuges' local economies. The maximum increase (\$2.4 million if all spending were new money) at most would be less than 1 percent for local retail trade spending (Table 2).

TABLE 2.—COMPARATIVE EXPENDITURES FOR RETAIL TRADE ASSOCIATED WITH ADDITIONAL REFUGE VISITATION FOR 2008–2009

[2005 dollars in thousands]

| Refuge/county(ies) | Retail trade in 2002 | Estimated maximum addition from new activities | Addition as a % of total | Total number retail establish. | Establish. with < 10 emp. |
|----------------------|----------------------|--|--------------------------|--------------------------------|---------------------------|
| Agassiz: | | | | | |
| Marshall, MN | \$80,352 | \$4 | 0.005 | 43 | 35 |
| Hamden Slough: | | | | | |
| Becker, MN | 351,508 | 16 | 0.005 | 159 | 117 |
| Blackwater: | | | | | |
| Dorchester, MD | 259,667 | 48 | 0.018 | 123 | 91 |
| Whittlesey Creek: | | | | | |
| Ashland, WI | 185,394 | 2 | 0.001 | 94 | 70 |
| Bayou Cocodrie: | | | | | |
| Concordia, LA | 135,975 | 63 | 0.047 | 82 | 60 |
| Tensas River: | | | | | |
| Franklin, LA | 205,637 | 53 | 0.026 | 83 | 63 |
| Madison, LA | 78,207 | 53 | 0.068 | 42 | 31 |
| Tensas, LA | 23,931 | 53 | 0.222 | 26 | 22 |
| Upper Ouachita | | | | | |
| Morehouse, LA | 231,753 | 76 | 0.033 | 115 | 91 |
| Union, LA | 127,496 | 76 | 0.059 | 70 | 57 |

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

Small Business Regulatory Enforcement Fairness Act

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

a. Would not have an annual effect on the economy of \$100 million or more. The additional fishing and hunting opportunities at these refuges would generate angler and hunter expenditures with an economic impact estimated at \$2.4 million per year (2006 dollars). Consequently, the maximum benefit of this rule for businesses both small and

large would not be sufficient to make this a major rule. The impact would be scattered across the country and would most likely not be significant in any local area.

b. Would not cause a major increase in costs or prices for consumers; individual industries; Federal, State, or local government agencies; or geographic regions. This proposed rule would have only a slight effect on the costs of hunting and fishing opportunities for Americans. Under the assumption that any additional hunting and fishing opportunities would be of high quality, participants would be attracted to the refuge. If the refuge were

closer to the participants' residences, then a reduction in travel costs would occur and benefit the participants. The Service does not have information to quantify this reduction in travel cost but assumes that, since most people travel less than 100 miles to hunt and fish, the reduced travel cost would be small for the additional days of hunting and fishing generated by this proposed rule. We do not expect this proposed rule to affect the supply or demand for fishing and hunting opportunities in the United States and, therefore, it should not affect prices for fishing and hunting equipment and supplies, or the retailers that sell equipment. Additional refuge hunting and fishing opportunities would account for less than 0.001 percent of the available opportunities in the United States.

c. Would not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises. This proposed rule represents only a small proportion of recreational spending of a small number of affected anglers and hunters, approximately a maximum of \$2.4 million annually in impact. Therefore, this rule would have no measurable economic effect on the wildlife-dependent industry, which has annual sales of equipment and travel expenditures of \$72 billion nationwide. Refuges that establish hunting and fishing programs may hire additional staff from the local community to assist with the programs, but this would not be a significant increase because we are opening only one refuge to hunting and only six refuges are increasing activities by this proposed rule.

Unfunded Mandates Reform Act

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

Takings (E.O. 12630)

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

Federalism (E.O. 13132)

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

Civil Justice Reform (E.O. 12988)

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

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

On May 18, 2001, the President issued E.O. 13211 on regulations that significantly affect energy supply, distribution, and use. E.O. 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. Because this proposed rule would add one refuge to the list of areas open for hunting and increase the activities at six refuges, it is not a significant regulatory action under E.O. 12866 and is not expected to significantly affect energy supplies, distribution, and use. Therefore, this action is not a significant energy action and no Statement of Energy Effects is required.

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

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

Paperwork Reduction Act

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

control number. We will ask OMB to approve necessary information collection(s).

Endangered Species Act Section 7 Consultation

In preparation for new openings, we comply with Section 7 of the Endangered Species Act. Copies of the Section 7 evaluations may be obtained by contacting the regions listed under *Available Information for Specific Refuges*. For the proposals to open or to add opportunities at national wildlife refuges for hunting and/or fishing, we have determined that at Hamden Slough National Wildlife Refuge, and Tensas River National Wildlife Refuge, the actions are not likely to adversely affect listed species or designated critical habitat. For the proposals at Whittlesey Creek National Wildlife Refuge and Blackwater National Wildlife Refuge, we have determined the actions will have no effect on any listed species or critical habitat. For Bayou Cocodrie National Wildlife Refuge, Upper Ouachita National Wildlife Refuge, and Agassiz National Wildlife Refuge, we have determined the actions may affect but are not likely to adversely affect listed species/critical habitat.

We also comply with Section 7 of the ESA when developing comprehensive conservation plans (CCPs) and step-down management plans for public use of refuges, and prior to implementing any new or revised public recreation program on a refuge as identified in 50 CFR 26.32.

National Environmental Policy Act

Based upon review of the refuge-specific Environmental Assessments for the opening of new or expansion of existing hunting programs on 7 national wildlife refuges (Agassiz NWR, Hamden Slough NWR, Blackwater NWR, Whittlesey Creek, Bayou Cocodrie NWR, Tensas River NWR, and Upper Ouachita NWR), and of associated documentation referenced below, it is our determination that the action of opening or expanding hunting programs on these 7 refuges as described and which will be codified by rulemaking in 2008, does not constitute a major Federal action significantly affecting the quality of the human environment under the meaning of section 102(2)(c) of the National Environment Policy Act of 1969 (as amended). As such, an environmental impact statement is not required.

We have further prepared a Cumulative Impact Report that analyzes the cumulative impacts of these proposed openings. In this Report we evaluate cumulative impacts within the context of the new and expanded

hunting and fishing programs on the seven refuges combined and within the context of hunting and fishing programs on the Refuge System as a whole.

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

Available Information for Specific Refuges

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

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

Region 2—Arizona, New Mexico, Oklahoma, and Texas. Regional Chief, National Wildlife Refuge System, U.S. Fish and Wildlife Service, Box 1306, 500 Gold Avenue, Albuquerque, NM 87103; Telephone (505) 248–7419.

Region 3—Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Ohio, and Wisconsin. Regional Chief, National Wildlife Refuge System, U.S. Fish and Wildlife Service, 1 Federal Drive, Federal Building, Fort Snelling, Twin Cities, MN 55111; Telephone (612) 713–5401. Hamden Slough National Wildlife Refuge, 21212 210th Street, Audubon, Minnesota 56511; Telephone (218) 439–6319.

Region 4—Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, Tennessee, South Carolina, Puerto Rico, and the Virgin Islands. Regional Chief, National Wildlife Refuge System, U.S. Fish and Wildlife Service, 1875 Century

Boulevard, Atlanta, GA 30345; Telephone (404) 679–7166.

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

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

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

Primary Author

Leslie A. Marler, Management Analyst, Division of Conservation Planning and Policy, National Wildlife Refuge System, is the primary author of this rulemaking document.

List of Subjects in 50 CFR Part 32

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

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

PART 32—[AMENDED]

1. The authority citation for part 32 continues to read as follows:

Authority: 5 U.S.C. 301; 16 U.S.C. 460k, 664, 668dd–668ee, and 715i.

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

a. Adding Hamden Slough National Wildlife Refuge in the State of Minnesota; and

b. Removing Stillwater Wildlife Management Area in the State of Nevada.

3. Amend § 32.37 Louisiana by:

a. Revising paragraphs A.3., A.5., A.6., A.9., A.11., A.12, B.2., B.6. and B.7, adding paragraphs B.8 through B.10., and revising paragraph C. of Tensas River National Wildlife Refuge; and

b. Revising paragraphs A., B., and C. of Upper Ouachita National Wildlife Refuge to read as follows:

§ 32.37 Louisiana.

* * * * *

Tensas River National Wildlife Refuge

A. Migratory Game Bird Hunting.

* * *

* * * * *

3. We allow refuge hunters to enter the refuge no earlier than 4 a.m., and they must depart no later than 2 hours after legal sunset unless they are participating in the refuge raccoon hunt.

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5. We allow shotguns equipped with a single-piece magazine plug that allows the gun to hold no more than two shells in the magazine and one in the chamber. We prohibit target practicing or shooting to unload modern firearms on the refuge at any time. Shotgun hunters must possess only an approved nontoxic shot when hunting migratory birds (see § 32.2(k)). We require hunters to unload and encase all guns transported in automobiles and boats or on all-terrain vehicles (see § 27.42(b) of this chapter). We allow firearms on the refuge only during the refuge hunting season.

6. We prohibit permanent or pit blinds on the refuge. You must remove all blind material sand decoys following each day's hunt (see § 27.93 of this chapter).

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9. We prohibit baiting or the possession of bait at any time while on the refuge (see § 32.2(h)).

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11. While visiting the refuge, we prohibit: Spotlighting, littering, fires, trapping, mandrives for game, possession of alcoholic beverages in hunting areas, possession of open alcoholic beverage containers, flagging, engineers tape, paint, unleashed pets, and parking/blocking trail and gate entrances. We prohibit hunting within 150 feet (45 m) of: A designated public road, maintained road, trail, fire breaks, dwellings, and above-ground oil and gas production facilities. We define a maintained road or trail as one which has been mowed, disked, or plowed.

12. We require a Tensas River National Wildlife Refuge Access Permit for all migratory bird hunts. You will find the permits on the front of the Public Use Regulation brochure.

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B. Upland Game Hunting. * * *

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2. We allow squirrel and rabbit hunting with and without dogs. We will allow hunting without dogs from the beginning of the State season to a date typically ending the day before the refuge deer muzzleloader hunt. We do not require hunters to wear hunter orange during the squirrel and rabbit hunt without dogs. Squirrel and rabbit

hunting will begin again, with or without dogs, the day after the refuge deer muzzleloader hunt and will conclude the last day of the refuge squirrel season which typically ends on February 15.

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6. We allow .22 caliber rimfire weapons and shotguns equipped with a single-piece magazine plug that allows the gun to hold no more than two shells in the magazine and one in the chamber. We prohibit target practicing or shooting to unload modern firearms on the refuge at any time. Shotgun hunters must possess only an approved nontoxic shot when hunting upland game (see § 32.2(k)). We require hunters to unload and encase all guns transported in automobiles and boats or on all-terrain vehicles (see § 27.42(b) of this chapter). We define loaded as shells in gun or caps on muzzleloader. We allow firearms on the refuge only during the refuge hunting season.

7. We require all upland game hunters to report their game immediately after each hunt at the check station nearest the point of take.

8. Conditions A7, A10, A11, and A13 apply.

9. We prohibit any hunter to use climbing spikes or to hunt from a tree that contains screw-in steps, nails, screw-in umbrellas, or any metal objects that could damage trees (see § 32.2(i)).

10. We require a Tensas River National Wildlife Refuge Access Permit for all upland game hunts. Hunters will find permits on the front of the Public Use Regulations brochure.

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

1. Deer archery season will begin the first Saturday in November and will conclude on the last day of the State archery season which is generally January 31. We require that archery hunters, including crossbow hunters, possess proof of completion of the International Bowhunters Safety Course. We prohibit archery hunting during the following refuge-wide deer hunts: Youth gun hunt and modern firearms hunts. We prohibit possession of pods, drug-tipped arrows, or other chemical substances.

2. Deer muzzleloader season will be 3 days and occur on a Monday, Tuesday, and Wednesday in January. We will allow in-line muzzleloaders and magnified scopes.

3. We will conduct two 2-day quota modern firearms hunts for deer typically in the month of December. Hunt dates and permit application procedures will

be available at Refuge Headquarters in July. We restrict hunters using a muzzleloader during this hunt to areas where we allow modern firearms.

4. We will conduct guided quota youth deer hunts and guided quota physically challenged deer hunts in the Greenlea Bend area typically in December and January. Hunt dates and permit application procedures will be available at the Refuge Headquarters in July.

5. We will conduct a refuge-wide youth deer hunt during the State-wide youth hunt weekend typically in November. Hunt dates will be available at Refuge Headquarters in July. Each participating youth must: Be age 8–15, possess proof of completion of an approved Hunter Safety Course, and be accompanied at all times by an adult age 21 or older. Each adult hunter may supervise only one youth.

6. Hunters may take only one deer (one buck or one doe) per day during refuge deer hunts except during guided youth and physically challenged hunts where the limit will be one antlerless and one antlered deer per day.

7. We allow turkey hunting the first 16 days of the State turkey season. We will conduct a youth turkey hunt the Saturday and Sunday before the regular State turkey season. You may harvest two bearded turkeys per season. We allow the use and possession of lead shot while turkey hunting on the refuge (see § 32.2(k)). We allow use of nonmotorized bicycles on designated all-terrain vehicle trails. Although you may hunt turkeys without displaying a solid hunter orange cap or vest during your turkey hunt, we do recommend its use.

8. Conditions A3, A7, A9, A11, A13, and B9 apply.

9. In areas posted “Closed Area,” we prohibit big game hunting at any time. “Closed Area”(s), which we designate on the Public Use Regulations brochure map, are closed to all hunts.

10. We allow shotguns that are equipped with a single-piece magazine plug that allows the gun to hold no more than two shells in the magazine and one in the chamber. We allow shotgun hunters to use rifled slugs only when hunting deer. We prohibit hunters using or possessing buckshot while on the refuge. We prohibit target practicing or shooting to unload modern firearms on the refuge at any time. We require hunters to unload and encase all guns transported in automobiles and boats or on all-terrain vehicles (see § 27.42(b) of this chapter). We define loaded as shells in gun or caps on muzzleloader. We allow firearms on the refuge only during the refuge hunting season.

11. We allow muzzleloader hunters to discharge their muzzleloaders at the end of each hunt safely into the ground at least 150 feet (45 m) from any designated public road, maintained road, trail, fire breaks, dwellings, or above-ground oil and gas production facilities. We define a maintained road or trail as one which has been mowed, disked, or plowed and one which is free of trees.

12. We prohibit deer hunters leaving deer stands unattended before the opening day of the refuge archery season, and hunters must remove stands by the end of the last day of the refuge archery season. Hunters must clearly mark stands left unattended on the refuge with the name and address of the owner of the stand. Hunters must remove portable stands from trees daily and place freestanding stands in a nonhunting position when unattended.

13. We require deer hunters using muzzleloaders or modern firearms to display a solid hunter-orange cap on their head and a solid hunter-orange vest over their outermost garment covering their chest and back. Hunters must display the solid hunter-orange items at all times while in the field.

14. We require muzzleloader and modern firearms hunters utilizing ground blinds to display 400 square inches (2,600 cm²) of hunter orange outside of the blind that is visible from all sides of the blind. Hunters must wear orange vests and hats as their outermost garments while inside the blind.

15. We require all deer and turkey hunters to report their game immediately after each hunt at the check station nearest to the point of take.

16. We prohibit baiting or the possession of bait while on the refuge at any time. We prohibit possession of chemical baits or attractants used as bait.

17. We require a Tensas River National Wildlife Refuge Access Permit for all big game hunts. You will find the permits on the front of the Public Use Regulations brochure.

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Upper Ouachita National Wildlife Refuge

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

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

2. We allow waterfowl hunting on the west side of the Ouachita River north of

RCW Road. We allow waterfowl hunting on the east side of the Ouachita River outside the Mollicy levee and south of the crude oil pipeline which runs through Township 22N range 4E sections 2, 3, 4 within the levee.

3. We allow woodcock hunting west of the Ouachita River. We allow woodcock hunting on the east side of the Ouachita River outside the Mollicy levee and south of the crude oil pipeline which runs through Township 22N range 4E sections 2, 3, 4 within the levee.

4. We allow dove hunting during the first 3 days of the State season east of the Ouachita River outside the Mollicy levee and south of the crude oil pipeline which runs through Township 22N range 4E sections 2, 3, 4 within the levee.

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

6. We will hold a limited youth waterfowl lottery hunt during the State Youth Waterfowl Hunt. Application instructions are available at the refuge office.

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

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

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

10. We allow dogs to locate, point, and retrieve when hunting for migratory game birds. We prohibit the use of dogs for hog hunting.

11. Youth hunters under age 16 must successfully complete a State-approved hunter education course. While hunting, each youth must possess and carry a card or certificate of completion. Each youth hunter must remain within sight and normal voice contact of an adult age 21 or older. Each adult may supervise no more than two youth hunters.

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

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

1. Conditions A1, A8, A9, A11, and A12 (to hunt upland game) apply.

2. We allow hunting west of the Ouachita River. We allow hunting on

the east side of the Ouachita River outside the Mollicy levee and south of the crude oil pipeline which runs through Township 22N range 4E sections 2,3,4 within the levee.

3. We prohibit possession of firearms larger than .22 caliber rimfire, shotgun slugs, and buckshot.

4. We allow hunting of raccoon and opossum during the daylight hours (legal sunrise to legal sunset) of rabbit and squirrel season. We allow night hunting (legal sunset to legal sunrise) during December and January, and we allow use of dogs for night hunting. We prohibit the selling of raccoon and opossum taken on the refuge for human consumption.

5. We allow the use of dogs to hunt squirrel and rabbit after the last refuge Gun Deer Hunt.

6. To use horses and mules to hunt raccoon and opossum at night, hunters must first obtain a special permit at the refuge office.

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

8. We allow hunting of beaver and coyote during all open refuge hunts with weapons legal for the ongoing hunt.

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

1. Conditions A1, A8, A9, A12 (to hunt big game), and B7 apply.

2. We allow general gun deer hunting on the following days: The first consecutive Saturday and Sunday of November; the Friday, Saturday, and Sunday following Thanksgiving Day; and the second Saturday and Sunday after Thanksgiving Day. We allow archery deer hunting during the entire State season.

3. We allow deer and feral hog hunting west of the Ouachita River. We allow deer hunting on the east side of the Ouachita River outside the Mollicy levee and south of the crude oil pipeline which runs through Township 22N range 4E sections 2, 3, 4 within the levee.

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

5. Archery hunters must possess and carry proof of completion of the International Bowhunters' Education Program.

6. We prohibit leaving deer stands, blinds, and other equipment unattended.

7. Deer hunters must wear hunter orange as per State deer hunting

regulations on Wildlife Management Areas.

8. We prohibit hunters placing stands or hunting from stands on pine trees with white-painted bands/rings.

9. Youth hunters under age 16 must successfully complete a State-approved hunter education course. While hunting, each youth must possess and carry a card or certificate of completion. Each youth hunter must remain within sight and normal voice contact of an adult age 21 or older. Each adult may supervise no more than one youth hunter.

10. We will hold a limited lottery youth turkey hunt on the Saturday of the State youth turkey hunt weekend.

11. We prohibit possession or distribution of bait or hunting with the aid of bait, including any grain, salt, minerals, or other feed or nonnaturally occurring attractant on the refuge (see § 32.2(h)).

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

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4. Amend § 32.39 Maryland by revising paragraphs A. and B. of Blackwater National Wildlife Refuge to read as follows:

§ 32.39 Maryland.

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Blackwater National Wildlife Refuge

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

1. We require refuge permits for all hunters regardless of age. We require that hunters possess a valid State hunting license, any required stamps, and a photo identification. Permits are nontransferable.

2. All refuge hunters must abide by the terms and conditions of the refuge permit.

B. Upland Game Hunting. We allow hunting of eastern wild turkey on designated areas of the refuge in accordance with State regulations subject to the following conditions: Conditions A1 and A2 apply.

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5. Amend § 32.42 Minnesota by:
a. Revising Agassiz National Wildlife Refuge; and

b. Adding Hamden Slough National Wildlife Refuge to read as follows:

§ 32.42 Minnesota.

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Agassiz National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of waterfowl on the

Farmers Pool Unit area of the refuge in accordance with State regulations subject to the following conditions:

- 1. We allow a youth hunt only (age 16 and under). Youth hunters age 14 and under must be accompanied by an adult age 18 or older.
- 2. We prohibit vehicles and hunters from entering the refuge before 5:30 a.m. They must leave the refuge each day as soon as possible after legal hunting hours.
- 3. We prohibit the use of motorized boats.
- 4. We prohibit the construction or use of permanent blinds, stands, or scaffolds (see § 27.92 of this chapter).
- 5. You must remove all personal property, which includes boats, decoys, and blinds brought onto the refuge, each day of hunting (see §§ 27.93 and 27.94 of this chapter).

6. We allow the use of hunting dogs, provided the dog is under the immediate control of the hunter at all times.

7. We prohibit the use of snowmobiles and ATVs.

8. We prohibit camping.

B. Upland Game Hunting. We allow hunting of ruffed grouse and sharp-tailed grouse on designated areas of the refuge in accordance with State regulations subject to the following conditions:

- 1. We allow hunting from the opening of the State's deer firearms season to the close of the regular State's ruffed grouse and sharp-tailed grouse seasons.
- 2. You may possess only approved nontoxic shot while in the field (see § 32.2(k)).
- 3. We prohibit hunting in the closed areas around the administrative buildings.
- 4. Conditions A2 through A8 apply.

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

- 1. We are currently closed to moose hunting until the population recovers.
- 2. Conditions A1, A3, A4, A5, A7, and A8 apply.
- 3. We allow scouting the day before the youth deer hunt and the deer firearms hunt.
- 4. We open archery hunting at the start of the State's deer firearms season and close according to the State's archery deer season.
- 5. We allow muzzleloader deer hunting following the State's muzzleloader season.

6. Hunters may use portable stands. We prohibit construction or use of permanent blinds, permanent platforms, or permanent ladders.

7. You must remove all stands and personal property from the refuge by legal sunset of each day (see §§ 27.93 and 27.94 of this chapter).

8. We prohibit hunters from occupying illegally set up or constructed ground and tree stands (see condition C2).

9. We allow the use of wheeled, nonmotorized conveyance devices (e.g., bikes, retrieval carts) except in Wilderness Areas.

10. We prohibit vehicles and hunters from entering the refuge during the youth deer hunt until after 6 a.m.

D. Sport Fishing. [Reserved]

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Hamden Slough National Wildlife Refuge

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

- 1. We only allow waterfowl hunting during the State's Youth Waterfowl Day.
- 2. Youth waterfowl hunters must be age 15 and under.
- 3. We will only allow waterfowl hunting in refuge tracts within Audubon and Riceville Townships.
- 4. We prohibit the use of motorized boats.
- 5. We prohibit the construction or use of permanent blinds, stands, or scaffolds.
- 6. You must remove all personal property, which includes boats, decoys, blinds, and blind materials (except for blinds made entirely of marsh vegetation) brought onto the refuge, following that day's hunt (see §§ 27.93 and 27.94 of this chapter).

7. We allow the use of hunting dogs, provided the dog is under the immediate control of the hunter at all times during the State-approved hunting season.

8. We prohibit entry to hunting areas earlier than 2 hours before legal shooting hours.

B. Upland Game Hunting. [Reserved]

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

1. We only allow hunting during the State's muzzleloader season with muzzleloaders.

2. Hunters may use portable stands. We prohibit construction or use of permanent blinds, permanent platforms, or permanent ladders.

3. Hunters must remove all stands and personal property from the refuge at the end of each day's hunt (see §§ 27.93 and 27.94 of this chapter).

4. Condition A8 applies.

D. Sport Fishing. [Reserved]

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6. Amend § 32.69 Wisconsin by revising paragraph C. of Whittlesey Creek National Wildlife Refuge to read as follows:

§ 32.69 Wisconsin.

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Whittlesey Creek National Wildlife Refuge

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

- 1. We will allow archery deer hunting to take place on refuge lands owned by the Service that constitute tracts greater than 20 acres (8 ha).
- 2. We prohibit hunting within a designated, signed area around the Coaster Classroom and Northern Great Lakes Visitor Center boardwalk.
- 3. We prohibit the construction or use of permanent blinds or platforms.
- 4. Hunters may use ground blinds or any elevated stands only if they do not damage live vegetation, including trees (see § 27.61 of this chapter).
- 5. Hunters may construct ground blinds entirely of dead vegetation from the refuge lands.
- 6. Hunters must remove all stands and blinds from the refuge at the end of each day's hunt (see §§ 27.93 and 27.94 of this chapter).
- 7. We allow motorized vehicles only on public roads and parking areas (see § 27.31 of this chapter).

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Dated: April 2, 2008.

David M. Vehrey,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. E8-12193 Filed 6-10-08; 8:45 am]

BILLING CODE 4310-55-P