

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 32

RIN 1018-AC93

Opening of Humboldt Bay National Wildlife Refuge to Sport Fishing

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The U.S. Fish and Wildlife Service (Service) opens Humboldt Bay National Wildlife Refuge in California to sport fishing and provides pertinent refuge-specific regulations for such activity. The Service has determined that such use will be compatible with the purposes for which the refuge was established. The Service has further determined that this action is in accordance with the provisions of all applicable laws, is consistent with principles of sound wildlife management, and is otherwise in the public interest by providing additional recreational opportunities of a renewable natural resource.

EFFECTIVE DATE: The effective date of this rule is February 24, 1995.

ADDRESSES: Assistant Director—Refuges and Wildlife, U.S. Fish and Wildlife Service, 1849 C Street, NW., MS 670 ARLSQ, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Duncan L. Brown, Esq., at the address above; Telephone: 703-358-1744.

SUPPLEMENTARY INFORMATION: National wildlife refuges are generally closed to hunting and sport fishing until opened by rulemaking. The Secretary of the Interior (Secretary) may open refuge areas to hunting and/or fishing upon a determination that such uses are compatible with the purpose(s) for which the refuge was established, 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. This rulemaking opens Humboldt Bay National Wildlife Refuge in Loleta, California, to sport fishing.

Request for Comments

A proposed rule was published on November 3, 1994, (59 FR 55074) and public comments were solicited. No comments were received.

Statutory Authority

The National Wildlife Refuge System Administration Act of 1966, as amended (NWRSA) (16 U.S.C. 668dd), and the Refuge Recreation Act of 1962 (RRA) (16 U.S.C. 460k) govern the administration and public use of national wildlife refuges. Specifically, Section 4(d)(1)(A) of the NWRSA authorizes the Secretary to permit the use of any areas within the National Wildlife Refuge System (Refuge System) for any purpose, including but not limited to hunting, fishing, public recreation and accommodations, and access, when he determines that such uses are compatible with the purposes for which each refuge was established. The Service administers the Refuge System on behalf of the Secretary. The RRA gives the Secretary additional authority to administer refuge areas within the Refuge System for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary purposes for which the refuges were established. In addition, prior to opening refuges and allowing recreational uses not directly related to the purposes and functions for which an area was established, the Secretary is required to determine that funds are available for the development, operation, and maintenance of the permitted forms of recreation.

Opening Package

In preparation for this opening, the refuge unit has included in its "openings package" for Regional review and approval from the Washington Office the following documents: A fishing plan; an environmental assessment; a compatibility determination; a Finding of No Significant Impact (FONSI); a Section 7 evaluation or statement, pursuant to the Endangered Species Act, that this opening will have no effect on a listed species or critical habitat; a letter of concurrence from the affected States; and refuge-specific regulations to administer the fishing program. From a review of the totality of these documents, the Secretary has determined that the opening of Humboldt Bay National Wildlife Refuge to sport fishing is compatible with the principles of sound wildlife management and will otherwise be in the public interest.

In accordance with the NWRSA and the RRA, the Secretary has also determined that this opening for sport fishing is compatible and consistent with the primary purposes for which the refuge was established, and that funds

are available to administer the programs. A brief description of the fishing program is as follows:

Humboldt Bay National Wildlife Refuge

Humboldt Bay National Wildlife Refuge was established by authority of the Migratory Bird Conservation Act of February 18, 1929 (45 Stat. 1222), as amended, and the Migratory Bird Hunting and Conservation Stamp Act of March 16, 1934, as amended. The refuge is a part of the San Francisco Bay National Wildlife Refuge Complex, but has a full-time project leader and staff. The purposes of the refuge are (1) for use as an inviolate sanctuary, or for any other management purpose, for migratory birds; (2) for suitable incidental fish and wildlife-oriented recreational development; (3) the protection of natural resources; and (4) conservation of endangered species or threatened species.

Humboldt Bay is situated 280 miles north of San Francisco and 85 miles south of the Oregon border. Humboldt Bay lies on a narrow coastal plain. It is a natural land-locked harbor 1/2 to 4 miles wide and 14 miles long, separated from the ocean by well-developed coastal dunes and a sand beach. Humboldt Bay is a vital link in the coastal section of the Pacific Flyway for migratory waterfowl, shorebirds, and other waterbirds.

Sport fishing in Humboldt Bay is a popular form of recreation. Well established fisheries for perch, smelt, salmon, rockfish, crabs and clams provide for local enthusiasts as well as tourists. Declines in salmon stocks on the north coast have resulted in sharply reduced seasons and shifts in fishing effort to other species. Fisheries gaining rapidly in popularity are dungeness crab (*Cancer magister*), leopard shark (*Triakis semifasciata*), California halibut (*Paralichthys californicus*), and various clams. Sport fishing within the bay accounts for more than 30,000 angler-days each year. Most of the fishing in South Humboldt Bay occurs on the South Jetty and at Buhne's Point.

Public sport fishing will be permitted on navigable waters of Humboldt Bay that fall within the existing refuge boundary. Most fishing in Humboldt Bay will occur from boats on the navigable waters. Fishing will also be permitted from the outer levee of Hookton Slough, west of the designated parking lot. The non-tidally influenced areas (levees and seasonal wetlands) will be closed to fishing to provide disturbance-free resting and foraging areas for migratory birds. Anglers will be monitored on an opportunistic basis to determine if any wildlife disturbance

is occurring. Fishing will be permitted within the framework of applicable State and Federal regulations. The California Department of Fish and Game will be consulted if any changes are planned in the refuge fishing program.

Opening the refuge to sport fishing has been found to be compatible in a separate compatibility determination. This determination noted time and zone restrictions. A Section 7 evaluation pursuant to the Endangered Species Act was conducted, and it was determined that the proposed action would not adversely affect any Federally listed or proposed for listing threatened or endangered species or their critical habitats. Pursuant to the National Environmental Policy Act (NEPA), an environmental assessment was made and a Finding of No Significant Impact (FONSI) was made regarding the fishing program. Numerous contacts were made throughout the area of the refuge soliciting comments on the proposed fishing plan. The California Department of Fish and Game concurs and fully supports the regulated sport fishing program proposed at the refuge.

The Service has determined that there would be sufficient funds to administer the fishing program pursuant to the requirements of the Refuge Recreation Act. The cost of establishing and managing the fishing program will be minimal, and will consist primarily of posting and maintaining "Public Fishing Area" signs and including fishing information in the refuge brochure. There are necessary funds within the annual budget of the San Francisco Bay National Wildlife Refuge Complex for this work. There will be no facilities developed or managed specifically for the use of anglers.

Paperwork Reduction Act

The information collection requirements for part 32 are found in 50 CFR part 25 and have been approved by the Office of Management and Budget under 44 U.S.C. 3501 et seq. and assigned clearance number 1018-0014. The information is being collected to assist the Service in administering these programs in accordance with statutory

authorities which require that recreational uses be compatible with the primary purposes for which the areas were established. The information requested in the application form is required to obtain a benefit.

The public reporting burden for the application form is estimated to average six (6) minutes per response, including time for reviewing instructions, gathering and maintaining data, and completing the form. Direct comments on the burden estimate or any other aspect of this form to the Service Information Collection Officer, U.S. Fish and Wildlife Service, 1849 C Street, NW., MS 224 ARLSQ, Washington, DC 20240; and the Office of Management and Budget, Paperwork Reduction Project (1018-0014), Washington, DC 20503.

Economic Effect

This rulemaking was not subject to Office of Management and Budget review under Executive Order 12866. In addition, a review under the Regulatory Flexibility Act of 1980 (5 U.S.C. 601 et seq.) has revealed that the rulemaking would not have a significant effect on a substantial number of small entities, which include businesses, organizations or governmental jurisdictions. This final rule will have minimal effect on such entities.

Federalism

This final rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this rule does not have sufficient Federalism implications to warrant the preparation of a Federalism Assessment.

Environmental Considerations

Pursuant to the requirements of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)), an environmental assessment has been prepared for this opening. Based upon the Environmental

Assessments, the Service issued a Finding of No Significant Impact with respect to the opening. A Section 7 evaluation was prepared pursuant to the Endangered Species Act with a finding that this action would have no effect on any identified threatened or endangered species.

Primary Author

Duncan L. Brown, Esq., Division of Refuges, U.S. Fish and Wildlife Service, Washington, DC, is the primary author of this rulemaking document.

List of Subjects in 50 CFR Part 32

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

Accordingly, part 32 of chapter I of Title 50 of the *Code of Federal Regulations* is amended as set forth below:

PART 32—[AMENDED]

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

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

2. Section 32.24 *California* is amended by adding text to paragraph D. of Humboldt Bay National Wildlife Refuge to read as follows:

§ 32.24 California.

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Humboldt Bay National Wildlife Refuge

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D. Sport Fishing. Fishing is permitted on designated areas of the refuge subject to the following conditions:

1. Fishing from the designated shoreline trail along Hookton Slough is permitted during daylight hours only.

2. Only the use of pole and line or rod and reel is permitted from the Hookton Slough Shoreline trail fishing area.

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Dated: January 16, 1995.

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

[FR Doc. 95-1795 Filed 1-24-95; 8:45 am]

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