DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 32

RIN 1018-AD03

Addition of Cape May National Wildlife Refuge to the List of Open Areas for Hunting in New Jersey

AGENCY: Fish and Wildlife Service,

Interior.

ACTION: Proposed rule.

SUMMARY: The U.S. Fish and Wildlife Service (Service) proposes to add Cape May National Wildlife Refuge to the list of areas open for big game hunting in New Jersey along with pertinent refugespecific regulations for such activities. 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.

DATES: Comments may be submitted on or before August 8, 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. 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 proposes to open Cape May National Wildlife Refuge to big game (whitetailed deer) hunting.

Request for Comments

Department of the Interior policy is, whenever practicable, to afford the public a meaningful opportunity to participate in the rulemaking process. A 60-day comment period is specified in order to facilitate public input.

Accordingly, interested persons may submit written comments concerning this proposed rule to the person listed above under the heading ADDRESSES. All substantive comments will be reviewed and considered.

Statutory Authority

The National Wildlife Refuge System Administration Act of 1966, as amended (NWRSAA) (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 NWRSAA 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.

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 hunting/fishing plan; an environmental assessment; a Finding of No Significant Impact (FONSI); a Section 7 evaluation or statement, pursuant to the Endangered Species Act, that these openings are not likely to adversely affect a listed species or critical habitat; a letter of concurrence from the affected States; and refuge-specific regulations to administer the hunts. From a review of the totality of these documents, the Secretary has determined that the opening of the Cape May National Wildlife Refuge to big game hunting is compatible with the principles of sound wildlife management and will otherwise be in the public interest.

In accordance with the NWRSAA and the RRA, the Secretary has also determined that this opening for big game hunting is compatible and consistent with the primary purposes for which the refuge was established. The Secretary has also determined that funds are available to administer the programs. A brief description of the hunting program is as follows:

Cape May National Wildlife Refuge

The Cape May National Wildlife Refuge was established administratively on January 20, 1989, under the authority of the Fish and Wildlife Act of 1956 (16 U.S.C. 742a-742j; 70 Stat. 1119), as amended. The broad purposes of the refuge are for the development, advancement, management, conservation, and protection of fish and wildlife resources and for the benefit of the United States Fish and Wildlife Service, in performing its activities and services. There are approximately 16,700 acres within the approved refuge acquisition boundary. The Fish and Wildlife Service (Service) has already purchased approximately 6,700 acres of the acquisition area. The refuge is located in the Townships of Middle, Dennis and Upper in Cape May County, New Jersey. The refuge is divided into two approximately equal divisions: The Great Cedar Swamp Division and the Delaware Bay Division. The topography of the refuge is typical of the coastal areas of New Jersey, where uplands taper gradually to a wide band of saltmarsh. There are 22 major vegetation types found on the refuge. These communities include mixed hardwood swamps, oak/pine forests, Atlantic white cedar swamps, and estuarine communities dominated by Spartina patens, and saltmarsh cordgrass.

The unique configuration and location of Cape May attracts flocks of raptors, songbirds and woodcock. The refuge supports a variety of animal life, including approximately 317 species of birds, 42 species of mammals, 55 species of reptiles and amphibians, and numerous species of fish, shellfish, and other invertebrates. Furbearers of economic importance inhabiting the area include otter, muskrat, and raccoon. Small mammals such as shorttail shrews and white-footed mice are common in upland fields and shrub habitat. Gray and red foxes are also common.

State deer biologists estimate a deer density of approximately 18 deer per square mile in Cape May County's Deer Management Zone (DMZ) 34, of which the refuge is a part. The deer population appears to have increased since 1981 with a corresponding increase in farmer complaints. The number of complaints has risen from 4 in 1990 to 12 in 1993. Crop depredation permitted kills have increased from 9 in 1990 to 36 in 1993. In order to address the below average herd health indices, and to reduce deer complaints in DMZ 34, the short term goal of the New Jersey Division of Fish, Game and Wildlife is to reduce the herd by approximately 20 percent. There are