

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

RIN 1018-AD27

Addition of Deep Fork National Wildlife Refuge to the List of Open Areas for Sport Fishing in Oklahoma**AGENCY:** Fish and Wildlife Service, Interior.**ACTION:** Proposed rule.

SUMMARY: The U.S. Fish and Wildlife Service (Service) proposes to add Deep Fork National Wildlife Refuge to the list of areas open for sport fishing in Oklahoma along with pertinent refuge-specific 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 September 11, 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 Deep Fork National Wildlife Refuge to sport fishing.

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 (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 Director 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 management plan for recreational fishing; an environmental assessment; a Finding of No Significant Impact (FONSI); a Section 7 statement, pursuant to the Endangered Species Act, that this opening is not likely to adversely affect a listed species or its critical habitat; and refuge-specific regulations to administer the fishing program. From a review of the totality of these documents, it has been determined that the opening of the Deep Fork 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, it has been also determined that this opening for sport fishing is compatible and consistent with the primary purposes for which the refuge was established. A brief description of the fishing program is as follows:

Deep Fork National Wildlife Refuge

The legislature of Oklahoma passed H.B. 1904 on May 17, 1990, authorizing the Fish and Wildlife Service (Service)

to acquire and develop a national waterfowl refuge in Okmulgee County, Oklahoma. Accordingly, Deep Fork National Wildlife Refuge was established on June 30, 1993, under the authority of the Emergency Wetlands Resources Act of 1986 (P.L. 99-645, 100 Stat. 3582). The refuge acreage totals 6,801 currently; however, an established acquisition boundary would eventually include 16,104 acres. The refuge is located along the Deep Fork River in Oklahoma. Recognized as a nationally important ecosystem, the Deep Fork River is listed in the Lower Mississippi Valley Joint Venture of the North American Waterfowl Management Plan (NAWMP) as an area of wetland habitat critical to the waterfowl of the Central Flyway.

Acquisition of refuge land is supported by the Eastern Oklahoma Wetlands Plan which is Oklahoma's implementation plan for the NAWMP. The Deep Fork River is also one of 17 priority-one sites listed in the 1985 Texas and Oklahoma Land Protection Plan. It has also been identified as the number one wetland site in Oklahoma in the Regional Wetlands Concept Plan.

The purposes of the refuge are to contribute to the conservation of the wetlands of the Nation in order to maintain the public benefits they provide and to help fulfill international obligations contained in various migratory bird treaties and conventions. (16 U.S.C. 3901(b)) (Emergency Wetlands Resources Act of 1986).

The Deep Fork National Wildlife Refuge is located in the Deep Fork River Basin, upstream from Eufaula Reservoir. The majority of the area contains palustrine forested wetlands. Bottomland hardwood forests occur along the Deep Fork River and the many creeks which enter it. Scrub-shrub wetlands occur in the overflow areas. The uplands have deciduous forest composed primarily of post oak and blackjack. Numerous sloughs exist along the river channel. Some of the sloughs exceed four feet in depth.

The numerous wetlands along the Deep Fork River are rich in diversity of wildlife. A total of 147 species of birds (8 game and 139 non-game) occur in the bottomland forest and the associated wetlands. The sloughs and open wetlands support great blue herons, little blue herons, and snowy egrets. Raptors, woodpeckers, and passerine birds utilize the area. The bald eagle is the only known endangered species to occur on the area. Fifty-one species of mammals have been recorded in the Deep Fork Basin. Furbearer populations are considered to be among the highest in the State. The Deep Fork River