#### 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 (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. 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 NWRSAA 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 ½ 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 anglerdays 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