

such use will not be detrimental to the refuge's primary objective and that will be compatible with other wildlife-oriented recreation.

A total of 55 species of fish have been collected by the West Virginia Department of Natural Resources and the Service in the vicinity of the islands. The shallow water areas against the islands, particularly the back channels, are important nursery areas for a variety of game fish. With respect to the impact on the fishery resource itself, opening the refuge to sport fishing would have a negligible impact.

The 18 refuge islands consist on only 1,020 acres and State surveys of recreational fishing indicate that only a small percentage of impact would be realized on the island habitats. The overwhelming majority of fish harvest occurs at dam tailwaters and main channel borders.

Opening the refuge to fishing has been found to be compatible in a separate compatibility determination. The fishing program will be reviewed, as appropriate, to ensure that sensitive habitats are protected from disturbance. A Section 7 evaluation pursuant to the Endangered Species Act was conducted. The Service determined that the proposed action will not 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.

The Service has determined that there would be sufficient funds to administer the proposed fishing program. Sufficient funds would be available within the refuge unit budget to operate such a fishing program as proposed.

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 Public Law 104-13 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. While the proposed fishing program could increase the fishing licenses purchased and boost sales of fishing gear and tackle, the impact would not be considered significant as other surrounding areas are, also, open to fishing and the addition of the refuge to fishing waters would be only proportionally relevant to small entities. Therefore, this proposed rule would have minimal effect on such entities.

Federalism

This proposed 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 Assessment, 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 the opening of the refuge for sport fishing will not affect any identified threatened or endangered species or designated critical habitat.

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List of Subjects in 50 CFR Part 32

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

Accordingly, part 32 of chapter I of Title 50 of the *Code of Federal Regulations* is proposed to be 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.

§ 32.68 [Amended]

2. Section 32.68 *West Virginia* is amended by adding paragraph D, under "Ohio River Islands National Wildlife Refuge" to read as follows:

§ 32.68 *West Virginia.*

Ohio River Islands National Wildlife Refuge

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D. Sport Fishing. Sport fishing is permitted on designated areas of the refuge pursuant to the following condition: Fishing will be conducted during West Virginia's State fishing seasons and under West Virginia's State regulations and guidelines, unless otherwise posted on the refuge.

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Dated: October 20, 1995.

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

[FR Doc. 95-29107 Filed 11-28-95; 8:45 am]

BILLING CODE 4310-55-M