level for the Site. All related monitoring wells were sealed and abandoned in accordance with the state of New Jersey's ''General Requirements for the Decommissioning of all Wells'', N.J.A.C. 7:9D–3.1 in October 2006.

EPA issued a third ESD on September 16, 2005 relating to the groundwater at the Site. The ESD describes EPA and NJDEP's determination that no remedial action with respect to the groundwater is necessary. This is due to the findings of the groundwater sampling performed at the Site. Two rounds of groundwater sampling, performed in December 2004 and in June 2005 as well as groundwater sampling performed in 2000 showed that none of the monitoring wells contained mercury levels in the groundwater above 2 parts per billion (ppb), which is both the MCL established pursuant to the federal Safe Drinking Water Act, and the New Jersey MCL established pursuant to the New Jersey Safe Drinking Water Act, and is therefore the designated cleanup level for the Site.

It should be noted that the site-specific mercury clean-up goals for soils established by EPA for the former facility property, which are protective of public health for both ingestion and inhalation exposure pathways, exceed the screening levels found in EPA's Draft Guidance for Evaluating the Vapor Intrusion to Indoor Air Pathway from Groundwater and Soils. While this does not indicate that a vapor intrusion problem will occur if a building(s) is erected in the future at the now vacant property at 720–732 Grand Street, it does indicate that further evaluation or engineering controls may be necessary when and if structures are erected at the property. To ensure that future owners of 720–732 Grand Street are aware of the exceedence of the screening levels, EPA has recorded a notice with the County Clerk's office for Hudson County advising of this fact. The notice also advises of the final cleanup levels of mercury met at the Site.

Operation and Maintenance

There will be no operation and maintenance plan in place since all remedial actions have been completed at the Site.

Five-Year Review

Upon completion of the remedial activities, hazardous substances do not remain on-site above levels that would prevent unlimited use without restriction. It is the policy of EPA to conduct five year reviews when remedial activities, including monitoring, will continue for more than five years. All cleanup goals have been met for this Site, and there is no action warranted for the groundwater underlying the Site as documented in the September 16, 2005 ESD.

However, because the property is vacant, EPA cannot rule out the possibility that the slight exceedences of screening levels established by EPA's Draft Guidance for Evaluating the Vapor Intrusion to Indoor Air Pathway from Groundwater and Soils are indicative of the potential for vapor intrusion. The Site has been sold and title has been transferred to a private entity for redevelopment and reuse. The nature of the future use of the Site is unknown at this time and may eliminate any potential for vapor intrusion. Therefore, prior to the time that a five year review would be conducted (five years after the construction completion date of 2005), EPA will evaluate conditions at the Site, and if necessary and appropriate, will conduct a five year review.

Community Involvement

Public participation activities for the Grand Street Mercury Superfund Site have been satisfied as required in CERCLA Section 113(k), 42 U.S.C. 9613(k), and Section 117, 42 U.S.C. 9617. EPA published a Community Relations Plan in July 1997. The ROD was subject to a public review process; public comments were received and addressed in the Responsiveness Summary portion of the ROD. All other documents and information which EPA relied on or considered in recommending that the Site be deleted from the NPL are available for the public to review EPA Records Center.

Applicable Deletion Criteria/Statute Concurrence

All the completion requirements for this Site have been met as described in the Final Remedial Action Report dated August 2005, prepared by GE and approved by EPA on August 30, 2005, and EPA's Preliminary Close Out Report dated September 2005. The State of New Jersey, in its letter of August 30, 2006 concurred on the proposed deletion of this Site from the NPL. Consequently, EPA is proposing deletion of this Site from the NPL. Documents supporting this action are available in the site files.

The NCP specifies that EPA may delete a site from the NPL if ''all appropriate Fund-financed response under CERCLA has been implemented, and no further response action by responsible parties is appropriate.'' 40 CFR 300.425(e)(1)(ii). EPA, with the concurrence of the State of New Jersey, through the Department of Environmental Protection, believes that this criterion for deletion has been met. Consequently, EPA is proposing deletion of this Site from the NPL.

Dated: April 12, 2007.

Alan J. Steinberg,

Regional Administrator, Region 2.

[FR Doc. E7–12450 Filed 6–27–07; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 32

RIN 1018–AV36

2007–2008 Hunting and Sport Fishing Regulations for the Upper Mississippi River National Wildlife and Fish Refuge

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The U.S. Fish and Wildlife Service (Service or we) proposes to amend the regulations for the Upper Mississippi River National Wildlife and Fish Refuge (refuge) that pertain to existing programs for migratory game bird hunting, upland game hunting, big game hunting, and sport fishing. These changes would take effect with the 2007–2008 season and would implement the recently completed Comprehensive Conservation Plan (CCP) for the refuge. This amendment would replace current refuge regulations found at 50 CFR 32.32 (Illinois), place the proposed regulations at 50 CFR 32.42 (Minnesota) to match the State listing with the location of the refuge headquarters, and cross reference those regulations in 50 CFR 32.34 (Iowa) and 32.69 (Wisconsin).

DATES: We must receive your comments on or before July 30, 2007.

ADDRESSES: Submit written comments to Refuge Manager, Upper Mississippi River National Wildlife and Fish Refuge, 51 East Fourth Street, Room 101, Winona, MN 55987. See ''Request for Comments'' under **SUPPLEMENTARY INFORMATION** for information on electronic submission. You may also request information on the refuge's public use programs and the conditions that apply to them, or request copies of compatibility determinations or other information, at the above address.

FOR FURTHER INFORMATION CONTACT: Don Hultman, (507) 452–4232; Fax (507) 452–0851.

SUPPLEMENTARY INFORMATION: The Upper Mississippi River National Wildlife and Fish Refuge (refuge) encompasses 240,000 acres in a more-or-less

continuous stretch of 261 miles of Mississippi River floodplain in Minnesota, Wisconsin, Iowa, and Illinois. The refuge was established by Congress in 1924 to provide a refuge and breeding ground for migratory birds, fish, other wildlife, and plants. The refuge is perhaps the most important corridor of habitat in the central United States due to its species diversity and abundance and is the most visited refuge in the United States with 3.7 million annual visitors. Approximately 187,000 acres of the refuge is open to all hunting, and approximately 140,000 acres of surface water is open to year-round fishing.

The development of an Environmental Impact Statement (EIS) and CCP for the refuge began with a notice of intent to prepare the EIS, which we published in the **Federal Register** on May 30, 2002 (67 FR 37852). We followed with a notice of availability of our Draft EIS (April 28, 2005; 70 FR 22085), and we accepted public comments on the Draft EIS for 120 days. On October 7, 2005, we published a notice of intent to prepare a Supplement to the Draft EIS (70 FR 58738). We made the Supplement to the Draft EIS available on December 5, 2005 (70 FR 72462), and accepted public comments on that document for 60 days, extended to 90 days.

We offered public involvement through 46 public meetings and workshops attended by 4,500 persons in 14 different communities in four States during the four-year planning process. In addition, we held or attended 80 other meetings with the States, other agencies, interest groups, and elected officials to discuss the Draft EIS, and mailed three different planning update newsletters to up to 4,900 persons or organizations on our planning mailing list. We also issued numerous news releases at various planning milestones, and held two press conferences.

On July 11, 2006, we published a notice of availability of our Final EIS (71 FR 39125), and we accepted public comments on the Final EIS for 30 days. On August 24, 2006, the Regional Director of the Midwest Region of the Fish and Wildlife Service signed the Record of Decision that documented the selection of Alternative E, the Preferred Alternative presented in the Final EIS. We published a notice of availability of that Record of Decision on November 2, 2006 (71 FR 64553).

In accordance with the Record of Decision, we prepared a CCP based on Alternative E. The CCP was approved on October 24, 2006. The National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd–668ee, as amended by the National Wildlife Refuge Improvement Act of 1997), requires the Secretary of the Interior (Secretary) to manage each refuge in a manner consistent with a completed CCP. The Final EIS and CCP are available at *http://www.fws.gov/midwest/planning/uppermiss.*

This hunting and fishing regulation proposal implements the goals, objectives, and strategies spelled-out in the CCP pertaining to hunting and fishing and related uses.

The proposal also reflects a fine-tuning of language in the current refuge-specific regulations for clarity and ease of enforcement, and other modest changes to modernize regulations and make them consistent with the principles of sound fish and wildlife management. For example, this proposal includes the requirement for hunters to use nontoxic shot shells for turkey hunting, the only exemption in the previous nontoxic shot shell regulation (50 CFR 32.2(k)).

When all changes in the CCP are implemented in 2009, there will be 23 closed areas or sanctuaries totaling 43,652 acres, compared with the current 15 areas totaling 44,544 acres. Another 1,406 acres will be open the first 30 days of the season, closing November 1. An effective system of strategically located waterfowl closed areas on the 261-mile-long refuge is critical to the Mississippi Flyway, and allows hunting to remain compatible.

There is also a change to open water hunting regulations on 4,000 acres of Pool 11 in Grant County, Wisconsin, and a phase out of permanent hunting blinds on the only areas of the refuge they are still allowed. The Grant County area remains open to hunting, but restricts open water hunting from boats to protect large rafts of scaup and canvasback.

The National Wildlife Refuge System Administration Act of 1966 authorizes the Secretary to allow uses of refuge areas including hunting and/or sport fishing, upon a determination that such uses are compatible with the purposes of the refuge and National Wildlife Refuge System (Refuge System) mission. The action also must be in accordance with provisions of all laws applicable to the areas, developed in coordination with the appropriate State fish and wildlife agency(ies), and consistent with the principles of sound fish and wildlife management and administration. These requirements ensure that we maintain the biological integrity, diversity, and environmental health of the Refuge System for the benefit of present and future generations of Americans.

The Secretary is required to prepare a CCP for each refuge and shall manage each refuge consistent with the CCP. Each CCP must identify and describe the refuge purposes; fish, wildlife, and plant populations; cultural resources; areas for administrative or visitor facilities; significant problems affecting resources and actions necessary; and opportunities for compatible wildlife-dependent recreation. Each CCP must also be developed through consultation with the other States, agencies, and the public, and be coordinated with applicable State conservation plans.

Each CCP is guided by the overarching requirement that refuges are to be managed to fulfill their purposes for which established and the mission of the Refuge System. In addition, the National Wildlife Refuge System Improvement Act requires that the Refuge System be administered to provide for the conservation of fish, wildlife, and plants and their habitats; and to ensure their biological integrity, diversity, and environmental health.

We developed the CCP for the refuge in accordance with all requirements and in accordance with the consultation and public involvement provisions of the National Wildlife Refuge System Improvement Act. This includes new compatibility determinations for hunting and fishing, which are referenced and listed in Appendix E of the Final EIS. We then developed this proposed rule to implement portions of the CCP.

Plain Language Mandate

In this proposed rule, we comply with a Presidential mandate to use plain language in regulations. As examples, we use ''you'' to refer to the reader and ''we'' to refer to the Service, the word ''allow'' instead of ''permit'' when we do not require the use of a permit for an activity, and we use active voice whenever possible (*i.e.*, ''We allow hunting of upland game on designated areas'' vs. ''Upland game hunting in designated areas is allowed'').

Statutory Authority

The National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd–668ee, as amended by the National Wildlife Refuge System Improvement Act of 1977 [Improvement Act]) (Administration Act) and the Refuge Recreation Act of 1962 (16 U.S.C. 460k–460k–4) (Recreation Act) govern the administration and public use of refuges. In addition, the Migratory Bird Treaty Act (16 U.S.C 703–711) grants authority for management of migratory birds and the

closing of any areas to migratory bird hunting.

The Migratory Bird Treaty Act (MBTA) designates the protection of migratory birds as a Federal responsibility. The MBTA enables the setting of seasons, and other regulations including the closing of areas, Federal and non-Federal, to the hunting of migratory birds. You can find regulations stemming from the MBTA pertaining to migratory bird hunting in 50 CFR part 20.

This document proposes to codify in the Code of Federal Regulations amended hunting and sport fishing regulations that are applicable to the Upper Mississippi River National Wildlife and Fish Refuge. We are proposing this to implement the refuge CCP, better inform the general public of the regulations at the refuge, increase understanding and compliance with these regulations, and make enforcement of these regulations more efficient. In addition to finding these regulations in 50 CFR part 32, visitors will find them reiterated in literature distributed by each refuge and posted on signs at major access points. Visitors will also find the boundaries of closed areas or other restricted-use areas referenced in this document marked by specific signs.

This proposal includes cross-references to a number of existing regulations in 50 CFR parts 27 and 32 to assist hunting and sport fishing visitors with understanding safety and other legal requirements on refuges. This redundancy is deliberate, with the intention of improving safety and compliance in our hunting and sport fishing programs.

Fish Advisory

For health reasons, anglers should review and follow State-issued consumption advisories before enjoying recreational sport fishing opportunities on Service-managed waters. You can find information about current fish consumption advisories on the Internet at: *http://www.epa.gov/waterscience/fish/.*

Request for Comments

You may comment on this proposed rule by any one of several methods:

1. *You may comment via e-mail to: uppermississippiriver@fws.gov.* Please include: ''*Attn:* Hunting/Fishing Regs.'' and your full name and return mailing address in your e-mail message (See ''Public Availability of Comments,'' below). If you do not receive a confirmation that we have received your e-mail message, contact us directly at (507) 452–4232.

2. *You may mail or hand-deliver/courier your comments to:* Refuge Manager, Upper Mississippi River National Wildlife and Fish Refuge, 51 East Fourth Street, Room 101, Winona, MN 55987.

3. *You may fax comments to:* Refuge Manager, Upper Mississippi River National Wildlife and Fish Refuge, at (507) 452–0851.

4. You may submit comment online at the Federal eRulemaking Portal at *http://www.regulations.gov.* Follow the instructions at that site for submitting comments.

Public Availability of Comments

Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Public Comment

Department of the Interior policy is, whenever practicable, to afford the public a meaningful opportunity to participate in the rulemaking process. During preparation of the refuge CCP, we used an extensive public information, outreach, and comment process, including 46 public meetings or workshops attended by 4,500 persons and 80 other meetings with State department of natural resources agencies, other agencies, interest groups, elected officials, and other Service and Department of Interior offices. We received and responded to a total of 3,230 written comments in the Final EIS. This document, and its publication as a proposed rule in the **Federal Register**, will provide an additional opportunity for comment during the 30-day comment period.

We believe that a 30-day comment period, through this broader publication following the earlier public involvement, gives the public sufficient time to comment before the upcoming seasons. In addition, in order to continue to provide for previously authorized hunting and fishing opportunities while at the same time providing for adequate resource and visitor protection, we must be timely in providing modifications to hunting and fishing programs on refuges.

If adopted, we will incorporate these proposed regulations into 50 CFR 32.42 (Minnesota). Part 32 contains general provisions and part 32.42 contains refuge-specific regulations for hunting and sport fishing on refuges located or headquartered in Minnesota.

Clarity of This Rule

Executive Order (E.O.) 12866 requires each agency to write regulations that are easy to understand. We invite your comments on how to make this proposed rule easier to understand, including answers to questions such as the following: (1) Are the requirements in the rule clearly stated? (2) Does the rule contain technical language or jargon that interferes with its clarity? (3) Does the format of the rule (e.g., grouping and order of sections, use of headings, paragraphing) aid or reduce its clarity? (4) Would the rule be easier to understand if it were divided into more (but shorter) sections? (5) Is the description of the rule in the ''Supplementary Information'' section of the preamble helpful in understanding the rule? (6) What else could we do to make the proposed rule easier to understand? Send a copy of any comments on how we could make this proposed rule easier to understand to: Office of Regulatory Affairs, Department of the Interior, Room 7229, 1849 C Street, NW., Washington, DC 20240. You may e-mail your comments to: *Execsec@ios.doi.gov.*

Regulatory Planning and Review

In accordance with the criteria in Executive Order (E.O.) 12866, the Service asserts that this rule is not a significant regulatory action. The Office of Management and Budget (OMB) makes the final determination under E.O. 12866.

a. This proposed rule will not have an annual economic effect of $100 million or adversely affect an economic sector, productivity, jobs, the environment, or other units of the government. A cost-benefit and full economic analysis is not required. However, a brief assessment follows to clarify the costs and benefits associated with this proposed rule.

The purpose of this proposed rule is to implement amended hunting and sport fishing regulations on the Upper Mississippi River National Wildlife and Fish Refuge beginning with the 2007–2008 seasons. These regulations are derived from and are consistent with the CCP approved October 24, 2006, and whose environmental and socioeconomic impacts are documented in the Final EIS (available at *http://www.fws.gov/midwest/planning/uppermiss*).

Costs Incurred

Costs incurred by this proposed regulation include signing of areas,

leaflet preparation, and printing to provide information to the public, law enforcement, and monitoring. However, these are regular and reoccurring functions on the refuge with or without these proposed regulations and can be handled within normal budget and staffing levels. Therefore, we expect any costs to be minor in the short term and negligible in the long term.

Benefits Accrued

These proposed regulations would have several effects on current hunting opportunities on the refuge. Although some areas open to hunting would change, the quality of hunting could increase, especially for waterfowl, since the refuge would likely hold more birds in more areas for longer periods of time in the fall. In addition, improvement of habitat quality from ongoing habitat projects will likely result in an increase in some game populations and positively affect the hunting experience for many. Also, the CCP calls for an increase in land acquisition over time, opening several thousand acres to all forms of public hunting. For example, in 2005, an additional 2,000 acres was open to public hunting at the Lost Mound Unit, Savanna District, due to acquisition of the former Savanna Army Depot.

We estimate that hunting visits will increase 10 percent over the 15-year life of the CCP due to overall long-term trends in hunter visits, expected improvements to the hunting experience, and a better distribution of waterfowl and, thus, hunting opportunity. We predict these regulations to have a corresponding increase in positive economic impact as reflected in Table 1 below.

Table 1 shows the expected change by the end of the 15-year life of the CCP resulting from the implementation of the 2007–2008 hunting regulations compared with FY 2003 for the 19-county area on and adjacent to the refuge. We expect annual hunting visitation to increase by 10 percent resulting in 26,362 more hunter visits. Retail expenditures associated with this increased visitation total $520,399 with total economic output (based on an output multiplier of 1.23 for the 19-county region impacted by the refuge) of $642,526. An additional nine jobs with associated income of $145,343 occur along with an additional $68,909 in Federal and State tax revenue.

TABLE 1.—ANNUAL ECONOMIC IMPACTS OF 2007–2008 HUNTING AND FISHING REGULATIONS COMPARED WITH FY 2003 IMPACTS: HUNTING VISITORS

[2003 dollars]

Impacts	FY 2003	2007–2008 Regulations (change from FY 2003 for 15-year span of CCP)
Hunting Visitors	263,623	+26,362
Expenditures	$5,203,988	+520,399
Economic Output	$6,425,261	+$642,526
Jobs	87	9
Job Income	$1,453,433	+$145,343
Federal and State Taxes	$689,090	+$68,909

These proposed regulations would have several effects on current fishing opportunities on the refuge. A minimum of approximately 140,000 acres of water would remain open to year-round fishing, a decrease of about 500 acres from existing conditions. This decrease would be due to changes in waterfowl sanctuaries where we allow no entry during the respective State waterfowl hunting season. However, effects on fall fishing in approximately 31,000 acres of waterfowl hunting closed area included in voluntary avoidance guidelines would be variable since compliance is voluntary. In addition, the voluntary avoidance provision is only in effect from October 15 to the end of the respective State waterfowl hunting season when fishing pressure is much reduced.

Overall fishing opportunities would remain abundant, and fishing would be welcome in closed areas during the peak spring, summer, early fall, and winter period. As called for in the CCP, the improvement of habitat quality from ongoing and planned habitat projects will likely result in an increase in some sport fish populations and positively affect the fishing experience for many. Increased efforts to improve water quality through work with private landowners in tributary watersheds, and more emphasis on control of aquatic invasive species, could also result in increases in sport fish populations and thus fishing success. Despite voluntary guidelines or motor restrictions that may limit fall fishing in waterfowl closed areas, we expect fishing visits to increase 5 percent based on long-term trends in angling visits, improvements in fish habitat, and additional fishing-related facilities. We predict the 2007–2008 regulations to have a corresponding increase in positive economic impact as reflected in Table 2.

Table 2 shows the expected change by the end of the 15-year CCP lifespan resulting from the implementation of the 2007–2008 fishing regulations compared with FY 2003 in the 19-county area. We expect the annual number of fishing visitors to increase by 60,696, with associated retail expenditures of $1,478,817 and total economic output of $1,811,153. We associate these expenditures and output with 24 jobs and $405,965 in job-related income. Federal and State tax revenue would increase by $194,241.

TABLE 2.—ANNUAL ECONOMIC IMPACTS OF 2007–2008 HUNTING AND FISHING REGULATIONS COMPARED WITH FY 2003 IMPACTS: FISHING VISITORS

[2003 dollars]

Impacts	FY 2003	2007–2008 Regulations (change from FY 2003 for 15-year span of CCP)
Fishing Visitors	1,213,916	+60,696
Expenditures	$29,576,333	+$1,478,817
Economic Output	$36,223,053	+$1,811,153
Jobs	483	24
Job Income	$8,119,297	+$405,965
Federal and State Taxes	$3,884,811	+$194,241

b. This proposed rule will not create inconsistencies with other agencies' actions. This action pertains solely to the management of the Refuge System. The fishing and hunting activities located on national wildlife refuges account for approximately 1 percent of the available supply in the United States. Any small, incremental change in the supply of fishing and hunting opportunities will not measurably impact any other agency's existing programs.

c. This proposed rule will not materially affect entitlements, grants, user fees, loan programs, or the rights and obligations of their recipients. This proposed rule does not affect entitlement programs. There are no grants or other Federal assistance programs associated with public use on national wildlife refuges.

d. This proposed rule will not raise novel legal or policy issues that were not addressed in the Final EIS. This proposed rule continues the practice of allowing recreational public use of the refuge. Many refuges in the Refuge System currently have opportunities for the public to hunt and fish on refuge lands.

Regulatory Flexibility Act

Under the Regulatory Flexibility Act (as amended by the Small Business Regulatory Enforcement Fairness Act [SBREFA] of 1996) (5 U.S.C. 601, *et seq.*), whenever a Federal agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (i.e., small businesses, small organizations, and small government jurisdictions). However, no regulatory flexibility analysis is required if the head of an agency certifies that the rule would not have a significant economic impact on a substantial number of small entities. Thus, for a regulatory flexibility analysis to be required, impacts must exceed a threshold for ''significant impact'' and a threshold for a ''substantial number of small entities.'' See 5 U.S.C. 605(b). SBREFA amended the Regulatory Flexibility Act to require Federal agencies to provide a statement of the factual basis for certifying that a rule would not have a significant economic impact on a substantial number of small entities.

This proposed rule does not increase the number of recreation types allowed on the refuge but amends hunting and fishing regulations on the refuge. As a result, opportunities for hunting and fishing recreation on the refuge will remain abundant and increase over time.

Many small businesses within the retail trade industry (such as hotels, gas stations, taxidermy shops, bait and tackle shops, etc.) may benefit from some increased refuge visitation. A large percentage of these retail trade establishments in the majority of affected counties qualify as small businesses (Table 3).

We expect that the incremental recreational opportunities will be scattered, and so we do not expect that the rule will have a significant economic effect (benefit) on a substantial number of small entities in any given community or county. Using the estimate derived in the *Regulatory Planning and Review* section, we expect recreationists to spend an additional $2 million annually in total in the refuges' local economies. As shown in Table 3, this represents 0.02 percent of the total amount of retail expenditures in the 19-county area. For comparison purposes, the county with the smallest retail expenditure total, Buffalo County in Wisconsin, is shown. If the entire retail trade expenditures associated with the 2007–2008 hunting and fishing regulations occurred in Buffalo County, this would amount to 3.4 percent increase in annual retail expenditures.

TABLE 3.—COMPARATIVE EXPENDITURES FOR RETAIL TRADE ASSOCIATED WITH ADDITIONAL REFUGE VISITATION FROM 2007–2008 HUNTING AND FISHING REGULATIONS

	Retail trade in 2002	Change due to 2007–2008 hunting and fishing regulations (15-year span of CCP)	Change as percent of total retail trade (percent)	Total number of retail establishments	Establishments with fewer than 10 employees
19 County Area	$9.8 billion	$1,999,216	0.02	24,878	17,957
Buffalo County WI	$58.3 million	1,999,216	3.4	350	290

Small Business Regulatory Enforcement Fairness Act

The proposed rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. We anticipate no significant employment or small business effects. This rule:

a. Would not have an annual effect on the economy of $100 million or more. By the end of the 15-year CCP lifespan, the additional fishing and hunting opportunities on the refuge would generate an additional $2 million in angler and hunter expenditures with an economic impact estimated at $2.5 million per year (2003 dollars). Consequently, the maximum benefit of this rule for businesses both small and large would not be sufficient to make this a major rule. The impact would be scattered across 19 counties and would most likely not be significant in any local area.

b. Would not cause a major increase in costs or prices for consumers; individual industries; Federal, State, or local government agencies; or geographic regions. We do not expect this proposed rule to affect the supply or demand for fishing and hunting opportunities in the United States and, therefore, it should not affect prices for fishing and hunting equipment and supplies, or the retailers that sell equipment. Additional refuge hunting and fishing opportunities would account for less than 0.0001 percent of the available opportunities in the United States.

c. Would not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. This proposed rule represents only a small proportion of recreational spending of a small number of affected anglers and hunters, approximately a maximum of $2.5 million annually in impact (economic output). Therefore, this rule would have no measurable economic effect on the wildlife-dependent industry, which has annual sales of equipment and travel expenditures of over $72 billion nationwide.

Unfunded Mandates Reform Act

Since this proposed rule would apply to public use of federally owned and managed refuges, it would not impose an unfunded mandate on State, local, or Tribal governments or the private sector of more than $100 million per year. The rule would not have a significant or unique effect on State, local, or Tribal governments or the private sector. A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

Takings (E.O. 12630)

In accordance with E.O. 12630, this proposed rule would not have significant takings implications. This regulation would affect only visitors to the refuge and describe what they can do while they are on the refuge.

Federalism (E.O. 13132)

As discussed in the Regulatory Planning and Review and Unfunded Mandates Reform Act sections above, this proposed rule would not have sufficient Federalism implications to warrant the preparation of a Federalism Assessment under E.O. 13132. In preparing the CCP for the refuge, we worked closely with the four States bordering the refuge, and this proposed rule reflects the CCP.

Civil Justice Reform (E.O. 12988)

In accordance with E.O. 12988, the Office of the Solicitor has determined that the proposed rule would not unduly burden the judicial system and that it meets the requirements of sections 3(a) and 3(b)(2) of the Order. This proposal would clarify established regulations and result in better understanding of the regulations by refuge visitors.

Energy Supply, Distribution or Use (E.O. 13211)

On May 18, 2001, the President issued E.O. 13211 on regulations that significantly affect energy supply, distribution, and use. E.O. 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. Because this proposed rule is a modification of an existing hunting and fishing program on the refuge, it is not a significant regulatory action under E.O. 12866, and we do not expect it to significantly affect energy supplies, distribution, and use. Therefore, this action is a not a significant energy action and no Statement of Energy Effects is required.

Consultation and Coordination With Indian Tribal Governments (E.O. 13175)

In accordance with E.O. 13175, we have evaluated possible effects on federally recognized Indian tribes and have determined that there are no effects. We coordinate recreational use on national wildlife refuges with Tribal governments having adjoining or overlapping jurisdiction before we propose changes to the regulations. During scoping and preparation of the Final EIS, we contacted 35 Indian tribes to inform them of the process and seek their comments.

Paperwork Reduction Act

This regulation does not contain any information collection requirements other than those already approved by the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) (OMB Control Number is 1018–0102). See 50 CFR 25.23 for information concerning that approval. An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

Endangered Species Act Section 7 Consultation

During preparation of the Final EIS, we completed a section 7 consultation and determined that the preferred alternative, which included hunting and fishing changes reflected in this proposed rule, is not likely to adversely effect individuals of listed or candidate species or designated critical habitat of such species. The Service's Ecological Services Office concurred with this determination. Listed species on the refuge are the Higgins eye mussel and bald eagle; candidate species are the Eastern massasauga and spectaclecase and sheepnose mussels. A copy of the section 7 evaluation and accompanying biological assessment is available from the refuge at the location listed in the **ADDRESSES** section of this document.

National Environmental Policy Act

Concerning the actions that are the subject of this proposed rulemaking, we have complied with NEPA through the preparation of a Final EIS and Record of Decision which include the major hunting and fishing changes reflected in this proposed rule. The NEPA documents are available on our Web site at *http://www.fws.gov/midwest/planning/uppermiss.*

Available Information for Specific Districts of the Refuge

The refuge is divided into four districts for management, administrative, and public service effectiveness and efficiency. These districts correspond to two or more Mississippi River pools created by the series of locks and dams on the river. District offices are located in Winona, Minnesota (Pools 4–6), La Crosse, Wisconsin (Pools 7–8), McGregor, Iowa (Pools 9–11), and Savanna, Illinois (Pools 12–14). If you are interested in specific information pertaining to a

particular closed area, no hunting zone, managed hunt, or other feature discussed in this proposed rule, you may contact the appropriate district office listed below:

Winona District, U.S. Fish and Wildlife Service, 51 East Fourth Street, Room 203, Winona, MN 55987; Telephone (507) 454–7351.

La Crosse District, U.S. Fish and Wildlife Service, 555 Lester Avenue, Onalaska, WI 54650; Telephone (608) 783–8405.

McGregor District, U.S. Fish and Wildlife Service, P.O. Box 460, McGregor, IA 52157; Telephone (563) 873–3423.

Savanna District, U.S. Fish and Wildlife Service, 7071 Riverview Road, Thomson, IL 61285; Telephone (815) 273–2732.

Primary Author

Don Hultman, Refuge Manager, Upper Mississippi River National Wildlife and Fish Refuge, 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.

For the reasons set forth in the preamble, we propose to amend title 50, Chapter I, subchapter C of the Code of Federal Regulations as follows:

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–668ee, and 715i.

2. Amend § 32.32 Illinois by revising Upper Mississippi River National Wildlife and Fish Refuge to read as follows:

§ 32.32 Illinois.

* * * * *

Upper Mississippi River National Wildlife and Fish Refuge

Refer to § 32.42 Minnesota for regulations.

3. Amend § 32.34 Iowa by revising Upper Mississippi River National Wildlife and Fish Refuge to read as follows:

§ 32.34 Iowa.

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Upper Mississippi River National Wildlife and Fish Refuge

Refer to § 32.42 Minnesota for regulations.

4. Amend § 32.42 Minnesota by revising Upper Mississippi River National Wildlife and Fish Refuge to read as follows:

§ 32.42 Minnesota.

* * * * *

Upper Mississippi River National Wildlife and Fish Refuge

A. Migratory Game Bird Hunting. We allow hunting of migratory game birds on areas designated by the refuge manager and shown on maps available at refuge offices in accordance with State regulations subject to the following conditions:

1. You must possess a hunting license valid in the State in which you are hunting and be in compliance with all applicable State and Federal regulations and requirements (see § 32.2). You cannot reserve hunting areas, except at Potter's Marsh Managed Hunt Area, Pool 13, near Thomson, Illinois, in accordance with procedures established by the refuge manager.

2. In areas posted and shown on maps as ''No Entry—Sanctuary,'' we prohibit migratory bird hunting at all times and all public entry except as specified. These areas are named and located as follows:

i. Pool Slough, Pool 9, Minnesota/Iowa, 1,112 acres.

ii. Bertom Island, Pool 11, Iowa, 31 acres.

iii. Guttenberg Ponds, Pool 11, Iowa, 252 acres.

iv. Spring Lake, Pool 13, Illinois, 3,686 acres.

3. In areas posted and shown on maps as ''Area Closed'' and ''Area Closed—No Motors,'' we prohibit migratory bird hunting at all times. We ask that you practice voluntary avoidance of these areas by any means or for any purpose from October 15 to the end of the respective State duck season. In areas also marked ''no motors,'' we prohibit the use of motors on watercraft from October 15 to the end of the respective State duck season.

These ''Area(s) Closed'' are named and located as follows:

i. Nelson-Trevino, Pool 4, Wisconsin, 3,773 acres (no voluntary avoidance provision).

ii. Peterson Lake, Pool 4, Minnesota/Wisconsin, 3,111 acres (no voluntary avoidance provision).

iii. Weaver Bottoms/Lost Island, Pool 5, Minnesota/Wisconsin, 3,508 acres.

iv. Polander Lake, Pool 5A, Minnesota/Wisconsin, 1,907 acres.

v. Lake Onalaska, Pool 7, Wisconsin, 7,369 acres (voluntary avoidance on 3,356 acres until mid-November).

vi. Wisconsin Islands, Pool 8, Minnesota/Wisconsin, 6,510 acres.

vii. Harpers Slough, Pool 9, Iowa/Wisconsin, 5,209 acres.

viii. Wisconsin River Delta, Pool 10, Wisconsin, 1,406 acres (closed November 1 to end of duck season).

ix. 12-Mile Island, Pool 11, Iowa, 1,145 acres.

x. Bertom-McCartney, Pool 11, Wisconsin, 2,384 acres (no voluntary avoidance provision).

xi. Pleasant Creek, Pool 13, Iowa, 2,067 acres.

xii. Elk River, Pool 13, Iowa, 1,237 acres.

The ''Area(s) Closed—No Motors'' are named and located as follows:

xiii. Spring Lake, Pool 5, Wisconsin, 243 acres.

xiv. Sturgeon Slough, Pool 10, Wisconsin, 340 acres.

xv. 12-Mile Island, Pool 10, Iowa, 540 acres.

xvi. John Deere Marsh, Pool 11, Iowa, 439 acres.

xvii. Kehough Slough, Pool 12, Illinois, 343 acres.

xviii. Beaver Island, Pool 14, Iowa, 717 acres.

4. In areas posted and shown on maps as ''No Hunting Zone'' or ''No Hunting or Trapping Zone,'' we prohibit migratory bird hunting at all times. You must unload and encase firearms in these areas. These areas are named and located as follows:

i. Upper Halfway Creek Marsh, Pool 7, Wisconsin, 141 acres.

ii. Hunter's Point, Pool 8, Wisconsin, 82 acres.

iii. Goose Island, Pool 8, Wisconsin, 986 acres (also no motors and voluntary avoidance as in condition A3).

iv. Sturgeon Slough, Pool 10, Wisconsin, 66 acres.

v. Goetz Island Trail, Pool 11, Iowa, 32 acres.

vi. Crooked Slough Backwater, Pool 13, Illinois, 2,467 acres.

vii. Crooked Slough Proper, Pool 13, Illinois, 192 acres.

viii. Frog Pond, Pool 13, Illinois, 64 acres.

ix. Ingersoll Learning Center, Pool 13, Illinois, 41 acres.

5. We prohibit hunting of migratory birds within 50 yards (45 m) of the Great River Trail at Thomson Prairie, within 150 yards (135 m) of the Great River Trail at Mesquaki Lake, and within 400 yards (360 m) of the Potter's Marsh Managed Hunt area, all in or near Pool 13, Illinois.

6. You may retrieve dead or wounded game from areas posted ''Area Closed,'' ''No Hunting Zone,'' and ''No Hunting or Trapping Zone'' provided you do not take a loaded gun into the area and do not attempt to chase birds from the area.

You may not use a motor to aid in the retrieval of game in areas posted ''Area Closed—No Motors.'' You may not retrieve birds or other game from areas posted ''No Entry—Sanctuary.''

7. You may not engage in open-water waterfowl hunting in Pool 11, approximate river miles 586–592, Grant County, Wisconsin as marked with signs and as shown on refuge maps. Open-water hunting regulations and definitions that apply for Wisconsin outside of Grant County will apply in this area.

8. You may possess only approved nontoxic shot shells while in the field (see § 32.2(k)).

9. We allow the use of dogs for hunting in accordance with State regulations. When dogs are not actively engaged in authorized hunting activities, the following conditions apply:

i. We prohibit dogs disturbing or endangering wildlife or people while on the refuge.

ii. All dogs while on the refuge must be under the control of their owners/handlers at all times or on a leash.

iii. We prohibit allowing dogs to roam.

iv. All dogs must be on a leash when on hiking trails, or other areas so posted.

v. We allow working a dog in refuge waters by tossing a retrieval dummy or other object for out-and-back exercise.

vi. Owners/handlers of dogs are responsible for disposal of dog droppings on refuge public use concentration areas such as trails, sandbars, and boat landings.

vii. We prohibit field trials and commercial/professional dog training.

10. We prohibit the construction of permanent hunting blinds (see § 27.92 of this chapter). You may use natural material for seasonal blinds, with restrictions. You may gather grasses and marsh vegetation from the refuge for blind-building materials; however, Phragmites (giant cane) may not be cut or brought onto the refuge. You may not gather, bring onto the refuge, or use for blind building tree(s) or other plant parts, including dead wood on the ground, greater than 2 inches (5 cm) in diameter. We prohibit constructing hunting blinds from rocks placed for shoreline protection (rip rap). You may leave only seasonal blinds made entirely of natural vegetation and biodegradable twines on the refuge. We consider all such blinds public property and open to use by any person on a first-come-first-served basis. You may use manmade material for temporary blinds, with restrictions. You may not use lumber, pipe, posts, or timbers greater than 2 inches (5 cm) in diameter. At the end of each day's hunt, you must remove all manmade blind materials, including boat blinds. Any blinds containing manmade materials left on the refuge are subject to immediate removal and disposal. Manmade materials include, but are not limited to, wooden pallets, metal fence posts, wire, nails, staples, netting, or tarps (see §§ 27.93 and 27.94 of this chapter).

11. We will phase out the construction and use of permanent hunting blinds for waterfowl hunting within the Savanna District of the refuge. We will no longer allow permanent blinds on the refuge in Pool 12 beginning with the 2007–2008 waterfowl hunting season, Pool 14 after the 2007–2008 season, and Pool 13 after the 2008–2009 season. The following regulations apply for phase out of permanent hunting blinds:

i. All permanent blinds must have the current name, address, and telephone number of the blind owner, posted no smaller than 3″ x 5″ (7.5 cm x 12.5 cm) inside the blind.

ii. The blind's owner must remove from the refuge all blind materials, including old blind materials located within 100 yards (90 m) of the blind, within 30 days of the end of the waterfowl hunting season.

iii. After the phase-out year of permanent blinds in each pool, refuge hunting blind regulations in Condition A10 will apply, except that we require a 200-yard (180-m) spacing distance between hunting parties on the Illinois portions of the refuge in Pools 12, 13, and 14.

12. You may set up hunting equipment the day of the hunt but must remove it at the end of each day. You may place and leave hunting equipment and decoys on the refuge only from 1 hour before the start of legal shooting hours until ½ hour after the close of legal shooting hours. You may not use nails, wire, screws, or bolts to attach a stand to a tree, or hunt from a tree into which a metal object has been driven or screwed for support (see § 32.2(i) and § 27.93 of this chapter).

13. We prohibit the cutting, removing, or damaging of any tree or other vegetation except as allowed for blinds in Condition A10 or by written permit. You may not clear vegetation for shooting lanes or limb trees for tree stands (see § 27.51 of this chapter).

14. We prohibit camping during waterfowl hunting seasons within areas posted ''No Entry—Sanctuary,'' ''Area Closed,'' ''Area Closed—No Motors,'' and ''No Hunting Zone'' or on any sites not clearly visible from the main commercial navigation channel of the Mississippi River. We define camping as erecting a tent or shelter of natural or synthetic material, preparing a sleeping bag or other bedding material for use, parking of a motor vehicle, or mooring or anchoring of a vessel for the apparent purpose of overnight occupancy, or occupying or leaving personal property, including boats or other craft, at a site anytime between the hours of 11 p.m. and 3 a.m. on any given day. Where we allow camping, you must occupy claimed campsites each night.

15. We prohibit the building or use of warming fires while hunting (see § 27.95 of this chapter). We only allow campfires in conjunction with camping, day-use activities on beaches, or on the ice while ice fishing using only dead wood on the ground, or materials brought onto the refuge such as charcoal or firewood. You must remove any unused firewood brought onto the refuge upon departure due to threat of invasive insects.

16. We prohibit all vehicle use on or across refuge lands at any time except on designated routes of travel or on the ice over navigable waters accessed from boat landings. We prohibit parking beyond vehicle control barriers or on grass or other vegetation. You may not park or operate vehicles in a manner that obstructs or impedes any road, trail, fire lane, boat ramp, access gate, or other facility or in a manner that creates a safety hazard or endangers any person, property, or environmental feature. We may impound any vehicle left parked in violation at the owner's expense (see § 27.31 of this chapter).

17. We require that you keep all refuge lands clean during your period of use or occupancy. At all times you must keep all refuse, trash, and litter contained in bags or other suitable containers and not left scattered on the ground or in the water. You must remove all personal property, refuse, trash, and litter immediately upon vacating a site. We consider animal carcasses and spent shells to be litter (see § 27.94 of this chapter).

B. Upland Game Hunting. We allow hunting of upland game on areas of the refuge designated by the refuge manager and shown on maps available at refuge offices in accordance with State regulations subject to the following conditions:

1. Condition A1 applies.

2. We prohibit the carrying, possessing, or discharging of firearms (including dog training pistols and dummy launchers), air guns, or any other weapons on the refuge, unless you are a licensed hunter or trapper engaged in authorized activities during

established seasons, in accordance with Federal, State, and local regulations. We prohibit target practice on the refuge (see §§ 27.42 and 27.43 of this chapter).

3. In areas posted and shown on maps as ''No Entry—Sanctuary,'' we prohibit entry and upland game hunting at all times. In areas posted and shown on maps as ''No Entry—Sanctuary October 1 to end of state duck hunting season,'' we allow upland game hunting beginning the day after the respective State duck hunting season until upland game season closure or March 15, whichever comes first, except we allow spring turkey hunting during State seasons. We describe these areas more fully in Condition A2.

4. In areas posted and shown on maps as ''Area Closed'' and ''Area Closed—No Motors,'' we allow upland game hunting beginning the day after the respective State duck hunting season until upland game season closure or March 15, whichever comes first, except we allow spring turkey hunting during State seasons. We ask that you practice voluntary avoidance of these areas by any means or for any purpose from October 15 to the end of the respective State duck season. In areas also marked ''Area Closed—No Motors,'' we prohibit the use of motors on watercraft from October 15 to the end of the respective State duck season. We describe these areas more fully in Condition A3.

5. In areas posted and shown on maps as ''No Hunting Zone'' or ''No Hunting or Trapping Zone,'' we prohibit upland game hunting at all times. You must unload and encase firearms in these areas. We describe these areas more fully in Condition A4.

6. We prohibit hunting of upland game within 50 yards (45 m) of the Great River Trail at Thomson Prairie, within 150 yards (135 m) of the Great River Trail at Mesquaki Lake, and within 400 yards (360 m) of the Potter's Marsh Managed Hunt area, all in or near Pool 13, Illinois.

7. You may only use or possess approved nontoxic shot shells while in the field, including shot shells used for hunting wild turkey (see § 32.2(k)).

8. We prohibit the shining of a light to locate any animal on the refuge except at the point of kill for species specified in respective State night or artificial light hunting regulations (see § 27.73 of this chapter). You may use lights to find your way. We prohibit the distribution of bait or feed, the hunting over bait or feed, and the use or possession of any drug on any arrow for bow hunting (see § 32.2(g) and (h)). You must comply with all other hunt method regulations of the respective State on the refuge.

9. Conditions A6, A9, A10, and A12 through A17 apply.

C. Big Game Hunting. We allow hunting of big game on areas of the refuge designated by the refuge manager and shown on maps available at refuge offices in accordance with State regulations subject to the following conditions:

1. Conditions A1 and B2 apply.

2. In areas posted and shown on maps as ''No Entry—Sanctuary,'' we prohibit entry and big game hunting at all times. In areas posted and shown on maps as ''No Entry—Sanctuary October 1 to end of state duck hunting season,'' we allow big game hunting beginning the day after the respective State duck hunting season until big game season closure or March 15, whichever comes first. We describe these areas more fully in Condition A2.

3. In areas posted and shown on maps as ''Area Closed'' and ''Area Closed—No Motors'' we allow big game hunting beginning the day after the respective State duck hunting season until big game season closure or March 15, whichever comes first. We ask that you practice voluntary avoidance of these areas by any means or for any purpose from October 15 to the end of the respective State duck season. In areas also marked ''Area Closed—No Motors,'' we prohibit the use of motors on watercraft from October 15 to the end of the respective State duck season. These areas are described more fully in Condition A3.

4. In areas posted and shown on maps as ''No Hunting Zone'' or ''No Hunting or Trapping Zone,'' we prohibit big game hunting at all times. You must unload and encase firearms in these areas. We describe these areas more fully in Condition A4.

5. We prohibit hunting of big game within 50 yards (45 m) of the Great River Trail at Thomson Prairie, within 150 yards (135 m) of the Great River Trail at Mesquaki Lake, and within 400 yards (360 m) of the Potter's Marsh Managed Hunt area, all in or near Pool 13, Illinois.

6. Conditions A6, A9, A10, A12 through A17, and B7 apply.

D. Sport Fishing. We allow fishing on areas of the refuge designated by the refuge manager and shown on refuge maps available at refuge offices in accordance with State regulations subject to the following conditions:

1. In the Bertrom Island ''No Entry—Sanctuary'' area, Pool 11, Wisconsin we prohibit entry and fishing at all times.

2. In the Spring Lake ''Area Closed'' area, Pool 13, Illinois, we prohibit fishing from October 1 until the day after the close of the State duck hunting season.

3. In areas posted and shown on maps as ''Area Closed'' and ''Area Closed—No Motors,'' we allow fishing; however, we ask that you practice voluntary avoidance of these areas by any means or for any purpose from October 15 to the end of the respective State duck season. In areas also marked ''Area Closed—No Motors,'' we prohibit the use of motors on watercraft from October 15 to the end of the respective State duck season. We describe these areas more fully in Condition A3.

4. On Mertes Slough, Pool 5, Wisconsin, we allow only hand-powered boats or boats with electric motors.

5. For the purpose of determining length limits, slot limits, and daily creel limits, the impounded areas of Spring Lake, Duckfoot Marsh, and Pleasant Creek in Pool 13, Illinois, are part of the Mississippi River site-specific State regulations.

6. Conditions A10, and A13 through A17 apply.

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5. Amend § 32.69 Wisconsin by revising Upper Mississippi River National Wildlife and Fish Refuge to read as follows:

§ 32.69 Wisconsin.

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Upper Mississippi River National Wildlife and Fish Refuge

Refer to § 32.42 Minnesota for regulations.

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Dated: June 19, 2007.

David M. Verhey,

Assistant Secretary for Fish and Wildlife and Parks.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 223 and 224

[Docket No. 070613193–7194–01; I.D. 121903C]

Endangered and Threatened Wildlife and Plants; Finding on Whether to List Eastern Oyster as a Threatened or Endangered Species

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.