

While the Administrative Procedure Act, 5 U.S.C. § 553, requires notice of proposed rulemaking to be published in the *FEDERAL REGISTER*, such notice may be foregone when the agency finds that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest. In addition, it is the policy of the Department to allow a 30-day period between the publication of a final rule and the date it becomes effective. Since the previous special regulations were declared invalid, regulations governing boating activity are required immediately. Therefore, notice and public procedure is impracticable. Public procedure is also unnecessary since there have been four public hearings held in Nevada on the issue and a public comment period on earlier proposed rules. Further, since the permitted degree of boating activity is compatible with the purposes for which the refuge was established, it would be contrary to the public interest to delay the implementation of the regulations. The Service has determined that there is good cause and it is in the best interest of the public to make this rule effective immediately upon publication.

As provided by 50 CFR 26.33, the Service hereby issues the following special regulations:

§ 26.34 Special Regulations concerning public access, use and recreation for individual national wildlife refuges.

NEVADA

RUBY LAKE NATIONAL WILDLIFE REFUGE

Beginning on July 25, 1978 and continuing until December 31, 1978, boats will be permitted only on that portion of the Ruby Lake National Wildlife Refuge known as the South Sump. The South Sump will be divided into zones, which will be identified by signs and delineated on maps available from the Refuge Manager and on maps posted at the boat landings.

Copies of the maps can also be obtained from: The Regional Director, U.S. Fish and Wildlife Service, Lloyd 500 Building, Suite 1692, 500 Northeast Multnomah Street, Portland, Oreg. 97232; and (2) the Area Manager, U.S. Fish and Wildlife Service, 2800 Cottage Way, Room E-2740, Sacramento, Calif. 95825. The zones and the regulations applicable to each zone are as follows:

Zone 1—Motorless Boating Area. Period of use: Date of publication through December 31. Boats without motors or boats with electric motors will be permitted. Motorless boats can go into zones 2 and 3, when these zones are open to boating.

Zone 2—Powerboat Area. Period of use: Date of publication to December 31. This zone will be open to all boats with no horsepower limitations after

August 1. Prior to August 1, boats with motors of 10 horsepower or less are permitted. No boat may exceed 20 mph except on the designated waterski area. On critical areas identified by signs, no boats may exceed 5 mph (no wake). Water-skiing will be permitted from 10 a.m. to 5 p.m. daily on the designated water-ski area only. No more than three (3) boats pulling water-skiers will be permitted to operate at any one time. If more than three water-ski boats are operating at any one time, the fourth boat and subsequent boats to be put in operation will be in violation.

Zone 3—Powerboat Area. Period of use: August 1 to December 31. This zone will be open to all boats with no horsepower limitations. No boat may exceed 20 mph. On critical areas identified by signs, no boats may exceed 5 mph (no wake).

The Refuge Manager shall close any or all of the Ruby Lake National Wildlife Refuge to public access and use, without advance notice, in the event of an emergency or to protect the resources of the area in accordance with § 25.21. In addition, the Refuge Manager shall impose a 10 horsepower restriction on boat motors in any zone when in his judgment the larger horsepower motors appear to be causing damage to the resource. Appeal of the Refuge Manager's decisions are permitted in accordance with § 25.44.

Boats may be launched only from landings approved and so designated by the Refuge Manager.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal which would require the preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: July 19, 1978.

LYNN A. GREENWALT,
Director,

U.S. Fish and Wildlife Service.

[FR Doc. 78-20512 Filed 7-20-78; 11:23 am]

[4310-55]

PART 32—HUNTING

Opening of Horicon National Wildlife Refuge, Wisconsin, to Deer Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to deer hunting of Horicon National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: November 18, 1978, through November 26, 1978.

FOR FURTHER INFORMATION CONTACT:

Refuge Manager, Horicon National Wildlife Refuge, Route 2, Mayville, Wis. 53050, area code 414-387-2658.

SUPPLEMENTARY INFORMATION:

§ 32.32 Special regulations; big game, for individual wildlife refuge areas.

The public hunting of deer is permitted on the Horicon National Wildlife Refuge, Wis., with shotgun only, and only on the area designated by signs as being open to hunting. This area, comprising 20,000 acres, is delineated on maps available at the refuge headquarters and from the Office of the Regional Director, U.S. Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minn. 55111. Deer hunting shall be in accordance with all applicable State regulations.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in title 50, Code of Federal Regulations, part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11949 and OMB Circular A-107.

Dated: July 14, 1978.

JOHN E. TOLL,
Refuge Manager.

[FR Doc. 78-20519 Filed 7-24-78; 8:45 am]

[4310-55]

PART 32—HUNTING

Opening of Horicon National Wildlife Refuge, Wisconsin, to Deer Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to deer hunting of Horicon National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: September 16, 1978, through November 12, 1978.

FOR FURTHER INFORMATION CONTACT:

Refuge Manager, Horicon National Wildlife Refuge, Route 2, Mayville, Wis. 53050, 414-387-2658.

SUPPLEMENTARY INFORMATION:

§ 32.32 Special regulations; big game, for individual wildlife refuge areas.

The public hunting of deer is permitted on the Horicon National Wildlife Refuge, Wisconsin, with bow and arrow only, and only on the area designated by signs as being open to hunting. This area, comprising 20,000 acres, is delineated on maps available at the refuge headquarters and from the Office of the Regional Director, U.S. Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minn. 55111. Deer hunting shall be in accordance with all applicable State regulations.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in title 50, code of Federal Regulations, part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11949 and OMB Circular A-107.

Dated: July 14, 1978.

JOHN E. TOLL,
Refuge Manager.

[FR Doc. 78-20521 Filed 7-24-78; 8:45 am]

§ 32.32 Special regulations; upland game, for individual wildlife refuge areas.

The public hunting of pheasants and rabbits is permitted on the Horicon National Wildlife Refuge, Wis., only on the area designated by signs as being open to hunting. This area, comprising 20,000 acres, is delineated on maps available at the refuge headquarters and from the office of the Regional Director, U.S. Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minn. 55111. Pheasant and rabbit hunting shall be in accordance with all applicable State regulations.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in title 50 Code of Federal Regulations, part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11949 and OMB Circular A-107.

Dated: July 14, 1978.

JOHN E. TOLL,
Refuge Manager.

[FR Doc. 78-20520 Filed 7-24-78; 8:45 am]

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

Sport fishing is permitted on Pool 10 and adjacent streams, Lacreek National Wildlife Refuge, only on those areas designated by public fishing signs as being open to fishing. These areas comprising of about 600 acres are delineated on maps available at the refuge headquarters and at the office of the Area Manager, Federal Building, Pierre, S. Dak. Sport fishing shall be in accordance with all applicable State regulations subject to the following conditions:

1. Fishermen must use designated parking areas and/or boat landings.
2. No motors may be used on boats or canoes in the Refuge.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations, Part 33. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11949 and OMB Circular A-107.

ROBERT H. BRASHEARS,
Acting Refuge Manager,
Lacreek National Wildlife
Refuge, Martin, S. Dak.

JULY 14, 1978.

[FR Doc. 78-20574 Filed 7-24-78; 8:45 am]

[4310-55]

PART 32—HUNTING

Opening of Horicon National Wildlife Refuge, Wis., to Pheasant and Rabbit Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to pheasant and rabbit hunting of Horicon National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: October 28, 1978 through December 10, 1978.

FOR FURTHER INFORMATION CONTACT:

Refuge Manager, Horicon National Wildlife Refuge, Route 2, Mayville, Wis. 53050, 414-387-2658.

SUPPLEMENTARY INFORMATION:

[4310-55]

PART 33—SPORT FISHING

Opening of Pool 10 Lacreek National Wildlife Refuge, South Dakota to Sport Fishing

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening of parts of the Lacreek National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: July 1, 1978 through March 31, 1979.

FOR FURTHER INFORMATION CONTACT:

Refuge Manager, Lacreek National Wildlife Refuge, Martin, S. Dak. 57551 or telephone 605-685-6508.

SUPPLEMENTARY INFORMATION:

[3410-11]

Title 36—Parks, Forests and Public Property

CHAPTER II—FOREST SERVICE, DEPARTMENT OF AGRICULTURE

PART 261—PROHIBITIONS

Expansion of Scope and Areas Designated by Orders To Include Wild and Scenic Rivers System

AGENCY: Forest Service, USDA.

ACTION: Final rule.

SUMMARY: Management plans for components of the National Wild and Scenic Rivers System establish management practices for the administration of the areas in a manner compatible with the objectives of the legislation establishing the system. At times, these objectives require that limits be placed on the amount and type of use that can be permitted on the areas. This regulation expands the scope in subpart A to include components of the National Wild and Scenic Rivers System. Subpart B is expanded to provide for the issuance of orders which will control the amount of use on com-

ponents of the National Wild and Scenic Rivers System.

EFFECTIVE DATE: July 25, 1978.

FOR FURTHER INFORMATION CONTACT:

Kenneth L. Evans, Law Enforcement Specialist, Fiscal and Accounting Management, U.S. Forest Service, P.O. Box 2417, Washington, D.C. 20013, telephone 202-447-7850.

JULY 21, 1978.

DAVID G. UNGER,
Deputy Assistant Secretary for
Conservation, Research, and
Education.

SUPPLEMENTARY INFORMATION:

On May 31, 1978, a notice of proposed rulemaking regarding additions to sections 261.1 and 261.58 to, title 36, chapter II of the Code of Federal Regulations was published in the FEDERAL REGISTER (43 FR 23610). Interested persons were asked to comment by June 30, 1978. One comment was received and is available for public inspection in room 4017, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

The one comment received opposed the rule because it contended the Forest Service did not have jurisdiction on the lands and waters in the Hells Canyon National Recreation Area, primarily the Snake Wild and Scenic River.

Portions of the Snake River are included in the Wild and Scenic Rivers System to which these additions to sections 261.1 and 261.58 apply. The Federal Government has the authority to regulate private conduct within the boundaries of wild and scenic rivers. This power is based upon the broad powers of the Congress to regulate under the Commerce and necessary and proper clauses of the Constitution (art. I, sec. 8). Congress utilized its constitutional powers in enacting the Wild and Scenic Rivers Act. Section 10(d) of the act (16 U.S.C. 1281(d)), allows the Secretary of Agriculture to use general statutory authorities relating to the national forests in such a manner as he deems appropriate to carry out the purposes of the act. These general authorities are found at 16 U.S.C. 551 and allow regulation of the occupancy and use of national forest lands. In order to protect public lands, the Federal Government also has jurisdiction to regulate conduct on State and private lands within the boundaries of a national forest, wild and scenic river, or national recreation area based upon the property clause of the Constitution (art. IV, sec. 3).

The Forest Service has the responsibility under section 10(a) of the Wild and Scenic Rivers Act to administer

each component of the Wild and Scenic Rivers System in such a manner as to protect and enhance the values of the river. In such administration primary emphasis must be given to protecting the esthetic, scenic, historic, archaeological, and scientific features. It is our determination that the regulatory authority established by this amendment to part 261 is necessary to carry out this statutory responsibility.

No changes have been made in the proposed rules published on May 31, 1978.

These actions were taken pursuant to the requirements of the Administrative Procedures Act (5 U.S.C. 553) adopted by this Department as a matter of policy on July 24, 1971 (36 FR 13804).

As a result of this process, the following additions in 36 FR, chapter II are made:

1. Section 261.1(a)(4) is amended as follows:

§ 261.1 Scope.

(a) * * *

(4) An act or omission occurs within the designated boundaries of a component of the National Wild and Scenic Rivers System.

2. Section 261.58(z) is added to read as follows:

§ 261.58 Occupancy and use.

(z) Entering or being on lands or waters within the boundaries of a component of the National Wild and Scenic Rivers System.

(30 Stat. 35, as amended (16 U.S.C. 551); 82 Stat. 916 (16 U.S.C. 1281(d)); 89 Stat. 1121 (16 U.S.C. 460gg-7).)

FR Doc. 78-20716 Filed 7-24-78; 10:13 am]

[3410-37]

Title 9—Animals and Animal Products

CHAPTER III—FOOD SAFETY AND QUALITY SERVICE, MEAT AND POULTRY PRODUCTS INSPECTION, DEPARTMENT OF AGRICULTURE

PART 318—ENTRY INTO OFFICIAL ESTABLISHMENTS, REINSPECTION AND PREPARATION OF PRODUCTS

Nitrates, Nitrites, and Ascorbates (or Isoascorbates) in Bacon

AGENCY: Food Safety and Quality Service, USDA.

ACTION: Final rule.

SUMMARY: The Federal meat inspection regulations concerning the use of nitrites in bacon provide that lots of bacon will be retained if confirmable levels of nitrosamines are found. The regulations further provide that lots of bacon subsequently produced will not be retained because of nitrosamines if certain processing adjustments are made and samples from five consecutive normal sized lots establish that the product being produced contains no confirmable levels of nitrosamines at the 10 parts per billion (PPB) level currently and at the 5 PPB level within 1 year. There has been some confusion as to the provisions of the regulations. The provisions were intended to provide that the tests shall be conducted by the Department but that if test results are furnished by the establishment, such test results will be utilized in making the determination concerning the nitrosamine content of the product. The regulations are clarified to express more clearly this intent; delete the provision concerning the future confirmation level of nitrosamines at 5 PPB; and make certain other clarifying changes.

EFFECTIVE DATE: July 24, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Irwin Fried, Acting Director, Product Labels and Standards Division, Food Safety and Quality Service, U.S. Department of Agriculture, Room 202, Annex Building, Washington, D.C. 20250, 202-447-6042.

SUPPLEMENTARY INFORMATION:

On May 16, 1978, there was published in the FEDERAL REGISTER a document (43 FR 20992-20995) relating to nitrates, nitrites, and ascorbates (or isoascorbates) in bacon. This included provisions in § 318.7(b) of the regulations (9 CFR 318.7(b)) which state that:

The bacon shall no longer be retained if the operator of the establishment makes adjustments in the processing of the product and provides data based on laboratory analyses of samples from five consecutive normal sized lots that establishes that the product being produced contains no confirmable levels of nitrosamines.

There has been some confusion concerning who is responsible for conducting such tests, and as to the particular bacon to be retained. The provisions were intended to provide that the tests shall be conducted by the Department, but that if test results are furnished by the establishment, such test results will be utilized in making the determination concerning the nitrosamine content of the lots in question. The regulations are clarified

to express clearly the intent in these regards and to make certain other clarifying changes.

The provisions concerning a future reduction with respect to testing for confirmable levels of nitrosamines in bacon are deleted from the regulations at this time. It has been determined that the amount of nitrate used in bacon should be reduced to the lowest level as soon as possible, under conditions and procedures that would not subject consumers to health hazards such as botulism. In this connection the Department published a notice on May 16, 1978 (43 FR 21007-21008) that it is currently seeking comments and data concerning a proposed method of preparation of bacon with 40 PPM of ingoing sodium nitrite or 49 PPM of ingoing potassium nitrite which it appears would be free of botulinal hazard. It appears that this would also produce a product containing levels of nitrosamines less than 5 PPB. That notice affords all interested persons an opportunity to submit comments and data concerning this matter including data with respect to whether such a product would be free of a botulinal hazard.

It appears that the reduction of the amount of nitrites used in bacon without creating botulinal or other public health hazards can be accomplished within 1 year or less, and as soon as this can be accomplished action will be taken to amend the regulations to reduce the amount of nitrite used in bacon and to prescribe a date certain when testing for confirmable levels of nitrosamines must be down to 5 PPB. Accordingly, the provisions of the current regulations stating that the confirming level shall be "at 5 PPB within 1 year of the effective date of this paragraph" is being deleted.

Accordingly, the amendments made in the regulations published on May 16, 1978 (43 FR 20992-20995) as so changed read as follows:

1. Paragraph (b) of § 318.7 is amended to read as follows:

§ 318.7 Approval of substances for use in the preparation of products.

(b) Requirements for the use of nitrite and sodium ascorbate or sodium erythorbate (isoascorbate) in bacon.

(1) With respect to bacon: sodium nitrite shall be used at 120 parts per million (PPM) ingoing or an equivalent amount of potassium nitrite shall be used (148 PPM ingoing); and 550 PPM of sodium ascorbate or sodium erythorbate (isoascorbate) shall be used. Sodium ascorbate or sodium erythorbate have a molecular weight of approximately 198. Hydrated forms of these substances shall be adjusted to attain the equivalent of 550 PPM of

sodium ascorbate or sodium erythorbate.

(2) The Department shall collect samples of bacon from producing plants and analyze them for the level of nitrosamines by the Thermal Energy Analyzer (TEA). In the event that a TEA analysis indicates that a confirmable level of nitrosamines might be present, additional samples shall be collected and analyzed by gas chromatography. Presumptive positive results must be confirmed by mass spectrometry before being considered positive. If, during the interval required for the Department to analyze the confirmatory samples by gas chromatography and mass spectrometry, changes are made in processing procedures which are expected to result in no confirmable levels of nitrosamines in bacon produced by these new procedures, an establishment may submit samples to USDA for analysis upon prior notification and arrangements with USDA. If, however, an establishment furnishes USDA with laboratory results from testing five consecutive lots of bacon produced under the new procedures and the testing is performed by the USDA methodology and procedures, those results will be utilized in making the determination concerning the product produced under the new procedures. Should the results of these tests reveal that confirmable levels of nitrosamines are not indicated in any of the five consecutive lots, the confirmation analysis by USDA shall be terminated and the establishment shall revert to normal monitoring status. In the event the test results continue to indicate nitrosamines, however, USDA shall proceed in its confirmation analysis on the original samples taken for confirmation. If any one of the original samples collected by USDA for confirmation is found to contain confirmable levels of nitrosamines, all bacon in the producing establishment and all future production will be retained. The Department shall sample and analyze such retained bacon for nitrosamines on a lot by lot basis. A production lot shall be that bacon produced by the establishment in any single shift. Samples from any lot of bacon under retention found to contain nitrosamines at a confirmable level shall cause the lot of bacon to be disposed of in a manner to assure it will not form nitrosamines when cooked. Such disposal may include incorporation of the uncooked bacon as an ingredient of another meat food product provided it is processed for eating without further preparation in a manner to preclude the formation of nitrosamines. Bacon subsequently produced shall not be retained because of nitrosamines if the operator of the establishment makes adjustments in the

processing of the product and laboratory results obtained by TEA analysis of samples from five consecutive normal sized lots of bacon indicates that the product being produced contains no confirmable levels of nitrosamines. These tests from five consecutive normal sized lots of bacon shall be conducted by the Department: *Provided, however, That if the establishment furnishes the Department with the results of tests conducted under the methodology and procedures used by the Department, such test results will be utilized in making the determination concerning the nitrosamine content of the product.* All tests of bacon for nitrosamines under this subparagraph shall be made on bacon cooked 340° F for 3 minutes on each side. In order to determine that no confirmable levels of nitrosamines are present in a sample tested, the testing must be performed by methodology and procedures that would detect the presence of any nitrosamines at 10 PPB.

2. In the table in paragraph (c)(4), the "Products column relating to "Sodium or potassium nitrate as "Curing agents is amended to read: "Cured products other than bacon.

3. In the table in paragraph (c)(4), the "Amount column relating to "Sodium or potassium nitrite as "Curing agents is amended by adding the following at the end thereof: "Except that nitrites may be used in bacon only in accordance with paragraph (b) of this section.

(Sec. 21, 34 Stat. 1264, 21 U.S.C. 621; 42 FR 35625, 35626, 35631.)

These amendments make changes in the regulations for purposes of clarification and do not create, alter or revoke any rights or duties. It does not appear that further public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Accordingly, it is found upon good cause, under the administrative procedure provisions in 5 U.S.C. 553, that notice and other public procedure with respect to these changes are unnecessary and good cause is found for making the amendments effective July 24, 1978.

An impact analysis statement is available from Food Safety and Quality Service.

Done at Washington, D.C. on July 24, 1978.

ROBERT ANGELOTTI,
Administrator, Food Safety
and Quality Service.

[FR Doc.78-20721 Filed 7-24-78; 10:35 am]