

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 refuges with tribal governments having adjoining or overlapping jurisdiction before we propose the activities. This policy is consistent with and not less restrictive than tribal reservation rules.

Paperwork Reduction Act

This document does not include any new information collection that would require Office of Management and Budget (OMB) approval under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). 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.

Section 7 Consultation

We determined the policy established by this notice will not affect listed species or designated critical habitat. Therefore, consultation under section 7 of the Endangered Species Act is not required. The basis for this conclusion is this final policy establishes the process for making a finding of whether or not a use of a refuge is an appropriate use. The appropriateness process described in this final policy is only one step in the decisionmaking process for deciding whether or not to allow a use of a refuge. The ultimate decision to allow or otherwise implement a particular use is the causative agent with respect to affecting listed species or their critical habitat. We will conduct section 7 consultations when actions that the decision authorizes, funds, or carries out may affect listed species or their critical habitat.

National Environmental Policy Act

We ensure compliance with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4347) when developing refuge CCPs and visitor services plans, and we make determinations required by NEPA before the addition of refuges to the lists of areas open to public uses. In accordance with 516 DM 2, appendix 1.10, we have determined this policy is categorically excluded from the NEPA process because it is limited to policies, directives, regulations, and guidelines of an administrative, financial, legal, technical, or procedural nature; or the environmental effects of which are too broad, speculative, or conjectural to lend themselves to meaningful analysis.

Site-specific proposals, as indicated above, will be subject to the NEPA process.

Available Information for Specific Refuges

Individual refuge headquarters offices retain information regarding public use programs, the conditions that apply to their specific programs, and maps of their respective areas. You may also obtain information from the Regional Offices at the addresses listed below:

- *Region 1*—California, Hawaii, Idaho, Nevada, Oregon, and Washington. Regional Chief, National Wildlife Refuge System, U.S. Fish and Wildlife Service, Eastside Federal Complex, Suite 1692, 911 NE 11th Avenue, Portland, Oregon 97232–4181; Telephone (503) 231–6214; <http://pacific.fws.gov>.
- *Region 2*—Arizona, New Mexico, Oklahoma, and Texas. Regional Chief, National Wildlife Refuge System, U.S. Fish and Wildlife Service, Box 1306, Albuquerque, New Mexico 87103; Telephone (505) 248–7419; <http://southwest.fws.gov>.
- *Region 3*—Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Ohio, and Wisconsin. Regional Chief, National Wildlife Refuge System, U.S. Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111; Telephone (612) 713–5400; <http://midwest.fws.gov>.
- *Region 4*—Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Puerto Rico, and the Virgin Islands. Regional Chief, National Wildlife Refuge System, U.S. Fish and Wildlife Service, 1875 Century Boulevard, Room 324, Atlanta, Georgia 30345; Telephone (404) 679–7166; <http://southeast.fws.gov>.
- *Region 5*—Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, and West Virginia. Regional Chief, National Wildlife Refuge System, U.S. Fish and Wildlife Service, 300 Westgate Center Drive, Hadley, Massachusetts 01035–9589; Telephone (413) 253–8550; <http://northeast.fws.gov>.
- *Region 6*—Colorado, Kansas, Montana, Nebraska, North Dakota, South Dakota, Utah, and Wyoming. Regional Chief, National Wildlife Refuge System, U.S. Fish and Wildlife Service, 134 Union Blvd., Lakewood, Colorado 80228; Telephone (303) 236–8145; <http://mountain-prairie.fws.gov>.
- *Region 7*—Alaska. Regional Chief, National Wildlife Refuge System, U.S. Fish and Wildlife Service, 1011 E.

Tudor Rd., Anchorage, Alaska 99503; Telephone (907) 786–3545; <http://alaska.fws.gov>.

Primary Author

Tom C. Worthington, Chief, Division of Refuge Operations, Region 3, National Wildlife Refuge System, U.S. Fish and Wildlife Service, is the primary author of this notice.

Authority

Our authority for issuing these manual chapters is derived from 16 U.S.C. 668dd *et seq.*

Availability of the Policy

The Final Appropriate Refuge Uses Policy is available at this Web site: <http://policy.fws.gov/ser600.html>.

Persons without Internet access may request a hard copy by contacting the office listed under the heading **FOR FURTHER INFORMATION CONTACT**.

Dated: January 20, 2006.

H. Dale Hall,

Director, U.S. Fish and Wildlife Service.

Note: This document was received at the Office of the Federal Register on June 21, 2006.

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

RIN 1018–AU25

Final Wildlife-Dependent Recreational Uses Policy Pursuant to the National Wildlife Refuge System Improvement Act of 1997

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability.

SUMMARY: This policy explains how we will provide visitors with quality hunting, fishing, wildlife observation and photography, and environmental education and interpretation opportunities on units of the National Wildlife Refuge System (Refuge System). The National Wildlife Refuge System Improvement Act of 1997 (Improvement Act) that amends the National Wildlife Refuge System Administration Act of 1966 (Administration Act) defines and establishes that compatible wildlife-dependent recreational uses (hunting, fishing, wildlife observation and photography, and environmental education and interpretation) are the priority general public uses of the Refuge System and will receive

enhanced and priority consideration in refuge planning and management over other general public uses. This final policy describes how we will facilitate these uses. We are incorporating this policy as Part 605, chapters 1–7, of the Fish and Wildlife Service Manual.

DATES: This policy is effective July 26, 2006.

FOR FURTHER INFORMATION CONTACT:

Carol Carson, Refuge Program Specialist, Division of Conservation Planning and Policy, National Wildlife Refuge System, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, Room 670, Arlington, Virginia 22203; telephone (703) 358–1744.

SUPPLEMENTARY INFORMATION: We published the Draft Wildlife-Dependent Recreational Uses Policy in the **Federal Register** on January 16, 2001 (66 FR 3681). We invited the public to provide comments on the draft policy. The initial comment period closed on March 19, 2001. On March 15, 2001, we extended the comment period to April 19, 2001 (66 FR 15136). On May 15, 2001, we reopened the comment period to June 14, 2001 (66 FR 26879), and on June 21, 2001, we reopened the comment period until June 30, 2001 (66 FR 33268). In our June 21, 2001, notice, we also corrected the May 15, 2001, notice to reflect that comments received between April 19 and May 15, 2001, would be considered and need not be resubmitted.

Background

The Improvement Act (Pub. L. 105–57) amends and builds upon the Administration Act (16 U.S.C. 662dd *et seq.*), providing an “organic act” for the Refuge System. The Improvement Act clearly establishes the Refuge System mission, provides guidance to the Secretary of the Interior (Secretary) for management of the Refuge System, provides a mechanism for refuge planning, and gives refuge managers uniform direction and procedures for making decisions regarding wildlife conservation and uses of the Refuge System.

The Improvement Act defines six wildlife-dependent recreational uses (hunting, fishing, wildlife observation and photography, and environmental education and interpretation) that, when compatible, are the priority general public uses of the Refuge System. The Improvement Act also provides a set of affirmative stewardship responsibilities regarding our administration of the Refuge System. These stewardship responsibilities direct us to ensure that compatible wildlife-dependent recreational uses are provided enhanced

consideration and priority over other general public uses.

The Refuge Recreation Act of 1962 (16 U.S.C. 460–460k–4) (Recreation Act) authorizes us to regulate or curtail public recreational uses in order to ensure that we accomplish our primary conservation objectives. The Recreation Act also directs us to administer the Refuge System for public recreation when the use is an “appropriate incidental or secondary use.” The Improvement Act provides the Refuge System mission and includes specific directives and a clear hierarchy of public uses of the Refuge System.

Compatible wildlife-dependent recreational uses are the priority general public uses of the Refuge System, have been determined to be appropriate by law, and are to be facilitated. This wildlife-dependent recreational uses policy, along with the appropriate refuge uses policy and our compatibility policy and regulations, are key tools refuge managers use together to fortify our commitment to provide enhanced opportunities for the public to enjoy compatible wildlife-dependent recreation while at the same time ensuring that no refuge uses compromise individual refuge purpose(s) or the Refuge System mission. Through careful planning, consistent Refuge Systemwide application of regulations and policies, diligent monitoring of the impacts of uses on natural resources, and by preventing or eliminating uses not appropriate to the Refuge System, we can achieve individual refuge purpose(s) and the Refuge System mission while providing people with lasting opportunities for quality wildlife-dependent recreation.

Final Wildlife-Dependent Recreational Uses Policy

To ensure we achieve individual refuge purpose(s) as well as the Refuge System mission and to be sure we afford priority to compatible wildlife-dependent recreational uses within the Refuge System, we are establishing a policy on wildlife-dependent recreational uses. This policy is intended to improve the internal management of the Service, and it is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or equity by a party against the United States, its Departments, agencies, instrumentalities or entities, its officers or employees, or any other person. The following is a summary of this policy.

Chapter 1, General Guidance, provides Service policies, strategies, and requirements concerning the

management of wildlife-dependent recreation programs within the Refuge System. Refuges are national treasures for the conservation of wildlife and for people who enjoy the wonders of the outdoors. Wildlife-dependent recreation programs promote understanding and appreciation of natural and cultural resources and their management in the Refuge System. To assure that the Refuge System’s fish, wildlife, and plant resources are professionally managed, their needs should be considered first. Therefore we only allow wildlife-dependent recreational uses on a refuge after we determine the use to be compatible. We encourage refuge staff to develop and take full advantage of opportunities to work with other partners who have an interest in helping us promote quality wildlife-dependent recreational programs on refuges. Our general policy is to provide the American public quality opportunities to take part in compatible wildlife-dependent recreation. To accomplish this policy, we ensure consistency and professionalism in planning and implementing wildlife-dependent recreational use programs and activities in the Refuge System. Compatible wildlife-dependent recreational uses (hunting, fishing, wildlife observation and photography, and environmental education and interpretation) are the priority general public uses of the Refuge System and will receive enhanced and priority consideration in refuge planning and management over all other general public uses.

Chapter 2, Hunting, provides Service policy governing the management of recreational hunting within the Refuge System. The Improvement Act identifies hunting as a wildlife-dependent recreational use of the Refuge System. Hunting programs help promote understanding and appreciation of natural resources and their management in the Refuge System. Hunting is also an integral part of a comprehensive wildlife management program. We strongly encourage refuge managers to provide the public quality compatible hunting opportunities. We work cooperatively with the State fish and wildlife agencies to plan and implement hunting programs, and we conduct the programs, to the extent practicable, consistent with applicable State laws, regulations, and management plans. In addition, we plan hunting programs in consultation and cooperation with appropriate tribal agencies, and we conduct them, to the extent practicable, consistent with applicable tribal regulations. We encourage refuge staff to develop and take full advantage of

opportunities to work with other partners who have an interest in helping us promote quality wildlife-dependent recreational programs on refuges.

Chapter 3, Fishing, provides Service policy governing the management of recreational fishing within the Refuge System. The Improvement Act identifies fishing as a wildlife-dependent recreational use of the Refuge System. Fishing programs help promote understanding and appreciation of natural resources and their management in the Refuge System. We strongly encourage refuge managers to provide the public quality compatible fishing opportunities. We work cooperatively with the State fish and wildlife agencies to plan and implement fishing programs, and we conduct them, to the extent practicable, consistent with applicable State laws, regulations, and management plans. Additionally, we plan fishing programs in consultation and cooperation with appropriate tribal agencies, and we conduct them, to the extent practicable, consistent with applicable tribal regulations. We base fishing seasons on refuges on applicable State regulations, local conditions, and biological objectives. The Service's Division of Fish and Wildlife Management and Habitat Restoration has many field offices with a broad range of expertise that are available to the refuge manager when planning and managing fishing programs. We encourage refuge managers to take advantage of this important resource. We also encourage refuge staff to develop and take full advantage of opportunities to work with other partners who have an interest in helping us promote quality wildlife-dependent recreational programs on refuges.

Chapter 4, Wildlife Observation, provides Service policy governing the management of recreational wildlife observation within the Refuge System. The Improvement Act identifies wildlife observation as a wildlife-dependent recreational use of the Refuge System. Wildlife observation programs help promote understanding and appreciation of natural resources and their management on all lands in the Refuge System. We strongly encourage refuge managers to provide the public quality compatible wildlife observation opportunities. We also encourage refuge managers to coordinate refuge wildlife observation programs with applicable Federal, State, and tribal programs. We encourage refuge staff to develop and take full advantage of opportunities to work with other partners who have an interest in helping us promote quality wildlife-dependent recreational programs on refuges.

Chapter 5, Wildlife Photography, provides Service policy governing the management of recreational wildlife photography within the Refuge System. The Improvement Act identifies wildlife photography as a wildlife-dependent recreational use of the Refuge System. Wildlife photography programs help promote understanding and appreciation of natural resources and their management on all lands in the Refuge System. We strongly encourage refuge managers to provide the public with quality compatible wildlife photography opportunities. We also encourage refuge managers to coordinate wildlife photography programs with applicable State programs. We encourage refuge staff to develop and take full advantage of opportunities to work with other partners who have an interest in helping us promote quality wildlife-dependent recreational programs on refuges.

Chapter 6, Environmental Education, provides Service policy governing the management of environmental education within the Refuge System. The Improvement Act identifies environmental education as a wildlife-dependent recreational use of the Refuge System. Environmental education programs help promote understanding and appreciation of natural and cultural resources and their management on all lands in the Refuge System. We strongly encourage refuge managers to provide the public quality compatible environmental education opportunities. Refuge managers should work with local schools and other organizations to provide these programs. We also encourage refuge managers to coordinate refuge environmental education programs with applicable Federal, State, and local programs. We encourage refuge staff to develop and take full advantage of opportunities to work with other partners who have an interest in helping us promote quality wildlife-dependent recreational programs on refuges.

Chapter 7, Interpretation, provides Service policy governing the management of interpretation within the Refuge System. The Improvement Act identifies interpretation as a wildlife-dependent recreational use of the Refuge System. Interpretation programs help promote understanding and appreciation of natural and cultural resources and their management on all lands in the Refuge System. We strongly encourage refuge managers to provide to the public quality compatible interpretation opportunities. We encourage refuge staff to coordinate refuge interpretive programs and materials with applicable Federal, State,

and local programs. We also encourage refuge staff to develop and take full advantage of opportunities to work with other partners who have an interest in helping us promote quality wildlife-dependent recreational programs on refuges.

Summary of Comments Received

During public comment periods, we received a total of 647 comment letters by mail, fax, or e-mail on our draft policy from Federal, State, and local government agencies, nongovernmental organizations, and private citizens. Of these, 439 were form letters generally supporting the policies in their draft form and commending the Service for its proactive approach. We categorized the remaining responses into 50 issue categories, broken down by the chapter to which they most applied: General guidance—11; hunting—15; fishing—10; wildlife observation—5; wildlife photography—3; environmental education—3; and interpretation—3. These categories represent our analysis of the comments and our effort to ensure that all were addressed. Several comments were not relevant to this policy, and we do not address them.

As a result of the comments received and our own review of the various chapters, we made editorial changes to improve the clarity and readability of the policy. We streamlined information in chapters 2–7, placed information applicable to all chapters in chapter 1, and revised language in the chapters to improve consistency and readability. Although the chapters have been restructured and streamlined, the revisions do not significantly change the scope, context, or focus of the chapters.

Issue Categories

General Guidance

- 1–1. General partnerships/public involvement.
- 1–2. State coordination.
- 1–3. Insufficient funds should not be enough to prohibit wildlife-dependent recreational uses.
- 1–4. Clarify the use of the term "high quality."
- 1–5. Resolution of conflicts among wildlife-dependent recreational uses.
- 1–6. Provide documentation to partners when a compatibility determination results in the prohibition of a wildlife-dependent recreational use.
- 1–7. Add category of nonpriority wildlife-dependent recreational uses.
- 1–8. Clarification of terms or wording used in policy.
- 1–9. Existing uses should be grandfathered into wildlife-dependent recreational uses.
- 1–10. Add/clarify provision to close refuges to a particular use if a situation merits.
- 1–11. Too much refuge manager autonomy.

Hunting

- 2-1. Hunting with dogs.
- 2-2. Trapping.
- 2-3. Ethical standards.
- 2-4. Migratory birds.
- 2-5. Proficiency testing.
- 2-6. Nontoxic shot restrictions.
- 2-7. Night use of refuges.
- 2-8. "Inviolate" sanctuary.
- 2-9. Revise section 2.13 of the draft hunting chapter to demonstrate the desire for a balanced hunting program.
- 2-10. Revise Exhibit 1, section III, to remove the term "impact" and use a less intrusive word.
- 2-11. Population goals and objectives in hunting plan.
- 2-12. Crippling loss.
- 2-13. Reliance on technology.
- 2-14. Use of the word "weapon."
- 2-15. Tournament hunting.

Fishing

- 3-1. Tournament fishing.
- 3-2. Use of nonnative bait.
- 3-3. Commercial fishing.
- 3-4. Population goals and objectives in fishing plan.
- 3-5. Native fish.
- 3-6. Night use of refuges.
- 3-7. Use of barbless hooks.
- 3-8. Authority of the Service to control navigable waters.
- 3-9. Use of nontoxic tackle.
- 3-10. Ice fishing.

Wildlife Observation

- 4-1. No requirement mentioned for wildlife observation plan and not mentioned under requirements for CCPs.
- 4-2. Move concepts to appendix or another plan.
- 4-3. Emphasize hiking as a wildlife observation opportunity.
- 4-4. Wildlife observation chapter does not have the same level of thoroughness as hunting and fishing chapters.
- 4-5. Conflicting relationships in draft sections of the draft wildlife observation chapter.

Wildlife Photography

- 5-1. No requirement mentioned for wildlife photography plan and not mentioned under requirements for CCPs.
- 5-2. Emphasize hiking as a wildlife photography opportunity.
- 5-3. Wildlife photography chapter does not have the same level of thoroughness as hunting and fishing chapters.

Environmental Education

- 6-1. Tribal consultation and coordination.
- 6-2. Educate the public on the importance of hunting as a wildlife management tool.
- 6-3. Environmental Education chapter does not have the same level of thoroughness as the hunting and fishing policies.

Interpretation

- 7-1. Tribal consultation and coordination.
- 7-2. Increase public understanding and support for wildlife management practices.
- 7-3. Interpretation chapter does not have the same level of thoroughness as the

hunting and fishing policies.

General Guidance*Issue 1-1: General Partnerships/Public Involvement*

Comment: We received six comments suggesting that we include specific requirements for public/partnership involvement and stakeholder consultation in the development of our policy and/or management plans. One commenter suggested that we develop interim approval processes to expedite hunting on refuges until public consultation/coordination is completed. Another commenter suggested it was inappropriate to propose policy without giving the public an opportunity to comment.

Response: The hunting and fishing policies specifically require the refuge manager to seek public involvement for any new or significant changes to these programs. The policies require the refuge manager to plan ahead and to obtain as much involvement from groups and individuals as possible. These policies suggest methods of obtaining input, including the use of public meetings, news releases, and mailings.

Our hunting and fishing policies state that refuge managers must provide interested stakeholders an opportunity to provide input into significant programs. This opportunity most commonly occurs during the comprehensive conservation plan (CCP) planning process. Additional opportunities to provide input may occur during the development of a visitor services plan (VSP), a step-down management plan of the CCP. The VSP is the overarching document for providing visitor services in the Refuge System. This plan is an analysis of all aspects of visitor service programs on a refuge, including, but not limited to, programs associated with wildlife-dependent recreation.

An additional interim approval process to expedite hunting on refuges would not shorten the required process. Opening a refuge to hunting or fishing is different than opening a refuge to other wildlife-dependent recreation in that refuge-specific regulations must be printed in the **Federal Register**. These refuge-specific regulations must be published prior to opening a refuge.

By releasing draft policies in the **Federal Register**, distributing news releases, using the worldwide web, and opening the policy comment period for over 120 days to interested individuals and groups for comment, we feel that we adequately informed the public of the existence of this draft policy and

gave ample time and opportunity for the public to comment.

Issue 1-2: State Coordination

Comment: We received numerous comments from State fish and wildlife agencies and nongovernmental organizations that requested we revise the policies to emphasize language from the Improvement Act that directs the Secretary of the Interior to variously interact, coordinate, cooperate, and collaborate with the States in a timely and effective manner on the acquisition and management of refuges. The law further directs the Secretary to ensure that Refuge System regulations and management plans are, to the extent practicable, consistent with State laws, regulations, and management plans.

Response: Effective conservation of fish, wildlife, and plants and their habitat depends on the partnership and cooperation among many individuals and organizations. Especially important is the professional relationship between fish and wildlife managers at the State and Federal levels. The importance of that relationship is reflected in the Improvement Act. The final policies include language directing refuge managers to coordinate with State fish and wildlife agencies whenever changes are made to refuge hunting or fishing programs. The draft wildlife-dependent recreational use policy chapters contained direction to refuge managers to work cooperatively with State fish and wildlife agencies. We strengthened this guidance in this final version of the policy in section 1.13C.

The language we added follows the mandate of the Improvement Act and reflects our intent to work cooperatively with State fish and wildlife agencies in the management of the Refuge System. However, when differences occur, the Service retains the authority to make final decisions consistent with refuge purpose(s) and the Refuge System mission. State representatives continue to have the ability to discuss these decisions with the decisionmaker and their organizational superiors.

Issue 1-3: Insufficient Funds Should Not Be Enough To Prohibit Wildlife-Dependent Recreational Uses

Comment: We received comments suggesting that the wording "refuge managers will offer wildlife-dependent recreational use programs only to the extent that staff and funds are sufficient to develop, operate, and maintain the program to safe, high quality standards" unnecessarily allows refuge managers an ambiguous "out" if they do not want to provide for any one of the six

wildlife-dependent recreational uses, specifically hunting.

Response: With respect to the comments mentioned above, our answer addresses all six wildlife-dependent recreational uses even though the commenters specifically related their comments to hunting. The statement is meant to ensure that refuge managers use available funding and staff resources wisely when offering wildlife-dependent recreational opportunities on refuges. The statement does not serve as a mechanism for justifying or favoring one use over another or prohibiting a use such as hunting because the refuge manager is opposed to hunting. The six wildlife-dependent recreational uses are equal. We revised section 1.10 in the final policy to encourage refuge managers to use partnerships, user fee programs, and cooperative efforts, where appropriate, to increase opportunities for quality wildlife-dependent uses.

Issue 1–4: Clarify the Use of the Term “High Quality”

Comment: Several commenters requested clarification of the term “high quality,” and one commenter believed that we were mandating that all wildlife-dependent uses had to meet these standards or they could not occur on refuges.

Response: In the individual chapters, we clarified most terms that commenters stated were ambiguous. We developed 11 criteria to evaluate the quality of our wildlife-dependent recreation programs (section 1.6). The “quality” criteria are factors to consider when developing wildlife-dependent recreational use programs, and not immutable standards. They are guidelines for refuge managers to use when starting, analyzing, or evaluating a wildlife-dependent recreational use. Nothing in the policy requires that any of the wildlife-dependent recreational uses meet all of the goals listed under the “quality” definition. The term “quality” is used as a standard we strive to achieve in our wildlife-dependent recreational use programs. However, we have removed the modifiers “high” and “highest” from quality throughout these chapters. In addition, we moved the discussions of quality from the chapters on specific wildlife-dependent recreational uses to the general guidance chapter. We apply the concept of quality to all of our wildlife-dependent recreational use programs equally.

Issue 1–5: Resolution of Conflicts Among Wildlife-Dependent Recreational Uses

Comment: Several States commented that there is no protocol for resolving conflicts among priority general public uses with the final decision left to the refuge manager. In addition, several of the States requested an appeals process.

Response: The Improvement Act and accompanying House Report 105–106 strongly encourage refuge managers to provide wildlife-dependent recreational uses that are compatible and urged them to use “sound professional judgment” when making determinations on proposed uses. There is no implicit priority described in the Improvement Act that elevates one of the wildlife-dependent recreational uses over another. The Improvement Act and accompanying House Report 105–106 were silent on the issue of an appeals process, and we do not propose to include such an appeals process in these chapters. Director’s Order No. 148 addresses coordination and cooperation with State fish and wildlife agencies. In addition, there is a mechanism for State fish and wildlife agencies to participate in the CCP process (602 FW 1.7B). We also provide other opportunities for State fish and wildlife agencies to participate in the development and implementation of program changes that would be made outside of the CCP process. We will continue to provide State fish and wildlife agencies opportunities to discuss and, if necessary, elevate decisions within the hierarchy of the Service. The final policy clarifies this.

Issue 1–6: Provide Documentation to Partners When a Compatibility Determination Results in a Prohibited Wildlife-Dependent Recreational Use

Comment: Several commenters requested that we provide rigorous documentation when negative compatibility determinations are made resulting in the prohibition of a wildlife-dependent recreational use.

Response: We agree and believe this requirement is adequately addressed in the compatibility policy (603 FW 2). These wildlife-dependent recreational use chapters only reference the need to adhere to the compatibility standards, and as such, are not the appropriate location to provide additional assurances that certain responsibilities are met.

Issue 1–7: Add Category of Nonpriority Wildlife-Dependent Recreational Uses

Comment: We received two comments suggesting there are certain activities

that fall under the category “non-priority wildlife-dependent recreational uses.” Examples given were frog gigging, live collection of nonprotected vertebrates and insects, and set lines.

Response: The Improvement Act defined wildlife-dependent recreational uses as hunting, fishing, wildlife observation and photography, and environmental education and interpretation. We are unable to deviate from this legal definition. The Refuge Manual (8 RM 9) covers other refuge uses.

Issue 1–8: Clarification of Terms or Wording Used in Policy

Comment: One commenter requested that we change the term “targeted” species in the draft chapter to “specified” species. We also received numerous comments suggesting editorial changes or clarification of terms or wording used in the policy.

Response: We left the term “target” because it seemed to more clearly articulate our thought process in this section. We did a thorough review of the policy and, where necessary, changed the wording of sections to improve clarity and understanding. In addition to comments received from our public review process, we reviewed the chapters to ensure they met the mandates of the Improvement Act, Refuge System mission, and other appropriate guidelines. One example of such an internal editorial change was reference and relationship of recreational uses to visitor services. We moved information from the interpretation chapter related to a visitor services plan (VSP) and added additional clarification language into the general guidance chapter.

Issue 1–9: Existing Uses Should Be Grandfathered Into Wildlife-Dependent Recreational Uses

Comment: Two commenters suggested that preexisting wildlife-dependent recreational uses should be “grandfathered” into a refuge’s visitor services program and that, in effect, this policy would only apply to a new use or an extension of an existing use.

Response: We disagree; the Improvement Act clearly states: “the Secretary shall not initiate or permit a new use of a refuge or expand, renew, or extend an existing use of a refuge, unless the Secretary has determined that the use is a compatible use and that the use is not inconsistent with public safety.” This language clearly directs us to conduct compatibility determinations on all public uses, whether preexisting or not. Therefore, we did not make any

changes to the policies in response to these comments.

Issue 1–10: Add/Clarify Provision to Close a Refuge to a Particular Use if a Situation Merits

Comment: One commenter requested that we add a provision that would allow the closure of a refuge in case of disease outbreak. Two commenters questioned our authority to close refuges on waters where we have no jurisdiction. One commenter was concerned that this section allows a refuge manager to close a refuge to hunting without cause.

Response: We already have regulations covering the closure of refuges and do not think it is necessary to elaborate on them in this policy. They state that a refuge manager may close all or any part of a refuge that is open whenever necessary to protect the resources of the area or in the event of an emergency endangering life, property, or any population of wildlife, fish, or plants. The sections, as written, allow for closure in case of disease outbreak. Refuge policy only affects lands and waters under our jurisdiction.

We base nonemergency closures on impacts to wildlife populations, ecosystems, and priority recreation uses. We follow the public participation process identified in the National Environmental Policy Act (NEPA). If the impacts are likely to be major or controversial, we require the preparation of an environmental assessment. This requirement deters the arbitrary closure of a refuge to a compatible wildlife-dependent recreational use unless the situation merits.

Issue 1–11: Too Much Refuge Manager Autonomy

Comment: Several State fish and wildlife agencies expressed concern that refuge managers have too much authority or discretion when approving or disapproving public use activities.

Response: The refuge manager at the site is best positioned and equipped to make these decisions. These policies as well as training will guide the refuge managers in making decisions. To ensure consistency, the refuge managers submit certain decisions, such as compatibility determinations, to the Regional office for review before they are finalized.

This creates a check and balance system that ensures consistency and provides a vehicle for States to use in the case of disagreement.

Hunting

Issue 2–1: Hunting With Dogs

Comment: Several commenters suggested the language under which pursuit hounds would be permitted is so restrictive that we essentially prohibit the use of pursuit hounds in the policy. Several commenters pointed out that an untrained dog, no matter the type, could adversely affect wildlife habitat and resources, so the need to differentiate between breeds is unnecessary.

Response: The intent of the draft policy was not to prohibit the use of pursuit hounds, but to encourage the use of well-trained dogs in the Refuge System. Since pursuit hounds are more likely to range out of the control of the hunter, more stringent guidelines were placed on these dogs. We agree with the concerns of the commenters, and we rewrote the section on use of dogs to create an equally stringent evaluation for the use of all dogs on refuges.

Issue 2–2: Trapping

Comment: We received numerous comments expressing concern that trapping was not addressed in the hunting chapter. Several commenters suggested that trapping is a legitimate wildlife-dependent recreational use and an appropriate and compatible use on most refuges in the Refuge System. Other commenters requested that we clarify and/or identify trapping, because it has important management implications for some refuges in the Refuge System. One commenter assumed that since recreational trapping was not mentioned, it was considered a form of hunting and recommended that we clarify our position in the final policy.

Response: The Improvement Act clearly defines wildlife-dependent recreation as “a use of a refuge involving hunting, fishing, wildlife observation and photography, or environmental education and interpretation.” This definition does not include trapping. The Improvement Act, as well as accompanying House Report 105–106, specifically identifies “regulated take” as a management activity. We consider trapping an important management tool, as well as a method of take regulated by States. As such, we have not addressed trapping in this chapter. However, if determined compatible, recreational trapping can be allowed under State regulations. For more information regarding the compatibility of trapping, see 603 FW 2.

Issue 2–3: Ethical Standards

Comment: One commenter stated that ethics are a matter of individual conscience and that law enforcement is the proper province of the Service. Another commenter stated that hunters operating within the limits of game laws are by default ethical, therefore the Service should be concentrating on hunting as a management tool and not the ethics of hunters.

Response: We agree that it would be difficult for the Service to enforce an ambiguous concept of ethics for hunters. We also agree that hunters operating within the guidelines of State and refuge-specific hunting regulations are usually ethical. Therefore, we removed the references to ethics and ethical behavior.

Issue 2–4: Migratory Birds

Comment: One commenter requested that a reference to State involvement in the determination of migratory bird regulations be added to the hunting policy, and another requested that migratory bird management be articulated in the chapter.

Response: We agree that the draft policy (section 2.3) did not clearly articulate the States’ role in developing and setting migratory bird hunting regulations. As such, we revised the policy in several places to include the importance of the role of State fish and wildlife agencies in determining hunting regulations.

Issue 2–5: Proficiency Testing

Comment: One commenter stated that allowing refuge managers to impose proficiency testing more restrictive than that of the State gives a refuge manager license to advance a personal philosophy which may be anti-hunting.

Response: Our hunting policy does not require mandatory testing or qualifications above State requirements. In fact, proficiency testing is and will continue to be rare in the Refuge System. Our hunting policy does allow a refuge manager to implement a proficiency test more restrictive than that required by the State under special circumstances. Before we implement a proficiency test, we carefully put it through several levels of review and require the Regional Refuge System chief’s approval. This review process, and the subsequent requirement for Regional approval, makes it difficult for an individual refuge manager’s bias to drive the management of a hunting program.

Issue 2–6: Nontoxic Shot Restrictions

Comment: One commenter requested we clarify section 2.13Q of the draft

hunting chapter to reflect that nontoxic shot restrictions do not necessarily apply to deer or turkey hunters.

Response: We agree, and we revised this section accordingly.

Issue 2-7: Night Use of Refuges

Comment: One commenter agreed that nighttime hunting and fishing may not be appropriate on all refuges, but the use should be independently evaluated.

Response: We believe our hunting policy, as written, gives refuge managers the ability to independently evaluate the night use of a refuge. Our policy states that we allow night hunting when it is compatible with refuge purpose(s) and the Refuge System mission. It also states that if a refuge is generally not open after sunset, refuge managers may make an exception and allow night hunting. No change to the wording of the chapter was necessary.

Issue 2-8: "Inviolable" Sanctuary

Comment: Several commenters questioned the use of the term "inviolable" sanctuary. These commenters stated that many people associate the word inviolate with closed to entry and therefore closed to hunting. One commenter stated that the wording in the draft hunting policy would attach inviolate sanctuary status to refuges other than waterfowl production areas, easement refuges, etc., that were purchased to fulfill the purpose of the Migratory Bird Treaty Act. One commenter stated that there is no longer a need for inviolate sanctuaries with all the habitat restoration accomplished by States, other government agencies, and private landowners.

Response: The Migratory Bird Conservation Act of 1929, as amended (MBCA), defines the term "inviolable sanctuaries" where take of birds was prohibited. Subsequent amendments to the Duck Stamp Act and the Administration Act authorized the Secretary to allow hunting in these areas up to certain limits. The hunting policy chapter cannot change the statutory definition of this term. We therefore use the term "inviolable" as it is defined in the MBCA and as modified by law. In our draft policy, we attempted to simplify the long and complex explanation of inviolate sanctuaries outlined in the 1982 Refuge Manual hunting policy. After careful review, we agree with the commenter that the draft policy erroneously applies inviolate sanctuary status to refuges not purchased under the MBCA. The draft policy did not adequately clarify the language; therefore, we replaced the language of the draft policy with language used in the 1982 hunting

policy. The final hunting chapter explains various scenarios when we may restrict hunting by law.

When we use funds from the MBCA to purchase bird habitat, these lands are subject to the regulations, restrictions, and purposes of the MBCA and the Administration Act. We agree that much progress has been made in habitat restoration since the MBCA was signed into law, but the 40 percent restriction for any refuge that is designated "for use as an inviolate sanctuary, or for any other management purpose, for migratory birds' remains.

Issue 2-9: Revise Section 2.13 of the Draft Hunting Chapter to Demonstrate the Desire for a Balanced Hunting Program

Comment: We received several comments requesting that we add a stipulation that all methods of take permitted by State law be allowed, to the extent feasible, on refuges.

Response: The Administration Act states that when we open a refuge to hunting or fishing, the Refuge System regulations should be, to the extent practicable, consistent with State fish and wildlife laws, regulations, and management plans. We revised the text to clarify this. When Refuge System regulations differ from State regulations, we publish those differences in the **Federal Register**. We also consult with State fish and wildlife agencies, tribes, and other appropriate authorities during the development of hunting programs and whenever we plan significant changes to our existing hunting programs.

Issue 2-10: Revise Exhibit 1, Section III, to Remove the Term "Impact" and Use a Less Intrusive Word

Comment: Three commenters were concerned that by using the word "impact" in the statement of objectives section in exhibit 1, we automatically presumed that hunting will impact refuge objectives.

Response: It was not our intent to imply that hunting, by default, created an impact on refuge objectives. We revised this exhibit and removed the term "impact."

Issue 2-11: Population Goals and Objectives in Hunting Plan

Comment: Some commenters expressed concern that the policy encourages population objectives that may differ from State population objectives and recommended that State wildlife agencies be involved closely during this process. Some commenters suggested replacing the phrase "to the

extent practicable" with the phrase "to the greatest extent possible."

Response: We coordinate closely with the State fish and wildlife agencies concerning wildlife population objectives, and in many cases State plans may provide the wildlife population objective levels for a refuge. We stress coordination and cooperation with State fish and wildlife agencies throughout the policy. There will be circumstances where refuge objectives may differ from State objectives because our missions differ. We revised some text to clarify the relationship between the State fish and wildlife agencies and the Refuge System. The phrase "to the extent practicable" is a direct quote from the Administration Act, and we kept the statutory language in the policy.

Issue 2-12: Crippling Loss

Comment: Two commenters commented on the ambiguity of the term "crippling loss." One suggested the number of dogs used has an insignificant impact on crippling loss.

Response: We agree, and we removed the term from the final policy.

Issue 2-13: Reliance on Technology

Comment: A number of commenters requested clarification of what was meant by the "use of technology designed to increase the advantage of the hunter."

Response: The intent of the draft policies was to reflect that refuge hunts should minimize the use of vehicles and adopt State restrictions on a number of technological advances that increase hunter efficiency (for example, inline muzzleloaders, night scopes, and let-off of compound bows). The result was confusing, and technology was undefined. We revised and moved the entire "quality hunting experience" section and other sections dealing with quality to section 1.6 of the final policy. This section now covers the term "quality" for all compatible wildlife-dependent recreation, which includes hunting.

Issue 2-14: Use of the Word "Weapon"

Comment: Two commenters requested that we remove the word "weapon" from sections 2.6C and the 2.13O in the draft policy. One commenter suggested the word "weapon" denotes a relationship with war and the other stated that hunter education programs discourage the use of the word "weapons."

Response: We no longer use the word "weapon." We refer to "special season hunts" in the final policy.

Issue 2–15: Tournament Hunting

Comment: We received several comments concerned about our definition of tournament hunting and its prohibition on the Refuge System.

Response: We eliminated tournament hunting from the definitions section and from the policy.

Fishing*Issue 3–1: Tournament Fishing*

Comment: There were many comments on our proposed tournament fishing policy. Most commenters questioned the restriction on awards and the implication that tournament fishing had negative effects on fish populations. Commenters argued that we should remove the restrictions on tournament fishing because of the economic effects on local communities, the lack of science supporting the need to limit tournaments on refuge waters, the fact that fishermen and hunters are natural resources' strongest contributors, and that tournaments employ a "catch and release" ethic. A few States questioned the authority of the Federal Government to regulate fish populations. Some States requested that we not set national policy governing fishing tournaments, but assess this activity on a case-by-case basis. One commenter stated we should not just focus on monetary awards received for fishing, but instead we should limit organizational activities and prize awards on refuge property as a whole.

The majority of comments we received on tournament fishing disagreed with the draft tournament fishing policy. We also received a number of letters and e-mails from individuals who wrote supporting the draft tournament fishing language and described their mostly negative fishing experience around an active fishing tournament.

Response: It is not our intent to ban tournament fishing on Refuge System waters, but instead to ensure that tournaments do not displace other anglers. We have attempted to develop policy that ensures the refuge is open to all anglers, even during a tournament. The fishing policy is designed so it does not favor tournaments over the individual angler. We understand the benefits tournament fishing provides to the sport of fishing and realize that many communities with quality fishing opportunities derive much-needed income from hosting events. Our intent is not to eliminate tournament fishing, but instead to ensure an event meets specific criteria before it can be held on waters under our control.

We agree that limiting awards is not the best way to achieve our objectives. Other regulatory methods, such as designating parking spaces for nontournament or tournament participants, regulating tournament permits, increasing monitoring of fish populations, increasing coordination with State fish and wildlife agencies, and limiting the number of tournaments on a particular body of water each year may be better methods of achieving our objectives. We changed the wording relating to tournament fishing and replaced it with wording that encourages refuge managers to monitor the effects of the tournament on fish populations and evaluate the experience of participating and nonparticipating anglers. We also added wording that requires refuge managers to consider other regulatory methods before denying a fishing tournament permit. In addition, we added wording that strongly encourages refuge managers to consult State fish and wildlife agencies when considering and/or developing restrictions on tournament fishing.

Issue 3–2: Use of Nonnative Bait

Comment: We received four comments about the use of nonnative bait. One commenter applauded our restrictions on the use of live nonnative bait, one wanted us to differentiate between the use of resident and nonresident nonnative bait items, one wanted this restriction to only apply to aquatic nonnative bait, and one commented on both resident and aquatic limitations.

Response: It was our intent to only prohibit the use of nonnative aquatic bait and not live bait like the European nightcrawler or naturalized aquatic bait. We revised the definition of nonnative to clarify this.

Issue 3–3: Commercial Fishing

Comment: One commenter requested the addition of commercial fishing to this policy.

Response: This policy applies to recreational fishing only, and commercial fishing discussions are not appropriate in this policy. We did not make any changes based on this comment.

Issue 3–4: Population Goals and Objectives in Fishing Plan

Comment: Some commenters expressed concern that the policy encourages population objectives that may differ from State fish population objectives. It was recommended that State fish and wildlife agencies be involved closely during this process. Some commenters suggested replacing

the phrase "to the extent practicable" with the phrase "to the greatest extent possible."

Response: We stress cooperation with State fish and wildlife agencies throughout the policy. The intent of the policy is that we will coordinate closely with the States concerning fish population objectives. In many cases, State plans may provide the population objective levels for a refuge. There will be circumstances where refuge objectives may differ from State objectives because our missions differ. We did not make revisions based on these comments. The phrase "to the extent practicable" is a direct quote from the Improvement Act, and we kept the statutory language in the policy.

Issue 3–5: Native Fish

Comment: We received several comments concerning our definition of native fisheries (section 3.6C in the draft policy). One commenter questioned what criteria we used in defining a watershed with respect to native fish and the inherent lack of knowledge to presettlement times. Another commenter thought it was "unrealistic" to attempt to reestablish native species.

Response: The definition of native fish was designed to aid the understanding of our fishing programs and their relationship to the biological integrity, diversity, and environmental health of the Refuge System. However, we do not use the term "native fish" in the policy. Therefore, we deleted the term.

Issue 3–6: Night Use of Refuges

Comment: We received two comments on night use of refuges for fishing. One commenter agreed that nighttime hunting and fishing may not be appropriate on all refuges, but the use should be independently evaluated. One commenter questioned the authority of the Service to regulate night use of the refuge. This commenter felt it was a State function.

Response: We revised this section to clarify that refuge managers have the ability to independently evaluate the night use of a refuge. Our policy states that we may allow night fishing when it is compatible with refuge purpose(s) and the Refuge System mission. It also states that if a refuge generally is not open after sunset, refuge managers may make an exception and permit night fishing as long as the decision is based on specific refuge objectives and not historic use. We disagree with the commenter who believes the States regulate night use of a refuge. The law expressly states the Service has the

authority to regulate use in the Refuge System.

Issue 3-7: Use of Barbless Hooks

Comment: We received several comments on the use of barbless hooks. One commenter suggested the barbless hook policy is laudable, but needs clarification to account for the difference between warm and cold water fish populations. Another commenter recommended we remove the slot size reference in this section.

Response: We agree. Research is not conclusive on the benefits of using barbless hooks in all situations. The use of barbless hooks can reduce fish handling time for certain species of fish intended for release. We encourage refuge managers who manage specific programs that benefit from "catch and release" fishing to take the lead in introducing barbless hook methods to anglers in brochures, on signs, and in other information sheets in those areas where fisheries will benefit.

Issue 3-8: Authority of Service To Control Navigable Waters

Comment: Several commenters questioned the authority of the Service to close public waters to fishing, especially when navigable waters exist. Some questioned our authority to regulate navigable waters.

Response: This policy applies only to fishing on waters where the Service has jurisdiction. We believe the policy states this, therefore we did not revise the policy based on this comment.

Issue 3-9: Use of Nontoxic Tackle

Comment: We received two comments on nontoxic tackle. One commenter was concerned about restrictions on fishing tackle, primarily lead weights, and the perceived conflicts with State regulations. One commenter questioned the authority of the Service to regulate tackle on the refuge. This commenter felt it was a State function.

Response: This section was included because we recognize lead poisoning of some bird species, particularly loons, is an issue on a number of refuges. Law allows us to develop regulations more restrictive than State requirements in order to protect wildlife as necessary. We have imposed a number of restrictions in coordination with States. We deleted the section on nontoxic tackle.

Issue 3-10: Ice Fishing

Comment: A commenter recommended that we strengthen this section by including guidelines for ice fishing structures.

Response: This policy is not designed to address ice fishing structures. If ice fishing is a compatible recreational use on a refuge, then the use and construction of ice fishing structures would be evaluated under the compatibility policy (603 FW 2).

Wildlife Observation

Issue 4-1: No Requirement Mentioned for Wildlife Observation Plan and Not Mentioned Under Requirements for CCPs

Comment: One commenter noted that the hunting, fishing, and interpretive chapters all mentioned the need for detailed planning documents. There was no mention of the need for such a document in the wildlife observation chapter.

Response: By not mentioning the need of a planning document for wildlife observation programs, we failed to highlight the importance of our visitor services planning process. The lack of a detailed explanation of the visitor services plan (VSP) in all of our wildlife-dependent recreation chapters created what appeared to be a disjointed planning approach to visitor services. A VSP is a step-down management plan of the CCP and is the overarching document for providing visitor services in the Refuge System. This plan is an analysis of all aspects of visitor service programs on a refuge, including, but not limited to programs associated with wildlife observation. The VSP can be completed before, during, or after the CCP is completed. We deleted the reference to an interpretive plan in the interpretation chapter and clarified the link between the VSP and all recreational use programs in the Refuge System. We provide an example outline of a VSP in exhibit 1 of 605 FW 1.

Issue 4-2: Move Concepts to Appendix or Another Plan

Comment: One commenter supported the concept that "high quality" viewing opportunities be tied to interpretive and educational messages, but suggested that the messages involve interested organizations and, when approved, be placed as an appendix in the wildlife observation policy.

Response: Although we are pleased that this commenter supports the idea of the educational and interpretive link to our wildlife observation programs, we disagree with including messages sponsored by interested organizations as an appendix. Opportunities to include more specific guidance will occur in our environmental education and interpretation handbooks. Our environmental education specialists and

our interpretive professionals are charged with developing programs that are both accurate and sensitive to the needs of a diverse community. They do not hesitate to seek advice from scientists, tribes, local communities, State agencies, and others when appropriate and necessary. Because interpretive and educational messages are tied to the goals and objectives of an individual refuge, we do not consider it appropriate to include them in an appendix to this policy.

Issue 4-3: Emphasize Hiking as a Wildlife Observation Opportunity

Comment: One commenter wanted us to emphasize the role of hiking and hiking trails in this policy. The commenter stated that hiking trails afford the public low-impact access to back-country areas where they can easily observe wildlife.

Response: Refuges provide visitors an opportunity to view wildlife using a variety of facilities, including trails. Our wildlife observation programs focus on viewing opportunities and how to improve the viewing experience. We provide general guidelines under the section outlining a quality experience and encourage experiences that take place in natural settings. We neither promote nor discourage the use of trails. Instead, we encourage our managers to use facilities that maximize opportunities to view a wide spectrum of wildlife species and habitats on the refuge while protecting refuge resources.

Issue 4-4: Wildlife Observation Chapter Does Not Have the Same Level of Thoroughness as Hunting and Fishing Chapters

Comment: One commenter suggested that the wildlife observation policy does not include the same level of thoroughness as the hunting and fishing chapters.

Response: Although it is true that the hunting and fishing chapters contain more detailed information and guidance than the wildlife observation chapter, we are not indicating that wildlife observation is less important than hunting and fishing. The Improvement Act defined wildlife-dependent recreation as a use of a refuge involving hunting, fishing, wildlife observation and photography, and environmental education and interpretation. When these activities are compatible, they are the priority general public uses of the Refuge System. The Improvement Act did not develop a hierarchy between the wildlife-dependent recreational uses, and we are not attempting to create one through the level of detail contained in each policy. Hunting and fishing are

inherently regulatory in nature and, therefore, require more guidance than wildlife observation on refuges.

Issue 4–5: Conflicting Relationships in Draft Sections of the Draft Wildlife Observation Chapter

Comment: One commenter stated that there was a disconnect between one of our goals identified in a quality wildlife observation opportunity and the example we used in the section identified as tools we can use to support wildlife observation.

Response: We agreed with the commenter and removed the example that appeared to be in conflict with one of our quality goals.

Wildlife Photography

Issue 5–1: No Requirement Mentioned for Wildlife Photography Plan and Not Mentioned Under Requirements for CCPs

Comment: One commenter noted that the hunting, fishing, and interpretive chapters all mentioned the need for detailed planning documents and that there was no mention of such a document in the wildlife photography chapter.

Response: By not mentioning the need of a planning document for our wildlife photography programs, we failed to highlight the importance of our visitor services planning process. The lack of a detailed explanation of the visitor services plan (VSP) in all of our wildlife-dependent recreation chapters created what appeared to be a disjointed planning approach to visitor services. A VSP is a step-down management plan of the CCP and is the overarching document for providing visitor services in the Refuge System. This plan is an analysis of all aspects of visitor service programs on a refuge, including, but not limited, to programs associated with wildlife photography. The VSP can be completed before, during, or after the CCP is completed. We deleted the reference to an interpretive plan in the interpretation chapter and clarified the link between the VSP and all recreational use programs in the Refuge System. We provide an example outline of a VSP in exhibit 1 of 605 FW 1.

Issue 5–2: Emphasize Hiking as a Wildlife Photography Opportunity

Comment: One commenter wanted us to emphasize the role of hiking and hiking trails in this policy. The commenter stated that hiking trails afford the public low-impact access to back-country areas where they can easily observe and photograph wildlife.

Response: Refuges provide visitors with an opportunity to view wildlife

using a variety of facilities, including trails. Our wildlife photography programs focus on opportunities and how to improve the photography experience. We provide general guidelines under the section outlining a quality experience and encourage experiences that cause the least amount of disturbance to wildlife, are available to a broad spectrum of the photographing public, blend with the natural setting, and cause minimal conflicts with other compatible wildlife-dependent recreational uses. We neither promote nor discourage the use of trails. Instead, we encourage our managers to use facilities that maximize opportunities while meeting other refuge objectives. We did not make revisions based on this comment.

Issue 5–3: Wildlife Photography Chapter Does Not Have the Same Level of Thoroughness as Hunting and Fishing Chapters

Comment: One commenter suggested that the photography policy does not include the same level of thoroughness as the hunting and fishing policy.

Response: Although it is true that the hunting and fishing chapters contain more detailed information and guidance than the wildlife photography chapter, we are not indicating that wildlife photography is less important than hunting and fishing. The Improvement Act defined wildlife-dependent recreation as a use of a refuge involving hunting, fishing, wildlife observation and photography, and environmental education and interpretation. When these activities are compatible, they are the priority general public uses of the Refuge System. The Improvement Act did not develop a hierarchy between the wildlife-dependent recreational uses, and we are not attempting to create one through the level of detail contained in each policy. Hunting and fishing are inherently regulatory in nature and, therefore, require more guidance than wildlife photography on refuges.

Environmental Education

Issue 6–1: Tribal Consultation and Coordination

Comment: We received two comments recommending that we expand the teaching focus identified to include the trust responsibilities of States and tribes rather than just those of the Service and that educational materials include the historic customs and culture of the people who live in the surrounding area.

Response: We address the issue of tribal consultation and coordination in section 1.9. In addition, we manage

visitor services in accordance with applicable Federal, State, and tribal laws (see 50 CFR subchapter C).

Issue 6–2: Educate the Public on the Importance of Hunting as a Wildlife Management Tool

Comment: Two commenters suggested the Service's environmental education program promote the role and importance of hunting as a wildlife management tool in the Refuge System.

Response: In section 6.3 of the draft environmental education chapter, we state: "Environmental education programs will promote understanding and appreciation of natural and cultural resources and their management on all lands and waters included in the System." While not specific to hunting, education is general to all recreational uses, including the wildlife-dependent recreational uses (hunting, fishing, wildlife photography and observation, and environmental education and interpretation). This sentence adequately addresses this issue and was retained in the final chapter. Therefore, we did not make any revisions based on this comment.

Issue 6–3: Environmental Education Chapter Does Not Have the Same Level of Thoroughness as the Hunting and Fishing Policies

Comment: One commenter suggested that the environmental education policy does not include the same level of thoroughness as the hunting and fishing policy.

Response: Although it is true that the hunting and fishing chapters contain more detailed information and guidance than the environmental education chapter, we are not indicating that environmental education is less important than hunting and fishing. The Improvement Act defined wildlife-dependent recreation as a use of a refuge involving hunting, fishing, wildlife observation and photography, and environmental education and interpretation. When these activities are compatible, they are the priority general public uses of the Refuge System. The Improvement Act did not develop a hierarchy between the wildlife-dependent recreational uses, and we are not attempting to create one through the level of detail contained in each policy. Hunting and fishing are inherently regulatory in nature and, therefore, require more guidance than environmental education on refuges.

Interpretation

Issue 7-1: Tribal Consultation and Coordination

Comment: We received two comments recommending that we expand the teaching focus identified to include the trust responsibilities of the States and tribes rather than just those of the Service and that educational materials include the historic customs and culture of the people who live in the surrounding area.

Response: We address the issue of tribal consultation and coordination in section 1.9. In addition, we manage visitor services in accordance with applicable Federal, State, and tribal laws (see 50 CFR subchapter C).

Issue 7-2: Increase Public Understanding and Support for Wildlife Management Practices

Comment: In order to increase public awareness as to various wildlife management practices performed by State and Federal agencies, one commenter suggested adding: "Increase public understanding and support for wildlife management practices performed on System lands."

Response: In section 7.4 of the draft interpretation chapter, we stated that we will develop and maintain interpretive programs to increase public understanding and support, develop a sense of stewardship leading to actions and attitudes that reflect concern and respect for our natural resources, and provide an understanding of the management of our natural and cultural resources. We retained this language in the final chapter.

Issue 7-3: Interpretation Chapter Does Not Have the Same Level of Thoroughness as the Hunting and Fishing Policies

Comment: One commenter suggested that the interpretation policy does not include the same level of thoroughness as the hunting and fishing policy.

Response: Although it is true that the hunting and fishing chapters contain more detailed information and guidance than the interpretation chapter, we are not indicating that interpretation is less important than hunting and fishing. The Improvement Act defined wildlife-dependent recreation as a use of a refuge involving hunting, fishing, wildlife observation and photography, and environmental education and interpretation. When these activities are compatible, they are the priority general public uses of the Refuge System. The Improvement Act did not develop a hierarchy between the wildlife-dependent recreational uses, and we are

not attempting to create one through the level of detail contained in each policy. Hunting and fishing are inherently regulatory in nature and, therefore, require more guidance than interpretation on refuges.

Required Determinations

Regulatory Planning and Review (Executive Order 12866)

In accordance with the criteria in Executive Order (E.O.) 12866, the Office of Management and Budget (OMB) has determined that this policy is not a significant regulatory action.

(1) This policy will not have an annual economic effect of \$100 million or adversely affect an economic sector, productivity, jobs, the environment, or other units of government. A cost-benefit or full economic analysis is not required. This policy is administrative, legal, technical, and procedural in nature. This policy establishes the process for developing opportunities for wildlife-dependent recreational uses of refuges. This policy will have the effect of providing priority consideration for compatible wildlife-dependent recreational uses involving hunting, fishing, wildlife observation and photography, and environmental education and interpretation. Existing policy has been in place since 1985 that encourages the phase-out of nonwildlife-oriented recreation on refuges. The Improvement Act does not greatly change this direction in public use, but provides legal recognition of the priority we afford to compatible wildlife-dependent recreational uses. We expect these new procedures to cause only minor modifications to existing refuge public use programs. While we may curtail some general public uses, we may provide new and expanded opportunities for compatible wildlife-dependent recreational uses. We expect an overall small increase, at most a 5 percent annual increase, in the amount of recreational uses allowed on refuges as a result of this policy.

The appropriate measure of the economic effect of changes in recreational use is the change in the welfare of recreationists. We measure this in terms of willingness to pay for the recreation opportunity. We estimated total annual willingness to pay for all recreation at refuges to be \$792 million in fiscal year 2002 (*Banking on Nature: The Economic Benefits to Local Communities of National Wildlife Refuge Visitation*, DOI/FWS/Refuges, 1997 and 2003). We expect the visitor services programs implemented in this policy to cause at most a 5 percent annual increase in

recreational use Refuge Systemwide. This does not mean that every refuge will have the same increase in public use. We will allow the increases only on refuges where increases in hunting, fishing, and other wildlife-dependent recreational uses are compatible. Across the entire Refuge System, we expect an increase in wildlife-dependent recreational use to amount to no more than a 5 percent overall increase. If the full 5 percent increase in recreational use were to occur at refuges, this would translate to a maximum additional willingness to pay of \$21 million (1999 dollars) annually for the public. However, we expect the real benefit to be less than \$21 million because we expect the final increase in recreational use to be smaller than 5 percent. Furthermore, if the public substitutes non-refuge recreation sites for refuges, then we would subtract the loss of benefit attributed to non-refuge sites from the \$21 million estimate.

(2) This policy will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency since the policy pertains solely to management of refuges by the Service.

(3) This policy does not alter the budgetary effects of entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients. No grants or other Federal assistance programs are associated with recreational use of refuges.

(4) OMB has determined that this policy does not raise novel legal or policy issues. It adds the Improvement Act provisions that ensure that compatible wildlife-dependent recreational uses are the priority general public uses of the Refuge System and adds consistency in application of public use guidelines across the entire Refuge System.

Regulatory Flexibility Act

We certify that this document will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

Congress created the Refuge System to conserve fish, wildlife, and plants and their habitats, and this conservation mission has been facilitated by providing Americans opportunities to visit and participate in compatible wildlife-dependent recreation (hunting, fishing, wildlife observation and photography, and environmental education and interpretation) on refuges and to better appreciate the value of and need for wildlife conservation.

This policy is administrative, legal, technical, and procedural in nature and

provides more detailed instructions for the development of visitor services programs than have existed in the past. This policy may result in more opportunities for wildlife-dependent recreation on refuges and may result in the reduction of some nonwildlife-dependent recreation. For example, more wildlife observation opportunities may occur at Florida Panther National Wildlife Refuge in Florida or more hunting opportunities at Pond Creek National Wildlife Refuge in Arkansas. Conversely, we may no longer allow some activities on some refuges. For example, some refuges may currently allow water skiing on refuge-controlled waters or the use of off-road vehicles; we would likely curtail some of these uses as we implement this policy. The overall net effect of these regulations is likely to increase visitor activity near the refuge. To the extent visitors spend time and money in the area that would not otherwise have been spent there, they contribute new income to the regional economy and benefit local businesses.

Refuge visitation is a small component of the wildlife recreation industry as a whole. In 2001, 82 million U.S. residents over 15 years of age spent 1.2 billion activity-days in wildlife-associated recreation activities. They spent about \$108 billion on fishing, hunting, and wildlife watching trips (tables 1, 50, 52, and 68, *2001 National Survey of Fishing, Hunting, and Wildlife-Associated Recreation*, DOI/FWS/FA, 2002). Refuges recorded about 39 million visitor-days in FY 2003 (RMIS, FY 2003 Public Use Summary). A 2003 study of refuge visitors found their travel spending generated over \$800 million in sales and 19,000 jobs for local economies (*Banking on Nature: The Economic Benefits to Local Communities of National Wildlife Refuge Visitation*, DOI/FWS/Refuges, 1997 and 2003). These spending figures include spending that would have occurred in the community anyway, and so they show the importance of the activity in the local economy rather than its incremental impact. Marginally greater recreational opportunities on refuges will have little industry-wide effect.

Expenditures as a result of this policy are a transfer and not a benefit to many small businesses. We expect the incremental increase of recreational opportunities to be marginal and scattered, so we do not expect the policy to have a significant economic impact on a substantial number of small entities in any region or nationally.

Small Business Regulatory Enforcement Fairness Act (SBREFA)

This policy is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This policy:

(1) Does not have an annual effect on the economy of \$100 million or more. This policy will affect only visitors at refuges. It may result in increased visitation at refuges and provide for minor changes to the methods of public use permitted within the Refuge System. See response under Regulatory Flexibility Act.

(2) Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.

(3) Does 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.

Unfunded Mandates Reform Act

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*):

(1) This policy will not "significantly or uniquely" affect small governments. A Small Government Agency Plan is not required. See "Regulatory Flexibility Act."

(2) This policy will not produce a Federal mandate of \$100 million or greater in any year; i.e., it is not a "significant regulatory action" under the Unfunded Mandates Reform Act. See "Regulatory Flexibility Act."

Takings (E.O. 12630)

In accordance with E.O. 12630, this policy does not have significant takings implications. A takings implication assessment is not required. This policy may result in increased visitation at refuges and provide for minor changes to the methods of public use permitted within the Refuge System. See "Regulatory Flexibility Act."

Federalism Assessment (E.O. 13132)

In accordance with E.O. 13132, this policy does not have significant federalism effects. This policy applies only to areas where we have jurisdiction. It will not have substantial direct effects on the States, on the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with E.O. 13132, we have determined that this policy does not have sufficient federalism implications

to warrant the preparation of a federalism assessment.

Civil Justice Reform (E.O. 12988)

In accordance with E.O. 12988, the Office of the Solicitor has determined that this policy does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order. This policy will expand upon established policies and result in better understanding of the policies 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. This E.O. requires agencies to prepare statements of energy effects when undertaking certain actions. This policy is administrative, legal, technical, and procedural in nature. Because this policy establishes the process for developing visitor services programs on refuge, it is not a significant regulatory action under E.O. 12866 and is not expected to significantly affect energy supplies, distribution, and use. This notice does not designate any areas that have been identified as having oil or gas reserves, whether in production or otherwise identified for future use. Therefore, this action is 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 evaluated possible effects on federally recognized Indian tribes and determined that there are no effects. We coordinate recreational use on refuges with tribal governments having adjoining or overlapping jurisdiction before we propose the activities. This policy is consistent with and not less restrictive than tribal reservation rules.

Paperwork Reduction Act

This document does not include any new information collection that would require Office of Management and Budget (OMB) approval under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). 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.

Section 7 Consultation

We have determined that the policy established by this notice will not affect listed species or designated critical habitat. Therefore, consultation under

section 7 of the Endangered Species Act is not required. The basis for this conclusion is that this final policy explains how we will provide visitors with quality hunting, fishing, wildlife observation and photography, and environmental education and interpretation.

National Environmental Policy Act

We ensure compliance with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4347) when developing refuge CCPs and VSPs, and we make the determinations required by NEPA before the addition of refuges to the lists of areas open to public uses. In accordance with 516 DM 2, appendix 1.10, we have determined that this policy is categorically excluded from the NEPA process because it is limited to policies, directives, regulations, and guidelines of an administrative, financial, legal, technical, or procedural nature; or the environmental effects of which are too broad, speculative, or conjectural to lend themselves to meaningful analysis. Site-specific proposals, as indicated above, will be subject to the NEPA process.

Available Information for Specific Refuges

Individual refuge administrative offices retain information regarding visitor services programs and the conditions that apply to their specific programs and maps of their respective areas.

You may also obtain information from the Regional Offices at the addresses listed below:

- Region 1—California, Hawaii, Idaho, Nevada, Oregon, and Washington. Regional Chief, National Wildlife Refuge System, U.S. Fish and Wildlife Service, Eastside Federal Complex, Suite 1692, 911 NE. 11th Avenue, Portland, Oregon 97232–4181; Telephone (503) 231–6214; <http://pacific.fws.gov>.
- Region 2—Arizona, New Mexico, Oklahoma and Texas. Regional Chief, National Wildlife Refuge System, U.S. Fish and Wildlife Service, Box 1306, Albuquerque, New Mexico 87103; Telephone (505) 248–7419; <http://southwest.fws.gov>.
- Region 3—Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Ohio and Wisconsin. Regional Chief, National Wildlife Refuge System, U.S. Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111; Telephone (612) 713–5300; <http://midwest.fws.gov>.
- Region 4—Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Puerto Rico and the Virgin Islands. Regional Chief, National Wildlife Refuge System, U.S. Fish and Wildlife Service, 1875 Century Boulevard, Room 324, Atlanta, Georgia 30345; Telephone (404) 679–7166; <http://southeast.fws.gov>.
- Region 5—Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode

Island, Vermont, Virginia and West Virginia. Regional Chief, National Wildlife Refuge System, U.S. Fish and Wildlife Service, 300 Westgate Center Drive, Hadley, Massachusetts 01035–9589; Telephone (413) 253–8306; <http://northeast.fws.gov>.

- Region 6—Colorado, Kansas, Montana, Nebraska, North Dakota, South Dakota, Utah and Wyoming. Regional Chief, National Wildlife Refuge System, U.S. Fish and Wildlife Service, 134 Union Blvd., Lakewood, Colorado 80228; Telephone (303) 236–8145; <http://www.r6.fws.gov>.

- Region 7—Alaska. Regional Chief, National Wildlife Refuge System, U.S. Fish and Wildlife Service, 1011 E. Tudor Rd., Anchorage, Alaska 99503; Telephone (907) 786–3545; <http://alaska.fws.gov>.

Availability of the Policy

The Final Wildlife-Dependent Recreational Uses Policy is available at this Web site: <http://policy.fws.gov/ser600.html>.

Persons without Internet access may request a hard copy by contacting the office listed under the heading **FOR FURTHER INFORMATION CONTACT**.

Dated: January 20, 2006.

H. Dale Hall,

Director, U.S. Fish and Wildlife Service.

Note: This document was received at the Office of the Federal Register on June 21, 2006.

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