

Upper Mississippi River National Wildlife and Fish Refuge
Established 1924
Compatibility Determination

Use: Commercially guided wildlife/wildlands observation

Refuge Name: Upper Mississippi River National Wildlife and Fish Refuge (Refuge)

Establishing and Acquisition Authority(ies):

The Upper Mississippi River Wildlife and Fish Refuge was established by Public Law No. 268, 68th Congress on June 7, 1924. This act authorized acquisition of lands for Refuge purposes. Additional lands acquired in fee title by the U.S. Army Corps of Engineers are managed as part of the Refuge under a 1963 Cooperative Agreement between the Department of the Army and the Department of the Interior.

Refuge Purpose(s):

“The Refuge shall be established and maintained (a) as a refuge and breeding place for migratory birds included in the terms of the convention between the United States and Great Britain for the protection of migratory birds, concluded August 16, 1916, and (b) to such extent as the Secretary of the Interior by regulations, prescribe, as a refuge and breeding place for other wild birds, game animals, fur-bearing animals, and for the conservation of wild flowers and aquatic plants, and (c) to such extent as the Secretary of the Interior may, by regulations, prescribe a refuge and breeding place for fish and other aquatic animal life.”

National Wildlife Refuge System Mission:

“The mission of the National Wildlife Refuge System is to administer a national network of lands and waters for the conservation, management, and where appropriate, restoration of the fish, wildlife, and plant resources and their habitats within the United States for the benefit of present and future generations of Americans.”

Description of Use:

The Refuge will authorize commercially guided wildlife and wildlands observation within the Refuge, and regulate such use through the implementation of a commercial wildlife guide management program, including issuance of Special Use Permits with conditions, beginning in 2006. Commercial means that clients pay a fee for the program and the intent of the permittee is to generate profit. Guiding also includes outfitting operations which may not provide an accompanying guide. Guiding does not include no-fee or not-for-profit guided tours conducted by non-profit groups, schools and colleges, or other agencies. This use is covered under the general wildlife observation compatibility determination.

This use also does not include commercial tours, sightseeing, or dinner cruise boats which confine their commercial guiding of visitors to the main commercial navigation channel of the Mississippi River running through the Refuge. It also does not include tour bus or other road-based commercial tours which may stop at Refuge-administered overlooks or landings.

This activity provides recreational, and often educational, opportunities for the paying public who desire a successful, quality experience, but who may lack the necessary equipment, skills, or knowledge to observe wildlife or otherwise experience the expansive river, marsh, and backwater environment of the Refuge. Commercial guiding for wildlife or other observation is an existing activity on the Refuge, but it has not been consistently administered.

Guiding operations will generally be allowed throughout the approximately 240,000 acres of the Refuge throughout the year, subject to seasonal closures in Waterfowl Hunting Closed Areas, Administrative No Hunting Zones, and in the vicinity of sensitive bird areas such as heron rookeries. Tours tend to travel to and through backwater areas of the Refuge including smaller side channels of the river, marshes, and shallow ponds. These areas are preferred by many wildlife species, and thus present better opportunities for wildlife observation. Also, the quiet, secluded, and scenic bottomland forest of the backwaters is a setting preferred by many clients.

Species that may be affected by guided tours include many of the species that use aquatic and flood plain habitat on the Refuge. Hundreds of bald eagles, listed as threatened under the Endangered Species Act (though recently proposed for delisting), nest, roost and feed throughout the Refuge. Large concentrations of canvasback ducks and tundra swans rest and feed on the Refuge each fall. Additional species of interest include: American white pelicans, various raptors, great blue heron, great egret, white-tailed deer, river otter, and beaver.

Guided wildlife observation typically involves transport of clients by power boats from public or private boat landings to selected sites or routes. Often guides and clients use the same site or route or one of several locations selected by the guide. Some guided programs may walk to sites/routes from parking lots or road sides. Guided wildlife viewing operations have typically used existing Refuge or other public observation sites, though some seasonal observation or photography blinds may be constructed by guides as demand increases. In addition to the observation activities, guides and clients may use Refuge shoreline areas for camping, breaks, lunch, or other activities during the outing, and in accordance with Refuge regulations.

The total number of wildlife observation guides and clients on the Refuge is not known. A first step in establishing a commercial guiding program on the Refuge will be to identify existing guides and outfitting businesses through a review of public records and outreach through news releases and special meetings.

Based on apparent existing client demand, a significant number of the public is willing to pay for the expertise and local knowledge provided by commercial businesses and guides. The Refuge provides excellent populations of watchable wildlife in a wild and scenic setting, and the expanse of backwater areas and bottomland forest is perhaps the largest in the Midwest, providing a unique opportunity. It is expected that demand for guided wildlife/wildland observation will continue to increase, and with it, the number of interested commercial operators.

Administration of commercially guided wildlife/wildland activities will be conducted in accordance with commercial guide use stipulations (attached) developed to ensure consistency throughout the Refuge; provide a safe, quality experience; protect resources; and to ensure compliance with pertinent Refuge System regulations and policies. The guide use stipulations will address all aspects of the guided fishing program including the number of permits to be issued, guide qualifications, permit cost, and selection methods. Commercial Guide Use Areas will be established for each navigation pool within the Refuge to ensure distribution of guides and public opportunity, and address sensitive wildlife areas or other considerations.

These stipulations are considered draft and will be fine-tuned during coordination meetings with the states and Corps of Engineers. The goal is to dove-tail Refuge permit needs and requirements with those of the states and Corps of Engineers as noted in the Refuge Comprehensive Conservation Plan.

Availability of Resources:

This program will increase overall costs of Refuge operations, including but not limited to, development and review of policy and procedure, yearly administration of permits (inquiries, screening and selecting applicants, issuing permits), and enforcement of permit conditions. In the short-term, existing staff is adequate if shifts in priorities and assignments are made to accommodate a modest guiding program. However, the size and scope of the guiding program, and the number of permits that will be available, will have to be limited in balance with permit fees received. In the long-term, a comprehensive guiding program, when combined with other new initiatives requiring permits, will require additional administrative and/or other personnel as identified in the Comprehensive Conservation Plan. Existing facilities (launch ramps) and other infrastructure are currently sufficient to accommodate this use.

Anticipated Impacts of the Use:

Disturbance of wildlife is the primary concern regarding this use. Visitors could cause disturbance to waterfowl, waterbirds, bald eagles, and other wildlife. While field trip routes and observation sites are usually located in areas open to the general public, disturbance caused by group tours could be more intense because the number of people, and desire to get close to wildlife, may be greater than normally occurs during general public activities. This disturbance will displace individual animals to adjacent areas of the Refuge. However, the level of disturbance, through control of areas used and seasons

of use, should limit the disturbance during critical feeding, resting, and breeding periods and not measurably affect overall Refuge populations.

Guided tour activities may also conflict with other Refuge users. For example, commercial tours will most likely use the same areas as the independent wildlife viewer, kayakers and canoeists, and hunters and anglers during open seasons. Unregulated or inadequately regulated commercial guiding operations may adversely affect the safety of other Refuge users, the quality of their experience, and the equity of opportunity. Stipulations proposed should mitigate these concerns by volume and space restraints for commercial operators.

Guide operations may increase use of some Refuge facilities, such as boat launch ramps, but, if regulated, this increase would not be significant compared to overall use.

Public Review and Comment:

A draft of this Compatibility Determination was included in the Draft Comprehensive Conservation Plan and Environmental Impact Statement (EIS) released May 1, 2005 for a 120-day comment period. It was also available during a subsequent 90-day review period on a supplement to the EIS released December 3, 2005. Public notification included notices in the Federal Register, media announcements, and 31 public meetings and workshops attended by more than 3,700 persons. Several comments were received on guides and guiding and are included in Chapter 7 of the EIS, with a Service response. No comments specific to this determination were received.

Determination:

Use is Not Compatible

Use is Compatible with Following Stipulations

Stipulations Necessary to Ensure Compatibility:

See attached stipulations.

Justification:

Allowing commercially guided wildlife and wildlands observation on the Refuge will not materially interfere with the purposes of the Refuge or the mission of the Refuge System because:

1. Existing federal and state agency oversight and regulation of affected species and habitat is sufficient to ensure healthy populations. Disturbance to fish and wildlife will be local, short-term, and not adversely impact overall populations.

**Attachment to Commercially Guided Wildlife and Wildlands Observation
Compatibility Determination
Commercial Wildlife Observation Guide Program Stipulations on Upper Mississippi
River National Wildlife and Fish Refuge.**

The respective District Manager will designate "Commercial Wildlife Observation Guide Use Areas" within each navigation pool on the Refuge, based on factors such as Refuge ownership, available suitable habitat, other Refuge resources and users, and other pertinent issues. In most cases this will include all land and water acres within the Refuge except those areas subject to seasonal closures such as Waterfowl Hunting Closed Areas, Administrative No Hunting Zones, and sensitive bird areas such as heron rookeries and bald eagle nests. The District Manager will also establish the maximum number of guides that will operate in each Use Area. In general, one guide will be selected per area or zone, though circumstances such as large, naturally divided zones may allow more than one.

Qualified individuals may apply for available Guide Areas. If the maximum number of guides exceeds the recommended allowance for that Use Area, guides will be selected by random drawing for a Special Use Permit valid for up to one year.

Administrative fee will be \$100, non refundable.

The permit fee, if selected, will be \$200/year for part time guides (less than 50 clients per year); \$300/year for full time guides. These fees will be established as the initial program fees until the number of participants and earned revenues can be determined.

Qualified is defined as:

1. Licensed as a commercial guide by the state in which they operate, as applicable.
2. Possess a current vessel operator license issued by the U.S. Coast Guard. Minimum license shall be Operator Uninspected Passenger Vessel (OUPV). The license shall be valid for the area of operations and type(s) of vessel operated.
3. Possess a current CPR and First Aid training certificate issued by a recognized national organization
4. Provide proof of insurance as established by the Refuge, including minimum coverage for general liability and comprehensive for all operations.
5. Otherwise required by state law.

Permittees may be assisted by any number of individuals. Assistants must be named/authorized on the permit issued and possess the applicable state and Coast Guard licenses for duties conducted.

The permittee is responsible for accurate record keeping and shall provide the issuing District Office the following information by February 15 of each year:

- Fee schedule for the year (charge per angler)
- Number of guided or outfitted trips performed on the Refuge
- Number of individuals guided or outfitted
- Date of each trip
- Location of each trip, or general area of activity
- Individual names and description of duties for all additional staff who assist with a trip on the Refuge

All vessels and vehicles used in guide operations shall be marked with a guide identifier as required by the Refuge.

This Special Use Permit and the privileges granted herein may be revoked by the issuing District Manager at any time for failure to comply with the permit conditions or other federal or state law.

Permittee must comply with all other Conditions of the Special Use Permit.

(Note: Some stipulations may not apply to outfitters who do not accompany clients. Deviations will be noted in individual permits.)