

## **Draft Appropriate Use and Compatibility Determination for Recreational Hunting on Lake Alice National Wildlife Refuge**

The legal provision (16 United States [U.S.] Code 668dd-668ee) states that lands within the National Wildlife Refuge System (Refuge System) are closed to public use unless specifically and legally opened. No refuge use may be allowed unless it is determined to be compatible. A compatible use is one that, in the sound, professional judgment of the refuge manager, will not materially interfere with or detract from the fulfillment of the mission of the Refuge System or the purposes of the refuge. All programs and uses must be evaluated based on the mandates set forth in the National Wildlife Refuge System Improvement Act of 1997 (Improvement Act) as follows:

- contribute to ecosystem goals, as well as refuge purposes and goals;
- conserve, manage, and restore fish, wildlife, and plant resources and their habitats;
- monitor the trends of fish, wildlife, and plants;
- manage and ensure appropriate visitor uses as those that benefit the conservation of fish and wildlife resources and contribute to the enjoyment of the public; and,
- ensure that visitor activities are compatible with refuge purposes.

The Improvement Act further identifies six priority wildlife-dependent recreational uses, including hunting, fishing, wildlife observation, wildlife photography, and environmental education and interpretation. As priority public uses on the Refuge System, they receive priority consideration over other public uses in planning and management.

The public use program will be reviewed annually to ensure that it contributes to refuge objectives in managing quality recreational opportunities and protecting habitats. Refuge staff or other authorized staff may revise the program if on-site monitoring demonstrates unanticipated negative impacts to natural communities, wildlife species, or their habitats. Refuge law enforcement officer(s) will promote compliance with refuge regulations, monitor public use patterns and public safety, and document visitor interactions. Refuge law enforcement staff will monitor all areas and enforce all applicable state and federal regulations.

### **Refuge Name:**

Lake Alice National Wildlife Refuge (NWR, refuge) is located in Ramsey and Towner Counties, North Dakota.

### **Establishing and Acquisition Authority(ies):**

- Migratory Bird Conservation Act (U.S. Code 715d)
- Refuge Recreation Act 1962 (76 Stat 653)

**Refuge Purpose(s):**

- “as a refuge and breeding grounds for migratory birds and other wildlife...” (Executive Order 7160, dated August 26, 1935)
- “for us as an inviolate sanctuary, or for any other management purpose, for migratory birds” (16 U.S. Code 715[d], Migratory Bird Conservation Act)
- “the Secretary is authorized to cooperate with public and private agencies, organizations, and individuals, and he may accept and use, without further authorization, donations of funds and real and personal property. Such acceptance may be accomplished under the terms and conditions of restrictive covenants imposed by donors when such covenants are deemed by the Secretary to be compatible with the purposes of the wildlife refuges...” (16 U.S. Code 460k-2, Refuge Recreation Act [16 U.S. Code 460k-460-k], as amended)

**Other Applicable Laws Regulations, and Policies:**

- Antiquities Act of 1906 (34 Stat. 225)
- Migratory Bird Treaty Act of 1918 (15 U.S. Code 703-711; 40 Stat. 755)
- Migratory Bird Conservation Act of 1929 (16 U.S. Code 715r; 45 Stat. 1222)
- Migratory Bird Hunting Stamp Act of 1934 (16 U.S. Code 718-178h; 48 Stat. 451)
- Bald and Golden Eagle Protection Act (16 U.S. Code 668-668d; 54 Stat. 250)
- Refuge Trespass Act of June 25, 1948 (18 U.S. Code 41; 62 Stat. 686)
- Fish and Wildlife Act of 1956 (16 U.S. Code 742a-742j; 70 Stat. 1119)
- Refuge Recreation Act of 1962 (16 U.S. Code 460k-460k-4; 76 Stat. 653)
- National Historic Preservation Act of 1966, as amended (16 U.S. Code 470, et seq.; 80 Stat. 915)
- National Wildlife Refuge System Administration Act of 1966 (NWRSA) (16 U.S. Code 668dd, 668ee; 80 Stat. 927)
- National Environmental Policy Act of 1969, NEPA (42 U.S. Code 4321, et seq; 83 Stat. 852)
- Use of Off-Road Vehicles on Public Lands (Executive Order 11644, as amended by Executive Order 10989)
- Endangered Species Act of 1973 (16 U.S. Code 1531 et seq; 87 Stat. 884)
- Refuge Revenue Sharing Act of 1935, as amended in 1978 (16 U.S. Code 715s; 92 Stat. 1319)

- National Wildlife Refuge Regulations for the Most Recent Fiscal Year (50 Code of Federal Regulations [CFR] Subchapter C; 43 CFR 3101.3-3)
- Emergency Wetlands Resources Act of 1986 (S.B. 740)
- North American Wetlands Conservation Act of 1990
- Food Security Act (Farm Bill) of 1990 as amended (HR 2100)
- The National Wildlife Refuge System Improvement Act of 1997 (Public Law 105-57, U.S. Code 668dd)
- Executive Order 12996, Management and General Public Use of the National Wildlife Refuge System, March 25, 1996
- Title 50 CFR Parts 25-33 Archaeological Resources Protection Act of 1979
- Native American Graves Protection and Repatriation Act of 1990

**National Wildlife Refuge System Mission:**

“The mission of the 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: Recreational Hunting**

*What is the use?*

Recreational hunting for pleasure, leisure, or for subsistence.

*Where would the use be conducted?*

The refuge is approximately 12,100 acres in size with a relatively flat landscape intertwined with wetlands and marshes. A mixture of grasses and legumes have been planted throughout most of the refuge to provide cover for a variety of ground-nesting birds, as well as winter cover and food for many species of resident wildlife. The refuge provides many outdoor recreational opportunities, including hunting. The Service already allows hunting of deer, ring-necked pheasant, sharp-tailed grouse, partridge, and waterfowl on the refuge. The Service is proposing to add hunting opportunities to hunt fox, rabbit, and hare on the refuge by expanding this activity onto the other hunting area of the refuge where these species cannot be hunted at this time. Furthermore, the Service is proposing to combine and rename the existing refuge’s hunting units to provide wider outdoor recreational opportunities.

*When would this use be conducted?*

Recreational hunting will occur in accordance with the seasons and regulations established by the North Dakota Game and Fish Department (NDGF).

*How would this use be conducted?*

Recreational hunting is permitted in accordance with NDGF rules and regulations, refuge specific regulations, and those published in Title 50 CFR. Hunting is a priority public use as listed in the Improvement Act and was analyzed in the environmental assessment (EA) developed for the comprehensive conservation plan (CCP) of the refuge ([www.fws.gov/mountain-prairie/refuges/nd\\_nwr.php](http://www.fws.gov/mountain-prairie/refuges/nd_nwr.php)). Previous compatibility determinations have found this use has been determined to be compatible.

*Why is this use being proposed?*

This compatibility determination considers hunting, which is one of the six priority wildlife-dependent recreation activities. Hunting was a traditional activity that occurred on refuge lands prior to and since its establishment. Expanding hunting opportunities and aligning regulations with state agencies implements Secretarial Order 3347, Conservation Stewardship and Outdoor Recreation, and Secretarial Order 3356, Hunting, Fishing, Recreational Shooting, and Wildlife Conservation Opportunities and Coordination with States, Tribes, and Territories. The primary objectives of the hunting at Lake Alice NWR are to:

- provide a high-quality recreational and educational experience for a diverse audience through a hunting program;
- provide an opportunity for the youth to engage in hunting, instill a basic understanding of conservation measures, and the role of the Service in the conservation picture;
- foster support and knowledge of refuge goals and objectives by working in close association with the public and NDGF through their assistance with hunting management while providing safe, educational, and instructive opportunities;
- simplify regulations and allowable hunt areas on the refuge.

**Availability of Resources:**

Resources required in the administration and management of the use include personnel time associated with administration and law enforcement.

No special equipment or facilities are necessary to support the uses. Maintenance costs are not directly attributable to these incidental uses on the refuge. Minimal costs are associated with these uses to monitor consequences of the public having access to the refuge, such as degree of littering and vandalism. Plants and wildlife will be monitored to determine any impacts as a result of public use.

*Special equipment, facilities, or improvements necessary to support the use:* None

*Maintenance costs:* Minor and insignificant

*Monitoring costs:* Minor and insignificant

*Offsetting revenues:* None

**Anticipated Impacts of the Use:**

The refuge is open to other priority public uses such as wildlife observation, wildlife photography, and environmental education and interpretation. To safely provide both hunting and non-hunting recreational uses, the refuge enforces a series of refuge-specific hunting regulations. For example, hunting is not allowed on certain areas of the refuge or is restricted by location, date, or methods of take.

During annual reviews of hunting programs, the refuge staff evaluate what effect the diversion of funding and staff has on their abilities to manage habitat. Because the Service will direct the limited funding and staff first toward habitat management, there may be a decrease in hunting opportunities or facilities. Restrictions on the timing of seasons and areas open to hunting ensures that hunting activities do not interfere with the purposes of the refuges or attainment of Refuge System objectives.

Temporary disturbance to wildlife will occur near the activity. Hunting will remove animals that are surplus to populations. A temporary decrease in populations of wild animals may help ensure that carrying capacity (especially for big game species) is not exceeded.

There will be no negative effects on threatened and endangered species.

The restriction of vehicle use to designated purposes, times, and established roads, trails, and parking lots will protect habitats from damage and reduce disturbance to wildlife. Closed areas will provide sanctuary for game and nongame species, reduce conflicts between hunters and other visitors, and provide safety zones around communities and administrative areas.

There will be no negative effects on cultural resources.

**Determination:**

- Use is not compatible
- Use is compatible with the following stipulations

**Stipulations Necessary to Ensure Compatibility:**

- The refuge will manage the five priority public uses (hunting, wildlife observation, photography, environmental education, and interpretation) within federal and state regulations and will review it annually to ensure wildlife and habitat goals are achieved and that these programs are providing safe, high-quality experiences for participants. Stipulations for this activity are in Title 50 CFR and Lake Alice National Wildlife Refuge Hunting Regulations (annual).

**Public Review and Comment:**

This compatibility determination is part of the Lake Alice NWR big game and upland game hunting expansion proposal and the accompanying categorical exclusion. Public notification and review of this compatibility determination will include a 30-day comment period. We will inform the public through the Service’s Legacy Region 6 New Hunting and Fishing Opportunities website ([www.fws.gov/mountain-prairie/huntfish.php](http://www.fws.gov/mountain-prairie/huntfish.php)) and social media. Comments received from the public will be considered and modifications may be incorporated into the final decision documents.

**NEPA Compliance for Refuge Use Description:**

*Place an X in appropriate space.*

- Categorical Exclusion without Environmental Action Statement
- Categorical Exclusion and Environmental Action Statement
- Environmental Assessment and Finding of No Significant Impact
- Environmental Impact Statement and Record of Decision

This compatibility determination can be categorically excluded from further NEPA analysis under 40 CFR Section 1508.4, 516 DM 8.5(A)(1), 516 DM 8.5(B)(7), 516 DM 8.5(B)(9), and 516 DM 8.5(C)(5). Further, these actions do not trigger an extraordinary circumstance as outlined under 43 CFR Section 46.215. These uses are consistent with the 2008 CCP and associated EA as well as the finding of no significant impact for Lake Alice NWR ([www.fws.gov/mountain-prairie/refuges/nd\\_nwr.php](http://www.fws.gov/mountain-prairie/refuges/nd_nwr.php)). Environmental conditions have not changed substantially since that analysis. This compatibility determination updates and replaces previous compatibility determinations.

**Justification:**

Hunting will not negatively affect the viability of the game species populations proposed to be hunted, according to state season guidelines and regulations. This use is being permitted because it is a priority public use. It will not diminish the primary purposes for which the refuge was established. This use is supported in the refuge's CCP (2008). It also meets the mission of the Refuge System by providing renewable resources for the benefit of the American public, while conserving viable populations of fish, wildlife, and plant resources on these lands.

Hunting is a priority public use on the refuge. In allowing this use, the Service provides opportunities and facilitates refuge programs in a manner and location that offers high quality, wildlife-dependent recreation and maintains the level of current wildlife values. Any new lands purchased as part of Lake Alice NWR can be open to hunting depending on the manager’s

