

United States Department of the Interior

**Fish and Wildlife Service
Upper Mississippi River National Wildlife and Fish Refuge
51 E. 4th Street, Room 101
Winona, MN 55987
Phone #: 507-452-4232**

**WATERFOWL HUNTING GUIDE SERVICES
ON UPPER MISSISSIPPI RIVER NATIONAL WILDLIFE AND FISH REFUGE**

Program Requirements and Stipulations

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Upper Mississippi River National
Wildlife and Fish Refuge

Date: **June 17, 2015**

Submittal:

Applications must be sent to Upper Mississippi River National Wildlife and Fish Refuge, 51 E. 4th Street (Room 101), Winona, MN 55987. All applications must be postmarked by **July 17, 2015. Envelope must be marked ATTENTION: WATERFOWL GUIDE APPLICATION.**

For Information: Contact Upper Mississippi River NW&FR at 507/452-4232.

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WATERFOWL HUNTING GUIDING SERVICES
ON UPPER MISSISSIPPI RIVER NATIONAL WILDLIFE AND FISH REFUGE

I. INTRODUCTION

The Upper Mississippi River National Wildlife and Fish Refuge (Refuge) permits commercial guiding opportunities to assist waterfowl hunters in 12 guide use areas (see Table 1) of the Refuge. Commercially guided waterfowl hunting is only permitted in the 12 guide use areas identified in Table 1.

Table 1: Guide Use Areas, Upper Mississippi River National Wildlife and Fish Refuge.

Location	Number of Commercial Waterfowl Guide Permits available
Pool 4	2 permits available
Pool 5	2 permits available
Pool 5A	1 permit available
Pool 6	1 permit available
Pool 7	1 permit available
Pool 8	2 permits available
Pool 9	5 permits available
Pool 10	2 permits available
Pool 11	2 permits available
Pool 12	2 permits available
Pool 13	2 permits available
Pool 14	1 permit available
<hr/>	
Total Number of Guide Use Areas = 12	Total Number of Permits Available = 23

These guide use areas are shown in Appendix A of this document. Refuge Special Use Permits (SUP) will be issued in accordance with 50 Code of Federal Regulations, Subchapter C, Subpart A, Section 29.1, the National Wildlife Refuge Administration Act (16 U. S. C. 668dd-668ee) and the National Wildlife Refuge System Improvement Act of 1997. All proposals submitted in response to this prospectus will be disclosed by the Department of the Interior to any person upon request pursuant to the Freedom of Information Act, 5 U.S.C. 552. All information included in the proposals relating to personal privacy such as social security numbers, home telephone numbers, certain items in law enforcement reports, etc. is protected from disclosure under the Freedom of Information Act and the Privacy Act 5 U.S. C. 552 and will be withheld.

The Refuge's Comprehensive Conservation Plan, completed in 2006, identified the need to develop a consistent process for issuing permits for persons conducting for-hired guided hunting, fishing and wildlife observation activities. This prospectus provides a consistent and thorough process for authorizing commercial hunting guide operations within the Refuge. By allowing commercial waterfowl guiding, the Refuge can facilitate a quality service to the public for recreational hunting on the Refuge. Commercial guiding activities authorized on Refuge lands should promote positive hunting values and hunter ethics such as fair chase, and provide participants with reasonable harvest opportunities, less crowding, less competition, fewer conflicts between hunters, relatively undisturbed wildlife, greater hunter safety, less than average

crippling loss, and less interference from or dependence on mechanized aspects of the sport. To remain compatible with the Refuge purposes, commercially guided waterfowl hunting must reflect well on the Refuge, on the tradition of hunting and contribute to the Refuge purposes, resources and management objectives. Waterfowl hunting guides who are extended the privilege of operating on the Refuge, must conduct themselves and their guiding operations with respect for the mission and purpose(s) of the Refuge and hold themselves to a higher standard.

All applicants are responsible for making their own investigations as to the economic feasibility of any proposal, facts about the area, and estimates of potential business opportunity.

It will be the responsibility of all permit holders selected under this prospectus to adhere to all permit conditions and work diligently to minimize conflicts with other users.

For additional information contact the Refuge Manager at the Upper Mississippi River National Wildlife and Fish Refuge, 51 E. 4th Street, Room 101, Winona, MN 55987, or telephone at (507) 452-4232 weekdays 8:00 AM to 4:00PM.

II. DEFINITIONS

Guide(s): An individual who performs the service of guiding waterfowl hunters on the Refuge.

Guiding: Providing commercial services of any nature or kind to Refuge waterfowl hunters.

Guided Party: Consists of the guide, an assistant to the guide if applicable and a maximum of four hunters who have contracted for the guide's service.

Assistant: An individual who works directly with a permitted guide and assists in the conduct of a commercially guided hunt. An assistant may be paid or unpaid by the permitted guide, however, permitted guides are allowed to name one assistant during the application process.

Together: In reference to guided parties, "together" means physically located in the same boat and/or blind.

Commercial: Economic gain, monetary or otherwise derived from Refuge waterfowl hunter(s) for services rendered, including but not limited to guiding, scouting, shuttling, outfitting, and providing equipment or assistance not otherwise available to the general public.

Service(s); Includes but is not limited to guiding, outfitting, scouting, providing equipment, shuttling, or any other assistance for which economic gain or other consideration is obtained.

Hunt: To pursue, take, shoot, wound, kill, or attempt to pursue, take, shoot, wound, or kill.

Hunter(s): Any person who hunts on the Refuge.

III. PERMIT OFFERING

Twenty-three Refuge Special Use Permits to conduct commercial waterfowl guiding will be available for the 2015 season for the twelve guide use areas identified in Table 1. Maps of the twelve guide use areas are provided in Appendix A.

Guided parties will be limited daily to four hunters, the guide and one assistant who must all remain together as one hunt party. Guides or assistants may deploy one additional “helper” boat to set and retrieve decoys or recover dead/crippled birds, but the helper boat must remain within 50 feet of the guided party unless setting/retrieving decoys or recovering dead/crippled birds. At no time can the helper boat be used to reserve or hold hunting locations. Only one party may be guided each day.

Only qualified applicants (see Section V) will be entered into the drawing. Therefore, it is essential that all application forms be completed. All prospective applicants are advised to read this policy and application in its entirety. All applicants are responsible for making their own investigations as to the economic feasibility of commercially guiding waterfowl hunters on the Refuge.

Applicants must complete all Appendix D forms (Application Cover Sheet, Form A - Guiding History, Form B - History of Violations, Form C - Safety Record, Equipment, and Training, Form D - Measures to Minimize Impacts/Conflicts on other Refuge Users, Form E – References, and Form F - Application and W-9 form) and submit according to instructions and date provided on front page of the application package (Appendix D). Completion of these forms is essential to determine that applicants meet experience and other criteria to provide high quality and safe guide services on the Refuge. Applicants not meeting the requirements will not be considered.

Applicants may apply for any or all of the twelve available guide use areas, however, applicants will only be selected for one guide use area. Appendix D - Application Package must be used to apply. All applications of qualified guides will be entered into the drawing. Applicants electing to apply for more than one guide use area must prioritize the guide use areas numerically. The drawing will be open to the public and held on July 30, 2015 (9:00 am central standard time) at the headquarters office of the Upper Mississippi River National Wildlife and Fish Refuge, Winona, MN. The drawings for all twelve guide use areas will be conducted at this time. Applicants are not required to attend. Successful applicants will be notified telephonically on August 1, 2015. Permitted guides will only be allowed to name assistants during the application process. Those guides that do not name an assistant prior to the drawing of permit holders will not be allowed to name an assistant at a later date. The Refuge Manager may allow for personnel changes (i.e. substitute assistants) if circumstances warrant.

If no applications are received for a guide use area, permits will be available on a first come/first served basis for that guide use area until September 1, 2015. A \$100 administrative fee will be charged for issuance of a Special Use Permit for use of each guide use area.

Successful applicants will be awarded the opportunity to guide in their selected guide use area for up to 3 years. Annual renewal of the Special Use Permit is required and can be completed upon submission of required documents, reports and fees.

IV. OBJECTIVES

Objectives of the guided waterfowl hunting program are twofold:

- a. To provide high quality waterfowl hunting opportunities for hunters who might not otherwise hunt on the Refuge because they lack knowledge or equipment.
- b. To minimize conflicts between hunters.

The National Wildlife Refuge System Improvement Act of 1997 (NWRISA) established six public uses of refuges which would be allowed when compatible with the established purposes of the refuge and the Service's mission. These six public uses are: hunting, fishing, wildlife observation, wildlife photography, environmental education and interpretation. All commercial activities including guiding hunters are special uses that must be authorized through a Refuge Special Use Permit. These commercial activities can only be authorized when they are compatible with the purposes of the Refuge and the mission of the National Wildlife Refuge System. Although hunting is involved on guided hunts, the commercial activities associated with these hunts do not qualify as one of these six authorized public uses (Federal Register / Vol. 65, No. 202 / Wednesday, October 18, 2000 / Rules and Regulations – Issue 13: Priority Uses, Pages 62471 and 62472). This Commercial Waterfowl Guiding Program is being implemented to comply with the legal mandates of NWRISA including Compatibility.

V. SPECIAL REQUIREMENTS AND CONSIDERATIONS

1. A \$100 administrative fee will be charged for issuance of any Special Use Permits.
2. All applicants will be required to submit an application fee of \$500.00 with their respective applications. If applicant's first choice is drawn and applicant declines the permit, the application fee will be forfeited. If successful in the drawing, this fee will be applied to the cost of the SUP. If unsuccessful in the drawing the applicant will receive a full refund of the application fee. (All application fees will be made payable by cashier's check or money order to the U.S. Fish & Wildlife Service).
3. In States that require a guide license, selected applicants and their assistants must possess the appropriate and current State Guide License. The State licenses do not have to be obtained prior to applying for the Refuge Special Use Permits, but the licenses must be presented to the Refuge Manager prior to issuance of the Refuge Special Use Permit.
4. Selected applicants shall show proof of general liability insurance (\$500,000 each occurrence, \$1,000,000 aggregate) with the U. S. Fish and Wildlife Service named as additional insured prior to issuance of the Refuge Special Use Permit. Insurance does not

have to be purchased prior to applying, but proof of insurance must be submitted to the Refuge Manager prior to issuance of the Refuge Special Use Permit.

5. Convicted felons are ineligible to apply for or receive permits. Violation(s) of law by the applicant or their named assistant within the last 5 years must be self-reported on the application. Failure to report violations will result in permit denial. Convictions/violations within the last 5 years will be evaluated by the Refuge Manager and may result in permit denial. Failure to abide by any part of this special use permit; violation of any refuge related provision in the Code of Federal Regulations, part 50, 32.42 Upper Mississippi River National Wildlife and Fish Refuge; or violation of any pertinent state regulation (e.g., fish or game violation) will, with due process, be considered grounds for immediate revocation of this permit and could result in denial of future permit requests for lands administered by the U.S. Fish and Wildlife Service. This provision applies to all persons working under the authority of this permit (e.g., assistants). Special Use Permit fees will not be reimbursed.

6. The selected applicants are required to maintain daily records, on the forms provided in Appendix D, of the following:
- a. License numbers and names of all clients
 - b. Specific location and times of hunts
 - c. Species and sex of waterfowl harvested by individual client

Daily records are subject to inspection by State and Federal Law Enforcement officers. At the end of each hunt, daily records will be certified through signature by both the permit holder and individual guided hunters as complete and accurate.

Selected applicants must prepare a summary year-end report detailing the number of clients per day, fees charged and daily waterfowl harvest **by January 15, 2016**. This report will be certified by the permit holder as complete and accurate.

Form G (Appendix D) provides forms for both the daily log and year-end summary reports.

7. The selected applicants must comply with all terms and conditions of this policy and application document and the resulting Refuge Special Use Permit, Refuge laws and regulations, and pertinent State (Minnesota, Iowa, Wisconsin and Illinois respectively) regulations and laws. Permit holders are **required** to honor voluntary waterfowl avoidance measures associated with Refuge closed areas. Permit holders must report any violations committed by them or their clients to a State or Federal law enforcement officer.

8. The permitted guide use area is open on a first come-first serve basis. Applicants should review Appendix B – Interference and Harassment Laws. A documented and verified complaint or violation by a guide and/or member(s) of his guided party concerning interference or harassment of other Refuge hunters or other public users may be considered grounds to revoke this permit, and may also subject the guide/party

member(s) to a citation. All such complaints will be investigated by a State or Federal law enforcement officer.

9. Selected applicants must provide the Refuge with all required information (guide license, insurance policy, permit fee, all U.S Coast Guard license requirements and associated papers, etc.) by **September 1, 2015**.
10. No person, including but not limited to a guide, guide service, outfitter, club, or other organization shall provide assistance, services, or equipment on the Refuge to any other person for compensation unless such guide, guide service, outfitter, club, or other organization has obtained a Special Use Permit from the Refuge. For the purpose of this regulation, any fees paid or services rendered to a person for lodging, meals, club membership or similar services will be considered compensation.
11. Permit holders must utilize at least 25 percent of the possible guided hunter slots. This includes only those hunters that pay a **fair market value (greater than \$ 175)** for guide services. The maximum number of guided hunters allowed per party under this permit is four (4) each day. The permit holder year-end summary must reflect an average of one (1) guided hunter per day commercially guided on Refuge managed lands and waters. Example: For a 60 day duck season, the minimum number of hunters would be 60 days X 1 hunter/day = 60 hunters total for the season or an average of 1 hunter per day. Part-time guides not able to meet the minimum use requirements may select a co-permittee who would work under the same permit, fees and restrictions in order to utilize the minimum 25 percent of possible guided hunter slots. Failure to meet this standard of use may result in denial of a permit request for the following year. If unable to meet this standard of use, permit holders should notify the Refuge Manager regarding the circumstances and reasons for failure.
12. Guides and assistants are not allowed to harvest a limit of migratory birds of their own while guiding. Bag limits are restricted to paid clients only.
13. Applications containing false or incomplete information may be rejected by the Refuge. If a permit has been issued based on false or incomplete information, it may be terminated at any time.
14. Vessels utilized by selected applicants will be clearly marked with a removable decal provided by the Refuge. Vessels and vehicles are subject to inspection by State and Federal law enforcement officers.
15. The use of airboats during commercial guiding operations is prohibited.

VI. REFUGE SPECIAL USE PERMIT FEE

Section 5 RM 17.5 of the refuge manual states: “The Service should attempt to recover the costs of administering specialized uses of a refuge. Generally the fee rate charged is determined by the fair market value of the products, services, facilities, and privileges involved. In most cases the fair market value will recover the government costs ...”

Three methods are available to establish fees - Competitive Bids, Informal Bids and Prevailing Rates. The prevailing rate method was selected for this commercial activity. This rate could be established by a market comparison of the lease price for comparable waterfowl habitat by guides in the private sector or by a determination of the prevailing rate clients pay to guides. The latter was selected. Rates for a guided hunt in this area range from \$180 to \$250 per day or gun with \$205 being the prevailing average daily rate charged. The Refuge fee will be 3% of the gross income potential plus a \$100.00 administrative fee. Gross income potential will be adjusted annually based on permit holder reports of the total number of clients served in the previous year. EXAMPLE: Permit holder X reports 100 clients served in the previous year. Permit holder X charged \$200/client in the previous year. Permit holder X’s gross income potential = \$20,000 (100 clients X \$200/client). Permit fee = \$600 (0.03 X \$20,000). Total fee = \$700 (\$100 administrative fee + \$600 permit fee). Under this example, the total fee per client served would equal \$7.00 (\$700 total fee/100 clients served).

VII. GENERAL TERMS

The government reserves the right to extend the dates for receiving applications, selection date and to not award any or all Refuge Special Use Permits for Waterfowl Guiding.

Any oral statement by any representative of the Government, modifying or changing any conditions of this document is an expression of opinion only and confers no right upon any applicant.

In the event that a contradiction exists between this document and sample permit (Appendix C) and the conditions in the issued Refuge Special Use Permit, the conditions in the Refuge Special Use Permit will govern.

VIII. PERMIT REVOCATION AND APPEALS PROCESS

The government reserves the right to reject any and all applications containing a history of game, fish, boating or Refuge violations, false information, illegible information, partially completed applications or guide services that held permits in the previous hunt year and failed to meet the special conditions of the permit. If a Refuge Special Use Permit has been issued under false application, it will be immediately terminated.

The government reserves the right to cancel any Refuge Special Use Permit for non-compliance with any terms or conditions of this policy and application document, Refuge Special Use Permit, State and Federal regulations or other actions undertaken with the intent of doing harm to the Refuge and government. In the case of a lapse in Federal appropriations which results in

closure of the Refuge, all activities authorized through Special Use Permits issued by the Refuge, including commercially guided waterfowl hunting, will be suspended until the Refuge reopens.

The Code of Federal Regulations (50 CFR 25.45) describes the appeals process permit applicants and/or holders may take in case of a permit denial or revocation, respectively. Any person who is adversely affected by a Refuge manager's decision or order relating to the person's permit granted by the U.S. Fish and Wildlife Service or application for permit, with the National Wildlife Refuge System may appeal the Refuge Manager's decision.

Prior to making any adverse decision or order on a permit or application for permit, the Refuge Manager shall notify the permit holder or applicant orally or in writing on the proposed action and its effective date. The permit holder or applicant shall have twenty (20) days after notification in which to present to the Refuge Manager, orally or in writing, a statement in opposition to the proposed action or date. The permit holder or applicant shall be notified in writing within twenty (20) days after receipt of the statement in opposition, of the Refuge Manager's final decision or order.

If the Refuge Manager still intends to proceed with the proposed action, the permit holder or applicant shall have thirty (30) days from the postmarked date of the Refuge Manager's final decision or order in which to file a written appeal to the Regional Chief of Refuges. The appellant (permit holder or applicant) shall be notified in writing within thirty (30) days from the postmarked date of the appeal of the Regional Chief of Refuges' decision.

The appellant shall have thirty (30) days from the postmarked date of the Regional Chief of Refuges' decision to further appeal in writing to the appropriate Regional Director. The Regional Director's decision shall be final and issued in writing to the appellant within thirty (30) days from the postmarked date of the appeal.

The appellant shall be provided an opportunity for oral presentation before the Regional Chief of Refuge or the Regional Director within the respective thirty (30) day appeal periods.

The addresses of the appropriate officials to whom appeals may be taken shall be furnished in each decision or order.

Compliance with any decision or order of a Refuge Manager shall not be suspended by reason of an appeal having been taken unless such suspension is authorized in writing by the Regional Chief of Refuges or Regional Director (depending upon the official before whom the appeal is pending), and only upon a determination by these officials that such suspension will not be detrimental to the interests of the United States or upon submission and acceptance of a bond deemed adequate to indemnify the United States from loss or damage.

Appendix A

Map of Hunt Guide use areas

The following pages are maps of guide use areas for commercial waterfowl hunt guiding on the Upper Mississippi River National Wildlife and Fish Refuge.

Commercially guided waterfowl hunting is only allowed via permit in the 12 guide use areas.

Table 1: Guide Use Areas, Upper Mississippi River National Wildlife and Fish Refuge.

Location	Number of Commercial Waterfowl Guide Permits available
Pool 4	2 permits available
Pool 5	2 permits available
Pool 5A	1 permit available
Pool 6	1 permit available
Pool 7	1 permit available
Pool 8	2 permits available
Pool 9	5 permits available
Pool 10	2 permits available
Pool 11	2 permits available
Pool 12	2 permits available
Pool 13	2 permits available
Pool 14	1 permit available
Total Number of Guide Use Areas = 12	Total Number of Permits Available = 23

Appendix B
Interference and Harassment Laws/Regulations

50 Code of Federal Regulations, Subchapter C, 27.84; Interference with persons engaged in authorized activities

Disturbing, molesting, or interfering with any employee of the United States or of any local or State government engaged in official business, or with any private person engaged in the pursuit of an authorized activity on any national wildlife refuge is prohibited.

Minnesota State Statute 97A.037 Hunter, trapper, and angler harassment prohibited.

Subdivision 1: Interference with taking wild animals prohibited - A person who has the intent to prevent or disrupt another person from taking or preparing to take a wild animal or enjoyment of the out-of-doors must not disturb or interfere with that person if that person is lawfully taking or preparing to take a wild animal. "Preparing to take a wild animal" includes travel, camping, and other acts that occur on land or water where the affected person has the right or privilege to take lawfully a wild animal.

Subd. 2: Disturbing wild animals prohibited - A person who has the intent to prevent or disrupt a person from lawfully taking the animals may not disturb or engage in an activity that will tend to disturb wild animals.

Subd. 3: Persons intending to harass hunters, trappers, and anglers may not remain on land - A person who has intent to violate subdivision 1 or 2 may not enter or remain on public lands, or on private lands without permission of the owner.

Subd. 4: Peace officer order; penalty - A person must obey the order of a peace officer to stop the harassing conduct that violates this section if the officer observes the conduct. For purposes of this subdivision, "harassing conduct" does not include a landowner's or lessee's action to enforce the Trespass Law. Violation of this subdivision is a misdemeanor.

Wisconsin State Statute 29.083. Interference with hunting, fishing or trapping.

(1) Definition. In this section, "activity associated with lawful hunting, fishing or trapping" means travel, camping or other acts that are preparatory to lawful hunting, fishing or trapping and that are done by a hunter, fisher or trapper or by a member of a hunting, fishing or trapping party.

(2) Prohibitions.

(a) No person may interfere or attempt to interfere with lawful hunting, fishing or trapping with the intent to prevent the taking of a wild animal by doing any of the following:

1. Harassing a wild animal or by engaging in an activity that tends to harass wild animals.
2. Impeding or obstructing a person who is engaged in lawful hunting, fishing or trapping.
3. Impeding or obstructing a person who is engaged in an activity associated with lawful hunting, fishing or trapping.
4. Disturbing the personal property of a person engaged in lawful hunting, fishing or trapping.
5. Disturbing a lawfully placed hunting blind.

(b) No person may knowingly fail to obey the order of a warden or other law enforcement officer to desist from conduct in violation of par. (a) if the order is based on any of the following:

1. The warden or other law enforcement officer personally observed such conduct by the person.
2. The warden or other law enforcement officer has reasonable grounds to believe that the person has engaged in such conduct that day or that the person intends to engage in such conduct that day.

(3) Exemptions. This section does not apply to actions under sub. (2)(a) 1 to 5 performed by wardens and other law enforcement officers if the actions are authorized by law and are necessary for the performance of their official duties.

(3m) Affirmative defense. It is an affirmative defense to the prosecution for violation of this section if the defendant's conduct is protected by his or her right to freedom of speech under the constitution of this state or of the United States.

(4) Civil actions.

(a) A person who is adversely affected by, or who reasonably may be expected to be adversely affected by, conduct that is in violation of sub. (2)(a) may bring an action in circuit court for an injunction or damages or both.

(b) The circuit court may enter an injunction under ch. 813 against conduct in violation of sub. (2)(a) if the court determines any of the following:

1. The defendant is threatening the conduct.
2. The defendant has engaged in the conduct in the past and that it is reasonable to expect that the defendant will engage in the conduct that will adversely affect the plaintiff in the future.

(c) The circuit court may award damages to the plaintiff if the defendant's conduct in violation of sub. (2)(a) has adversely affected the plaintiff. The damages awarded may include punitive damages and any special damages. Special damages may include approval fees, travel costs, camping fees, costs for guides, and costs for equipment or supplies to the extent that the plaintiff did not receive the full value of any of these expenditures due to the unlawful conduct of the defendant.

Iowa State Statute 481A.125. Wildlife Conservation. Prohibited Acts.

1. As used in this section, “interfere with hunting, fishing, or fur-harvesting activities” means one or more of the following:

a. To intentionally place oneself in a location where a human presence may affect the behavior of a fur-bearing animal, game, bird, or fish or the feasibility of killing or taking a fur-bearing animal, game, bird, or fish with the intent of obstructing or harassing another person who is lawfully hunting, fishing, or fur harvesting.

b. To intentionally create a visual, aural, olfactory, or physical stimulus for the purpose of affecting the behavior of a fur-bearing animal, game, bird, or fish with the intent of obstructing or harassing another person who is lawfully hunting, fishing, or fur harvesting.

c. To intentionally affect the condition or alter the placement of personal property used for the purpose of killing or taking a fur-bearing animal, game, bird, or fish with the intent of obstructing or harassing another person who is lawfully hunting, fishing, or fur harvesting.

2. A person shall not interfere with the lawful hunting, fishing, or fur-harvesting activities of another person in an area where hunting, fishing, or fur harvesting is authorized by a custodian of public property or an owner or lessee of private property.

3. A person who commits:

a. A first offense of interfering with hunting, fishing, or fur-harvesting activities is guilty of a simple misdemeanor.

b. A second or subsequent offense is punishable as a serious misdemeanor.

4. If a person who commits interfering with hunting, fishing, or fur-harvesting activities possesses a license, certificate, or permit issued by the department, the license, certificate, or permit is subject to suspension or revocation pursuant to section 481A.134.

5. This section shall not prohibit a landowner, tenant, or an employee of a landowner or tenant from performing normal agricultural operations or a law enforcement officer from performing official duties.

Illinois State Statute 720.125. Hunter Interference Prohibition Act.

1. Definitions. As used in this Act:

(a) "Wild animal" means any wild creature the taking of which is authorized by the fish and game laws of the State.

(b) "Taking", means the capture or killing of a wild animal and includes travel, camping, and other acts preparatory to taking which occur on lands or waters upon which the affected person has the right or privilege to take such wild animal.

2. Any person who performs any of the following is guilty of a Class B misdemeanor:

(a) interferes with the lawful taking of a wild animal by another with intent to prevent the taking.

(b) disturbs or engages in an activity that will tend to disturb wild animals, with intent to prevent their lawful taking.

(c) disturbs another person who is engaged in the lawful taking of a wild animal or who is engaged in the process of taking, with intent to dissuade or otherwise prevent the taking.

(d) enters or remains upon public lands, or upon private lands without permission of the owner or his agent, or a lessee, with intent to violate this Section.

3. Any person who knowingly performs any of the following acts is guilty of a Class A misdemeanor:

(a) fails to obey the order of a peace officer to desist from conduct in violation of Section 2 of this Act if the officer observes such conduct, or has reasonable grounds to believe that the person has engaged in such conduct that day or that the person plans or intends to engage in such conduct that day on a specific premises.

(b) is convicted of a second or subsequent violation of Section 2. For purposes of this Section, a "second or subsequent violation" means a conviction under this Act within 2 years of a prior violation arising from a separate set of circumstances. The sentence of any person convicted of a second or subsequent violation shall include imprisonment for not less than 7 days. A person convicted of a second or subsequent violation is not eligible for court supervision.

4. Injunctions—Damages

(a) Any court may enjoin conduct which would be in violation of Section 2 of this Act upon petition by a person affected or who reasonably may be affected by such conduct, upon a showing that such conduct is threatened or that it has occurred on a particular premises in the past and that it is not unreasonable to expect that under similar circumstances it will be repeated.

(b) A court shall award all resulting costs and damages to any person adversely affected by a violation of Section 2, which may include an award for punitive damages. In

addition to other items of special damage, the measure of damages may include expenditures of the affected person for license and permit fees, travel, guides, special equipment and supplies, to the extent that such expenditures were rendered futile by prevention of the taking of a wild animal.

(c) A court shall revoke, for a period of one year to 5 years, any Illinois hunting, fishing, or trapping privilege, license or permit of any person convicted of violating any provision of this Act.

Appendix C

Sample Permit

The following pages contain a complete sample of a waterfowl guiding Special Use Permit. Information includes a sample permit; special conditions of the permit, commercial waterfowl guide daily log, and the commercial waterfowl guide year-end summary

Special Conditions - Commercial Guiding of Waterfowl Hunters on the Upper Mississippi River National Wildlife and Fish Refuge

1. Guiding allowed in guide use area (-----) of the Refuge only. All other units and guide use areas are closed to guided hunting by permit holder. Attached map shows all guide use areas and is a part of this permit.
2. No special privileges are granted to the permit holder other than those stated in this Special Use Permit. Interfering with any other individual lawfully participating in any authorized activity on the Refuge will be grounds for immediate revocation of this permit and for possible legal prosecution.
3. The permit holder and assistant each must comply with all applicable federal, state, U.S. Coast Guard, and Refuge laws and regulations and policy governing hunting, commercial guiding, boating and use of the Refuge. Permit holders are **required** to honor voluntary waterfowl avoidance measures associated with Refuge closed areas.
4. All waterfowl guides and assistants operating motorized boats on the Refuge must possess a current vessel operator license issued by the U.S. Coast Guard. Minimum license shall be an Operator Uninspected Passenger Vessel. The license shall be valid for the area of operations and type(s) of vessel operated. All waterfowl guides and assistants must possess a current CPR and First Aid training certificate issued by a recognized national organization.
5. A copy of this permit and a signed copy of the current Refuge hunting permit/regulations must be in the possession of the permit holder and assistant while engaged in commercial guiding activities. All members of the hunt party must have a signed copy of the current Refuge permit/regulations while hunting.
6. The permit holder must verify all clients/hunters have the required and appropriate hunting licenses, signed duck stamps, signed Refuge permits and Refuge regulations, and any other required documents PRIOR to hunting.
7. Guided parties are limited to four hunters, the permit holder and his assistant who must all stay together (total 6) as one hunt party on the Refuge. Guides or assistants may deploy one additional “helper” boat to set and retrieve decoys or recover dead/crippled birds, but the helper boat must remain within 50 feet of the guided party unless setting/retrieving decoys or recovering dead/crippled birds. At no time can the helper boat be used to reserve or hold hunting locations. Only one party may be guided per day. **The permit holder must accompany all hunt parties. Any exception to this requirement must be applied for and approved by the Refuge Manager prior to such event.**

8. Guides and assistants are not allowed to harvest a limit of migratory birds of their own while guiding. Bag limits are restricted to paid clients only.
9. The permit holder must maintain accurate, legible daily records indicating the following information:
 - a. License numbers and names of all clients
 - b. Specific location and times of hunts
 - c. Species and sex of waterfowl harvested by individual client

Daily records are subject to inspection by State and Federal Law Enforcement Officers. At the end of each hunt, daily records will be certified through signature by both the permit holder and individual guided hunters as complete and accurate.

Selected applicants must prepare a summary year-end report detailing the number of clients per day, fees charged and daily waterfowl harvest by **January 15, 2016**. This report will be certified by the permit holder as complete and accurate.

10. This Special Use Permit may be canceled or revised at any time by the Refuge Manager in case of emergency (e.g. high fire danger, flooding, unusual resource problems, or violation of permit, etc.) or Refuge closure. Any violation may be grounds for future permit denial.
11. The permit holder agrees to forever hold harmless the United States, its officers, agents, employees, contractors, and or assigns from any and all damages to property or injuries to persons which may arise or be incidental to the activities associated with this Special Use Permit, above and beyond the required liability insurance policy.
12. Permit holder will possess a liability insurance policy of \$500,000 each occurrence, \$1,000,000 aggregate with the U.S. Fish and Wildlife Service named as additional insured prior to issuance of this Special Use Permit. Permit holder will maintain this same policy through the duration of this permit. Any changes in policy will be approved by the Refuge Manager prior to implementation.
13. All equipment must be removed from the Refuge daily.
14. Vessels utilized by selected applicants will be clearly marked with a removable decal provided by the Refuge. Vessels and vehicles are subject to inspection by State and Federal Law Enforcement Officers.
15. Only one set-up of decoys (regardless of number) may be used per guided party.
16. Revocation of a permit holder's Special Use Permit will result from violation (by permit holder or assistant) of any Refuge hunting regulations or violation of U.S. Coast Guard regulations. Violation of State game or fish regulations resulting in a conviction will also result in revocation.

17. Permitted guides will only be allowed to name assistants during the application process, those guides that do not name an assistant prior to the drawing of permit holders will not be allowed to name an assistant at a later date. The Refuge Manager may allow for personnel changes (i.e. substitute assistants) if circumstances warrant.
18. All definitions identified within this prospectus will be valid for this permit. (Examples; Guide, Guided Party, Commercial, Service, Guiding, Hunt, and Hunters).
19. Any oral statement by any representative of the Government, modifying or changing any conditions of this document is an expression of opinion only and confers no right upon any permit holder.
20. Permit holders must utilize at least 25 percent of the possible guided hunter slots. This includes only those hunters that pay a **fair market value (greater than \$ 125)** for guide services. The maximum number of guided hunters allowed per party under this permit is four (4) each day. The permit holder year-end summary must reflect an average of one (1) guided hunter per day commercially guided on Refuge managed lands and waters. Example: For a 60 day duck season, the minimum number of hunters would be $60 \text{ days} \times 1 \text{ hunter/day} = 60 \text{ hunters total for the season}$ or an average of 1 hunter per day. Part-time guides not able to meet the minimum use requirements may select a co-permittee who would work under the same permit, fees and restrictions in order to utilize the minimum 25 percent of possible guided hunter slots. Failure to meet this standard of use may result in denial of a permit request for the following year. If unable to meet this standard of use, permit holders should notify the Refuge Manager regarding the circumstances and reasons for failure.
21. The use of airboats during commercial waterfowl guiding activities is prohibited.

Appendix D

Application Package

Complete all the following pages and submit according to instructions below.

Applications must be sent to Upper Mississippi River National Wildlife and Fish Refuge, 51 E. 4th Street (Room 101), Winona, MN 55987. All applications must be postmarked by **July 17, 2015. Envelope must be marked ATTENTION: WATERFOWL GUIDE APPLICATION.**

Applicants are advised to read the Prospectus and Invitation for Applications completely before applying. For additional information, contact Sabrina Chandler, Refuge Manager at the above address or by telephone at 507-494-6218.

**APPLICATION COVER SHEET
FOR
COMMERCIAL WATERFOWL HUNT GUIDING
UPPER MISSISSIPPI RIVER NATIONAL WILDLIFE AND FISH REFUGE**

I certify that the information furnished in the following application is true and complete to the best of my knowledge and belief. I authorize the Fish and Wildlife Service to verify the information furnished herein.

BY: _____
(Sign in ink as typed or printed below)

(Type or print full name)

(Social Security Number)

(Doing business as)

(Date)

Permanent mailing address

Seasonal Address (if different)

Telephone Numbers:

Daytime _____

Evening _____

Cell Phone _____

This cover sheet and forms A through F must be submitted as your application.

FORM A - Guiding History

Fully complete all questions below. Applicants must be able to document a minimum of **three years** waterfowl guiding experience including one year in Minnesota, Wisconsin, Iowa or Illinois, in order to be eligible to apply and guide on the Refuge.

- (1) **Experience guiding waterfowl hunters in Minnesota, Wisconsin, Iowa or Illinois during the last three years. (list each year you guided and the estimated number of clients guided for each year).**

- (2) **Experience guiding waterfowl hunters on state or federal hunt areas. List only years in which you were issued a state guide license (list each year, estimated number of clients guided each year and locations where you have guided waterfowl hunters.)**

Attach additional sheets as necessary.

Applicant's Signature: _____

FORM B - History of Violations

(1) In the past five years, have you been convicted, forfeited collateral, pled nolo contendere, had a guiding license or privilege suspended or been administratively penalized for violation of any federal, state, Coast Guard, or local laws, regulations, or permit conditions, related to hunting, fishing, boating, or for any DUI offense? Are you under pending charges for any violation as indicated above? If the answer to either of these questions is yes, list each incident and give the name of the person, place of occurrence and name/address of the law enforcement agency and /or court involved (and provide explanation, if you desire).

(2) Attach copies of official background reports documenting history of violations or convictions for yourself, your assistant(s) and all current and proposed business partners associated with your guide operations. You and each of your business partners must obtain a copy of violation report histories from the appropriate State Police and specify that hunting, fishing, boating, and guide related records are to be included on the report. These reports must be obtained in person and you are responsible for any required report costs. You must provide a copy of these background reports for yourself and all partners identified in your application to be considered for a Refuge permit.

Attach additional sheets as necessary.

Applicant's Signature: _____

FORM C - Safety Record, Equipment, and Training

- (1) List all accidents, incidents, and safety related violations or enforcement actions involving you or your guiding operations that have occurred since June 2009. Submit reports from State Departments of Natural Resources, and U.S. Coast Guard for all safety violations, accidents and/or incidents involving you or your guiding operation that have occurred in the past five years. Please request this information early to ensure your proposal will be complete. If records cannot be obtained from the agency involved, describe the accident, incident or violation in detail and provide the name and telephone number of the person you contacted who informed you that the record could not be provided. Agencies typically do not provide reports unless there are records of such accidents, incidents, violations or enforcement actions. Therefore, you should not submit reports if you have no such records.
- (2) List all safety related training that you, your partners, and your employees have taken (e.g., advanced first aid, ETT, EMT, boat safety, etc.). Also describe any relevant experience/training in actual rescue or survival operations programs, hunter safety programs, etc. Give dates of training or participation and indicate if certification is current (if applicable). Note: the successful applicant and assistant are required to submit current first aid and CPR certification prior to permit issuance.
- (3) Describe your emergency preparedness or safety plan. List emergency communications equipment and address your plans, if any, in the event of mechanical failure, or other types of accidents/incidents.
- (4) List all safety related equipment and supplies, in addition to the communications equipment listed above.
- (5) Describe the year, make, model and color of any boats, vehicles or other means of transportation used in your guiding operations.

All waterfowl guides and assistants operating motorized boats on the Refuge must possess current vessel operator license issued by the U.S. Coast Guard. Minimum license shall be a Operator Uninspected Passenger Vessel. The license shall be valid for the area of operations and type(s) of vessel operated. All waterfowl guides and assistants must possess current CPR and First Aid training certificates issued by a recognized national organization. Failure to provide proof of such certification by **September 1, 2015, will result in permit revocation.**

Attach additional sheets as necessary.

Applicant's Signature: _____

FORM D - Measures to Minimize Impacts on Other Refuge Users

Explain how your proposed waterfowl guiding operation on the Refuge will be conducted so as to minimize impacts and reduce conflicts with other users including particularly other waterfowl hunters.

Attach additional sheets as necessary.

Applicant's Signature: _____

FORM E - References

Applicants should list three references by name, address and telephone number who can verify their waterfowl hunting and guiding history as well as their guiding history over the past three years. Applicants will be responsible for selecting persons as references who are fully willing to discuss the applicant's qualifications with a representative of the Refuge reviewing this application. Be sure both addresses and telephone numbers are current. **Applications in which this section is not complete or accurate will be rejected.**

REFERENCE 1:

Name: _____

Address: _____

Telephone (____) _____

REFERENCE 2:

Name: _____

Address: _____

Telephone (____) _____

REFERENCE 3:

Name: _____

Address: _____

Telephone (____) _____

Applicant's Signature: _____

FORM F - Application

I am applying to commercially guide waterfowl hunters on the Upper Mississippi River National Wildlife and Fish Refuge during the 2015 waterfowl season. Using the instructions provided, I have indicated my choice(s) for guide use areas for which I am applying. I understand that I am only eligible to be selected to guide in one guide use area. **I also understand that my name may only appear one time in the drawing process. (Example) Any individual that has applied as a guide may not be named as a helper on any other application.**

Applicants are not required to be present at the drawing, but must submit the application fee of \$500.00 with their respective applications. If successful in the drawing, this fee will be applied to the cost of the SUP. **If successful in drawing the applicant's first choice and applicant declines the permit, the application fee will be forfeited with no refund.** If unsuccessful in the drawing the applicant will receive a full refund of application fee. (All application fees will be made payable to the U.S. Fish & Wildlife Service)

INSTRUCTIONS:

To apply and be considered for only one guide use area, enter the number 1 in the space provided opposite your choice. To apply and be considered for multiple guide use areas, enter the number 1 in the space provided opposite your top priority guide use area, the number 2 opposite your second choice and if applicable, the number 3 opposite your third choice. Use this system until you have chosen and prioritized all the guide use areas that you wish to be eligible to guide within.

- () Pool 4 – 2 permits available
- () Pool 5 – 2 permits available
- () Pool 5A – 1 permit available
- () Pool 6 – 1 permit available
- () Upper End of Pool 7 – 1 permit available
- () Below Goose Island, Pool 8 – 2 permits available
- () Pool 9 – 5 permits available
- () Pool 10 – 2 permits available
- () Above Potosi, Pool 11 – 2 permits available
- () Pool 12 – 2 permits available
- () Pool 13 – 2 permits available
- () Pool 14 – 1 permit available

Applicant's Signature _____

Date _____

Designated Assistant's Signature _____

Print Name of Designated Assistant _____

Date _____

FORM G – Commercial Waterfowl Hunting Guide Daily Log and Year-End Summary

The following forms will be utilized by commercial waterfowl hunting guides for meeting the requirements of Section V (5).