

COMPATIBILITY DETERMINATION

Use: Commercial Fishing Floats

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

Establishing and Acquisition Authorities: The Upper Mississippi River National 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.

Goals of the National Wildlife Refuge System:

- a. To fulfill our statutory duty to achieve refuge purpose(s) and further the System mission.
- b. Conserve, restore where appropriate, and enhance all species of fish, wildlife, and plants that are endangered or threatened with becoming endangered.
- c. Perpetuate migratory bird, interjurisdictional fish, and marine mammal populations.
- d. Conserve a diversity of fish, wildlife, and plants.
- e. Conserve and restore, where appropriate, representative ecosystems of the United States, including the ecological processes characteristic of those ecosystems.
- f. To foster understanding and instill appreciation of fish, wildlife, and plants, and their conservation, by providing the public with safe, high-quality, and compatible wildlife-dependent public use. Such use includes hunting, fishing, wildlife observation and photography, and environmental education and interpretation.

Description of Use:

What is the use? Fishing floats are private businesses which provide fishing opportunities to the public for a fee; the fee varies per fishing float. Fishing floats provide opportunities for the general public to fish on the Refuge. An estimated 14,000 anglers per year use the fishing floats with the largest operators servicing about 7,000 anglers per year, while the remaining operator averages less than 300 anglers per year. Due to the location of floats below locks and dams, fishing can be excellent for walleye, sauger, and other species which tend to congregate in these areas.

Where is the use conducted? Independently-owned/operated fishing floats are currently permitted to occupy U.S. Fish and Wildlife Service-acquired land below Lock and Dams 6, 7, and 8.

When is the use conducted? Floats vary in construction and configuration, but generally include a large, floating platform with railing from which a customer fishes; a small, enclosed concessions area where food, beverages, and bait can be purchased; and portable rest rooms. The floats are attached to shore via a dock or walkway, and there is generally an equipment storage shed on shore.

Operators pick-up customers via boat and transport them to the facility. The fishing floats generally are used by anglers, who travel some distance to fish the main channel of the Mississippi River, but do not own or have access to boats.

Fishing floats operate during the open water season on the Mississippi River, typical between the months of March and November.

How is the use conducted? Fishing float permit holders are required to meet the Refuge specific

Commercial Fishing Float Permit Conditions and Standards attached to this compatibility determination. Operators are required to obtain a Special Use Permit (SUPs) from the Refuge and are charged a \$100 administrative fee as well as a Refuge permit fee. Refuge permit fees are calculated based on the number of clients served (client use days) multiplied by the client use day fee schedule (see attached Commercial Fishing Float Permit Conditions and Standards). Client use day fees are based on actual client use days. A “client use day” is defined as one calendar day (24 hours), or portion thereof, for each client using the Refuge. If clients are concurrently participating in different activities during the same trip which have different use day rates, the higher client use day rate is used to calculate the fees owed to the government. The specific fee for each type of client use day is based on 3 percent of the typical daily rate charged to clients by commercial guides. A maximum special use permit fee of \$500 is charged in cases where the number of clients served multiplied by the client use day fee exceeds \$500.

The Refuge permit fee is adjusted annually based on the permit holder’s reporting of total number of clients served and the fee schedule charged in the previous permit year. Special use permits can be renewed annually if the operator remains in good standing and compliance with all permit conditions. Permits are non-transferable. Should a permit holder sell or transfer ownership of their fishing float, a new permit application would be required on the new float owner. The Refuge Manager reserves the right to deny a permit request if the requestor/operator cannot meet the required conditions and standards, utilizes Refuge lands for operation, or presents a hazard to the public or wildlife/fisheries resources.

Why is this use being proposed? Historically, fishing floats filled an important void for those wishing to fish the main channel, but lacking the necessary equipment. Operators were required to obtain an annual Special Use Permit from the Refuge for an administrative fee of \$100, a fee which had remained unchanged since at least 1971. Costs to the Service were incurred from personnel administering the annual Special Use Permit and to law enforcement staff charged with enforcing the conditions of the annual permit. The \$100 received per fishing float was not sufficient to recover Refuge costs to administer each of the fishing floats.

Fishing float services are still desired as documented by the use they receive annually and the public’s interest in seeing them continue. As noted in the description of use and anticipated impact sections, the presence and operation of fishing floats on the Refuge will have minimal impact to fish and wildlife

populations and associated habitat. Since 2008, the Refuge has permitted 3 fishing floats that meet the minimum conditions and standards. Additional fishing floats will not be permitted on Refuge lands.

Availability of Resources: These structures are privately-owned and operated. Depending on the location of the fishing float, boat landings and parking lots, which are used for customer parking or to support transporting customers to the facility, may be public or privately-owned.

The Service incurs costs associated with personnel administering the annual Special Use Permit and to law enforcement staff charged with enforcing the conditions of the annual permit. The \$100 annual administrative fee and the additional Refuge permit fees are sufficient to recover Refuge costs to administer each of the fishing floats.

Anticipated Impacts of the Use: Fishing activities associated with floats, particularly in spring, may cause temporary disturbance to bald eagles, migratory birds, and other wildlife using the area immediately below the lock and dams. General fishing in boats is also concentrated in these areas. This disturbance may displace individual animals to other sections of the main channel or surrounding backwaters. Disturbance is limited in scope and duration because the activity is concentrated in a relatively small area.

As a result of the fishing floats, more harvest of fish occurs. Season dates, daily bag limits, and any specific regulations are set by the states with the long-term health of populations in mind. Creel surveys, population assessments, and water quality monitoring are among the tools used to determine how well populations are being maintained. Consequently, the harvest from anglers on fishing floats should not be excessive for any species taken. The fishing float may also provide additional structure for a variety of fish species. Fishing floats were traditionally anchored by cabling off to large trees growing on the shoreline, or onshore pilings, along with poles driven into the river bottom. Damage to trees has been documented in the past. This damage can be avoided by using onshore pilings. Finally, conflicts between anglers in boats and those fishing from fishing floats occur when boaters move in too close. Avoiding or minimizing these conflicts has been stressed by Refuge personnel; recommendations for handling potential conflicts have also been passed onto fishing float owners/operators.

Public Review and Comment: This Compatibility Determination is a re-evaluation of an existing determination which 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 on fish floats were received and are found in Chapter 7 of the EIS, with a Service response. However, no comments specific to this determination were received.

A draft of this re-evaluation was released on August 18, 2016 for a 45-day comment period. Public notification of the availability of this CD included media announcements and posting on the Refuge's website. Comments on this CD were received from the general public as well as several fishing float permittees. In general, the comments received did not support increased fees for special use permits and questioned the need for increased fees. The final CD includes significant revision of the permit fees proposed in the draft CD. The maximum permit fee will be \$500, plus a \$100 administrative fee. Several comments specific to the Commercial Fishing Float Permit Conditions and Standards offered constructive feedback and clarifying language to strengthen to "Conditions and Standards" documents. Where possible, the clarifying language offered was incorporated into the "Conditions and Standards" document.

The Wisconsin Department of Natural Resources offered a specific comment on this CD which disagreed with the statement in the draft CD that “the need for fishing floats has lessened”. That statement has been removed in the final CD.

As a result of comments received on the draft re-evaluation, as well as a desire to have consistent fee structures and permit conditions for all commercial activities permitted by the Refuge, the draft re-evaluation was revised and released for an additional 30-day comment period in March 2018. One comment letter which addressed fishing floats was received and urged that fees on fishing floats not be increased. No changes to the draft re-evaluation were made as a result of this letter.

Determination:

_____ Use is Not Compatible

XX Use is Compatible with Following Stipulations

Stipulations Necessary to Ensure Compatibility: To ensure compatibility with Refuge purposes and the mission of the National Wildlife Refuge System, an individual fishing float would remain in operation on the Refuge if the following stipulations are met:

1. Operations and maintenance are conducted in accordance with, local, state and federal regulations.
2. The fishing float meets the Refuge specific **Commercial Fishing Float Permit Conditions and Standards** attached to this compatibility determination. This includes implementing new Refuge permit fees. If a fishing float does not meet the conditions and standards, a phase-out would occur.
3. Fishing float presence and operation will be subject to modification if on-site monitoring by Refuge personnel uncovers unanticipated negative impacts to natural communities, wildlife species, or their habitats.
4. Permits are non-transferable. Should a permit holder sell or transfer ownership of their fishing float, a new permit application would be required of the new float owner. The Refuge Manager reserves the right to deny a permit request if the requestor/operator cannot meet the required conditions and standards, utilizes Refuge lands for operation, or presents a hazard to the public or wildlife/fisheries resources.

Justification: The National Wildlife Refuge System Improvement Act of 1997 specifies that there are six priority uses of the National Wildlife Refuge System. Fishing is one of these six priority uses, however, the commercial activities associated with fish float operations 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). Historically, fishing floats filled an important void for those wishing to fish the main channel, but lacking the necessary equipment. Fish float services are still desired as documented by the use they receive annually and the public’s interest in seeing them continue. As noted in the description of use and anticipated impact sections, the presence and operation of fishing floats on the Refuge will have minimal impact to fish and wildlife populations and associated habitat. Compliance with the **Commercial Fishing Float Permit Conditions and Standards** will ensure proper control of the means of use and provide management flexibility should detrimental impacts develop. Allowing this use also furthers the mission of the National Wildlife Refuge System by providing

renewable resources and recreation for the benefit of the American public while conserving fish, wildlife, and plant resources.

Refuge Manager:

Sally Chandler

Signature

5/4/18

Date

Regional Chief Concurrence:

Paul [Signature]

Regional Chief

Date

5-2-18

Mandatory 10 or 15 year Re-evaluation Date: 2028

Attachment(s): Commercial Fishing Float Permit Conditions and Standards