

COMPATIBILITY DETERMINATION

Use: Commercially Guided Wildlife/Wildlands Observation

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? The Refuge authorizes commercially guided wildlife and wildlands observation within the Refuge, and regulates such use through the implementation of a commercial wildlife/wildlands observation guide management program, including issuance of Special Use Permits with conditions. 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.

Where is the use conducted? 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 floodplain habitat on the Refuge. Hundreds of bald eagles 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.

When is the use conducted? Guiding operations generally occur in the late spring, summer and early fall prior to the formation of ice.

How is the use conducted? Guided wildlife observation typically involves transport of clients by either power boats or canoes/kayaks 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. 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.

Administration of commercially guided wildlife/wildlands observation is conducted in accordance with **Commercial Wildlife and Wildlands Observation Guide Services on the Upper Mississippi River National Wildlife and Fish Refuge - Program Requirements and Stipulations**. The Commercial Wildlife/Wildlands Observation Guide Program was 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 Commercial Wildlife/Wildlands Observation Guide Program addresses all aspects of guided wildlife/wildlands observation including the number of permits to be issued, guide qualifications, permit cost, and selection methods. Commercial Wildlife/Wildlands Observation Guide Use Areas have been established for each navigation pool within the Refuge to ensure distribution of guides and public opportunity, and address sensitive wildlife areas or other considerations.

Permitted wildlife/wildlands observation guides 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 Program Requirements and Stipulations). 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 minimum special use permit fee of \$300 is charged in cases where the number of clients served multiplied by the client use day fee does not exceed \$300.

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.

Why is the use being proposed? 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.

In 2015, six wildlife/wildlands observation guiding permits were issued.

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 wildlife/wildlands observation 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.

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: This Compatibility Determination is a re-evaluation of a 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 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.

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 the draft re-evaluation were received from several currently permitted operators. As a result of those comments, 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 currently permitted operator provided comments and questions on the draft re-evaluation. No changes were made to the draft re-evaluation as a result of those comments.

Determination:

_____ Use is Not Compatible

XXX Use is Compatible with Following Stipulations

Stipulations Necessary to Ensure Compatibility: The Commercial Wildlife and Wildlands Observation Guide Services on the Upper Mississippi River National Wildlife and Fish Refuge - Program Requirements and Stipulations (attached) outlines the standards and conditions to be met by wildlife and wildlands observation guides operating on the Refuge.

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.
2. There are adequate state and federal enforcement officials to enforce state and federal regulations.

3. Qualifying standards for commercial operators will help ensure that the public is guided by competent individuals.
4. Restricting the number of guides and managing how guided activities are conducted will reduce adverse habitat effects, conflicts between competing guide services, and conflicts between guided operations and other Refuge users.
5. Designated areas of operation (Guide Use Areas), operating requirements, and other regulation of guided activities will minimize conflicts with other Refuge users.
6. Administrative (application) and Special Use Permit fees will help off-set costs to administer and provide oversight to this use.
7. Regulating and limiting the number of commercial operators as stated in the Refuge commercial guide program stipulations will provide a safe, quality experience to individuals who want to enjoy the resources of the Refuge. It will also increase opportunities for those who wish to observe wildlife and experience the scenic and wild nature of the Refuge, but may lack the required equipment, knowledge, or expertise.

Refuge Manager:  5/14/18
 Signature Date

Regional Chief Concurrence:  5-2-18
 Signature Date

Mandatory 10- or 15 year Re-evaluations Date: 2028

Attachment: Commercial Wildlife and Wetlands Observation Guide Services on the Upper Mississippi River National Wildlife and Fish Refuge - Program Requirements and Stipulations