

COMPATIBILITY DETERMINATION

Use: Guided Sport Fishing

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 commercial fishing guide operations within the Refuge, and regulates such use through the implementation of a fishing guide management program, including issuance of Special Use Permits with conditions. Target fish species for guided sport anglers include most game fish found on the Refuge; such as largemouth and smallmouth bass, channel and flathead catfish, walleye, sauger, northern pike, crappie, yellow perch, and bluegill. Walleye and bass are the most frequently pursued species. However, given the nature of fishing methods often employed, the potential exists to catch any of the 119 fish species found on the Refuge.

Bowfishing, where allowed by State regulations, is also authorized as a commercially guided fishing activity. Guided bowfishers typically target “rough” fish species including carp, buffalo, gar, and carpsuckers. Both native and non-native (sometimes invasive) fish species are targeted.

Where is the use conducted? Guiding operations will generally be allowed on the approximately 140,000 acres of surface water in the Refuge throughout the year in accordance with the respective state fishing seasons. Specific habitat types will depend on targeted fish species and seasonal changes associated with water depths, water temperatures, and flow. Habitat types include a mixture of large river associated wetlands, primary and secondary river channels, back water ponds and marshes, and relatively open, deeper water areas of the down river portion of each navigation pool.

When is the use conducted? Fishing seasons for most species are open throughout the year, however, the majority of commercial sport fish and bowfish guiding occurs during the open water season(s), March through November. Some limited guided ice fishing also occurs.

Other species that may be affected by guided fishing activities 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. Other waterfowl species include Canada geese, mallard, ring-necked duck, and scaup. Additional species of interest include: American white pelicans, various raptors, great blue heron, great egret, white-tailed deer, river otter, and beaver.

How is the use conducted? Guided fishing operations typically involve transport of clients by power boats from public boat landings to various fishing locations on the Refuge, for a fee. Depending on the target fish species guides/clients will then anchor, drift, troll, or fish areas with the aid of motors while seeking the intended fish species. Sport fishing gear varies greatly depending on species, but typically involves the use of artificial lures or live bait. Depending on species, clients generally keep a portion of their catch (e.g. walleye and sauger) or may practice catch-and-release (e.g. largemouth bass).

Bowfishing is conducted from boats equipped with walking/standing platforms on the boat bow and banks of lights to easily illuminate the shallow waters in which “rough” fish are commonly found. Bowfishing typically occurs at night. As indicated by the name, bowfishing involves shooting an arrow outfitted with a special tip at an intended target fish with a bow. The arrow is physically attached to the bow by way of line and a fishing reel mounted on the bow. When a fish is struck by the arrow, prongs on the tip open or expand, thereby preventing the arrow from retracting back through the wound channel in the fish. Fish are reeled in using the attached reel and deposited in the boat for later disposal or cleaning.

In addition to the fishing activity, guides and clients may use Refuge shoreline areas for breaks, lunch, or other activities during the outing.

Why is the use being proposed? This activity provides recreational opportunity for anglers who desire a successful, quality experience, but who may lack the necessary equipment, skills or knowledge to fish within the expansive river and backwater environment of the Refuge. Commercial guiding of anglers and bowfishers is an existing activity on the Refuge, but it has not been consistently administered.

The total number of fishing guides/clients on the Refuge is not known. Currently the states of Minnesota, Iowa, and Illinois do not issue permits for fishing guides within their state, and therefore do not maintain

any records in respect to the number of fishing guides on the Mississippi River within the Refuge. Wisconsin does require fishing guides to obtain a Guiding License, but no information is available on specific locations of their guiding, or the specific type of guiding as the license applies to all guides in the State, not specifically sport fishing guides. An estimate based on known fishing guides residing in the six Wisconsin counties along the Refuge is that 37 guides may be operating on the Refuge. A first step in establishing a commercial fishing guide program on the Refuge will be to identify existing guides through a review of public records and outreach through news releases and special meetings.

Based on apparent existing client demand for guide services, a significant number of the fishing public is willing to pay for the expertise and local knowledge provided by guides. The Refuge provides one of the largest public fishing areas with good populations of catchable fish in the upper Midwest. Currently fishing activities account for over 1.3 million visits on the Refuge. It is expected that the number of fishing guides and the public's use of this service will continue to increase.

Administration of fishing guide activities will be conducted in accordance with **Fishing Guide Services on Upper Mississippi River National Wildlife and Fish Refuge, Program Requirements and Stipulations** (attached) 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 program requirements and stipulations address all aspects of the guided fishing program including the number of permits to be issued, guide qualifications, permit cost, and selection methods.

Permitted fishing 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.

The initial permit fee will be set at \$300 and will be 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. Maximum permit fee will be set at \$500 regardless of the number of clients. Special use permits can be renewed annually if the operator remains in good standing and compliance with all permit conditions.

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, may 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: Because of the oversight of this activity by the Refuge, the comprehensive state and federal regulations already in place, and combined law-enforcement efforts of

state and Refuge personnel, existing and projected levels of guide services should have minimal impacts on fish and wildlife populations or habitat. Some disturbance of fish and wildlife will occur, but should not affect populations on the Refuge overall. It is anticipated that this disturbance would not be measurably greater than disturbance from general fishing.

The primary concern regarding guided fishing activities is the potential for conflict between guided activities and other Refuge users, particularly unguided anglers and night-time Refuge users (campers, houseboaters, cabin owners on Corps of Engineer's leased sites or private residents on shorelines). Based on experiences on this Refuge and on other national wildlife refuges, a continuation of unregulated or inadequately regulated commercial guiding operations can increase user conflicts. An important part of this issue is public perception that fishing guides and clients have an advantage of equipment and technique and are taking fish that would otherwise be caught by regular anglers. Guides, since they are running a business, may also be viewed as more aggressive compared to unguided anglers. Refuge oversight of fishing guides should actually help ease any tension between guides and other users since it will help ensure properly licensed and qualified guides and entail time and space restrictions as needed. Oversight will also provide more data on fishing pressure and harvest levels related to guided fishing which can be shared with the public and help lessen some negative perceptions.

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 in part 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 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 CD 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. Multiple comments were received from an individual who currently guides on the Refuge expressing concern with the fees which would be charged for a special use permit and the unfairness of charging fees for guided sportfishing and not charging fee to fishing tournament organizers. Comments were also received from the Wisconsin Department of Natural Resources concerning the states reserved right to regulate fishing on the Refuge. The fee structure for fishing guides was edited to better reflect that minimal fees (~\$3/client) would be charged to the guide's clients to generate income for the special use permit fee. The minimum permit fee of \$500 was removed as a result of comments received. Additional language was added to the compatibility determination to describe how fees would be charged. While the Refuge agrees that Wisconsin reserved the authority to regulate fishing, we disagree that Wisconsin retains exclusive authority to regulate the commercial aspect of this activity. We removed/modified implementing conditions and stipulations from the compatibility determination which attempted to regulate fishing and the harvesting of fish by guides.

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. Multiple

comments were received from the public and commercial fishing guides expressing displeasure with the proposed fees and questioning the Refuges authority to regulate fishing guides. No changes were made to the draft re-evaluation as a result of comments received.

Determination:

_____ Use is Not Compatible

XX Use is Compatible with Following Stipulations

Stipulations Necessary to Ensure Compatibility: The Fishing Guide Services on Upper Mississippi River National Wildlife and Fish Refuge – Program Requirements and Stipulation (attached) outlines the standards and conditions to be met by fishing guides operating on the Refuge.

Justification: Allowing guided fishing 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 fishing guides will help ensure that anglers are guided by competent individuals.
4. Restricting the number of guides (if necessary) 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. Operating requirements and other regulation of guided fishing 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 sport fishing guides as stated in the fishing guide program requirements and stipulations will provide a safe, quality experience to individuals who fish on the Refuge. It will also increase opportunities for those who wish to fish on the Refuge, but may lack the required equipment, knowledge or expertise.

By regulating fishing guides, the Refuge will also better manage fish resources and reduce conflict between Refuge visitors.

Refuge Manager:

Sally Chandler

Signature

5/4/18

Date

Regional Chief Concurrence:

[Signature]

Signature

5-8-18

Date

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

Attachment: Fishing Guide Services on Upper Mississippi River National Wildlife and Fish Refuge – Program Requirements and Stipulations