

COMPATIBILITY DETERMINATION

Use: Guided Waterfowl Hunting

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 waterfowl hunting guide operations within the Refuge, and regulates such use through the implementation of a waterfowl hunting guide management program(s), including issuance of Special Use Permits with conditions. Waterfowl hunting guides and their clients often focus on taking mallard and canvasback. Other waterfowl commonly sought by hunters include: Canada geese, wood duck, green- and blue-winged teal, wigeon, shoveler, ring-necked duck, and greater and lesser scaup.

Other species that may be affected by guided waterfowl hunting activities include many of the species that use aquatic and flood plain 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.

Where is the use conducted? Waterfowl guiding operations will be allowed in areas of the Refuge which are open to waterfowl hunting in accordance with the respective state waterfowl hunting seasons.

When is the use conducted? Waterfowl hunting seasons in the four states in which the Refuge is located (Minnesota, Wisconsin, Iowa, and Illinois) typically occur from early September through December each year. Specific habitat types will depend on targeted species and seasonal changes associated with water depths and other habitat conditions. Habitat types include a mixture of islands, large river associated wetlands, secondary river channels, and back water ponds and marshes.

How is the use conducted? Guided waterfowl hunting typically involves transport of clients by small power boats from public boat landings to selected hunting sites. Often the guides/clients return to the same site or one of several sites selected by the guide. Waterfowl hunters typically hunt from blinds (either camouflaged boats or constructed from natural vegetation), or concealed by existing vegetation. Waterfowl hunting guides typically construct one or more blinds in their operating area(s) that they use throughout a hunting season.

The total number of permitted hunting guides operating on the Refuge is limited to eight (8). Prior to 2015, the number of guides allowed on the Refuge was not defined. In 2015 new requirements and stipulations for commercial waterfowl hunting guides were implemented which limited the number and location of where guides were permitted. After this new guidance was implemented, the Refuge issued 10 (ten) Special Use Permits to 12 (twelve) commercial waterfowl hunting guides. Two permits were “shared” permits which allowed two guides to operate under one permit. Five of these 10 permits were issued to guides who operated in Pool 9. Conflict amongst guides and complaints from the general public about the number of guides operating on the Refuge, particularly in Pool 9, were high when this number of permits was issued. Violations of waterfowl hunting regulations by three guides resulted in the disqualification of these individuals and their businesses from operating on the Refuge. In 2017, only 4 permits were issued to waterfowl guides. The number of conflicts and complaints was subsequently reduced. It was believed the issuance of 6 permits for guiding waterfowl hunters on the Refuge would strike an appropriate balance between demand for waterfowl guides and tolerance of guiding activities by non-guided hunters and the public, however, after receiving comments on the draft re-evaluation of this compatibility determination, the number of permits was increased to 8. Based on guide licenses issued by the respective states, observed advertisements, and information from hunters, it is certain that other individuals are conducting commercial guided waterfowl hunting on the Refuge. The Refuge will continue to identify existing guides and bring them into compliance with regulations.

Information reported by permitted waterfowl hunting guides indicates that a full time guide could serve approximately 120 to 150 hunters per hunting season. In 2015, Refuge permitted waterfowl guides reported guiding 962 hunters in total for an average of 96.2 hunters per permit.

Administration of commercial waterfowl hunting guide activities is conducted in compliance with the **Waterfowl Hunting Guide Services on Upper Mississippi River National Wildlife and Fish Refuge - Program Requirements and Stipulations.** The waterfowl hunting 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 waterfowl hunting guide program addresses all aspects of guided waterfowl hunting including the number of permits to be issued, guide qualifications, permit cost, and selection methods.

Permitted waterfowl 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 maximum special use permit fee of \$500 (plus \$100 administrative fee) 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.

Why is the use being proposed? Waterfowl hunting guides provide recreational opportunities for waterfowl hunters who desire a successful, quality experience, but who may lack the necessary equipment, skills or knowledge to hunt within the expansive river, backwater, marsh, and island environment of the Refuge. Commercial guiding of waterfowl hunters is an existing activity on the Refuge and based on apparent existing client demand for guide services, a portion of the hunting public is willing to pay for the expertise and local knowledge provided by waterfowl guides. The Refuge provides one of the largest public hunting areas with good populations of local and migrating waterfowl in the upper Midwest. Currently waterfowl hunting accounts for an estimated 10,000 visits on the Refuge. It is expected that the public’s use of waterfowl hunting guide services will remain stable or increase.

Availability of Resources: Administration of the waterfowl hunting guide program has increased 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. With the changes proposed in 2018, existing staff is adequate if shifts in priorities and assignments are made to accommodate a modest guiding program. The size and scope of the guiding program, and the number of permits that will be available, have been limited in balance with permit fees received and availability of staff to administer the program. 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, parking, walk-in sites) 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 wildlife populations or habitat. Some disturbance of non-targeted 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 hunting.

The primary concern regarding commercially guided waterfowl hunting activities is the potential for conflict between guided waterfowl hunting activities and other Refuge users, particularly unguided waterfowl hunters. 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 waterfowl hunting guides and their clients have an advantage of equipment and technique and are taking waterfowl that would otherwise be available to regular hunters. Waterfowl hunting guides, since they are running a business, may also be viewed as more aggressive compared to unguided hunters. Refuge oversight of waterfowl hunting 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 hunting pressure and harvest levels related to guided waterfowl hunting which can be shared with the public and help lessen some negative perceptions.

Another concern is the impact of waterfowl hunting guide operations on other Refuge uses. Because of the trend toward earlier waterfowl hunting seasons (early September versus early October), hunters, including guided waterfowl hunters, are increasingly likely to use areas also used by anglers, small boat operators (canoes/kayaks), campers or recreational beach users. Waterfowl hunting guides and their clients will compete with other non-guided waterfowl hunters for the best available locations. Waterfowl hunters and trappers typically utilize and compete for use of the same habitat types. However, this competition will be present with or without guides, and as above, managing the number of guides and areas of operations should lessen conflicts.

Waterfowl hunting 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 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.

The draft Prospectus and Invitation for Applications to Conduct Commercial Waterfowl Hunting Guide Services on Upper Mississippi River National Wildlife and Fish Refuge (now titled Waterfowl Hunting Guide Services on Upper Mississippi River National Wildlife and Fish Refuge - Program Requirements and Stipulations) was released to the general public on March 27, 2015. Public notification of the availability of the draft Prospectus was provided via news releases to various media outlets along the Upper Mississippi River. Waterfowl hunting guides who had previously received special use permits from the Refuge were individually sent copies of the draft Prospectus. Comments on the draft Prospectus were requested from the general public and past guides, with a deadline for comment submission of May 15, 2015.

Four public meetings to present the draft Prospectus and receive comments from the public were conducted. Meetings were held in Thompson, IL (April 14, 2015), Prairie du Chien, WI (April 15, 2015), Onalaska, WI (April 16, 2015) and Winona, MN (April 21, 2015). A total of 60 individuals attended the

four public meetings. A total of 56 comment letters and or e-mails were received during the public comment period. All comments received were considered and the Prospectus was modified where appropriate and possible. The Prospectus was finalized on June 17, 2015 and was implemented for the 2015/2016 hunting season.

A draft of this re-evaluation was released on August 18, 2016 for a 30-day comment period. Public notification of this CD included media announcements and posting on the Refuge's website. Comments on the draft CD were received from several waterfowl guides who received special use permits to guide waterfowl hunters in 2016. As a result of the comments submitted and law enforcement cases which resulted in three previously permitted guides being banned from guiding on the Refuge for two years, the Waterfowl Hunting Guide Requirements and Stipulations were revised. This revised CD and the revised Waterfowl Hunting Guide Requirements and Stipulations were released for an additional public comment period in March 2018. Minimum use requirements were determined to be unnecessary in this review and therefore eliminated the need to make an accommodation to allow part-time guides to share a permit. The draft "guidelines" also proposed to limit the number of guides operating on the Refuge to six. Based on comments received, the number of guides allowed to operate on the Refuge was increased to eight.

Determination:

_____ Use is Not Compatible

XX Use is Compatible with Following Stipulations

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

Justification: Allowing guided waterfowl hunting 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 non-game 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 waterfowl hunting guides will help ensure that hunters are 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. Operating requirements and other regulation of guided waterfowl hunting 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. Fully implementing the Refuge's commercial waterfowl hunting guide requirements and stipulations is required in order to meet the stipulations outlined above.

Refuge Manager:  Signature 5/4/18 Date

Regional Chief Concurrence:  Signature 5-2-18 Date

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

Attachment(s): Waterfowl Hunting Guide Services on Upper Mississippi River National Wildlife and Fish Refuge - Program Requirements and Stipulations.