

## **DRAFT COMPATIBILITY DETERMINATION**

**USE:** Commercial Filming, television, motion picture production and still photography

**Refuge Complex Name:** Savannah Coastal Refuges Complex which includes the following Refuges, each with their own purpose and establishing authorities:

**Refuge Name:** Blackbeard Island National Wildlife Refuge.

**Date Established:** February 5, 1924.

**Establishing and Acquisition Authorities:**

Executive Order 4512 -- (dated September 20, 1926)

[16 U.S.C. 715d]

Migratory Bird Conservation Act -- (February 18, 1929)

[16 U.S.C. 667b]

Real Property Transfer Act, PL 80-537 -- (May 19, 1948)

[16 U.S.C. 742]

Fish and Wildlife Act of 1956 -- (August 8, 1956)

[16 U.S.C. 1131-1136]

The Wilderness Act of 1964, PL 88-577 -- (September 3, 1964)

[16 U.S.C. 460]

Refuge Recreation Act, and amendments -- (September 28, 1962) and PL 93-205 (December Public Law 93-632, January 3, 1975

Section 1 (Wilderness Act)

**Refuge Purpose:**

“for use as a bird refuge and as an experiment station for acclimatization of certain foreign game birds” (Executive Order 4512, September 20, 1926); and, “for use as an inviolate sanctuary, or for any other management purpose for migratory birds” (16 U.S.C. 715d, Migratory Bird Conservation Act)

**Refuge Name:** Harris Neck National Wildlife Refuge.

**Date Established:** May 25, 1962.

**Establishing and Acquisition Authorities:**

[16 U.S.C. 715d]

Migratory Bird Conservation Act -- (February 18, 1929)

[16 U.S.C. 667b]

Real Property Transfer Act, PL 80-537 -- (May 19, 1948)

[16 U.S.C. 742]

Fish and Wildlife Act of 1956 -- (August 8, 1956)

[16 U.S.C. 460k]

Refuge Recreation Act, and amendments -- (September 28, 1962) and PL 93-205 December 28, 1973)

[16 U.S.C. 3901(b), 100 Stat. 3583]

## Emergency Wetlands Resources Act of 1986

### **Refuge Purpose:**

“particular value in carrying out the national migratory bird management program” (16 U.S.C. 667b, An Act Authorizing the Transfer of Certain Real Property for Wildlife, or other purposes); “for use as an inviolate sanctuary, or for any other management purpose, for migratory birds” (16 U.S.C. 715d, Migratory Bird Conservation Act); and, for “the conservation of the wetlands of the Nation in order to maintain the public benefits they provide and to help fulfill international obligations contained in various treaties and conventions” (16 U.S.C. 3901(b), 100 Stat. 3583, Emergency Wetlands Resources Act of 1986).

**Refuge Name:** Pinckney Island National Wildlife Refuge.

**Date Established:** December 4, 1975.

### **Establishing and Acquisition Authorities:**

Deed of Donation, dated December 4, 1975

[16 U.S.C. 715d]

Migratory Bird Conservation Act -- (February 18, 1929)

### **Refuge Purpose:**

established “as a wildlife refuge and as a nature and forest preserve for aesthetic and conservation purposes, without disturbing the habitat of the plant and animal populations except as such disturbance may be necessary to preserve the use of the real property for the purposes above mentioned” (Deed of Donation, December 4, 1975); and “for use as an inviolate sanctuary, or for any other management purpose, for migratory birds” (16 U.S.C. 715d, Migratory Bird Conservation Act)

**Refuge Name:** Savannah National Wildlife Refuge.

**Date Established:** April 6, 1927.

### **Establishing and Acquisition Authorities:**

Executive Order # 4626, dated April 6, 1927

Executive Order # 5748, dated Nov 12, 1931

Executive Order # 7391, dated June 16, 1936

[16 U.S.C. 715d]

Migratory Bird Conservation Act -- (February 18, 1929)

[16 U.S.C. 742f(b)(1)]

Fish and Wildlife Act of 1956 -- (August 8, 1956)

[16 U.S.C. 460k-1]

Refuge Recreation Act, and amendments -- (September 28, 1962)

[16 U.S.C. 460k-2]

PL 93-205 -- (December 28, 1973)

16 U.S.C. 3901(b), 100 Stat. 3583

(Emergency Wetlands Resources Act of 1986)

**Refuge Purpose:**

“as a refuge and breeding ground for birds and wild animals subject to future use in navigation if necessary and to valid existing rights if any” (Executive Order 5748, April 6, 1927); for lands acquired under the Migratory Bird Conservation Act “for use as an inviolate sanctuary, or for any other management purpose, for migratory birds” (16 U.S.C. 715d); for lands acquired under the Refuge Recreation Act for “(1) Incidental fish and wildlife-oriented recreational development, (2) the protection of natural resources, (3) the conservation of endangered species or threatened species” (16 U.S.C. 460k); for “the conservation of the wetlands of the Nation in order to maintain the public benefits they provide and to help fulfill international obligations contained in various migratory bird treaties and conventions” (16 U.S.C. 3901(b), 100 Stat. 3583, Emergency Wetlands Resources Act of 1968); “for the development, advancement, management, conservation, and protection of fish and wildlife resources” (16 U.S.C. 742f(a)(4)); and, “for the benefit of the United States Fish and Wildlife Service, in performing its activities and services. Such acceptance may be subject to the terms of any restrictive or affirmative covenant, or condition of servitude” (16 U.S.C. 742f(b)(1), Fish and Wildlife Act of 1956)

**Refuge Name:** Tybee National Wildlife Refuge.

**Date Established:** May 9, 1938.

**Establishing and Acquisition Authorities:**

Executive Order # 7882, dated May 9, 1938

[16 U.S.C. 715d]

Migratory Bird Conservation Act -- (February 18, 1929)

**Refuge Purpose:**

“Effectuate further the purposes of the Migratory Bird Conservation Act.”

**Refuge Name:** Wassaw National Wildlife Refuge.

**Date Established:** October 20, 1969.

**Establishing and Acquisition Authorities:**

Deed of Donation, dated October 20, 1969

[16 U.S.C. 715d]

Migratory Bird Conservation Act -- (February 18, 1929)

**Refuge Purpose:**

“for the purpose of creating a fish and wildlife refuge to be maintained as nearly as practicable in its natural state” (Deed of Donation, October 20, 1969); and, “for use as an inviolate sanctuary, or for any other management purpose, for migratory birds” (16 U.S.C. 715d, Migratory Bird Conservation Act)

**National Wildlife Refuge System Mission:**

The mission of the Refuge System, as defined by the National Wildlife Refuge System Improvement Act of 1997, 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.*

**Other Applicable Laws, Regulations, and Policies:**

Commercial Filming and similar projects and still photography activities (43 CFR part 5 and 50 CFR part 27)

Antiquities Act of 1906 (34 Stat. 225)

Migratory Bird Treaty Act of 1918 (15 U.S.C. 703-711; 40 Stat. 755)

Migratory Bird Conservation Act of 1929 (16 U.S.C. 715r; 45 Stat. 1222)

Migratory Bird Hunting Stamp Act of 1934 (16 U.S.C. 718-178h; 48 Stat. 451)

Criminal Code Provisions of 1940 (18 U.S.C. 41)

Bald and Golden Eagle Protection Act (16 U.S.C. 668-668d; 54 Stat. 250)

Refuge Trespass Act of June 25, 1948 (18 U.S.C. 41; 62 Stat. 686)

Fish and Wildlife Act of 1956 (16 U.S.C. 742a-742j; 70 Stat. 1119)

Refuge Recreation Act of 1962 (16 U.S.C. 460k-460k-4; 76 Stat. 653)

Wilderness Act (16 U.S.C. 1131; 78 Stat. 890)

Land and Water Conservation Fund Act of 1965

National Historic Preservation Act of 1966, as amended (16 U.S.C. 470, et seq.; 80 Stat. 915)

National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd, 668ee; 80 Stat. 927)

National Environmental Policy Act of 1969, NEPA (42 U.S.C. 4321, et seq; 83 Stat. 852)

Use of Off-Road Vehicles on Public Lands

(Executive Order 11644, as amended by Executive Order 10989)

Endangered Species Act of 1973 (16 U.S.C. 1531 et seq; 87 Stat. 884)

Refuge Revenue Sharing Act of 1935, as amended in 1978 (16 U.S.C. 715s; 92 Stat. 1319)

National Wildlife Refuge Regulations for the Most Recent Fiscal Year  
(50 CFR Subchapter C; 43 CFR 3101.3-3)

Emergency Wetlands Resources Act of 1986 (S.B. 740)

North American Wetlands Conservation Act of 1990

Food Security Act (Farm Bill) of 1990 as amended (HR 2100)

The Property Clause of the U.S. Constitution Article IV 3, Clause 2

The Commerce Clause of the U.S. Constitution Article 1, Section 8

The National Wildlife Refuge System Improvement Act of 1997 (Public Law 105-57, USC668dd)

Executive Order 12996, Management and General Public Use of the  
National Wildlife Refuge System. March 25, 1996

Title 50, Code of Federal Regulations, Parts 25-33

Archaeological Resources Protection Act of 1979

Native American Graves Protection and Repatriation Act of 1990

**Description of Use:**

This use typically involves creating a documentary or motion picture film, taking still photographs, or recording wildlife sounds that are intended to be or could be sold for income or revenue or traded for goods or services. Commercial recording of natural, historical, or cultural subjects is covered under this compatibility determination. This is not a priority public use, but

will contribute to the priority public uses of the Refuge Complex, the public's understanding of America's wildlife and wildlife conservation, and of the Service's role in managing and protecting natural resources. This compatibility determination does not apply to legitimate news media activities or requests for this use in federally designated wilderness.

Each request for this use will be considered, and if appropriate, will result in a special use permit being issued by the Refuge Manager. Each request must be presented in writing with details of who, what, where, when, why and how the commercial operation will be conducted. Each request will be evaluated on its own merit. The Refuge Manager will use professional judgment in ensuring that the request will have no considerable negative impacts; will not violate Refuge regulations; and that it will contribute to the achievement of the Refuge purpose or the Refuge System mission. Special needs will be considered on a case-by-case basis and are subject to the Refuge Manager's approval and may include a secondary component negotiated to ensure compatibility (if appropriate). Any approved special use permit will outline the framework in which the use can be conducted, and Refuge staff will ensure compliance with the permit.

Commercial photography/filming is a popular enterprise on the refuge due to the scenic natural habitats and abundant wildlife in the area. The Refuge staff anticipates that an increase in commercial photography and filming will occur in the area over the next few years as the Refuge gains visibility and areas of natural habitat in the surrounding areas decrease. If the number of requests expands dramatically, this use and its stipulations to ensure compatibility may need to be re-evaluated prior to the mandatory re-evaluation date.

For proposed commercial filming where the environmental educational/awareness values are not clear, the use would be deemed inappropriate and would therefore not be further considered or evaluated for compatibility. For example, if filming could more appropriately be conducted on non-refuge lands, interference with priority public uses or other stipulations mentioned below can not be accounted for properly and no educational/environmental component is offered as part of the request, the use would be considered not appropriate or compatible and the permit request will be denied.

Filming efforts may take one day to multiple days and may involve multiple periods throughout the year as stated in the special use stipulations that are approved for each request. Two types of commercial filming may occur including requests where a film crew accompanies Refuge staff or cooperators on projects or where a film crew has a specific project that has been reviewed as appropriate by Refuge staff and the filming will occur in open public use areas of the Refuge with limited supervision.

**Availability of Resources:**

Permitting this use is within the resources available to administer the Refuge's visitor services program. Additional staff costs are incurred to review each request, analyze affected habitats and wildlife, coordinate with the outside entity, and process a permit if necessary. Compliance with the terms of the permit is within the regular duties of the Refuge's law enforcement officers.

Additionally costs may be assumed by the requestor as appropriate given the level of oversight needed. The Service requires the permittee to offset any cost incurred by the Refuge. This will be

determined on a case-by-case basis. The offsetting cost should always be equal to the Refuge-incurred cost and would come to the Refuge in the form of fees paid by the commercial media permittee. These fees should at least equal our cost to administer the use, including any costs associated with facilities, equipment, supplies, and services.

**Anticipated Impacts of the Use:**

Possible impacts from this use include disturbance to nesting and resting birds and disturbance to other Refuge visitors. Commercial filming/photography can result in both positive and negative impacts. Visitors engaging in this use are expected to stay on established trails or roads to access the Refuge. To minimize disturbance to natural resources and ensure public safety, the Refuge has implemented Refuge specific regulations restricting the access of the general public. Most requests for this use are for those public areas that include roads, parking lots, trails and boat launching ramps. Conducting this use will cause negligible to short term impacts to localized soils, waters, and may cause short term impacts/disturbance to wildlife and vegetation. When a filming crew or photographer accompanies Refuge staff or cooperators, the research project has already been approved and permitted so additional people and equipment is not expected to result in additional impact. This use should not result in long term impacts that adversely affect the purposes for which the Refuge was established or alter any existing or proposed uses as stipulated in the CCP.

Some requests may require further analysis of the impacts of the proposed activity which may also require additional compliance with the National Environmental Policy Act (NEPA) and consultation under any other relevant laws. It is important to note that even wildlife photography by professionals or amateurs can often cause disturbance depending on the manner in which it is pursued.

**Public Review and Comment:**

This draft compatibility determination will be posted at the Refuge Complex headquarters and at Harris Neck NWR Headquarters for public review and comment starting on Friday October 16, 2015 for a period of 12 days. Additionally, copies of the Draft CD will be made available to the public at the Complex Visitor Center upon request. A copy of the Draft CD will also be posted on the Refuge website for public comments.

**Determination (check one below):**

Use is Not Compatible

Use is Compatible with the Following Stipulations

**Stipulations Necessary to Ensure Compatibility:**

Each request must comply with the following stipulations to ensure compatibility with the Refuge System and refuge goals and objectives to minimize or exclude adverse impacts as described above, the activity will be subject to the following stipulations. Additional stipulations can and will be identified for each individual request in the special use permit.

1. Only commercial photography/filming that are in support of conservation, Refuge purposes, the Refuge System mission, or for educational and interpretation purposes will be permitted. Requests that do not directly support these will be considered on a case-by-case basis to see if a secondary component can be considered to ensure compatibility and appropriateness.
2. Production company must give at least a 72 hour advance notice of filming date.
3. Filming/Photography taken in areas of the Refuge closed to the public will require Refuge staff to be present to escort the group.
4. Production company will limit the crew size to the smallest number possible and necessary for filming.
5. Permittee shall provide a detailed description of filming/photography plans, including site specific location, support equipment, number of persons involved, client name, description of the project theme and key messages, and other details that would allow for evaluation of the project.
6. Permittee(s), designated representative, and associates will comply with all Refuge regulations and conditions of the special use permit as provided by the Refuge manager. The special use permit will detail who, what, where, when, why and how the commercial operation will be conducted.
7. Alterations to any vegetation are prohibited.
8. Permittee is responsible for acquiring and/or renewing any necessary state and federal permits prior to beginning or continuing the project.
9. Staging of equipment for use on the project will not be allowed on the Refuge.
10. Proper credit should be given to the Refuge and the Service for all commercial filming, including commercial recording of images and sounds collected on the Refuge.
11. Permittee will be responsible for keeping the Refuge clear of all trash or litter.
12. Permittee will not capture or retain wildlife without specific written permission from the Service, as well as having all required permits.
13. Priority consideration is extended to producers of wildlife and natural resource related audio or visual materials. Producer's credentials will be verified by the appropriate Refuge personnel.
14. Production activities will be conducted so as to minimize impact or interference with Refuge visitors, wildlife or natural and/or cultural resources within the Refuge.

**NEPA Compliance for Refuge Use Decision:** *Place an X in appropriate space.*

Categorical Exclusion without Environmental Action Statement

Categorical Exclusion and Environmental Action Statement

Environmental Assessment and Finding of No Significant Impact

Environmental Impact Statement and Record of Decision

**Justification:** This use, although not a priority public use, has been determined to be compatible provided the Permit Special Conditions are implemented because it may increase the public's

understanding of America’s wildlife, wildlife conservation, and the Service’s role in managing and protecting natural resources. We do not expect this use to materially interfere with or detract from the mission of the National Wildlife Refuge System nor diminish the purposes for which the refuge was established. It will not pose significant adverse effects on Refuge resources, nor interfere with public use of the refuge, nor cause an undue administrative burden.

**Signature:** Refuge Manager: \_\_\_\_\_  
(Signature and Date)

**Review:** Reg. Compatibility Coordinator: \_\_\_\_\_  
(Signature and Date)

**Review:** Refuge Supervisor: \_\_\_\_\_  
(Signature and Date)

**Concurrence:** Regional Chief: \_\_\_\_\_  
(Signature and Date)

**Mandatory 10-year Re-evaluation Date:** 2025

**Attachment:** Commercial Filming special use permit conditions (2015)