



May 6, 2024

Shannon Estenoz  
Assistant Secretary for Fish and Wildlife and Parks.  
U.S. Fish and Wildlife Service  
5275 Leesburg Pike, MS: PRB (JAO/3W)  
Falls Church, VA 22041-3803

*Submitted electronically to: <https://www.regulations.gov/>*

**RE: USFWS's Proposed Rule and Policy Revisions for the National Wildlife Refuge System; Biological Integrity, Diversity, and Environmental Health (BIDEH) FWS-HQ-NWRS-2022-0106-0001**

Dear Ms. Estenoz:

Arizona Sportsmen for Wildlife Conservation (AZSFWC) appreciates the opportunity to provide comments on the Proposed Rule and Policy Revisions for the National Wildlife Refuge System related to BIDEH.

AZSFWC is the leading Arizona based 501c-3 non-profit organization dedicated to wildlife conservation, habitat improvement, youth recruitment and retention, as well as providing educational opportunities for outdoor enthusiasts on issues important to their passions. AZSFWC's member, affiliate, and associate groups reach across the spectrum of wildlife conservation, hunting, angling, shooting sports, outdoor recreation, and businesses, representing more than 25,000 people in the state.

Arizona is blessed with a variety of landscapes unparalleled across the United States, and within those deserts, grasslands, riparian areas, lakes, hills, and mountains over 800 species of wildlife reside, and in most cases thrive while managed by our Arizona Game and Fish Department (AZGFD). Nine National Wildlife Refuges (NWRs) are located in the state totaling approximately 1,733,611 acres conserving native fish, migratory birds, and numerous mammals.

**Coordination with State Wildlife Agencies**

The magnitude and variety of species managed by AZGFD transcends all of Arizona's NWR's, and even more importantly, requires the close cooperation and coordination between AZGFD and the US Fish and Wildlife Service (USFWS).

AZSFWC appreciates the policy direction, management standards and stewardship requirements for NWR administration across the country set forth in the Improvement Act. In particular we appreciate the focus in the Improvement Act on prioritizing conservation while

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Arizona Sportsmen for Wildlife Conservation  
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ensuring public access to compatible wildlife-dependent recreational opportunities remain in place, along with effective coordination with adjacent landowners. A major tool to strike that balance is meaningful coordination with state wildlife agencies.

**AZSFWC requests the language in the policy and regulations be expanded to include State wildlife agencies (AZGFD for Arizona) on management decisions in order to provide NWR staff direction and guidance in order to seek consistency with State wildlife management jurisdictional mandates and priorities.**

### **Natural Processes**

AZSFWC has concerns with the proposed regulation at paragraph 29.3(c)(2) as well as the associated policy updates that would prioritize natural processes and support ecological connectivity as a means of achieving refuge habitat objectives and landscape planning goals. As defined, natural processes would essentially let the individual refuge exist without substantial human influence. If those natural processes were insufficient to meet habitat objectives, the proposed rule would direct intervention by the managers to utilize science-based management techniques to mimic that natural process.

AZSFWC believes that approach could delay decisive management actions that might be necessary to ensure a given refuge maintains its objective and purpose. As written the proposed regulation seemingly mandates a natural process (“defer to”) initial approach and an unspecified time lag for that process to fail (“[w]hen natural processes cannot meet...”) before taking any human intervention. A hands off approach to managing some of the refuges in Arizona could have catastrophic consequences. A case in point occurred with the Kofa NWR in the mid 2000’s.

The Kofa NWR was established in 1939 (Executive Order 8039) for the protection of desert bighorn sheep. For almost 70 years, the population of sheep flourished relatively free of predators (specifically mountain lions) exceeding over 800 individuals. In 2005 a lion was captured on a trail camera, and in the subsequent four years, the sheep population was halved by numerous lions.

The sheep population on the Kofa has rebounded again, but only because of active management of the lions based on the coordination and cooperation between the USFWS and AZGFD. Deference to natural processes on the Kofa would likely have disastrous consequences for the sheep that are the reason for the refuge’s existence.

**AZSFWC requests the rule allow refuge managers to proactively implement management actions, while considering natural processes, in coordination with State wildlife agencies to maintain and ensure NWR actions are consistent with individual State wildlife management plans.**

### **Supplemental Management Actions**

AZSFWC also has concerns related to regulations designed to guide specific management activities in order to maintain native populations, and actions that can affect BIDEH, including; predator control, conservation translocations, use of genetically engineered organisms, invasive species management, pesticide use, agricultural uses, and mosquito control.

The definition of “native” is problematic. As defined it “means with respect to a particular ecosystem, a species that, other than as a result of an introduction, historically occurred or currently occurs in that ecosystem, including when such a species expands or shifts its range

as a result of natural processes in response to environmental change.” This definition could include feral hogs, feral equids, cormorants, and any number of other species that could wreak havoc on NWR’s in general, and Arizona in particular.

**AZSFWC believes the proposed rule should also provide a clear path to effectively manage predators (mountain lions in the Kofa NWR) and invasive species (feral hogs in the Lake Havasu NWR) in coordination with State wildlife agencies to ensure those actions align with State wildlife management plans and objectives.**

AZSFWC believes the elimination of agricultural uses in and around some NWR’s is irresponsible! More than a billion migratory birds use the Pacific Flyway annually. That includes the Colorado River basin and the Delta. Habitat loss and diminishing food supplies would only be exacerbated with the elimination of agricultural practices around NWR’s like Lake Havasu, Cibola, and Imperial. In fact, all three of these refuges have a common purpose and cause; they were established to create habitat and wetlands for migratory birds.

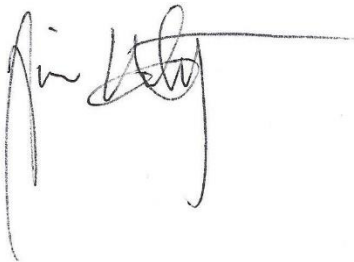
There is admittedly a path toward allowing agricultural practices under the proposed regulation, however the clear presumption against agricultural practices establishes a high bar that would be required to allow these crucial practices to continue along the Colorado River, thereby injecting unnecessary uncertainty in actions needed to sustain the migratory birds of this flyway.

**AZSFWC recommends a much clearer exemption to proposed agricultural practices prohibition if agricultural practices are reasonably related to an important resource on any particular NWR.**

**Finally, AZSFWC believes it is paramount that the proposed regulations specifically state hunting (in addition to being a natural process) and management activities are effective tools for both predator management and wildlife population management in the various NWR’s, based on the intent of either the creation of individual Refuge Units or the Administrative Act of 1966 as amended by the National Wildlife Refuge System Improvement Act of 1997.**

AZSFWC and the 24 member organizations in the following list, thank you for considering our concerns, recommendations, and input!

Yours in Conservation,

A handwritten signature in black ink, appearing to read "Jim Unmacht", with a long horizontal line extending to the right.

Jim Unmacht  
Executive Director



**AZSFWC Member Organizations Supporting Comments on the Proposed Rule and Policy Revisions to BIDEH**

Anglers United  
AZ Antelope Foundation  
AZ Bowhunters Association  
AZ Chapter of Safari Club International  
AZ Council of Trout Unlimited  
AZ Deer Association  
AZ Desert Bighorn Sheep Society  
AZ Flycasters Club  
AZ Houndsmen's Association  
AZ Mule Deer Organization  
AZ Outdoor Adventures  
AZ Outdoor Sports  
AZ Predator Callers  
Conservation First USA  
Conserve and Protect AZ  
Diablo Trust  
Into the Wild Outdoors  
Mogollon Sporting Association  
Outdoor Experience 4 All  
Southern AZ Quail Forever  
Southwest Wildlife Foundation  
Theodore Roosevelt Conservation Partnership  
Wildlife for Tomorrow  
Yuma Valley Rod & Gun Club



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May 1, 2024

Public Comments Processing  
Attn: FWS–HQ–NWRS–2022–0106  
U.S. Fish and Wildlife Service  
5275 Leesburg Pike, MS: PRB (JAO/3W)  
Falls Church, VA 22041–3803

Electronically submitted to:

<https://www.regulations.gov/commenton/FWS-HQ-NWRS-2022-0106-0001>

**RE: USFWS’s Proposed Rule and Policy Revisions for the National Wildlife Refuge System; Biological Integrity, Diversity, and Environmental Health**

Dear Ms. Estenoz, Assistant Secretary for Fish and Wildlife and Parks:

The Arizona Game and Fish Department (Department) appreciates the opportunity to review the U.S. Fish and Wildlife Service’s (USFWS) proposed rule and policy revisions for the National Wildlife Refuge (NWR) System; Biological Integrity, Diversity, and Environmental Health (BIDEH). The proposed rule would 1) amend the existing regulations at 50 CFR Part 29, Subpart A—General Rules; 2) add a new 29.3; and 3) amend existing Service Manual BIDEH policy 601 FW 3: BIDEH. The proposed rule and policy revision would give the USFWS legal authority to maintain the biological integrity, diversity, and environmental health of the Refuge System (System). This proposed rule would apply to Arizona’s nine NWRs that conserve approximately 1,733,611 acres of habitat for wildlife.

Under Title 17 of the Arizona Revised Statutes, the Department, by and through the Arizona Game and Fish Commission, has jurisdictional authority and public trust responsibilities to conserve and protect the state fish and wildlife resources. In addition, the Department manages threatened and endangered species through authorities of Section 6 of the Endangered Species Act and the Department’s Section 10(a)(1)(A) permit. It is the mission of the Department to conserve and protect Arizona’s diverse fish and wildlife resources and manage for safe, compatible outdoor recreation opportunities for current and future generations. For your consideration, the Department provides the following comments based on the agency’s statutory authorities, public trust responsibilities, and special expertise related to wildlife resources and recreation.

**Purpose of the Refuge takes Primacy**

The proposed rule cites the Administration Act of 1966 as amended by the Improvement Act (Act) of 1997 at [U.S.C. 16 § 668dd.\(4\)\(B\)](#) as the regulator driver to add BIDEH to the existing

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**GOVERNOR:** KATIE HOBBS **COMMISSIONERS:** CHAIRMAN TODD G. GEILER, PRESCOTT | CLAY HERNANDEZ, TUCSON | MARSHA PETRIE SUE, SCOTTSDALE  
JEFF BUCHANAN, PATAGONIA | JAMES E. GOUGHNOUR, PAYSON **DIRECTOR:** TY E. GRAY **DEPUTY DIRECTOR:** TOM P. FINLEY

regulations [50 CFR Part 29 subpart A](#) - General Rules. BIDEH is one of 14 directives (A-N) in the Act that collectively governs System administration (see [\(U.S.C. 16 § 668dd.\(4\)\(A-N\)\)](#)). Although BIDEH is mentioned one time in the Act the [proposed rule](#) appears to elevate BIDEH to a similar importance as the purpose of the refuge and the System mission. (See language on page 7346, last paragraph of the proposed rule). The Department requests the proposed rule clarify the purpose of the mission takes primacy. The directives (A-N) in the Act provide the necessary framework to proactively meet the challenges of climate change, and provide consistency and transparency of refuge actions based on the best available science. The Department is concerned about misinterpretation of language in the proposed rule, creating inconsistent application of the BIDEH policy and regulations across refuge units and requests the USFWS provide additional guidance and support to refuge staff to ensure consistent interpretation and clarification.

### **Coordination with State Wildlife Agencies**

As stated in the proposed rule, the Improvement Act set forth policy direction, management standards, and stewardship requirements for administering the Refuge System, prioritizing conservation while ensuring public access to compatible, wildlife-dependent recreational opportunities, and ensuring effective coordination with adjacent landowners and State fish and wildlife agencies. Specifically, directive M in the Act states the Secretary shall “(M) ensure timely and effective cooperation and collaboration with Federal agencies and State fish and wildlife agencies during the course of acquiring and managing refuges.” While coordination with State Wildlife Agencies is mentioned in the federal register, the Department requests USFWS expand this direction in the policy and regulation to require specific coordination insertion points with State wildlife agencies on management decisions, and provide guidance and direction to refuge staff to seek consistency with State wildlife management jurisdictional mandates and priorities.

### **Natural Processes**

The proposed regulation at paragraph 29.3(c)(2) and associated policy updates would prioritize natural processes and support ecological connectivity as a means of achieving refuge habitat objectives and landscape planning goals. Natural processes are defined as interactions among plants, animals, and the environment that occur without substantial human influence. When natural processes are insufficient to meet refuge habitat objectives, the proposed rule would direct managers to intervene with science-based management techniques that mimic natural processes. Defaulting to natural processes (i.e., without substantial human influence) to respond to anthropogenic change could delay decisive management actions required to build a resilient Refuge System.

Further, the Department is concerned that, by definition, the Refuge System would be managed with a hands off approach, which would not meet the objectives set forth in the proposed rule. The Department recommends the rule provide refuge managers with the capacity to proactively implement management actions in coordination with State wildlife agencies to maintain and ensure Refuge actions are consistent with State wildlife management plans.

### **Supplemental Management Actions**

The regulations in proposed 29.3(d) and associated revised policy (section 3.13) would guide specific management activities to maintain native populations, actions that can affect BIDEH, including predator control, conservation translocations, use of genetically engineered organisms, invasive species management, pesticide use, agricultural uses, and mosquito control. As defined, “[n]ative means with respect to a particular ecosystem, a species that, other than as a result of an introduction, historically occurred or currently occurs in that ecosystem, including when such a species expands or shifts its range as a result of natural processes in response to environmental change.” This definition could apply to all animals, which would constrain effective and timely predator management such as feral hogs.

The Department recommends the proposed rule provide a clear path to effectively manage predators and invasive species in coordination with the State wildlife agencies to ensure actions align with State wildlife management plans and objectives. As an example in Arizona, the Kofa National Wildlife Refuge (KNWR) was created under Executive Order 8039 for the protection of desert bighorn sheep and predator management on the KNWR is critical to long term sustainability of the bighorn sheep population. The inconsistency of language and definition, and hence interpretation, in the proposed BIDEH regulations is problematic in this regard and the Department requests the USFWS clarify the predator management language to ensure that management actions will be allowed, consistent with State wildlife agency priorities, State jurisdictional authorities, and to continue to meet management objectives.

Additionally, the Department is concerned that interpretation of this language could guide the refuge system to preclude lawful hunting or management activities as effective tools for management of predator populations and wildlife populations merely based on BIDEH policy as opposed to meeting the intent of either the creation of individual Refuge Units or the Administrative Act of 1966 as amended by the Improvement Act (Act) of 1997. The Department requests the USFWS include clear direction in policy and rule that ensures consistent application and interpretation of the BIDEH policy and ensures compatible uses such as hunting and predator management activities will continue and remain consistent with the purpose of individual refuge units, and with State jurisdictional mandates and management priorities.

The USFWS should ensure and clarify in rule language that agricultural uses and needs, both existing and future, are not unreasonably excluded on refuge lands. The language as currently proposed in the federal register, could lead to interpretation and inconsistency of application across refuge units, potentially resulting in either long standing agricultural uses for wildlife management being discontinued, or new agricultural practices being precluded for wildlife management purposes, regardless of the intent of creation of individual refuge units. The USFWS should clearly articulate its intent with respect to agricultural uses on national wildlife refuges.

Lastly, the proposed rule selected specific actions to clarify existing policy and management activities. The Department requests USFWS state whether the range of actions outside of those listed are excluded as allowed activities or are these the only actions that qualify as affecting

BIDEH. Providing refuge managers with a range of actions to respond to anthropogenic change will allow for effective and timely response.

### **Conservation Translocations**

As identified in the federal register the USFWS intends to allow conservation translocations to refuge units for species outside current range under certain circumstances. It is unclear if this language applies to threatened and endangered species or all species. The USFWS should clarify. Further, translocations of threatened and endangered species outside of historically or currently occupied range can be a controversial and confusing issue, and could become an impediment for endangered species recovery. In the Department's opinion, a reasonable interpretation of this language would suggest that a species could be translocated to a refuge unit that does not currently exhibit, nor may ever exhibit, attributes essential to the conservation of the species identified for translocation. The federal register does not identify how the USFWS would make the determination to translocate a species, nor the analysis the USFWS would use to ensure that physical and biological features essential to the conservation of the species exist in a particular refuge unit, nor the process the USFWS would utilize to coordinate these decisions with State wildlife agencies, and as importantly neighboring landowners. The USFWS **should** determine that occupied areas are inadequate to ensure the conservation of the species before considering translocating species outside current range or outside historically occupied habitats. The Department also contends that when the USFWS is evaluating a particular translocation, the USFWS **should** ensure that the refuge unit *"contain one or more physical or biological features essential to the conservation of the species."* Additionally, the Department requests that the USFWS require early and frequent coordination with State wildlife agencies in the final rule, policy and subsequent guidance regarding conservation translocation. State wildlife agency jurisdictional authorities must be recognized and acknowledged within rule, requiring coordination and cooperation in policy and guidance prior to any USFWS conservation translocation.

Thank you for the opportunity to provide input on the proposed revision and additions to the USFWS NWR System - BIDEH. For further coordination, please contact Tracy C. Bazelman at [tbazelman@azgfd.gov](mailto:tbazelman@azgfd.gov) or 623-236-7513.

Sincerely,



Clay Crowder

Assistant Director, Wildlife Management Division

AZGFD #M24-02061434