

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Population

Executive Order 12898 (Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations, 59 FR 7629, Feb. 16, 1994) directs Federal agencies to identify and address “disproportionately high and adverse human health or environmental effects” of their actions on minority populations and low-income populations to the greatest extent practicable and permitted by law. Executive Order 14096 (Revitalizing Our Nation’s Commitment to Environmental Justice for All, 88 FR 25251, April 26, 2023) builds on and supplements E.O. 12898 and defines EJ as, among other things, “the just treatment and meaningful involvement of all people, regardless of income, race, color, national origin, or Tribal affiliation, or disability in agency decision-making and other Federal activities that affect human health and the environment.”

The State did not evaluate EJ considerations as part of its SIP submittal; the CAA and applicable implementing regulations neither prohibit nor require such an evaluation. The EPA did not perform an EJ analysis and did not consider EJ in this action. Due to the nature of the action being taken here, if finalized, this action is expected to have a neutral to positive impact on the air quality of the affected area. Consideration of EJ is not required as part of this action, and there is no information in the record inconsistent with the stated goal of E.O. 12898/14096 of achieving environmental justice for communities with EJ concerns.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Nitrogen dioxide, Ozone, Particulate matter, Sulfur oxides.

Dated: December 10, 2024.

Martha Guzman Aceves,

Regional Administrator, Region IX.

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 29

[Docket No. FWS–HQ–NWRs–2022–0106; FXRS12610900000–256–FF09R20000]

RIN 1018–BG78

National Wildlife Refuge System; Biological Integrity, Diversity, and Environmental Health

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; withdrawal.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), withdraw the proposed rule (proposal) published on February 2, 2024, that proposed new regulations addressing the biological integrity, diversity, and environmental health (BIDEH) of the National Wildlife Refuge System (Refuge System) and updates to the existing BIDEH policy. The Service has determined that withdrawing the proposal is justified based on the significant number of public comments received, the complexity of the substantive comments received and the issues involved, as well as the requests from the public for further opportunities to review and engage with the Service on the substance of this proposal. With this action, the existing BIDEH policy remains in effect.

DATES: The proposed rule that published on February 2, 2024 (89 FR 7345), is withdrawn on December 19, 2024.

ADDRESSES: The February 2, 2024, proposed rule, proposed updates to the existing BIDEH policy, and the comments received are available at <https://www.regulations.gov> in Docket No. FWS–HQ–NWRs–2022–0106.

FOR FURTHER INFORMATION CONTACT: Katherine Harrigan, (703) 358–2440, katherine_harrigan@fws.gov. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION:

Background

On February 2, 2024, the Service published in the **Federal Register** (89 FR 7345) a proposed rule to adopt new

regulations to ensure that the biological integrity, diversity, and environmental health (BIDEH) of the Refuge System are maintained, and where appropriate, restored and enhanced, in accordance with the National Wildlife Refuge System Improvement Act of 1997 (Improvement Act; Pub. L. 105–57). In addition, the Service proposed updates to the existing BIDEH policy, which was available for public comment in the proposed rule’s docket on <https://www.regulations.gov>. These proposed regulations and policy revisions were intended to support conservation throughout the Refuge System in response to both longstanding and contemporary conservation challenges, including the universal and profound effects of climate change on refuge species and ecosystems.

The National Wildlife Refuge System is the only network of Federal lands and waters in the United States dedicated to fish and wildlife conservation and, at more than 850 million acres, the largest system of its kind in the world. The National Wildlife Refuge System Administration Act of 1966 (Administration Act; 16 U.S.C. 668dd–668ee), as amended by the Improvement Act, is the primary statutory authority under which the Secretary of the Interior, acting through the Service, administers the Refuge System. The Alaska National Interest Lands Conservation Act of 1980 (16 U.S.C. 3111–3126), the Wilderness Act of 1964 (16 U.S.C. 1131–1136), and various other statutes also provide direction and authority for refuge management. The implementing regulations for the Administration Act are found in title 50 of the Code of Federal Regulations at subchapter C.

The Improvement Act established the mission of the Refuge System to administer a national network of lands and waters for the conservation, management, and where appropriate, restoration of fish, wildlife, and plant resources and their habitats within the United States for the benefit of present and future generations of Americans (16 U.S.C. 668dd(a)(2)). The Improvement Act sets forth policy direction, management standards, and stewardship requirements for administering the more than 570 national wildlife refuges in 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. The Improvement Act states that each refuge must be managed to fulfill both the Refuge System mission and the specific

purposes for which that refuge was established (16 U.S.C. 668dd(a)(3)(A)). It additionally requires that, in administering the Refuge System, the Secretary shall ensure that the biological integrity, diversity, and environmental health of the Refuge System are maintained for the benefit of present and future generations of Americans (16 U.S.C. 668dd(a)(4)(B)).

The Improvement Act is recognized as a visionary legislative charter for managing a system of wildlife reserves in part due to its mandate to ensure BIDEH. The terms comprising the BIDEH mandate are grounded in conservation biology and demonstrate congressional intent to conserve Refuge System fish, wildlife, plants, and habitats in accordance with the latest scientific understanding. This directive for a comprehensive, science-based approach to refuge management is critical to ensuring that imperiled species and diverse wildlife populations in North America are secure and thriving and are sustained by a network of healthy lands and waters. Therefore, as the Refuge System becomes increasingly vital to addressing the dual threats of biodiversity loss and climate change, the Service recognized the need to codify, clarify, and update its interpretation of the BIDEH mandate to better equip refuges in responding to these and other anthropogenic stressors.

Reasons for Withdrawal of the Proposal

On February 2, 2024, the Service published in the **Federal Register** (89 FR 7345) proposed new regulations and proposed revisions to the policy to ensure that the BIDEH of the Refuge System are maintained, and where appropriate, restored and enhanced, in accordance with the Improvement Act. The public comment period on the proposed rule and proposed policy revisions was extended from 30 days to a total of 90 days (*see* 89 FR 7345, February 2, 2024; 89 FR 15806, March 5, 2024) due to significant public interest and requests for an extension to the original comment period.

More than 200,000 individuals commented on the BIDEH proposed rule and revised policy in a total of more than 50,500 public comment submissions. Of these comments, approximately 150 lengthy, substantive comment letters were received from State and Tribal partners, environmental organizations, sporting groups, agricultural and animal welfare interests, and other stakeholders. We received approximately 150,000 combined signatures from comment campaigns, many of which also included unique substantive comments,

organized by various organizations regarding specific topics in the proposed rule.

The substantive comments received addressed a broad scope of issues in the BIDEH proposal and demonstrated the complexity of the topics addressed in the proposal. The commenters highlighted a myriad of multifaceted subjects and suggested modifications to a variety of provisions. Based on the extensive public comments we received on the proposed rule, the complexity of the topics they covered, and new information not previously considered, it is the Service's sound professional judgment that any final rule would require revisions that go beyond the logical outgrowth of the original proposal. Therefore, the Service has determined that the best course of action is to withdraw the entirety of the February 2, 2024, proposed rule and policy revision as discussed further below.

While the majority of the comments were generally supportive of many fundamental concepts contained in the proposed BIDEH rule, they expressed various views on the proposal's framing and approach. For example, overall, the commenters conveyed an understanding and appreciation of the need to address climate change and use best available science, although they provided a variety of opinions on the specifics and how science should be applied. The concept of improving habitat connectivity also tended to garner support, along with suggestions for bolstering such provisions, although this concept generated some concerns from economic and industry interests. Other concepts, such as deference to natural processes, appeared to generate some confusion, indicating the need for additional explanation or revisions to the proposal for clarity.

Many of the comment letters contained complicated implementation questions or concerns with refuge management capacity and perceived administrative and financial burdens, which were raised across the spectrum of stakeholders. Some of these commenters interpreted the BIDEH proposal as requiring a separate BIDEH determination process for all refuge management decisions alongside existing processes. Many commenters expressed concerns that implementation of the BIDEH proposal would place unnecessary administrative burdens on managers of national wildlife refuges that would require time and resources the Service does not have, especially if the proposal required the completion of new documentation. The Service received requests from commenters for

further coordination with States, partners, and other stakeholders regarding the content and application of the proposal.

The intent of the BIDEH proposal has been to rely on the use of existing processes (comprehensive conservation planning, compatibility determinations, and actions to comply with the National Environmental Policy Act) to implement the proposed policy and regulations. In reviewing these comments, the Service understands the concern raised by commenters about a lack of clarity within the proposal regarding the specific implementation process for ensuring BIDEH. However, because refuge management decisions and actions are not one-size-fits-all, the Service did not intend to be overly prescriptive about implementation processes through the revised BIDEH policy or proposed regulations. Therefore, the Service acknowledges the need to provide guidance both internally and externally explaining how BIDEH will be considered through existing processes. While this level of detail regarding implementation would not be prudent to include in a final rule for this proposal, it warrants further consideration to ensure an appropriate approach that promotes public support and facilitates on-the-ground application.

The provisions of the proposal that garnered the most complex and disparate views from commenters were those addressing specific management activities (such as agricultural use and predator control) on refuge lands. The differing viewpoints included many calls either to further restrict or alternatively to liberalize the application of these management practices. The controversy raised by these comments stemmed primarily from differing views on how rigid or flexible refuge management tools ought to be: Some favor more flexibility, while others seek stricter control of actions on refuges. The range of comments the Service received on these topics relied on a variety of sources, including peer-reviewed science, best practices, industry standards, and field experience. These comments demonstrate some of the issues that require further communication and coordination with partners and stakeholders to ensure greater understanding of the Service's intent before the finalization of any BIDEH proposal.

For the reasons provided above, we are withdrawing the proposed rule that published on February 2, 2024 (89 FR 7345). The existing policy in part 601 of

the Service Manual at 601 FW 3 remains in effect.

Authority

The authority for this action is the National Wildlife Refuge System

Administration Act of 1966 (16 U.S.C. 668dd–668ee), as amended by the National Wildlife Refuge System

Improvement Act of 1997 (Pub. L. 105–57).

Shannon Estenoz,

Assistant Secretary for Fish and Wildlife and Parks.

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