

**AMENDMENT TO A
FISH AND WILDLIFE SERVICE MANUAL CHAPTER**

Series: Real Property
Part 342: Realty Operations
Chapter 5: Non-Purchase Acquisition, dated 6/21/1994 and amended 4/14/2008
Amendment Number: 2
Purpose: To align policy with M-37078 , "National Wildlife Refuge Land Exchanges," dated May 31, 2023.

Actions:

Change section 5.7A by striking all the language after the first three sentences:

A. Definition. Exchange is a valuable method to acquire land or interests in land for Service programs. A landowner may be willing to exchange land or interests for land or interests of the United States when the landowner would otherwise be unwilling to sell. Also, an exchange may have definite tax advantages to the landowner. ~~Criteria for exchanges are, (1) that the exchange be of benefit to the United States, and (2) that the value of the lands or interests in lands be approximately equal or that values may be equalized by the payment of cash by the grantor or by the United States. Section 1302 of the Alaska National Interest Lands Conservation Act provides exchange authority for Alaska on the basis of equal value (with equalization payments), except when the Secretary determines it would be in the public interest such exchanges may be made for other than equal value. Exchanges may also involve an equal value of products such as timber, Federal improvements, grazing rights, etc. For purposes of exchange, oil, gas, and mineral rights are considered as interests in land.~~

Add a new section 5.7B as follows and re-letter the remaining subsections under section 5.7 as 5.7C through 5.7K.

B. Criteria.

(1) All land exchanges must satisfy the following criteria:

(a) The land to be divested must be suitable for disposition;

(b) The exchange must be of benefit to the United States; and

(c) The value of the lands to be exchanged must be approximately equal or the values may be equalized by the payment of cash by the grantor or by the United States. Section 1302 of the Alaska National Interest Lands Conservation Act provides exchange authority for Alaska on the basis of equal value (with equalization payments), except when the Secretary of the Interior determines it

would be in the public interest, such Alaska exchanges may be made for other than equal value.

(2) In addition, for all land exchanges outside Alaska, Refuge Managers must use their expert judgment to assess and prepare a written record that clearly demonstrates how the exchange would satisfy the following criteria:

(a) The exchange must further the purposes for which the refuge was established;

(b) The exchange must fulfill the National Wildlife Refuge System's conservation mission as defined in the National Wildlife Refuge System Administration Act of 1966, as amended (16 U.S.C. 668dd(a)(2)); and

(c) The exchange must provide a net conservation benefit to the refuge. As a part of this analysis, the Service must weigh the conservation value of the land to be acquired against the conservation value of the land to be divested, with consideration of any available information about planned uses of the land to be divested and the impacts of those uses on the refuge.

(3) If the record does not demonstrate that the exchange would satisfy the criteria in section 5.7B(2), we should determine that the land exchange would be inconsistent with the National Wildlife Refuge System Improvement Act of 1997 (Public Law 105-57), so the Service should not pursue it.

/sgd/ Stephen Guertin
DEPUTY DIRECTOR

Date: December 20, 2024