



United States Department of the Interior

FISH AND WILDLIFE SERVICE
Washington, D.C. 20240



Memorandum

OCT 12 2006

To: Directorate

From: **Acting** Director *Kenneth Stansell*

Subject: Regulation and Policy Clearance Guidance

This memorandum describes the process by which the Fish and Wildlife Service will obtain review and clearance for significant regulations, policy statements and other significant matters that are to be published in the Federal Register. The process is designed to ensure efficient use of staff time and fiscal resources, as well as provide timely policy direction.

A. Development and approval

1. The Service will initiate and develop a regulatory or policy proposal only after it first obtains review and clearance from the Director and the Assistant Secretary. This process is mandatory. Requests to modify or waive the clearance process must be approved by the Director and the Assistant Secretary. The Director and the Assistant Secretary have determined that all Migratory Bird Treaty Act and annual refuge hunting regulations are not subject to this process, but should remain under the existing development, review and approval processes.
2. The appropriate headquarters or regional office will commence the clearance process by preparing a briefing memorandum that describes the policy or regulatory proposal. Consistent with similar Departmental briefings, the memorandum is to be concise and must include: (1) a summary description of the issue(s) to be addressed by the proposal; (2) the reasons for the proposal; (3) the recommended course of action, and a statement as to whether and how the action is a departure from previous instruction or practice; (4) a summary of alternatives; and (5) the target publication date (and any other timing considerations).
3. The appropriate regional or assistant director will first submit the briefing memorandum to the Director for preliminary approval, revision or disapproval. If the Director provides a preliminary approval, the memorandum is to then be forwarded to the Associate Solicitor for DPW for legal review and to the Assistant Secretary for approval, revision, or disapproval. The Service will not take any action with respect to the subject of the policy proposal until the Director and the Assistant Secretary respond affirmatively by returning the approval form attached to the briefing memorandum.

B. Coordination and review

1. Once the originating office receives the signed approval form, the respective regional or assistant director (or their delegate) will assign a completion date for the drafting project.
2. Upon assignment to a project, the respective regional or assistant director (or their delegate) and the Assistant Secretary's staff will discuss and agree upon (1) key actions related to the project and (2) a final timeline for submission of those documents for review, which will include sufficient time for meaningful review by the Director and Assistant Secretary prior to the deadline. Specifically, the timeline will provide for submittal of draft text of the policy or regulatory proposal to the Director, the Associate Solicitor (DPW) and the Assistant Secretary, at least 45 days prior to the completion date in the final timeline.
3. The regional or assistant director is to submit the final timeline to the Director, to the Associate Solicitor (DPW), and to the Assistant Secretary no later than 15 days after the receipt of all approvals described in Section A.3 (above).
4. The originating office is to proceed with data collection, drafting, and other tasks associated with the policy statement or regulatory action once the regional director transmits the final timeline. Generally, once the drafting process begins, the originating office will hold regular (bi-weekly or monthly) meetings with representatives of the Director, the Associate Solicitor (DPW), and the Assistant Secretary to discuss progress, address issues and concerns, and exchange comments about the proposal. The originating office will incorporate the results of those briefings into the policy statement or regulatory action as they occur.
5. Any significant disagreements are to be elevated to the Director and the Assistant Secretary so as to minimize future delays or the need for substantial last-minute revisions. If not already in place, the Service will establish appropriate means to track progress on all matters falling under this process.

C. Progress and clearance

1. The regional or assistant director will submit progress reports to the Director, the Associate Solicitor (DPW), and the Assistant Secretary consistent with the final timeline. The Service will develop a standard form for this purpose.
2. Draft text will not include any actions or provisions that are inconsistent with the proposal set forth in the briefing memorandum unless first approved by the Director and the Assistant Secretary during the foregoing coordination and review process.
3. The Assistant Secretary will review and approve the final draft text of any proposed policy or regulatory action. Once the originating office receives notice of such approval, it will submit the draft electronically to both the regional director and to Service staff in

Washington for preparation of the document in final. Service staff in Washington will then relay a publication-ready copy to the Associate Solicitor for final legal review and to the Director for final review and signature and forwarding to the Assistant Secretary for signature, as appropriate. Service staff will then transmit the document through appropriate Department channels and, as appropriate, the Office of Management and Budget. Once all such approvals are received, service staff will submit the final package to the Federal Register for publication.

The process set forth in this memorandum is in addition to, and does not replace or supersede, the requirements set forth in Part 318 of the Departmental Manual for preparation and clearance of regulatory proposals.