



U.S. Fish and Wildlife Service

ETHICS PRESENTATION

**Office of the Science Advisor
Webinar**

May 16, 2013



Agenda

- **Ethics Program snapshot**
- **Ethics Topics**
 - ❖ Officer/Board Member for Non-Federal organization
 - ❖ University Adjunct or Affiliate status
- **Questions/Discussion**



Ethics Program Snapshot

What is the Ethics Program?

Ethics

Scientific and Scholarly Integrity

Presidential Memo on Scientific Integrity, 3/9/09;
Sec. Order No. 3305, 9/9/10;
DOI policy, 305 DM 3;
FWS policy, 212 FW 7

Professional & Personal Ethics

Executive Order 12674
18 U.S.C. 201 – 209
5 C.F.R. 2635
FWS Policy, 212 FW 1-11

Donations, Fundraising and Solicitation

DOI Policy, 374 DM 6
Draft FWS Policy, 212 FW 8



Professional/Personal Ethics

What subjects do we cover?

- Acceptance of gifts
- Use of public office, government property, etc.
- Payment for travel from non-Federal sources
- ✓ **Outside work and activities**
- ✓ **Membership on Boards of non-Federal entities**
- Selling/fundraising on DOI property
- Seeking non-federal employment
- Restrictions on post-government employment
- Political activities (Hatch Act) – handout
- Procurement integrity (contracting)
- Disclosure of financial interests (required of 1,500 FWS employees including SES and certain other FWS jobs)



Professional/Personal Ethics

What do we do?

Provide advice: 3,500+ FWS employee questions (2011)

Develop/deliver training:

- On-line training - Required on-line Ethics training for all employees in 2013
- Annual training - Required for 1,500 FWS employees

Develop guidance:

- Develop FWS Manual Chapters and other guidance

Communications (future goals):

- Sharepoint site, Inside FWS, website;
- Pro-active communications with FWS employees (publications, etc.)



Professional/Personal Ethics

Who are the staff?

Current FWS staffing:

- 1 fulltime national Ethics Counselor (Anne)
 - Role is “advisor” not “policeman” – assist agency and employees to avoid violations that may have negative consequences for employee and/or the Service.
 - Note: a second fulltime national Ethics Counselor, located in the Eastern U.S., expect to hire in 2013
- 8 + part-time (10%) Ethics Counselors in Headquarters/Regions



Ethics Topics

- **Officer/board member of non-Federal organization**
- **Adjunct/affiliate status with University**



Ethics Topics

Definitions you need to know:

Prohibited source*: Includes any outside entity or individual who:

- (1) Is seeking official action by the Service;
- (2) Does business or seeks to do business with the Service;
- (3) Conducts activities regulated by the Service;
- (4) Has interests that may be substantially affected by the performance or nonperformance of the employee's official duties; or
- (5) Is an organization a majority of whose members are described in (1) through (4) above.

*5 CFR 2635.203(d)



Ethics Topics

Definitions you need to know:

Personal capacity: represents self, off-duty, on personal time, use personal resources, pay for own travel; not use FWS title (except as part of biographical details for speaking, teaching or writing*) logo, equipment, uniform, etc.

Official capacity: official representative of the FWS - speaking for the agency; part of official duties; use official time, resources, title, logo, uniform, etc.

See 5 CFR 2635.807(b) – reference to official position



Ethics Topics

Definitions you need to know:

Nonpublic information*

Nonpublic information includes information that you know because you are a Federal employee, and that you know or reasonably should know has not been made available to the general public. It includes information that is routinely exempt under the Freedom of Information Act (FOIA), is designated as confidential by the FWS, or has not actually been disseminated to the general public and is not authorized to be made available to the public on request.

*5 CFR 2635.703



Ethics Topics

Participating in Professional Societies and Non-Federal Organizations

212 FW 4 (revised)



Participating in Professional Societies and Non-Federal Organizations, 212 FW 4

Policy Purpose

Guidance for employees who want to participate as members, officers or board members of professional societies or other non-Federal organizations.



Participating in Professional Societies and Non-Federal Organizations, 212 FW 4

Participation options:

- **Personal capacity:**
 1. Member of organization
 2. Officer/board member
- **Official capacity:**
 1. “Liaison” representing FWS
 2. Officer/board member



Participating in Professional Societies and Non-Federal Organizations, 212 FW 4

Personal capacity: Member of organization

Example: Join American Fisheries Society (AFS) as member

- **Approval:** No ethics approval required; should notify supervisor if activities are related to Service responsibilities



Participating in Professional Societies and Non-Federal Organizations, 212 FW 4

Personal capacity: Officer/board member

Example 1: AFS board member/officer

- Can: Vote on management issues in personal capacity
- Cannot: Use government title/time/resources, non-public information, be involved in FWS grant requests, investigations of organization, regulations that impact organization, etc.
- Approval: Supervisor and ethics counselor. (AFS is a “prohibited source”) (Form 3-2433)

Example 2: PTA board member/officer

- Approval: No Ethics approval; employee should notify supervisor (PTA is not a “prohibited source”)



Participating in Professional Societies and Non-Federal Organizations, 212 FW 4

Official capacity: “liaison”*

Example: FWS “liaison” to AFS

- Can: Attend meetings, speak on behalf of FWS
- Cannot: Vote on AFS management matters, lobby, fundraise, etc. (Check with Ethics Counselor before involvement with FWS grant requests, investigations, regulations that impact organization, etc.)
- Approval: AD/RD signs MOU between FWS and organization (Regional Ethics Counselor reviews)

*Other titles “ex-officio”, “official representative”, etc.



Participating in Professional Societies and Non-Federal Organizations, 212 FW 4

Official capacity: Non-profit officer/board member *

Example: FWS employee as “President” of AFS

- Can: Vote on AFS management issues
- Cannot: Be involved in FWS grants, requests for Federal funds, investigations of organization, regulations that impact organization, lobby, fundraise
- Approval: FWS Director

Note: Historically, EPA, and Depts. Of Defense, Commerce & Agriculture have not allowed any employees to serve on non-Federal boards in their official capacities.



New process (4/5/13) Official Capacity as Officer or Board Member

STEP 1 : Employee contacts Cathey Willis to draft

- Director approval memo
- MOU between FWS and organization
- Employee recusal letter

STEP 2: FWS Ethics Counselor reviews; sends to DOI Ethics Attorney to review

STEP 3: DOI Solicitor's Office Ethics Attorney reviews

STEP 4: FWS Office of Science Advisor (reviews, keeps log of employees serving on boards, puts in DTS system)

STEP 5: Director approves (signs memo and MOU)

STEP 6: Employee is notified and begins service as officer or board member



Participating in Professional Societies and Non-Federal Organizations, 212 FW 4

FWS payment for dues or fees?:

- Allowed:

- “Agency” membership dues if necessary expense and will further mission of FWS
- Example: Chamber of Commerce

- Not allowed:

- Individual membership fees or dues (Exception: if authorized under Government Employees Training Act)
- Example: AFS membership



Counselor for a Day Scenario

Jill, a FWS biologist, becomes President of the American Butterfly Commission (ABC) in her personal capacity.

1. Can ABC use Jill's FWS title and contact information on their website?
2. Can Jill attend meetings as the ABC President on official FWS time, as long as she makes it clear that she is voicing her personal opinion as a scientist, not as an official representative of the FWS?
3. The ABC is struggling financially. Jill wants to assist.
 - A. Can Jill sign off on her employees using FWS funds to attend the annual ABC meeting?
 - B. Can Jill work with the FWS to provide grant funds to the ABC?



Ethics Topics

Adjunct or Affiliate Faculty Status with Universities & Research Institutes

212 FW 11 (new)



University Adjunct or Affiliate

212 FW 11

Purpose:

- Supports Director's goal to encourage collaboration with universities and research institutes;
- Establishes clear guidance for employees regarding this specific type of outside activity (modeled after USGS.)



University Adjunct or Affiliate

212 FW 11

Personal capacity:

Allowed to:

- Teach subject matter related to official duties if at a qualifying institution accredited university, high school, etc.
- Accept compensation

Approval:

- Must receive permission from supervisor and Ethics Counselor if University is “prohibited source” (FWS Form 3-2441)



University Adjunct or Affiliate

212 FW 11

Personal Capacity:

Not allowed to:

- Be involved in review/award of federal funds to University
- Control university funds
- Take actions that infer that are University employee (website, signing documents, representing University back to Federal government)
- Use Service time, equipment, non-public information
- Use Service title for University marketing purposes (can use as part of biography)



University Adjunct or Affiliate

212 FW 11

Official Capacity:

Allowed to:

- Teach fulltime, if:
 - Approved by supervisor (FWS Form 3-2447);
 - Authorized by statute;
 - Written agreement between FWS and University
- Provide guest lectures, assist with labs, advise graduate students, collaborate as co-Principal Investigator on project, etc. if approved by supervisor



University Adjunct or Affiliate

212 FW 11

Official Capacity:

Not allowed to:

- Accept compensation
- Be involved in review/award of federal funds to University
- Directly accept travel expenses from University
- Control university funds
- Take actions that infer that you are University employee (website, signing documents, representing University back to Federal govt.)
- Supervise university employees (unless under IPA)



Ethics Counselor for a Day Scenario

FWS employee Jack is an expert on climate change. He teaches a University evening class in an adjunct role.

1. Can Jack accept pay for teaching the University class?
2. Can the University advertise the class using Jack's title?
3. Can Jack prepare his lectures during official time?
4. Can Jack add excitement to the class by breaking news about some new FWS research findings that are not available to the public?
5. The University applies for FWS research grant funds. Can Jack be part of the FWS committee that decides who receives these grant funds?
6. The University wants Jack to teach class during the day, in his official FWS capacity. Is he allowed to do so?



FWS Ethics Presentation

Discussion/ questions?



FWS Ethics Presentation

Office of Government Ethics: www.usoge.gov

DOI Ethics Office (part of Solicitor's office): 1849 C St.,
N.W. MS 4251, Washington, D.C. 20240; (202) 208-4980,
www.doi.gov/ethics

FWS Ethics Program:

- **Deputy Ethics Counselor/National Ethics Program Director**, Anne Badgley, (503) 326-2008,
anne_badgley@fws.gov;
- **Requests to serve in official capacity as officer/board member of non-profit organization:** Temporary contact:
Cathey Willis, (303) 236-4325, cathey_willis@fws.gov



Ethics Contacts

Donations, Fundraising and Solicitations:

- Contact while policy in draft: Rebecca Halbe, Refuges (703) 358-2635, rebecca_halbe@fws.gov
- Contact after policy final: Laury Parramore, External Affairs, (703) 358-1711, laury_parramore@fws.gov

Scientific Integrity:

- FWS Scientific Integrity Officer: Rick Coleman, (303) 236-4443, rick_coleman@fws.gov



Regional/Headquarters Assistant Ethics Counselors

- **Headquarters** - Nicole Hall (703) 358-2647; Marion Campbell (703) 358-1935
- **R1/8** - Jeff Hardgrove/Michelle Bowden (503) 231-6141
- **R2** - Anna Vargas (505) 248-6936; Duane Padilla (505) 248-6610;
- **R3** - Karen Schul (612) 713-5267; Katie Eull (612) 713-5245;
- **R4** - Fred Thomas (404) 679-4045;
- **R5** - Sheri Kania (413) 253-8263; Louise Barry (413) 253-8262;
- **R6** - Kathy Bevan (303) 236-4499;
- **R7** – Mildred Riley (907) 786-3647; Helen Stewart (907) 786-3307