1.1 What is the purpose of this chapter? This chapter provides guidance for U.S. Fish and Wildlife Service (Service) employees in preparing for congressional hearings, including field hearings.

1.2 What are the objectives of the chapter? Our objectives are to:

A. Provide guidance and an internal “checklist” of best practices for Service personnel when Congress asks them to provide a witness for a hearing, and

B. Help potential witnesses become familiar with the congressional hearing process.

1.3 What is the scope of the chapter?

A. Although this chapter applies to all employees, its primary focus is for staff in the Division of Congressional and Legislative Affairs and Regional Congressional Liaisons.

B. The chapter does not apply to the Service’s participation in State legislature hearings.

1.4 What is a congressional hearing? A congressional hearing is a hearing before Congress or a congressional committee, held on Capitol Hill or at another location, where Service personnel provide official testimony. Congressional hearings do not include public meetings or similar events that are attended by Members of Congress or their staff. There are generally four types of hearings: legislative, oversight, investigative, and confirmation.

1.5 Who is responsible for ensuring employees comply with the requirements associated with congressional hearings? See Table 1-1.

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<th>Table 1-1: Responsibilities for Congressional Hearings</th>
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<td><strong>These officials</strong></td>
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<td>A. The Director</td>
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<td>B. The Assistant Director – External Affairs</td>
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<td>C. The Chief, CLA</td>
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<td>D. Regional Directors</td>
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<td>E. Assistant Regional Directors for External Affairs and Regional Congressional Liaisons</td>
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1.6 How does the invitation and notification process work for congressional hearings?

A. A congressional committee or subcommittee Chair makes official requests to the Secretary of the Interior or Service Director to provide testimony at a congressional hearing.

B. The Service often receives unofficial notice (prior to the official request) of congressional hearings from congressional staff or other Federal agencies. While we can begin preliminary planning based on unofficial notice, we must receive an official request letter from the appropriate committee prior to:

1. Making any decisions regarding witnesses, and
2. Allowing staff to appear at the hearing in an official capacity.

C. Once an employee has been made aware of an upcoming hearing (unofficially or officially), he/she must immediately contact his/her supervisor, as well as the appropriate Regional Congressional Liaison or HQ CLA staff, or both.

D. If the first contact is in a Region, the Regional Congressional Liaison will notify HQ CLA. HQ CLA staff are responsible for notifying the Department’s Office of Congressional and Legislative Affairs (DOI OCL), the Director’s office, and the appropriate HQ Directorate member(s) about:

1. The date and time of the hearing,
2. The focus of the hearing, and
3. Any request for a Service witness.

E. HQ CLA staff also add information about the hearing in relevant External Affairs reports, such as the weekly Congressional Affairs Update.

1.7 How are witnesses selected for congressional hearings?

A. Committees or subcommittees may request a specific individual to testify. While the Service takes their request into account, HQ CLA staff, with input from Regional Congressional Liaisons, are responsible for recommending to the Assistant Director - External Affairs and the Director’s office who the most appropriate witness is to testify on behalf of the Service.

B. Once a potential witness has been identified, HQ CLA staff must confirm the witness’s availability and willingness to testify.

C. The Assistant Director - External Affairs works with the Director’s office to recommend the witness.

D. After receiving approval from the Director’s office, HQ CLA staff must send the name of the potential witness to the office of the Assistant Secretary for Fish and Wildlife and Parks and DOI OCL as soon as possible. The Department makes the final determination about who will testify.

E. Once a final decision has been made, HQ CLA staff contact the committee or subcommittee holding the hearing to provide the witness’s name and position.

F. The Regional Congressional Liaison or HQ CLA staff, as appropriate, should work with the witness or the witness’s administrative assistant to confirm the hearing is on their schedule and to identify a time for a pre-hearing briefing (see section 1.10B).
1.8 What is testimony and how is it prepared? There are usually two parts to testimony—a written and an oral statement. The written statement is submitted for the official hearing record.

A. The written statement:

(1) HQ CLA staff work with DOI OCL to develop a timeframe for writing and clearance of hearing testimony. Testimony has to be cleared through the Service, Department, and the Office of Management and Budget (OMB). See section 1.9 for more information on clearance.

(2) HQ CLA staff identify the Regional or program office(s) that will assist in drafting the testimony.

(3) When the focus of a hearing is strictly Regional, State-specific, or local, HQ CLA staff will work with the Regional Congressional Liaison to ask the appropriate Service Regional or field office to prepare the initial draft statement. Before it is sent to HQ CLA, Regional testimony must be surnamed by:

   (a) The appropriate Assistant Regional Director(s),

   (b) The Assistant Regional Director for External Affairs, and

   (c) The Regional Director.

(4) When the focus of the hearing is national or programmatic in scope, HQ CLA staff generally ask the appropriate program to prepare the draft testimony. The supervising Directorate member must surname the testimony before giving it to HQ CLA staff for review and surname.

(5) Testimony should:

   (a) Be focused and succinct,

   (b) Respond to all questions and issues raised in the letter of invitation, and

   (c) Not establish new policy or contradict current Administration policy or budget requests.

(6) You can find examples of approved testimony on the CLA Web site.

B. The oral statement: HQ CLA prepares the statement a witness actually gives at the congressional hearing. The oral statement is a shortened version of the OMB-cleared written statement.

(1) The oral statement should:

   (a) Be written to be read aloud,

   (b) Take 3-5 minutes or less for the witness to read (as that’s the time usually allotted for spoken testimony), and

   (b) Will typically be five pages of size 14 font, double-spaced text.

(2) When a Service witness will be appearing at a congressional field hearing, the Regional Congressional Liaison prepares the oral statement.
1.9 What are the procedures for getting clearance of the written testimony?

A. Testimony must be cleared through the appropriate Service offices, the Department, and OMB. OMB clearance of testimony is required for all congressional hearings.

B. After the supervising Directorate member(s) surnames the testimony, HQ CLA staff prepare a surname package to move the testimony through the Service and the Department. At this time, they should also advise the Deputy Director’s Special Assistant that the testimony is on its way (and provide a draft). The surname process includes review and surname by:

1. Other affected programs/Regions (sometimes under simultaneous surname),
2. The CLA Chief,
3. The Assistant Director - External Affairs,
4. The Director, and
5. The Assistant Secretary for Fish and Wildlife and Parks.

C. In addition to the testimony, the surname package must include a copy of the invitation letter, legislation being considered at the hearing (if any), and a note to reviewers. A HQ CLA staff member must check regularly on the movement of the testimony, often hand-carrying the package from office to office and talking directly with reviewers.

D. HQ CLA staff must ensure that the testimony is uploaded to the Data Tracking System (DTS) and that when it changes, the most recent version of the testimony is posted (including the final, OMB-cleared version).

E. HQ CLA staff must incorporate any edits/changes made during the clearance process. If there are disagreements about what should be in the testimony, it is HQ CLA staff’s responsibility to reconcile the differences.

F. After the Director surnames the testimony, HQ CLA staff members must send it to the office of the Assistant Secretary for Fish and Wildlife and Parks. At this point, we encourage HQ CLA staff to give an advance copy to DOI OCL if the timeline is short. DOI OCL handles OMB clearance.

G. The Department or OMB may ask HQ CLA to clarify, provide more information, or make changes to the testimony. If significant disagreements arise, DOI OCL will act as the arbitrator between the Service and the Department or OMB.

H. Allow sufficient time for clearance so that the final version of the testimony may be provided to the requesting committee or subcommittee at least 48 hours in advance.

I. Once cleared by OMB, HQ CLA staff must send the testimony to the committee or subcommittee office contact listed in the letter of invitation and confirm that the committee or subcommittee received it.

J. In rare instances, the committee or subcommittee will also ask for hard copies of the testimony. It is the CLA staff’s responsibility to provide these once the testimony is cleared.

1.10 How does the Service prepare the witness? There are basically two parts to preparing the witness—a briefing book and a pre-hearing briefing.
A. The briefing book:

(1) The witness needs a briefing book for the hearing. The Regional Congressional Liaison or HQ CLA staff should talk with the witness to get a sense of his/her familiarity with the subject matter and what information should be in the briefing book.

(2) Once notified of a pending congressional hearing, the Regional Congressional Liaison or HQ CLA staff, depending on the nature of the hearing, should consider scheduling a strategy meeting of involved program offices and Regional offices to coordinate on production of briefing materials.

(3) While the contents of briefing books vary, generally the book will contain the following:

   (a) Official letter of invitation;
   (b) Witness list;
   (c) Written and oral statements, with pages numbered;
   (d) List of committee/subcommittee Members, information about the Members, and information about the committee at large;
   (e) Relevant briefing papers and background information;
   (f) Previous hearing excerpts, including answers to questions posed to senior leaders, and testimony by senior leaders;
   (g) Questions and answers on the issues being covered by the hearing;
   (h) A copy of the legislation and a summary (for legislative hearings);
   (i) Testimony of other hearing witnesses; and
   (j) Other relevant materials, as appropriate.

(4) HQ CLA staff (or the Regional Congressional Liaison for field hearings) must identify issues/questions that may arise at the hearing, identify a strategy for handling issues/questions, and obtain all the information for the briefing book and give it to the witness in a timely manner.

B. The pre-hearing briefing:

(1) HQ CLA staff schedule a pre-hearing briefing and ensure the appropriate people are aware of the briefing and participate. The briefing:

   (a) Covers the materials in the briefing book, an overview of congressional Members likely to attend, and any other relevant or expected issues;
   (b) Must include a discussion of strategy for the hearing, familiarizing the witness with the anticipated flow of the proceedings and key protocol. During the pre-hearing briefing participants should also identify any other Service employees who should attend the hearing in a non-witness capacity; and
   (c) Will include the witness, the HQ CLA staff working on the hearing, and any program or Regional staff who can help prepare for the hearing.
The CLA Chief determines who attends pre-hearing briefings, based on the needs of the witness and time available.

During the briefing, HQ CLA staff also must ensure the witness is fully aware of congressional hearing procedures and of lobbying restrictions on Federal employees. For example, all official messages conveyed during the hearing must be consistent with current Administration, Department, and bureau positions. See Director’s memorandums, Congressional Activities and Meetings, dated 9/28/2011 and Congressional Lobbying, dated July 18, 2012.

Prior to the briefing, HQ CLA staff must contact committee/subcommittee staff and the Chair and Ranking Members’ offices to identify issues and questions likely to be raised at the hearing.

If other Federal agencies are testifying, HQ CLA staff should coordinate with their counterparts at the other agencies to share information about the hearing.

1.11 What should witnesses know about the logistics of the hearing day?

A. The day before the hearing, HQ CLA staff will confirm with the witness and accompanying staff any arrangements for getting to the hearing. HQ CLA staff should accompany the witness to the hearing.

B. For most hearings, the witness should consider taking a subject matter expert. If the hearing is expected to get media attention, a Public Affairs Officer can help with the press and media opportunities. Backup staff are usually seated directly behind the witness, close enough to help clarify a question or to correct anything the witness has misstated.

C. The witness should arrive at the hearing approximately 30-45 minutes before it is scheduled to begin. This gives him/her time to get comfortable with the setting and meet any other witnesses who may be available. If possible, the witness should take time to introduce him/herself to committee Members and staff before the hearing. This familiarity can increase the comfort level during the hearing.

D. If audio-visual aids, charts, or photographs are used, they will require extra planning and the witness will need the Committee’s approval in advance. Any handouts the witness plans to provide must be cleared the same as the witness’s official statement, and they must be reproducible in black and white for the official transcript.

E. Federal witnesses are typically the first panel at the hearing. After the Chair and other Members give their opening statements, the witness(es) provides oral statements. The committee/subcommittee Members then ask a series of questions of the witness(es), which may extend to several rounds of questions.

F. Witnesses are generally excused once their panel has finished, and they may leave the hearing if excused. HQ CLA staff should stay to listen to the additional witnesses.

1.12 What happens after the hearing?

A. After the hearing, HQ CLA staff must draft a brief report on the hearing. The report should include at least:

(1) Congressional Members who attended,

(2) The themes of the hearing, and
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Chapter 1 Congressional Hearings and Procedures  

(3) Specific questions asked of the Service witness. This report will be distributed widely.

B. HQ CLA staff must send the hearing report via email to:

(1) The CLA Chief,

(2) Deputy Assistant Director – External Affairs,

(3) Assistant Director – External Affairs,

(4) Appropriate Directorate members,

(5) Appropriate Regional Congressional Liaisons,

(6) Appropriate Assistant Regional Director for External Affairs, and

(7) The witness.

C. HQ CLA staff must also include a summary of the hearing in the Congressional Affairs Update (CAU).

D. Sometimes the committee/subcommittee sends formal follow-up questions to the Service to include in the official hearing record. HQ CLA staff must notify DOI OCL about all follow-up questions as soon as they are received. DOI OCL establishes a timeline to respond to the questions similar to the timeline for preparation of testimony.

E. HQ CLA staff must work with the program office or Regional Congressional Liaison to obtain responses. If there are many questions, they may be tasked to multiple offices according to subject. HQ CLA staff coordinate all responses. The Regional Director must surname responses the Regions develop before sending them to HQ CLA.

F. This package goes through the same surname process as the testimony (see section 1.9B). After receiving the Assistant Secretary’s surname, the package is given to DOI OCL for approval. DOI OCL works with OMB on final clearance.

G. Although DOI OCL generally sends the original response letter to the committee/subcommittee, HQ CLA should provide an electronic copy to the committee/subcommittee staff.

H. As a courtesy, some committees will send the witness a copy of the official transcript and allow him/her to edit remarks without changing answers to questions. If content needs correction, the proper method is to write a letter to the Chair indicating the error and giving the correct information. If the witness is not sure if the change is substantive, HQ CLA staff may call the committee staff for advice.

I. If a misstatement is made during the hearing, promptly notify the committee. Corrected responses should be submitted immediately.

/sgd/ Rowan W. Gould  
DEPUTY DIRECTOR

Date: July 25, 2013