

**FISH AND WILDLIFE SERVICE
COMMITTEES AND ADVISORY BOARDS**

Committees and Advisory Boards

Part 107 Advisory Committees

Chapter 2 Establishing, Renewing, and Terminating Advisory Committees

107 FW 2

2.1 What is the purpose of this chapter? This chapter provides guidance on establishing, renewing, and terminating advisory committees.

2.2 What are the authorities and responsibilities for this chapter? See 107 FW 1 for the authorities and responsibilities for all the chapters in Part 107.

2.3 What are the procedures for establishing Presidential and nondiscretionary advisory committees?

A. Send the following documents to the Group Federal Officer (GFO), Division of Policy and Directives Management. Visit the Service FACA Web site to find the correct formats and templates for these documents.

- (1) Note to reviewers providing explanation of actions being taken.
- (2) Transmittal memorandum to the Secretary providing background information on the committee.
- (3) Proposed charter. See 107 FW 3.
- (4) Membership Balance Plan explaining how the committee will meet requirements for a balanced point of view.
- (5) Copy of the statute or Presidential directive requiring establishment of the committee.

B. The GFO coordinates management review actions necessary for establishing the committee, including consultation with the Committee Management Officer, Office of the Secretary.

2.4 What are the criteria for establishing a discretionary advisory committee? When considering whether or not to establish a Federal advisory committee, you must:

A. Ensure that a discretionary advisory committee is in the public interest (41 CFR 102-3.30(a)). You can establish an advisory committee only when it is essential to the conduct of agency business and when the information you will obtain is not already available through another advisory committee or source within the Federal Government. Reasons for establishing a committee may include:

- (1) Advisory committee deliberations will result in the creation or elimination of (or change in) regulations, policies, or guidelines affecting U.S. Fish and Wildlife Service (Service) business;
- (2) The advisory committee will make recommendations resulting in significant improvements in service or reductions in cost; or
- (3) The advisory committee's recommendations will provide an important additional perspective or viewpoint affecting our operations.

B. Consider conducting Service-sponsored symposia, public meetings, or conferences in lieu of establishing new discretionary advisory committees.

C. Determine if the need for public input can be satisfied by getting advice and information from the public through notices in the *Federal Register* or news releases to appropriate professional journals and publications.

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107 FW 2

D. Identify requirements and ensure that adequate resources are available to support committee activities. You should consider office space, necessary supplies and equipment, Federal staff support, and access to key decisionmakers.

2.5 Who approves the establishment of a discretionary advisory committee? The Secretary of the Interior must approve the establishment of all discretionary advisory committees.

2.6 What are the procedures for establishing discretionary committees?

A. Send the following documents to the GFO. Visit the Service FACA Web site to find the correct formats and templates for these documents.

(1) Note to reviewers.

(2) Transmittal memorandum to the Secretary.

(3) Proposed charter for Secretary's signature.

(4) Justification statement containing:

(a) Explanation of why the advisory committee is essential and in the public interest.

(b) Explanation of why the advisory committee's functions cannot be performed by the Service, another existing committee, or through other means, such as a public hearing. Discuss alternative actions you considered and reasons why each alternative was unacceptable.

(c) Rationale used to attain fairly balanced membership. In the selection of members, we must consider a cross-section of those directly affected, interested, and qualified.

(5) Membership Balance Plan.

(6) *Federal Register* notice for the Secretary's signature to announce the establishment of the committee. The notice must:

(a) Describe the nature and purpose of the advisory committee, including the plan to attain fairly balanced membership, and

(b) Include a certification statement that the committee is necessary and in the public interest.

(7) Copy of the legislation or other documentation that serves as the authority to establish the committee (see paragraph 2 of the charter template).

B. The GFO coordinates management review actions necessary for establishing the committee, including consultation with the Committee Management Officer, Office of the Secretary.

2.7 Do I have to notify the public about committee activities?

A. You must publish a notice in the *Federal Register*.

(1) At least 15 days before advisory committee meetings. You may publish a single *Federal Register* notice to announce multiple meetings. See 107 FW 5 for guidance on the content of meeting notices.

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107 FW 2

(2) When you establish, reestablish, or renew a discretionary advisory committee.

B. There is no requirement to publish a notice in the *Federal Register* to announce the termination of an advisory committee. However, you should consider this if the committee is prominent or meetings are well attended.

2.8 How often do I have to renew a committee's charter? Unless otherwise specified by law, you must renew committee charters 2 years from the filing date of the charter. If the charter is not renewed, the committee must stop operating until it is reestablished.

2.9 What are the procedures for renewing or reestablishing a committee?

A. The procedures for renewing or reestablishing an advisory committee are the same as those to establish a committee. In addition to the documents in sections 2.3 and 2.6, you must provide:

(1) Note to reviewers that discusses proposed changes to the charter,

(2) Copy of the current charter,

(3) Redline version of the charter showing changes between the current and proposed charters, and

(4) Copy of vacancy report for the committee.

B. To ensure timely renewal, begin the renewal process 5 months before expiration of the charter.

2.10 Can proposals to establish or renew a committee include recommendations for member appointments? Yes. See 107 FW 4 for documentation that must accompany nominations for appointment.

2.11 What happens after the Secretary approves the establishment or renewal of a committee? The committee may conduct business after the filing requirements are met (see 107 FW 3).

2.12 When should an advisory committee be terminated? Terminate an advisory committee when (see also 41 CFR 102-3.30(b) and 102-3.55):

A. The committee has accomplished its objectives.

B. Subject matter or work of the committee is obsolete or has been assumed by another entity.

C. The committee has not been staffed for 1 year or has not met within a 2-year period.

D. The expiration of time specified in the authorizing statute is met.

E. Operation costs are excessive in relation to the benefits the Federal Government is receiving.

2.13 How do I terminate an advisory committee?

A. New legislation may be required to terminate nondiscretionary or Presidential committees. Contact the GFO for information on how to proceed.

B. Discretionary committees may terminate on the date specified in their charter, or the Secretary may approve termination at any time. The Committee Management Officer, Department of the Interior,

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COMMITTEES AND ADVISORY BOARDS**

Committees and Advisory Boards

Part 107 Advisory Committees

Chapter 2 Establishing, Renewing, and Terminating Advisory Committees

107 FW 2

coordinates terminations with the General Services Administration. Send proposals (memorandum, e-mail, etc.) to terminate an advisory committee to the GFO for review and coordination with the Department.

C. After termination is approved, notify members that the committee has been terminated and express appreciation for their service on the committee.

D. The termination date for a subcommittee is the same as that of the parent committee.

2.14 How do I utilize an existing committee?

A. To utilize an advisory committee not established by the Department, you must submit a proposal to the Secretary for approval. Proposals must meet the criteria for establishment of advisory committees (see section 2.3). You must include a statement from an authorized official of the committee or the organization that established the committee that:

(1) Identifies the need and purpose of the committee's services, and

(2) Certifies that the committee will operate in accordance with existing statutes, regulations, and directives for Federal advisory committees to the extent that the committee is engaged in providing advice to a Government official.

B. If you propose to utilize a committee for advisory purposes, you must ensure that officials of the affected committee are aware of advisory committee management requirements.

/sgd/ Rowan W. Gould
DEPUTY DIRECTOR

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