

**FISH AND WILDLIFE SERVICE
ADMINISTRATIVE PROCEDURE**

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OVERVIEW

5.1 What is the purpose of this chapter? This chapter provides guidance to U.S. Fish and Wildlife Service (Service) employees on using the Federal Docket Management System (FDMS) to comply with electronic rulemaking requirements.

5.2 What are the objectives of this chapter? Our objectives are to:

- A. Explain what FDMS is,
- B. Briefly describe our responsibilities for entering and maintaining data in FDMS, and
- C. Provide resources to enable employees to use FDMS successfully.

5.3 What is the authority for this chapter? The authority for this chapter is the eGovernment Act of 2002 ([44 U.S.C. 3601 et seq.](#)).

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5.4 What terms do you need to know to understand this chapter? See [202 FW 1](#) if you need a definition for a term we use in this chapter.

5.5 What is FDMS? FDMS:

- A.** Is a Government-wide electronic rulemaking system.
- B.** Is the agency side of [Regulations.gov](#). Regulations.gov is a website that the public can visit to get information on Federal rulemaking and to comment electronically on any rulemaking or non-rulemaking document currently open for public comment.
- C.** Enables Federal agencies to manage their administrative records electronically and to post public comments that the public can view on Regulations.gov.

RESPONSIBILITIES

5.6 Who is responsible for FDMS? See Table 5-1.

Table 5-1: Responsibilities for FDMS

These employees...	Are responsible for...
A. The Director	Approving or declining to approve Servicewide policy.
B. The Division Chief – Policy, Economics, Risk Management, and Analytics (PERMA) [within the Office of Management and Administration]	<ul style="list-style-type: none"> (1) Overseeing management of the FDMS process, and (2) Ensuring there is a Service Administrator for FDMS in the Policy and Regulations Branch.
C. The Chief, Policy and Regulations Branch (PRB)	<ul style="list-style-type: none"> (1) Designating a Service Administrator for FDMS; (2) Ensuring PRB personnel are available to answer users' questions; (3) Staffing the Public Comments Processing Unit, which scans, uploads, and posts written public submissions we receive through the U.S. mail; (4) Arranging training; and (5) Ensuring PRB personnel keep up-to-date on changes to FDMS.

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These employees...	Are responsible for...
D. The Service FDMS Administrator	<p>(1) Maintaining access to FDMS to manage the Service-specific configuration and users in the system;</p> <p>(2) Serving as a liaison with the Department of the Interior (Department) and the U.S. Environmental Protection Agency, which is the lead agency for FDMS;</p> <p>(3) Performing all of the functions of a Docket Manager (see 202 FW 1);</p> <p>(4) Creating dockets and phases for rulemakings and other Federal Register documents. We sometimes refer to a docket as an administrative record (see 282 FW 5 for information on administrative records). A docket is a storage area for documents or other information related to a specific rulemaking activity. In FDMS, a docket generally consists of:</p> <ul style="list-style-type: none"> (a) A Federal Register publication or publications (such as a Proposed Rule, Final Rule, and Notice), (b) Supporting materials for the rulemaking or non-rulemaking activity (such as references cited, petitions, reports, and studies), and (c) Public submissions (also known as public comments); <p>(5) Moving published Federal Register documents from the FDMS daily feed into the appropriate docket. The daily feed is:</p> <ul style="list-style-type: none"> (a) A folder to put documents not associated with any specific docket, and (b) Where a Program's Federal Register document will appear on the day it is published. <p>(6) Uploading and posting relevant supporting materials that the Programs provide into FDMS dockets (see 202 FW 1); and</p> <p>(7) Sending requests to the FDMS contractor for bulk extracts of comments when a Program wants them.</p>

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These employees...	Are responsible for...
E. Program offices (e.g., Ecological Services, Migratory Birds, National Wildlife Refuge System)	<p>(1) Giving information about new Federal Register documents to the Service FDMS Administrator for new docket IDs or docket phases using FWS Form 3-2198;</p> <p>(2) Sending relevant supporting materials for FDMS dockets to the Service FDMS Administrator (see 202 FW 1);</p> <p>(3) Reviewing comments received on their Federal Register documents;</p> <p>(4) When a hard copy public submission is sent to them instead of PRB, scanning and emailing it to PRB to upload and post; and</p> <p>(5) When needed, requesting bulk extracts of comments any time during or after the comment time period by sending an email to the Service FDMS Administrator stating the Docket ID and the parameters of the request.</p>

ACTIONS TO ENTER IN FDMS

5.7 What types of actions must the Programs ensure are entered into FDMS? Documents that publish in the “Proposed Rules,” “Rules and Regulations,” and sometimes “Notices” sections of the Federal Register are uploaded into FDMS. This includes:

- A.** Proposed rules,
- B.** Advance notices of proposed rulemaking,
- C.** Interim rules,
- D.** Emergency rules,
- E.** Direct final rules,
- F.** Final rules,
- G.** Documents that reopen comment periods for proposed rules,
- H.** Petition findings (see [section 5.13](#) for more information), and
- I.** Other documents associated with proposed rules that may lead to rulemaking, or where the Service wants the public to be able to submit comments using Regulations.gov.

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HOW TO MANAGE DOCKET MATERIALS

5.8 When does a Program employee request a docket for an action? Request a docket from PRB when you are drafting your regulatory document. Use [FWS Form 3-2198](#), Federal Document Review Request. You will need the FDMS Docket ID number for the headings of your Federal Register document (see 202 FW 3).

5.9 When does a Program employee send the Service FDMS Administrator supporting materials for a docket? Send supporting materials before your Federal Register document publishes. On the day of publication, the Administrator posts the supporting materials. You may email the Administrator additional supporting materials at any time, but be sure to include the Docket ID when you send them.

5.10 When is the Federal Register document available in Regulations.gov? The FDMS Administrator moves your published Federal Register document from the daily Federal Register feed into the appropriate docket on the day of publication. It and any supporting materials are then visible on Regulations.gov.

HANDLING PUBLIC SUBMISSIONS

5.11 Will all rulemakings in FDMS receive public submissions electronically through Regulations.gov?

A. No. Sometimes no one comments on a document we publish in the Federal Register. It is also possible that a document we publish in the Federal Register could receive public submissions only by U.S. mail or hand-delivery; PRB scans and uploads those public submissions into FDMS (see [section 5.13](#)). Other publications, such as final rules, do not request public submissions.

B. Regulations.gov recognizes only those documents with specific dates for the beginning and ending of a comment period as open for public submissions during that timeframe. If a document, such as a not-warranted petition finding, states that we will accept public submissions at any time on the action, the Program must notify the FDMS Administrator, who can keep the comment period open.

5.12 How often and when should a Program employee review public submissions received on a document?

A. If you have a document open for public comment, go to Regulations.gov at least once a week to see if you have received any public submissions. You should review new submissions weekly.

B. If you expect a large number of public submissions, you should check at least twice a week. If you receive a large number of public submissions at one time, review them as soon as possible.

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C. You may request a bulk extract of your public submissions at any time during or after the comment period. Email your request to the Service FDMS Administrator and include the Docket ID and timeframe of the public submissions you want.

- (1) After you make the request, you will receive an email with a link to a download site.
- (2) When you link to that site, a .zip folder will be downloaded to your hard disk.
- (3) There is an Excel spreadsheet in the .zip folder that has a record for each public submission. The .zip folder also includes individual files of actual submissions.

5.13 How does the Service manage public submissions?

A. Public Submissions Entered Via Regulations.gov:

(1) Public submissions from Regulations.gov are assigned to the document's docket as soon as the commenter completes the submission process on Regulations.gov. Submissions are not visible to the public because the comment is in "Pending Post" status. This means the PRB FDMS staff must take action in FDMS to "post" them.

(2) "Posting" is a process that takes place in FDMS. PRB FDMS staff can see all the data and attachments while a public submission is in Pending Post status.

(3) PRB monitors all dockets open for public submissions on a daily basis—morning, noon, and late afternoon—to see if there are Pending Post submissions.

B. Public Submissions Mailed to the Service:

(1) PRB receives, scans, uploads, and posts mailed public submissions to FDMS; and

(2) After they are posted, sends the original public submissions to the person listed under FOR FURTHER INFORMATION CONTACT in the Federal Register document. PRB typically sends the originals of the comments to the rulewriter once a week.

C. Making Submissions Visible on Regulations.gov:

(1) The Service does not have any mandatory information the commenter must provide, so there is no review of the submission data before posting.

(2) PRB posts Pending Post public submissions in batches by selecting the "Batch Options" tab in FDMS. This tab allows PRB to post all public submissions for any dockets that are currently in Pending Post status. This means all pending post public submissions will be posted at the same time.

(3) PRB may review public submissions before or after posting, if time permits, to determine if there are any "mass mailings" or submissions that represent more than one commenter (e.g., the exact same language was submitted by multiple people). Also see section 5.13E below. If a

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public submission is found to represent more than one commenter, PRB populates a metadata field in the public record with the number of commenters represented. Otherwise, that metadata field defaults to “1.”

(4) PRB posts all comments received in their entirety. If a comment is later found to contain a threat or is pornographic, PRB should be notified and it will be withdrawn from public view by changing the status to “Do Not Post.” The comment will not be visible to the public, but will be part of the bulk extract for Service staff.

(5) Comments received from Department of the Interior bureaus are for internal review and will be put in “Do Not Post” status. The comment will not be visible to the public, but will be part of the bulk extract for Service staff.

D. Handling Personally Identifiable Information (PII):

(1) Federal Register documents that collect comments must state that any PII may be visible to the public ([see Exhibit 1, 202 FW 3](#)).

(2) The public submission form on Regulations.gov includes language advising the public that submissions may be posted in their entirety even if they contain PII.

(3) There are no mandatory fields the Service requires on the public submission form. Comments can be submitted anonymously.

(4) If time permits, upon request, PRB may move a public submission into “Do Not Post” status because of PII issues. This means the submission will not be visible to the public, but is still available to Service staff. PRB may do this for comments that contain copyrighted material or other PII that may be problematic. The submission will be included in bulk extracts for Service staff.

E. Handling Submissions that Represent More than One Commenter, Such as Mass Mailings or Multiple Signers:

(1) When an organization or group of people submits a comment that contains attachments with mail-merged letters or petition signatures, PRB creates one public submission record and populates the metadata fields with the group’s information.

(2) PRB:

(a) Verifies, either by reviewing the attachments or contacting the submitter, how many commenters are represented;

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- (b) Populates the metadata field in the record with the number of commenters participating in the mass mailing;
- (c) Enters the words “Mass Mailing” in the title of the record; and
- (d) Attaches a sample of the letter(s) received and states the number of similar letters received.

F. Handling Duplicate Public Submissions:

- (1) During the comment period, groups sometimes submit batches of comments representing additional commenters that are similar to previously received public submissions. When this happens, PRB updates the metadata field in the original comment record that shows the number of commenters represented, increasing the count by the number of commenters in the subsequent public submission.
- (2) The comment review process identifies submissions made by the same person and when the same submission is entered using Regulations.gov and is also mailed in.

HELP

5.14 Where can employees find more information on using FDMS, including instructions on how to perform actions in the system? Visit PRB’s [FDMS website](#) on the intranet. The site includes resources to help our FDMS users.

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DIRECTOR

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