

**FISH AND WILDLIFE SERVICE  
FACILITY MANAGEMENT**

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**OVERVIEW**

**4.1 What is the purpose of this chapter?** This chapter describes:

- A. How the U.S. Fish and Wildlife Service (Service) certifies required occupancy for a position,
- B. What documentation is necessary,
- C. How employees can appeal decisions about required occupancy, and
- D. What the criteria are for employees to claim tax exemptions because of required occupancy.

**4.2 What is the scope of this chapter?** This chapter applies to all employees involved in the management of quarters that the Service owns, leases, or manages through other means (e.g., service level agreements).

**4.3 What is the overall policy?**

- A. We use required occupancy of quarters, in accordance with the Department of the Interior's (Department) policy at [400 Departmental Manual \(DM\) 3](#), when there is a requirement for after-hours service or protection of Service property or resources.
- B. Although local hires (i.e., employees who reside within 30 miles of the duty station when hired) do not qualify for required occupancy based on the lack of available suitable housing, they may qualify based on the need for after-hours service or protection of Service property or resources.

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C. Examples of positions that may qualify for required occupancy include:

(1) Specifically trained individuals needed to respond to after-hour emergencies such as law enforcement incidents, threats to the operation of hatcheries, outbreak of fires, etc., and

(2) Designated work force members required to clear passages when there are frequent periods of heavy snow or storm damage.

**4.4 What are the authorities for this chapter?** See 371 FW 1 for a list of authorities for all the chapters in Part 371.

**4.5 Who is responsible for required occupancy certification?** See 371 FW 1 for a list of roles and responsibilities for all the chapters in Part 371.

**DOCUMENTING REQUIRED OCCUPANCY**

**4.6 What documentation is necessary to establish, maintain, and release required occupancy?**

A. The employee’s Official Personnel File (OPF) must include the documentation shown in Table 4-1.

**Table 4-1: Required Occupancy Documentation**

Hiring Stage	Documentation Required	Description
(1) A position requires occupancy of Government-furnished quarters	DI-1872, Certificate of Required Occupancy (available in the internet Quarters Management Information System (iQMIS))	The Regional Director approves the requirement. The approved form is kept at the Regional Quarters Office.
(2) A required occupancy position is advertised	Position Description	The requirement to occupy Government-furnished quarters must be in the position description and the vacancy announcement.
	Vacancy Announcements	
(3) An employee is hired into a required occupancy position	Written Offers of Employment/Confirmation Letters	The letter offering employment or confirming selection must state the required or potentially required occupancy as a condition of employment.
	<a href="#">SF-50</a> , Notification of Personnel Action	The immediate supervisor sends this form through supervisory channels to the servicing Human Resources Office and the Regional Quarters Officer within the same pay period the action is effective. If the employee is tax exempt for rent, the exemption is noted on the form.

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Hiring Stage	Documentation Required	Description
	Employee Certification of Appeal Rights for Required Occupancy ( <a href="#">FWS Form 3-2411</a> )	The immediate supervisor provides the newly hired employee information about the right to appeal a required occupancy determination at a later date. The employee completes this form to record the notification.
<b>(4)</b> An existing employee assumes or vacates required occupancy	Position Description	The servicing Human Resources Office must amend the position description.
	Employee Certification of Appeal Rights for Required Occupancy ( <a href="#">FWS Form 3-2411</a> )	The immediate supervisor provides the employee information about the right to appeal a required occupancy determination at a later date. The employee completes this form to record the notification.
	<a href="#">SF-52</a> , Request for Personnel Action	The immediate supervisor sends this form through supervisory channels to the servicing Human Resources Office and the Regional Quarters Officer within the same pay period the action is effective to document the change in tax exempt status.

**B.** The hiring manager or the Human Resources Office must provide each employee in a position that requires occupancy with a copy of the approved Form DI-1872, the SF-50, and the position description.

**C.** When an employee vacates the designation for required occupancy but does not vacate the quarters (i.e., becomes a permitted occupant), they must sign a new Form DI-1881, Quarters Assignment Agreement (lease). As a permitted occupant, the tenant will no longer be eligible for tax exemptions on rental payments. We also reserve the right to ask, with a 30-day notice, permitted occupants to vacate quarters if the unit is needed for a required occupant.

**4.7 What criteria must a tenant meet for his or her rent to be exempt from Federal taxes?**

**A.** For a tenant who must occupy Government-furnished quarters to qualify for tax exemption for the rent, he/she must meet all the following Internal Revenue Service (IRS) criteria (see 26 U.S.C. 119):

- (1)** The lodging must be furnished for the convenience of the Service,
- (2)** The employee must accept such lodging as a condition of employment, and
- (3)** The lodging must be on Service-owned or leased land.

**B.** The Regional Quarters Officer certifies IRS tax exemption eligibility on the payroll deduction input form, which means all rental payments are exempt from income and OASDI/Medicare taxes.

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**4.8 What are the procedures to add an occupancy requirement to an existing position?**

**A.** When a Project Leader/supervisor wants to add an occupancy requirement to an employee's existing position, he/she must justify it as a serious and immediate need, and the affected incumbent must voluntarily agree to such a designation. At least 30 days before he/she does it, the Project Leader/supervisor must inform the employee in writing of the intention to send Form DI-1872 to the Regional Quarters Officer to request approval from the Regional Director. The Project Leader/supervisor's written notification to the employee must:

**(1)** Describe the reason(s) for the planned change;

**(2)** Identify the duties the employee must perform while occupying Government-furnished quarters, including those that the employee could only perform by occupying the quarters;

**(3)** If the reason for the required occupancy is to perform after-hours duties, include a statement indicating that he/she has approached other employees who were qualified to perform the after-hour duties and asked for volunteers to occupy the quarters; and

**(4)** Describe the employee's right to accept or deny, within 30 days of notice from the Project Leader/supervisor, the change in the position description to required occupancy status.

**B.** After accepting the change in required occupancy, the employee must be given up to 3 months from the time they were notified of the Regional Director's acceptance of the Form DI-1872 to move into the Government-furnished quarters. This time frame gives the employee time to resolve any private housing commitments (e.g., break an existing lease).

## **REQUESTS FOR RECONSIDERATION AND APPEALS**

**4.9 What are the procedures for requesting reconsideration of required occupancy of quarters?**

**A.** Required occupants are usually obligated to continue as a tenant until vacating the position because new employees are specially hired for the position and know about the requirement, and incumbent employees knowingly accept the change in tenancy.

**B.** If, for personal reasons, the employee decides at a later date that he/she does not want to occupy quarters as required or feels that the requirement is not valid as a condition of employment, he/she may request in writing that the Project Leader/supervisor:

**(1)** Reconsider the need for required occupancy and document the reasons why it is not a valid requirement, or

**(2)** If the required occupancy is to perform after-hours duties, survey other employees at the station who can perform the required after-hours duties to see if one would be willing to assume required occupancy and perform the associated duties.

**C.** The decision of the Project Leader/supervisor (or his/her immediate supervisor if the required

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occupant is the Project Leader/supervisor) is final. Employees may appeal the final decision.

**D.** If the request for reconsideration is denied, the employee may appeal to the Regional Director, who must convene a panel to review the matter and recommend appropriate action. The panel should be comprised of:

**(1)** The Regional Quarters Officer (attends meetings as an advisor, has no vote in the proceedings, and presents findings to the Regional Director),

**(2)** An employee in the same program as the requesting duty station (e.g., Hatcheries, Refuges, etc.), and

**(3)** At least two disinterested employees from other programs.

**E.** If the panel recommends the continued designation of required occupancy and the Regional Director concurs, the decision is final. The employee may file a written Request for Reconsideration with the Director.

**F.** If an employee wants to request reconsideration from the Director:

**(1)** He/she sends the request through the Document Tracking System to the National Quarters Officer (NQO).

**(2)** The NQO is the technical authority and liaison for the reconsideration/appeal process. He or she convenes an advisory panel to review Requests for Reconsideration and sends the panel's recommendations to the Director.

**(3)** The advisory panel should include:

**(a)** The NQO (attends meetings as an advisor, has no vote on the proceedings, and sends recommendations to the Director through supervisory channels),

**(b)** A person from the same program as the employee (e.g., Hatcheries, Refuges, etc.), and

**(c)** At least two employees from unaffected programs.

**(4)** The Director's decision is final. Employees may appeal the final decision.

**4.10 What are the procedures for requesting an appeal of required occupancy of quarters?**

**A.** Employees have the right to appeal to the Office of Hearings and Appeals in accordance with provisions in the Department's *Housing Management Handbook*.

**B.** A request for reconsideration is the first step in the appeal process (see section 4.9). It is a prerequisite to an appeal to the Office of Hearings and Appeals.

**C.** The NQO will notify each affected employee in writing of any determination affecting him/her, and

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of his/her right to appeal through proper channels to a final administrative authority within the Department.

**(1)** The employee must send the appeal of a reaffirmed reconsideration in writing within 30 days of the receipt of a decision to:

The Office of Hearings and Appeals  
801 N. Quincy Street, MS 300-QC  
Arlington, Virginia 22203

**(2)** The employee may not move out of the quarters until he/she is informed of the outcome of any Request for Reconsideration or appeal.

**4.11 What process does the Service follow for reconsideration/appeal for required occupancy of employees who belong to unions?**

**A. Satisfying labor management obligations:** The Department's Office of Human Capital is responsible for satisfying national consultation rights obligations with Federal employee unions. Servicing Human Resources Offices must contact local unions representing affected employees and satisfy impact and implementation obligations for collective bargaining.

**B. Appealing effect of required occupancy:** Employees covered by a union have the right to appeal the effect of a required occupancy determination under the terms of a collective bargaining agreement. We address appeals under bargaining agreements using normal labor management procedures. See the Department's *Housing Management Handbook* for policy on required occupancy.

/sgd/ James W. Kurth  
DEPUTY DIRECTOR

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