

**FISH AND WILDLIFE SERVICE  
REFUGE LAW ENFORCEMENT**

**Refuge Law Enforcement                      Part 470 Refuge Law Enforcement Organization and Function**

**Chapter 2 Oath of Office and Management of Law Enforcement Authority                      470 FW 2**

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**2.1 What is the purpose of this chapter?** This chapter:

- A.** Defines what it means to have law enforcement (LE) authority (a commission);
- B.** Establishes procedures for the administration of the “Oath of Office” and management of LE authority, including the delegation, suspension, revocation, and termination of commissions for National Wildlife Refuge System (NWRS) Federal Wildlife Officers (FWOs); and
- C.** Helps ensure that only employees who meet the qualification and training standards in 446 DM 2 and the U.S. Fish and Wildlife Service (Service) Manual are authorized to perform LE duties for the NWRS.

**2.2 What is the scope of this chapter?** This chapter applies to NWRS FWOs.

**2.3 What is the authority for this chapter?** The authority for this chapter is [446 DM](#), Law Enforcement.

**2.4 What is the Service’s overall policy?** It is our policy to ensure that the FWOs performing LE duties have completed the necessary training and taken the Oath of Office, and that they continue to meet the Department’s and the Service’s standards in order to hold their commissions.

**2.5 What is the Oath of Office, and how is it administered?**

**A.** Following is the Oath of Office:

*“I do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter, so help me God.”*  
(Using the phrase “so help me God” is discretionary and depends on an officer’s religious affiliation.)

**B.** The Oath of Office is administered to all employees when they graduate from Federal Wildlife Officer Basic Training (FWOBT).

**C.** A Federal judge, magistrate, or the Service Director (or his/her designee) must administer the Oath of Office. The Director has delegated the authority to administer the oath to the following officials:

- (1)** The Chief of LE – NWRS, who administers the Division of Refuge Law Enforcement (DRLE) from Headquarters;
- (2)** Deputy Chief of LE - NWRS;
- (3)** Chief of LE Training - NWRS;
- (4)** LE Specialists in DRLE; and
- (5)** Regional Chiefs of LE - NWRS.

**2.6 What is the Code of Conduct for a commissioned FWO?** The Code of Conduct for a commissioned FWO is in [441 FW 1](#).

**A.** All FWOs must:

- (1)** Sign the Code of Conduct upon graduation from FWOBT, and

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**(2)** Ensure there is a signed copy in their training file at the Federal Law Enforcement Training Center (FLETC).

**B.** The Code of Conduct should be reviewed each year during annual in-service training for all FWOs.

**2.7 What is the minimum age for a commissioned employee?** You must be 21 years old before you can enter the Refuge Law Enforcement Academy (RLEA).

**2.8 How are commissions delegated to an FWO?**

**A.** The Secretary of the Interior (Secretary) delegates the authority to designate commissions to the Service Director. That commission takes the physical form of credentials. Credentials are the written delegation that an FWO carries the authority of the Secretary and the Director to enforce the laws and regulations of the Department of the Interior and the Service. The Director signs these credentials. Whenever a new Director takes office, he/she must issue new credentials to FWOs.

**B.** The Director delegates the processing and approval of FWO commissions to the Chief of LE - NWRS. Supervisors use [FWS Form 3-2016](#), Application for Law Enforcement Authority (ALEA), to apply for commissions. When the Chief of LE - NWRS approves and signs the ALEA and gives an FWO credentials signed by the Director, the Chief of LE - NWRS is delegating enforcement authority to the FWO (see [50 CFR 28.21](#)).

**C.** After receiving signed credentials, the FWO is authorized to carry firearms, execute and serve warrants, search, seize, make arrests, and perform such duties as authorized by law. Specifically, they are tasked with protecting fish, wildlife, and their habitat; preventing the disturbance of these resources; and protecting Service lands, property, facilities, or their interests to ensure the safety of our employees, volunteers, and the visiting public.

**D.** Once FWOs receive their commissions, they carry with them the full authority of the Service. Their duties, and how they apply their LE authority, may be restricted by policy during their training in the RLEA.

**E.** Although holding a commission is not an employee right, it may be a condition of employment for an FWO.

**2.9 How does the NWRS manage commissions?** The Chief of LE - NWRS manages commissions for the Director.

**A.** Only the Chief of LE - NWRS may authorize the issuance, suspension, revocation, or termination of commissions for FWOs. Regional Chiefs of LE - NWRS (or their written designees) may temporarily suspend an FWO's commission pending the Chief of LE - NWRS's review and concurrence.

**B.** Although supervisors may place FWOs on light/administrative duty, they may not issue, suspend, or revoke a commission.

**C.** An FWO who has his/her commission temporarily suspended does not lose any of his/her enhanced annuity for retirement. A temporary suspension of a commission does not constitute a break in service for the purposes of retirement. FWOs should be aware that remaining in leave-without-pay (LWOP) status for more than 6 months may affect their retirement service computation date, and they should consult their servicing Human Resources (HR) office.

**D.** We manage an FWO's military service as follows:

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(1) If the FWO is on active duty as a member of a military reserve component or the National Guard for more than 30 days, we will not suspend the FWO's commission. However, we do suspend home-to-work authorization until the FWO returns to active work status.

(2) The FWO may keep his/her badges and LE credentials unless he/she wants them to be safely stored at the Region or duty station office during deployment. FWOs who choose to retain their badges and credentials are cautioned that the loss of either during a military deployment is still subject to the reporting requirements of [054 FW 1](#), Serious Incident Reporting. FWOs deployed abroad should be aware that holding badges and LE credentials may make them a target in certain environments.

(3) The FWO must safely secure agency-owned firearms in a Service firearms storage vault and notify the Regional Chief of LE - NWRS (or his/her designee) of that location. The FWO will get his/her firearm(s) back when he/she returns to active work status.

**2.10 What are the actions that the Service may take with regard to an FWO's commission?** There are several situations that may arise related to an FWO's commission:

**A. Non-issuance:** In certain circumstances, the Chief of LE - NWRS may decide not to issue a commission to a candidate for an FWO position. These include, but are not limited to, when the FWO (or applicant):

(1) Demonstrates a lack of candor during the hiring or training process, such as making an untruthful statement in any verbal or written communication or during an official proceeding, such as an administrative hearing or interview. This includes deliberately omitting information.

(2) Has sufficient Giglio/Henthorn issues that may impair his/her ability to testify for the Service.

(a) "Giglio/Henthorn" refers to a line of cases that impose a Constitutional duty on the Assistant United States Attorney to disclose readily obtainable exculpatory information, including impeachment information, about witnesses to defendants in a criminal prosecution. The impeachment evidence extends to a check of the employee's personnel records to determine whether there is any information concerning dishonesty, perjurious conduct, or other lack of truthfulness that could be used to challenge a witness's credibility.

(b) When Giglio/Henthorne information about an LE officer is turned over/disclosed to a United States Attorney's Office (USAO) or the Department of Justice, the USAO decides if the officer is "Giglio-impaired." A "Giglio-impaired" LE officer is one where potential impeachment evidence would render the officer's testimony of marginal value in a case, and therefore their testimonial value to the agency. Examples include individuals who have been debarred from Federal or State employment for lack of candor, individuals who have a documented history of untruthfulness, etc. Although the Chief of LE - NWRS should confer with the appropriate Solicitor's office and USAO before deciding not to issue a commission, the Chief of LE - NWRS will be the deciding official who determines if officers have Giglio/Henthorn issues that would lead the USAO to make an impairment declaration.

(3) Failed to:

(a) Successfully pass the FLETC physical efficiency battery prior to appointment,

(b) Successfully pass the LE medical examination prior to appointment,

(c) Successfully complete the psychological examination prior to appointment,

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- (d) Have a favorably adjudicated background investigation, or to obtain a Department-approved waiver of the background investigation prior to appointment,
- (e) Successfully pass the drug screening urinalysis prior to appointment,
- (f) Truthfully complete the domestic violence disclosure prior to appointment or is disqualified by his/her response,
- (g) Successfully complete any phase of the RLEA, or
- (h) Comply with the Service's firearms policy.

**B. Assignment of administrative/light duty:** A supervisor may temporarily assign an FWO who is unable to perform the full range of LE duties to administrative or light duty.

(1) Following are examples of situations that may justify placing an FWO on light duty:

- (a) Physical injury,
- (b) Other physical or medical condition(s),
- (c) An investigation or clarification of an LE situation involving an FWO is pending, and
- (d) Counseling is pending for an FWO who was involved in an officer-involved critical incident (see [442 FW 6](#)).

(2) The supervisor must make this assignment in consultation with the Regional Chief of LE - NWRS or at the request of the FWO. The supervisor must contact the servicing HR office to inform them of the situation.

(3) FWOs who are assigned administrative or light duty retain their commission, but must not participate in active LE duties unless the FWO reasonably believes there is imminent danger of loss of life or serious bodily injury to himself/herself or to another person.

(4) When the administrative or light duty assignment results from physical or medical conditions, the supervisor should set the duty for a specific period of time, depending on the prognosis. The FWO's physician must provide a written release prior to the FWO's return to full LE duty. The HR office may require that they review and approve the release before the FWO returns to full duty.

**C. Temporary suspension of commission:** A temporary suspension is when the Chief of LE - NWRS or the Regional Chief of LE - NWRS (with the Chief of LE - NWRS's concurrence) removes an FWO's commission pending the outcome of an investigation or completion of a remedial action. The FWO must surrender badges, LE credentials, home-to-work authorization, and all agency-owned firearms to his/her Regional Chief of LE – NWRS (or designee), where they will be retained until the commission is restored, revoked, or terminated. There are two categories of temporary suspensions—mandatory and discretionary.

(1) **Mandatory temporary suspension of commission:** A commission must automatically be temporarily suspended in any of the following situations:

- (a) The FWO is suspended from employment for disciplinary reasons.
- (b) The FWO is in an LWOP status for more than 30 days.

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(c) A urinalysis screening for controlled substances is positive, or the FWO refuses to submit to a urinalysis screening.

(d) The FWO willfully and knowingly makes an untruthful statement in any verbal or written communication pertaining to his/her official duties, such as a police report, statement, or affidavit, or in an official proceeding, such as a Professional Responsibilities Unit (PRU) investigation, administrative hearing, or in court. This includes deliberately omitting information.

**(2) Discretionary temporary suspension of commission:** Situations that may justify suspension of a commission include, but are not limited to, the following:

(a) The FWO exhibits abnormal behavior that raises questions about his/her suitability or fitness to perform the LE function, or the FWO has to undergo an evaluation to determine fitness for duty. We consider 'abnormal behavior' as conduct, demeanor, or actions where there is a reasonable belief the FWO is not fit to perform the LE function due to a medical, mental, emotional, or physical condition(s), and that he/she may be a threat to his/her own safety or the safety of others.

(b) The FWO has been charged with criminal actions that may affect his/her suitability to occupy a position of public trust, including a misdemeanor crime of domestic violence.

(c) A background investigation reveals issues that affect the FWO's suitability to occupy a position of public trust or national security, or the FWO has failed to fully disclose information necessary to complete a required background investigation.

(d) The FWO fails to meet the firearms qualification standards and remedial requirements in [442 FW 1](#).

(e) The FWO is charged with conduct that violates the "Law Enforcement Code of Conduct" as described in [441 FW 1](#).

(f) The FWO has not completed Service-approved, annual in-service training.

(g) There is reason to believe the FWO is under the influence of drugs or alcohol while on duty.

(h) The FWO's behavior constitutes abuse of authority, such as:

(i) Inappropriately using or displaying weapons;

(ii) Threatening, intimidating, or harassing;

(iii) Conducting illegal searches or seizures;

(iv) Conducting LE activities outside the scope of employment or authority; or

(v) Using excessive force.

(i) A medical professional has determined that the FWO is unable to perform LE duties due to a physical or mental condition, and the officer is waiting for a final determination of disability status.

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(j) As determined by the supervisor, the FWO is rated as minimally successful or unsatisfactory on a critical LE performance element for any two consecutive evaluation periods. The supervisor must have documented this rating as part of the standard performance evaluation process and initiated a Performance Improvement Plan, which has not corrected the issue(s).

**D. Withdrawal of suspension:** When the circumstances surrounding a suspension have been resolved, within 7 working days the Regional Chief of LE - NWRS must send a written recommendation to the Chief of LE - NWRS about whether or not to reinstate the FWO's commission. The Chief of LE - NWRS then has 7 working days to notify the FWO in writing, through the Regional Chief of LE - NWRS and the supervisor, that the suspension is either withdrawn or continued. If the suspension is withdrawn, the FWO returns to full LE duties as long as he/she is current with all qualifications, required training, etc. His/her LE credentials, badges, and agency-owned firearms will be returned. If the suspension is continued, the reasons for the continuance will be reported to the FWO.

**E. Revocation:** There may be circumstances where an FWO, or management official in the FWO's chain of command, decides that the FWO should no longer maintain a commission. The FWO may be moved into a non-LE position, or transferred to an LE position outside of the NWRS. In those circumstances, the FWO's commission will be revoked. Revocation of a commission may be withdrawn, but:

(1) The FWO must have met the guidelines in the NWRS LE training policy for the Chief of LE - NWRS to return the FWO to commissioned status.

(2) FWOs are returned to commissioned status using the ALEA process.

**F. Termination:** The Chief of LE - NWRS may permanently terminate a commission. If the Chief of LE - NWRS determines that termination is justified, he/she will send an official termination memorandum to the FWO through the Regional Director or other appropriate Directorate member, with copies to the Regional Chief - NWRS, Regional Chief of LE - NWRS, and the supervisor. Unless already accomplished through a temporary suspension, the FWO must surrender LE credentials, badges, and all agency-owned firearms to the Regional Chief of LE - NWRS or his/her designee. The home-to-work authorization must be terminated. The FWO must return all other Service-owned LE equipment to the supervisor. An employee who has his/her commission terminated will never again be allowed to occupy an LE position with the Service.

(1) There are two ways that this can occur:

(a) The Chief of LE - NWRS independently determines that circumstances require the termination of the FWO's commission, or

(b) The Regional Chief of LE - NWRS sends a written request through the Regional Chief - NWRS to the Chief of LE - NWRS requesting the termination. The Chief of LE - NWRS must then review the facts surrounding the FWO's actions to determine if termination is warranted.

(2) Situations that **require** a commission to be terminated include, but are not limited to, the following:

(a) The FWO's security clearance is administratively suspended, terminated, or permanently revoked for cause based on applicable laws, rules, or regulations.

(b) The FWO is convicted of a crime or is guilty of conduct violating any rule or regulation of the Department or the Service leading to the FWO's removal as required by applicable law, rules, or regulations. This includes a conviction for a misdemeanor crime of domestic violence or a conviction for any felony crime, as required by [5 U.S.C. 7371](#).

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- (c) The Service processes the necessary paperwork and the Department's medical officer finds the physical or mental condition(s) affecting the FWO's fitness for duty are permanent, and there is no reason to believe the FWO will be able to meet the medical, physical, or psychological requirements of the position in the future.
- (d) The FWO is removed from Government service.
- (e) The FWO fails to meet firearm qualification standards and the remedial requirements in [442 FW 1](#).
- (f) An FWO's drug or alcohol abuse issues are not resolved (see section 2.10C).
- (g) The FWO fails to successfully complete any stage of the RLEA.

**2.11 What must happen when the commission is terminated?** When an FWO's commission is terminated, the Regional Director or other appropriate Directorate member must notify the servicing HR office to determine if the employee must be removed from his/her position as an employee of the Government.

**2.12 Is there anything an FWO can do if he/she doesn't agree with the suspension, revocation, or termination of his/her commission?** Yes, an FWO may request that the Chief - NWRS review the situation surrounding the suspension/revocation/termination. The Chief - NWRS is the senior manager for the NWRS LE program. The Chief – NWRS must make a determination, in writing, within 30 days of the written request. This is the only appeal process available to an FWO related to his/her LE commission.

/sgd/ Stephen Guertin  
DEPUTY DIRECTOR

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