

# When a Good Idea Goes Bad

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Taking a risk on an alternative approach that didn't go as planned and the unexpected reaction to progress.





# About WSFR

- The Wildlife & Sport Fish Restoration Programs (WSFR) administers, in whole or in part, over 30 financial assist (grant) programs
- For FY 2018, the two primary programs, Wildlife Restoration and Sport Fish Restoration, apportioned \$1.15 Billion to States
- Funded through two “trust funds” that receive excise taxes from hunting and fishing gear manufacturers and SFR receives taxes from boat fuel purchases
- States also must protect their hunting and fishing license revenues
- Acts: 16 U.S.C. 669 and 16 U.S.C. 777. Regulations: 50 C.F.R. 80
- The WSFR Policy Branch is responsible for updating regulations as needed and ensuring they are clear (Plain language principles), respond to State’s needs, and reflect current laws and policy decisions.



# The Partnerships



## States and Territories

All 50 States, DC, the Commonwealths of Puerto Rico and the Northern Mariana Islands, the territories of Guam, the U.S. Virgin Islands, and American Samoa.



## Industry

The recreational hunting and fishing equipment manufacturers and boaters that pay excise and fuel taxes that go into the Trust funds for WR and SFR



## Other Federal agencies



## Organizations

The organizations that have interest and/or represent other partner groups, including hunter, anglers, and boaters, and the public

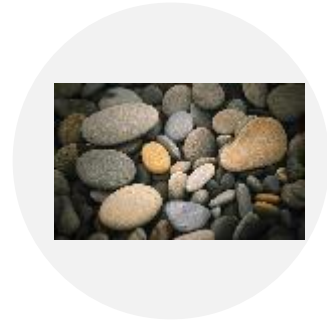


# The Basics of the Situation



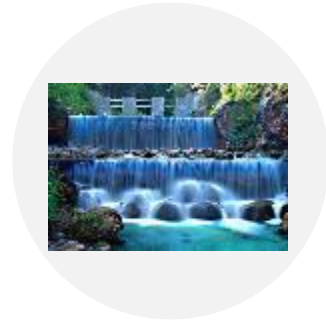
## **50 CFR 80 August 2011**

Current rule: Addressed many issues, but not all topics resolved when published final rule



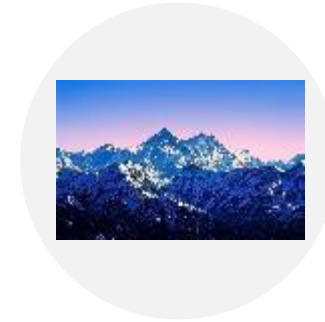
## **Other Policy Documents**

Policy Branch identified multiple other Policy documents in various forms that applied requirements on States



## **Other Concerns**

Meanwhile, Policy Branch staff identified multiple topics with issues that we would hear about over and over....



## **2 CFR 200**

Next, in December 2013 OMB published new regulations that addresses financial assistance



## **Service Manual Chapters**

Some were clearly written with the intent to move to regulation and hadn't



# The Initial Approach



## Topics Presented

The list of topics was presented to the JTF, Regions, and FACWG



## Webinars

WSFR Policy hosted 12 webinars over the summer/fall of 2015. Average of 35 entities at each.



## Drafts for Comment

WSFR Policy posted draft recommended changes, somewhat based on feedback from webinars, for Region and State pre-rulemaking review and comment

# The Response

## TOO MUCH!!!!

Regions and States responded that the amount of changes was overwhelming and that they couldn't digest it all – call to halt all rulemaking for a few years.



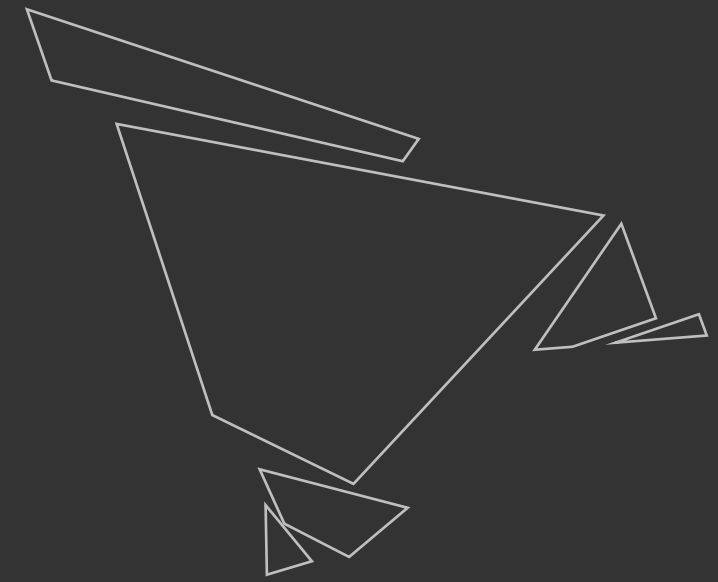
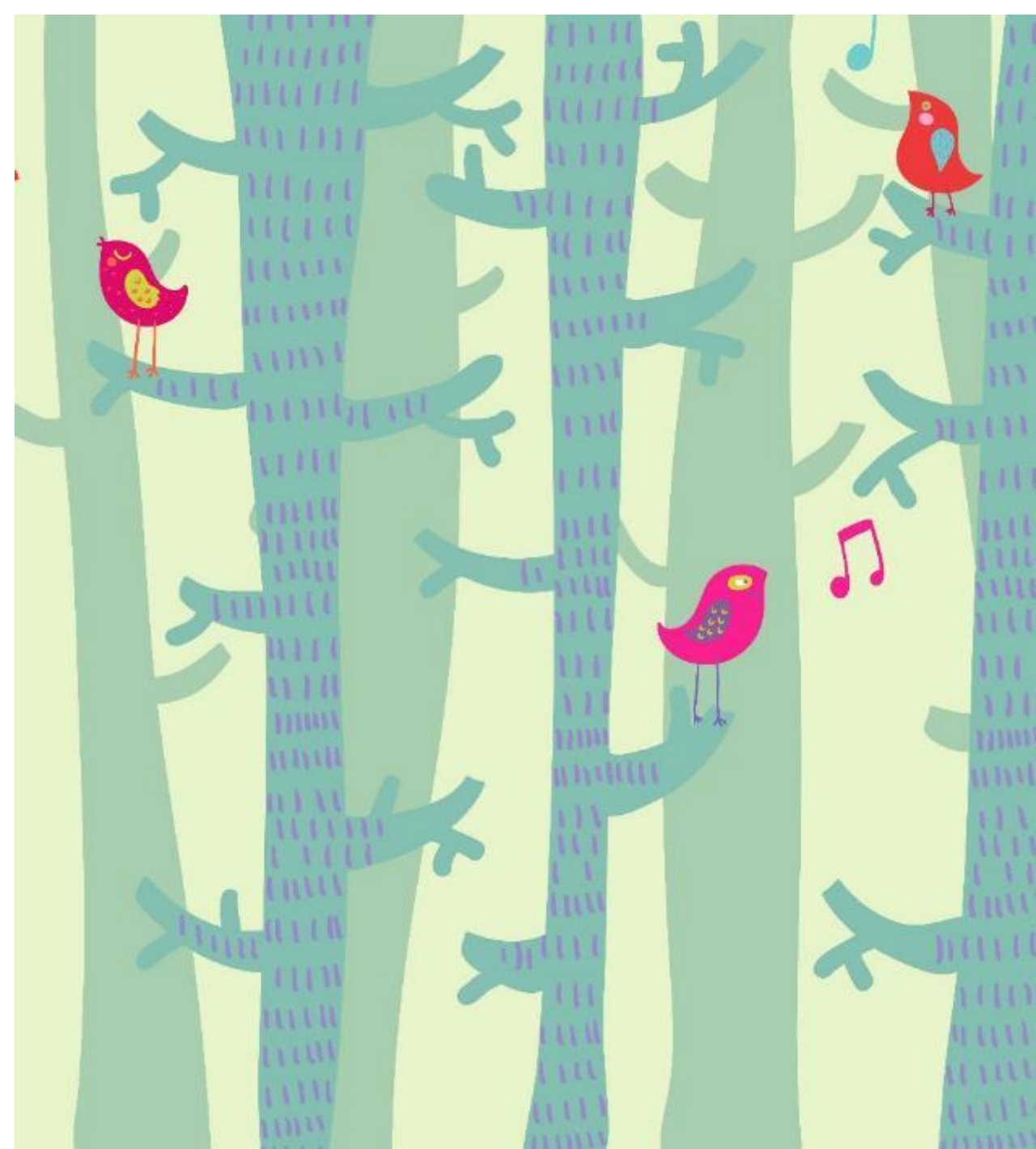
# MbN Group Reflection

Let's stop a moment for some feedback

WSFR Policy, by hosting webinars and putting the recommended changes in a shared space broke new ground for communication during pre-rulemaking.....

- Have you encountered times when you went over and above what you had done in the past (in fact, were patting yourself on the back because you reached so far out of the box to engage your partners!) only to receive strong resistance?
- How did you respond?
- Were you able to make it better?





# New Approach

In 2015 the Policy Branch was working without a Branch Chief. At the end of December 2015, I became the Policy Branch Chief. When talking to staff and leadership we developed a recommended new approach for this large rulemaking.



# Phased Approach

There is an opportunity for success



## Gain Consensus

Presented major players with a concept to break rulemaking down into multiple, more manageable pieces



## Team Work!

Developed a Team with members from consensus groups to develop a phased plan



## Share, Support, Roll Out...

Shared plan with all partners, partners supported, moved ahead

# Meanwhile....back at the ranch....

## License Certification

Working on concurrently

New approach to how States certify hunting and fishing license holders – when ready, to go to regulation....

## Phase 1

First rulemaking  
According to Schedule

## Opportunity

Merge two projects

Delaying Phase 1 slightly would allow for us to include license certification

# Lifecycle of Proposed Rule

From DTS to Federal Register....

## Entered into DTS for Routing & Approvals

- Proposed rule entered into the Service's Document Tracking System (DTS) early January 2017.



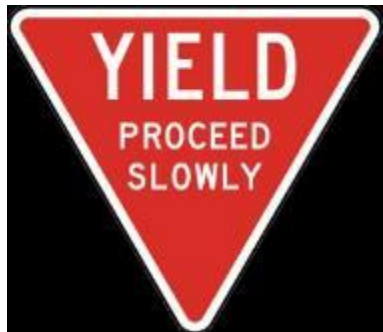
## Roller Coaster

- Executive Orders on regulations
- New processes
- Changing processes
- New staff, unfamiliar with rule objectives, put into positions of regulatory decision-making

## PUBLISHED! (Finally..)

- December 15, 2017  
Proposed rule published in Federal Register

# MbN Group Reflection



- Have others had experiences where normal processes are suddenly changes or typical routines interrupted?
- Were you aware of how long a delay this would result in?
- Were your partners involved in the work during the delay?
- How did you communicate the unknowns with your partners?





# Response to Proposed Rule Publishing



## What is this?

In the period between sending out the Phased Schedule and publishing the proposed rule, partners forgot expected content.



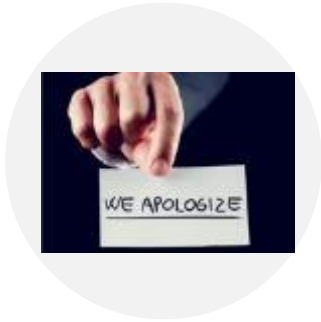
## OMG – Why these controversial issues?

Part of the phased strategy was to introduce larger topics in the preamble as opportunities to gain insight. These elicited a strong reaction.



## Bait and Switch..

One State responded in comments stating that we pulled a “bait and switch” by including topics other than license certification.



## Management Response

WSFR upper management was fairly new and not there when this all started. There was a lot they didn't understand. Their knee-jerk response was to apologize and pull out.



## Initial Damage Control

Get coordinated buy-in from WSFR management, talk to partners, support position to move forward.

# MbN Group Reflection



WHAT HAVE YOU DONE WHEN MANAGEMENT HAS A REACTION THAT POTENTIALLY WOULD INTERFERE WITH YOUR HARD WORK AND GOALS OF THE EFFORT?



# Risk Management for the Future

Moving forward in a constructive way that considers needs and goals of the whole partnership



## What are WSFR's goals and why?

To make regulatory updates that will benefit all – more organized, clearer to read and follow, address topics that we know are problematic, update with current laws, fulfill Federal requirements, etc.



## What are State's concerns?

To be able to do the work they want/need to do using grant funds, having flexibility to meet ongoing work and challenges, but also having protection from potential funding interference.



## Federal/State Trust

Difficult to maintain.



## Public

User pay/Public benefit  
Interest in conservation



## Interest Organizations

Many organizations have reached out and made it known that they ARE interested in our work.



# Plan for Next Steps

Working for All Partner Interest and Engagement

- Finish reviewing comments and publish final rule
- Commitment to States that if any topic doesn't have a clear resolution, we will delay for future rulemaking
- No further rulemaking work until we all agree the timing is good (within reason). We will revisit our position in the Fall, and again in the Spring.





# Plan for Next Steps

Working for All Partner Interest and Engagement

- Once the decision to dig in is made, we will “reform” the original Phased Schedule Team, giving opportunity for new/more members, involving all major partners, and including them in more activities. We will:
  - Get commitment from all major parties to engage in the process.
  - Rename the Team. Define roles and responsibilities.
  - Give the Team autonomy to make recommendations for timing, content, and communication.
- In the meantime, WSFR Policy will:
  - Establish better tools for communication and commenting
  - Develop ways to better engage on topics of concern
  - Review part work and determine what we can do better
  - Work more closely with partners to gain trust and support!



# Working together


There are two ways to look at this:


One of us is the hammer and the other the nail – in that case, both lose as there is one that is beaten down and the other has no other purpose than to beat someone else down.


The better way is if neither of us is the hammer or the nail, but we work to build something ...together.....

# Thank You



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