

Environmental Protection Agency

§ 8.3

8.11 Prohibited acts, enforcement and penalties.

8.12 Coordination of reviews from other Parties.

AUTHORITY: 16 U.S.C. 2401 *et seq.*, as amended, 16 U.S.C. 2403a.

SOURCE: 62 FR 23545, Apr. 30, 1997, unless otherwise noted.

§ 8.1 Purpose.

(a) This part is issued pursuant to the Antarctic Science, Tourism, and Conservation Act of 1996. As provided in that Act, this part implements the requirements of Article 8 and Annex I to the Protocol on Environmental Protection to the Antarctic Treaty of 1959 and provides for:

(1) the environmental impact assessment of nongovernmental activities, including tourism, for which the United States is required to give advance notice under paragraph 5 of Article VII of the Antarctic Treaty of 1959; and

(2) coordination of the review of information regarding environmental impact assessment received by the United States from other Parties under the Protocol.

(b) The procedures in this part are designed to: Ensure that nongovernmental operators identify and assess the potential impacts of their proposed activities, including tourism, on the Antarctic environment; that operators consider these impacts in deciding whether or how to proceed with proposed activities; and that operators provide environmental documentation pursuant to the Act and Annex I of the Protocol. These procedures are consistent with and implement the environmental impact assessment provisions of Article 8 and Annex I to the Protocol on Environmental Protection to the Antarctic Treaty.

§ 8.2 Applicability and effect.

(a) This part is intended to ensure that potential environmental effects of nongovernmental activities undertaken in Antarctica are appropriately identified and considered by the operator during the planning process and that to the extent practicable, appropriate environmental safeguards which would mitigate or prevent adverse im-

pacts on the Antarctic environment are identified by the operator.

(b) The requirements set forth in this part apply to nongovernmental activities for which the United States is required to give advance notice under paragraph 5 of Article VII of the Antarctic Treaty of 1959: All nongovernmental expeditions to and within Antarctica organized in or proceeding from its territory.

(c) This part does not apply to activities undertaken in the Antarctic Treaty area that are governed by the Convention on the Conservation of Antarctic Marine Living Resources or the Convention for the Conservation of Antarctic Seals. Persons traveling to Antarctica are subject to the requirements of the Marine Mammal Protection Act, 16 U.S.C. 1371 *et seq.*

(d) This part is effective on April 30, 1997. This part will expire upon the earlier of the end of the 2000-2001 austral summer season or upon issuance of a final regulation.

[62 FR 23545, Apr. 30, 1997, as amended at 63 FR 18326, Apr. 15, 1998]

§ 8.3 Definitions.

As used in this part:

Act means 16 U.S.C. 2401 *et seq.*, Public Law 104-227, the Antarctic Science, Tourism, and Conservation Act of 1996.

Annex I refers to Annex I, Environmental Impact Assessment, of the Protocol.

Antarctica means the Antarctic Treaty area; i.e., the area south of 60 degrees south latitude.

Antarctic environment means the natural and physical environment of Antarctica and its dependent and associated ecosystems, but excludes social, economic, and other environments.

Antarctic Treaty area means the area south of 60 degrees south latitude.

Antarctic Treaty Consultative Meeting (ATCM) means a meeting of the Parties to the Antarctic Treaty, held pursuant to Article IX(1) of the Treaty.

Comprehensive Environmental Evaluation (CEE) means a study of the reasonably foreseeable potential effects of a proposed activity on the Antarctic environment, prepared in accordance with the provisions of this part and includes all comments received thereon. (See: 40 CFR 8.8.)

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Environmental document or environmental documentation (Document) means a preliminary environmental review memorandum, an initial environmental evaluation, or a comprehensive environmental evaluation.

Environmental impact assessment (EIA) means the environmental review process required by the provisions of this part and by Annex I of the Protocol, and includes preparation by the operator and U.S. government review of an environmental document, and public access to and circulation of environmental documents to other Parties and the Committee on Environmental Protection as required by Annex I of the Protocol.

EPA means the Environmental Protection Agency.

Expedition means any activity undertaken by one or more nongovernmental persons organized within or proceeding from the United States to or within the Antarctic Treaty area for which advance notification is required under Paragraph 5 of Article VII of the Treaty.

Impact means impact on the Antarctic environment and dependent and associated ecosystems.

Initial Environmental Evaluation (IEE) means a study of the reasonably foreseeable potential effects of a proposed activity on the Antarctic environment prepared in accordance with 40 CFR 8.7.

Operator or operators means any person or persons organizing a nongovernmental expedition to or within Antarctica.

Person has the meaning given that term in section 1 of title 1, United States Code, and includes any person subject to the jurisdiction of the United States except that the term does not include any department, agency, or other instrumentality of the Federal Government.

Preliminary environmental review means the environmental review described under that term in 40 CFR 8.6.

Preliminary Environmental Review Memorandum (PERM) means the documentation supporting the conclusion of the preliminary environmental review that the impact of a proposed activity will be less than minor or transitory on the Antarctic environment.

Protocol means the Protocol on Environmental Protection to the Antarctic Treaty, done at Madrid, October 4, 1991, and all annexes thereto which are in force for the United States.

This part means 40 CFR part 8.

§ 8.4 Preparation of environmental documents, generally.

(a) *Basic information requirements.* In addition to the information required pursuant to other sections of this part, all environmental documents shall contain the following:

- (1) The name, mailing address, and phone number of the operator;
- (2) The anticipated date(s) of departure of each expedition to Antarctica;
- (3) An estimate of the number of persons in each expedition;
- (4) The means of conveyance of expedition(s) to and within Antarctica;
- (5) Estimated length of stay of each expedition in Antarctica;
- (6) Information on proposed landing sites in Antarctica; and
- (7) Information concerning training of staff, supervision of expedition members, and what other measures, if any, that will be taken to avoid or minimize possible environmental impacts.

(b) *Preparation of an environmental document.* Unless an operator determines and documents that a proposed activity will have less than a minor or transitory impact on the Antarctic environment, the operator will prepare an IEE or CEE in accordance with this part. In making the determination what level of environmental documentation is appropriate, the operator should consider, as applicable, whether and to what degree the proposed activity:

- (1) Has the potential to adversely affect the Antarctic environment;
- (2) May adversely affect climate or weather patterns;
- (3) May adversely affect air or water quality;
- (4) May affect atmospheric, terrestrial (including aquatic), glacial, or marine environments;
- (5) May detrimentally affect the distribution, abundance, or productivity of species, or populations of species of fauna and flora;