

§81.3

(d) The State agency is authorized to establish programs, including the acquisition of land or aquatic habitat or interests therein, for the conservation of resident endangered or threatened species; and

(e) Provisions are made for public participation in designating resident species of fish and wildlife or plants as endangered or threatened, or that under the State program: (1) The requirements set forth in paragraphs (c), (d), and (e) of this section are complied with concerning fish and wildlife and in paragraphs (c) and (e) of this section concerning plants, and plans are included under which immediate attention will be given to those resident species of fish and wildlife or plants which are determined by the Secretary or the State agency to be endangered or threatened and which the Secretary and the State agency agree are most urgently in need of conservation programs; except that a cooperative agreement entered into with a State whose program is deemed adequate and active pursuant to this paragraph shall not affect the applicability of prohibitions set forth in or authorized pursuant to section 4(d) or section 9(a)(1) of the Endangered Species Act of 1973 with respect to the taking of any resident endangered or threatened species.

[41 FR 15016, Apr. 9, 1976, as amended at 44 FR 31580, May 31, 1979]

§81.3 Cooperative Agreement.

Upon determination by the Secretary that a State program is adequate and active and complies with §81.2, the Secretary shall enter into an Agreement with the State. A Cooperative Agreement is necessary before a Project Agreement can be approved for endangered or threatened species projects. A cooperative agreement under §81.2 must be reconfirmed annually to reflect new laws, species lists, rules and regulations, and programs, and to demonstrate that the program is still active and adequate. The Secretary, in determining which species are most urgently in need of a conservation program as provided for in §81.2(e), shall apply the following criteria: (1) The degree of threat to the continued existence of the species; (2) the recovery potential of the species; (3) the taxo-

50 CFR Ch. I (10-1-10 Edition)

nomic status, e.g., giving full species priority over subspecies or populations; and (4) such other relevant biological factors as determined appropriate.

[41 FR 15016, Apr. 9, 1976, as amended at 44 FR 31580, May 31, 1979]

§81.4 Allocation of funds.

The Secretary shall semi-annually allocate funds, appropriated for the purpose of carrying out Section 6, to various State programs using the following as the basis for his determination:

(a) The international commitments of the United States to protect endangered or threatened species;

(b) The readiness of a State to proceed with a conservation program consistent with the objectives and purposes of the Act;

(c) The number of endangered and threatened species within a State;

(d) The potential for restoring endangered and threatened species within a State; and

(e) The relative urgency to initiate a program to restore and protect an endangered or threatened species in terms of survival of the species.

[40 FR 47509, Oct. 9, 1975, as amended at 44 FR 31580, May 31, 1979]

§81.5 Information for the Secretary.

Before any Federal funds may be obligated for any project to be undertaken in a State, the State must have entered into a Cooperative Agreement with the Secretary pursuant to section 6(c) of the Act.

§81.6 Project Agreement.

(a) Subsequent to the establishment of a Cooperative Agreement pursuant to §81.3, the Secretary may further agree with the States to provide financial assistance in the development and implementation of acceptable projects for the conservation of endangered and threatened species. Financial agreements will consist of an Application for Federal Assistance and a Project Agreement. Such agreements' continued existence, and continued financial assistance under such agreements, shall be contingent upon the continued existence of the Cooperative Agreement described in §81.3 of this part.