

## Regulations

In consideration of the foregoing, the Coast Guard proposes to amend part 117 of Title 33, Code of Federal Regulations, as follows:

### PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

**Authority:** 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05-1(g); Section 117.255 also issued under the authority of Pub. L. 102-587, 106 Stat. 5039.

2. Section 117.997(h) is revised to read as follows:

**§ 117.997 Atlantic Intracoastal Waterway, South Branch of the Elizabeth River to the Albemarle and Chesapeake Canal.**

\* \* \* \* \*

(h) The draw of the Centerville Turnpike (SR 170) bridge across the Albemarle and Chesapeake Canal, mile 15.2, at Chesapeake, shall open on signal every hour on the half hour except that, from April 1 to November 30, Monday through Friday, including Federal holidays, from 7 a.m. to 9 a.m. and 4 p.m. to 6 p.m., the draw need not open for the passage of vessels.

Dated: May 18, 1998.

**J. Carmichael,**

*Acting Captain, U.S. Coast Guard Commander, Fifth Coast Guard District.*

[FR Doc. 98-14452 Filed 6-1-98; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 63

[FRL-6105-3]

### National Emission Standards for Hazardous Air Pollutants for Source Categories: National Emission Standards for Primary Copper Smelters: Proposed Rule—Extension of Public Comment Period

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule; extension of public comment period.

**SUMMARY:** The EPA is extending the public comment period on the Notice of Proposed Rulemaking (NPRM) for hazardous air pollutants emissions from primary copper smelters, which was published in the *Federal Register* on April 20, 1998 (63 FR 19582). The purpose of this document is to extend the end of the comment period from June 19, 1998 to July 20, 1998, in order

to provide commenters adequate time to review the NPRM and extensive supporting materials.

**DATES:** The EPA will accept comments on the NPRM until July 20, 1998.

**ADDRESSES:** Comments should be submitted (in duplicate) to: Air and Radiation Docket and Information Center (6102), Attention: Docket No. A-96-22, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460. The EPA requests that a separate copy also be sent to the contact person listed below (Mr. Eugene Crumpler). The docket may be inspected at the above address between 8:00 a.m. and 5:30 p.m. on weekdays. A reasonable fee may be charged for copying.

**FOR FURTHER INFORMATION CONTACT:** For information concerning the NPRM, contact Mr. Eugene Crumpler, Metals Group, Emission Standards Division (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, NC 27711, telephone number (919) 541-0881; electronic mail address [crumpler.gene@epa.gov](mailto:crumpler.gene@epa.gov).

Dated: May 28, 1998.

**Richard D. Wilson,**

*Acting Assistant Administrator.*

[FR Doc. 98-14584 Filed 6-1-98; 8:45 am]

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## NATIONAL SCIENCE FOUNDATION

### 45 CFR Part 670

RIN 3145-AA34

### Conservation of Antarctic Animals and Plants

**AGENCY:** National Science Foundation (NSF).

**ACTION:** Proposed rule.

**SUMMARY:** NSF proposes to revise its existing regulations for the conservation and protection of Antarctic animals and plants. These revisions implement amendments to the Antarctic Conservation Act of 1978 contained in the Antarctic Science Tourism and Conservation Act of 1996.

**DATES:** Comments must be received by August 3, 1998.

**ADDRESSES:** Comments should be sent to Anita Eisenstadt, Assistant General Counsel, National Science Foundation, 4201 Wilson Boulevard, Room 1265, Arlington, Virginia 22230.

**FOR FURTHER INFORMATION CONTACT:** Anita Eisenstadt, Office of the General Counsel, at 703-306-1060.

**SUPPLEMENTARY INFORMATION:**

## Background

The Antarctic Treaty of 1959 establishes a framework for promoting international cooperation in scientific research in Antarctica and ensuring that Antarctica will be used only for peaceful purposes. The Antarctic environment has been an important concern to the Treaty Parties and over the years the Parties have adopted a series of measures to protect Antarctic living resources.

At the Third Consultative Meeting in 1964, the Antarctic Treaty Parties adopted the Agreed Measures for the Conservation of Antarctic Fauna and Flora. The measures recommended establishment of a permit system for various activities in Antarctica and designation of certain Antarctic mammals and geographic areas as requiring special protection. These measures were implemented in the United States through the Antarctic Conservation Act of 1978 (ACA) (16 U.S.C. 2401 *et seq.*). Under the Antarctic Conservation Act and through its implementing regulations, NSF established a regulatory framework to conserve and protect the native mammals, birds, and plants of Antarctica. A permit system allows certain activities, otherwise prohibited, when performed within prescribed restrictions for scientific and other valid purposes. Activities requiring a permit include entry into specially protected areas, taking of fauna and flora, import into and export from the United States of fauna and flora, and introduction of non-indigenous species.

Recognizing the value of establishing a comprehensive regime for protecting the Antarctic environment and its associated ecosystems, the Antarctic Treaty Parties adopted in 1991 the Protocol on Environmental Protection to the Antarctic Treaty and five annexes (Protocol). The Protocol consolidates, updates, and strengthens the environmental provisions previously adopted by the parties. Annex II of the Protocol contains provisions of conservation of Antarctic plants and animals. Annex V contains provisions for the protection of specially designated areas. Annex II and Annex V incorporate and expand the Agreed Measures of 1964.

On October 2, 1996, the President implemented the Protocol by signing into law the Antarctic Science, Tourism, and Conservation Act of 1996 (ASTCA) (Pub. L. 104-227). Section 6 of the ACA, (16 U.S.C. 2405), as amended by the ASTCA, directs the Director of the National Science Foundation to issue such regulations as are necessary and

appropriate to implement Annexes II and V to the Protocol. NSF is therefore revising its existing ACA regulations protecting animals and plants in order to implement Annexes II and V of the Protocol, as required by the ASTCA amendments to the ACA.

### Revisions to the Existing ACA Regulations

These amendments revise NSF's existing regulations for the conservation of Antarctic animals and plants to meet the technical requirements of the Protocol. The revisions do not materially alter the permit system that has been in place since 1979 to implement the Agreed Measures. Permits will continue to be required for entry into specially protected areas, taking of birds and mammals, export into and import from the United States of birds, mammals, and certain plants, and introduction of non-indigenous plants and animals into Antarctica. The permit requirement for native plants has been slightly modified. Permits were previously required for collecting native plants within Antarctic Specially Protected Areas. The revised regulations require a permit to remove or damage native plants anywhere within Antarctica if the quantity plants removed or damaged would significantly affect the species' local distribution or abundance (16 U.S.C. 2402(20) and 16 U.S.C. 2403(b)(4)). The revised regulations also require a permit for engaging in harmful interference with native plants, mammals, birds, and invertebrates (16 U.S.C. § 2402(5) and 16 U.S.C. 2403(b)(4)).

The revised regulations also implement the Protocol's revised nomenclature of protected areas. Areas previously designated as Specially Protected Areas and Sites of Special Scientific Interest are now referred to as Antarctic Specially Protected Areas (16 U.S.C. 2402(3)). Some technical revisions have also been made to the definitions used in the regulations to conform to the revised definitions in the ACA. Finally, in accordance with Annex II of the Protocol, dogs may no longer be introduced into Antarctica. Consequently, the provision allowing their introduction by permit has been deleted from the regulations.

### Summary of Provisions

Subpart A of these regulations states their purpose and scope and defines terms used in the regulations. Prohibited acts and exceptions to them are discussed in Subpart B. The procedures for obtaining a permit and the terms and conditions of such permits are set forth in Subpart C.

Subpart D designates mammals, birds and plants native to Antarctica. More restrictive permit requirements for mammals, birds, and plants designated as Specially Protected Species are set forth in Subpart E. Areas of outstanding scientific and ecological value are designated in Subpart F. Entry into these areas is prohibited without a permit. Conditions under which Antarctic birds, mammals, and certain Antarctic plants may be imported into or exported from the United States are set forth in Subpart G. Subpart H sets forth conditions where the introduction into Antarctica of non-indigenous plants and animals can be permitted.

### Determinations

NSF has determined, under the criteria set forth in Executive Order 12866, that this rule is not a significant regulatory action requiring review by the Office of Information and Regulatory Affairs. As required by the Regulatory Flexibility Act, it is hereby certified that this rule will not have a significant impact on a substantial number of small businesses. For purposes of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), the permit application and reporting collection of information requirements are nearly identical to those required by NSF's existing regulations. However, because this rule will necessitate minor technical changes to NSF's current ACA permit application form, NSF is simultaneously publishing a Proposed Reinstatement of Information Collection with Changes in today's issue of the **Federal Register**. Finally, NSF has reviewed this rule in light of section 2 of Executive Order 12778 and I certify for the National Science Foundation that this rule meets the applicable standards provided in sections 2(a) and 2(b) of that order.

### List of Subjects in 45 CFR Part 670

Administrative practice and procedure, Antarctica, Exports, Imports, Reporting and recordkeeping requirements, Wildlife.

Dated: May 21, 1998.

**Lawrence Rudolph,**  
General Counsel, National Science Foundation.

For the reasons set forth in the preamble, the National Science Foundation proposes to revise 45 CFR part 670 to read as follows:

## PART 670—CONSERVATION OF ANTARCTIC ANIMALS AND PLANTS

### Subpart A—Introduction

Sec.

- 670.1 Purpose of regulations.
- 670.2 Scope.
- 670.3 Definitions.

### Subpart B—Prohibited Acts, Exceptions

- 670.4 Prohibited acts.
- 670.5 Exceptions in extraordinary circumstances.
- 670.6 Prior possession exception.
- 670.7 Food exception.
- 670.8 Foreign permit exception.
- 670.9 Antarctic Conservation Act enforcement exception.
- 670.10 [Reserved]

### Subpart C—Permits

- 670.11 Applications for permits.
- 670.12 General issuance criteria.
- 670.13 Permit administration.
- 670.14 Conditions of permits.
- 670.15 Modification, suspension and revocation.
- 670.16 [Reserved]

### Subpart D—Native Mammals, Birds, Plants, and Invertebrates

- 670.17 Specific issuance criteria.
- 670.18 Content of permit applications.
- 670.19 Designation of native mammals.
- 670.20 Designation of native birds.
- 670.21 Designation of native plants.
- 670.22 [Reserved]

### Subpart E—Specially Protected Species of Mammals, Birds, and Plant

- 670.23 Specific issuance criteria.
- 670.24 Content of permit applications.
- 670.25 Designation of specially protected species of native mammals, birds and plants.
- 670.26 [Reserved]

### Subpart F—Antarctic Specially Protected Areas

- 670.27 Specific issuance criteria.
- 670.28 Content of permit applications.
- 670.29 Designation of Antarctic specially protected areas.
- 670.30 [Reserved]

### Subpart G—Import into and export from the United States

- 670.31 Specific issuance criteria for imports.
- 670.32 Specific issuance criteria for exports.
- 670.33 Content of permit applications.
- 670.35 Entry and exit ports.
- 670.35 [Reserved]

### Subpart H—Introduction of Non-Indigenous Plants and Animals

- 670.36 Specific issuance criteria.
- 670.37 Content of permit applications.
- 670.38 Conditions of permits.
- 670.39 [Reserved]

**Authority:** 16 U.S.C. 2405, as amended.

**Subpart A—Introduction****§ 670.1 Purpose of regulations.**

The purpose of the regulations in this part is to conserve and protect the native mammals, birds, plants, and invertebrates of Antarctica and the ecosystem upon which they depend and to implement the Antarctic Conservation Act of 1978, Public Law 95–541, as amended by the Antarctic Science, Tourism, and Conservation Act of 1996, Public Law 104–227.

**§ 670.2 Scope.**

The regulations in this part apply to:

- (a) Taking mammals, birds, or plants native to Antarctica.
- (b) Engaging in harmful interference of mammals, birds, invertebrates, or plants native to Antarctica.
- (c) Entering or engaging in activities within Antarctic Specially Protected Areas.
- (d) Receiving, acquiring, transporting, offering for sale, selling, purchasing, importing, exporting or having custody, control, or possession of any mammal, bird, or plant native to Antarctica that was taken in violation of the Act.
- (e) Introducing into Antarctica any member of a non-native species.

**§ 670.3 Definitions.**

In this part:

*Act* means the Antarctic Conservation Act of 1978, Public Law 95–541 (16 U.S.C. 2401 *et seq.*) as amended by the Antarctic Science, Tourism, and Conservation Act of 1996, Public Law 104–227.

*Antarctic Specially Protected Area* means an area designated by the Antarctic Treaty Parties to protect outstanding environmental, scientific, historic, aesthetic, or wilderness values or to protect ongoing or planned scientific research, designated in Subpart F.

*Antarctica* means the area south of 60 degrees south latitude.

*Director* means the Director of the National Science Foundation, or an officer or employee of the Foundation designated by the Director.

*Harmful interference* means—

- (a) Flying or landing helicopters or other aircraft in a manner that disturbs concentrations of birds or seals;
- (b) Using vehicles or vessels, including hovercraft and small boats, in a manner that disturbs concentrations of birds or seals;
- (c) Using explosives or firearms in a manner that disturbs concentrations of birds or seals;
- (d) Willfully disturbing breeding or molting birds or concentrations of birds or seals by persons on foot;

(e) Significantly damaging concentrations of native terrestrial plants by landing aircraft, driving vehicles, or walking on them, or by other means; and

(f) Any activity that results in the significant adverse modification of habitats of any species or population of native mammal, native bird, native plant, or native invertebrate.

*Import* means to land on, bring into, or introduce into, or attempt to land on, bring into or introduce into, any place subject to the jurisdiction of the United States, including the 12-mile territorial sea of the United States, whether or not such act constitutes an importation within the meaning of the customs laws of the United States.

*Management plan* means a plan to manage the activities and protect the special value or values in an Antarctic Specially Protected Area designated by the United States as such a site consistent with plans adopted by the Antarctic Treaty Consultative Parties.

*Native bird* means any member, at any stage of its life cycle, of any species of the class Aves which is indigenous to Antarctica or occurs there seasonally through natural migrations, that is designated in subpart D of this part. It includes any part, product, egg, or offspring of or the dead body or parts thereof excluding fossils.

*Native invertebrate* means any terrestrial or freshwater invertebrate, at any stage of its life cycle, which is indigenous to Antarctica. It includes any part thereof, but excludes fossils.

*Native mammal* means any member, at any stage of its life cycle, of any species of the class Mammalia, which is indigenous to Antarctica or occurs there seasonally through natural migrations, that is designated in subpart D of this part. It includes any part, product, offspring of or the dead body or parts thereof but excludes fossils.

*Native plant* means any terrestrial or freshwater vegetation, including bryophytes, lichens, fungi, and algae, at any stage of its life cycle which is indigenous to Antarctica that is designated in subpart D of this part. It includes seeds and other propagules, or parts of such vegetation, but excludes fossils.

*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 and any department, agency, or other instrumentality of the Federal Government or of any State or local government.

*Protocol* means the Protocol on Environmental Protection to the Antarctic Treaty, signed October 4,

1991, in Madrid, and all annexes thereto, including any future amendments to which the United States is a Party.

*Specially Protected Species* means any native species designated as a Specially Protected Species that is designated in subpart E of this part.

*Take or taking* means to kill, injure, capture, handle, or molest a native mammal or bird, or to remove or damage such quantities of native plants that their local distribution or abundance would be significantly affected or to attempt to engage in such conduct.

*Treaty* means the Antarctic Treaty signed in Washington, D.C. on December 1, 1959.

*United States* means the several states of the Union, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, and other commonwealth, territory, or possession of the United States.

**Subpart B—Prohibited Acts, Exceptions****§ 670.4 Prohibited acts.**

Unless a permit has been issued pursuant to subpart C of this part or unless one of the exceptions stated in §§ 670.5 through 670.9 is applicable, it is unlawful to commit, attempt to commit, or cause to be committed any of the acts described in paragraphs (a) through (g) of this section.

(a) *Taking of native mammal, bird or plants.* It is unlawful for any person to take within Antarctica a native mammal, a native bird, or native plants.

(b) *Engaging in harmful interference.* It is unlawful for any person to engage in harmful interference in Antarctica of native mammals, native birds, native plants or native invertebrates.

(c) *Entry into Antarctic specially designated areas.* It is unlawful for any person to enter or engage in activities within any Antarctic Specially Protected Area.

(d) *Possession, sale, export, and import of native mammals, birds, and plants.* It is unlawful for any person to receive, acquire, transport, offer for sale, sell, purchase, export, import, or have custody, control, or possession of, any native bird, native mammal, or native plant which the person knows, or in the exercise of due care should have known, was taken in violation of the Act.

(e) *Introduction of non-indigenous animals and plants into Antarctica.* It is unlawful for any person to introduce into Antarctica any animal or plant which is not indigenous to Antarctica or

which does not occur there seasonally through natural migrations, as specified in subpart H of this part, except as provided in §§ 670.7 and 670.8.

(f) *Violations of regulations.* It is unlawful for any person to violate the regulations set forth in this part.

(g) *Violation of permit conditions.* It is unlawful for any person to violate any term or condition of any permit issued under subpart C of this part.

#### **§ 670.5 Exception in extraordinary circumstances.**

(a) *Emergency exception.* No act described in § 670.4 shall be unlawful if the person committing the act reasonably believed that the act was committed under emergency circumstances involving the safety of human life or of ships, aircraft, or equipment or facilities of high value, or the protection of the environment.

(b) *Aiding or salvaging native mammals or native birds.* The prohibition on taking shall not apply to any taking of native mammals or native birds if such action is necessary to:

- (1) Aid a sick, injured or orphaned specimen;
- (2) Dispose of a dead specimen; or
- (3) Salvage a dead specimen which may be useful for scientific study.

(c) *Reporting.* Any actions taken under the exceptions in this section shall be reported promptly to the Director.

#### **§ 670.6 Prior possession exception.**

(a) *Exception.* Section 670.4 shall not apply to:

- (1) Any native mammal, bird, or plant which is held in captivity on or before October 28, 1978; or
- (2) Any offspring of such mammal, bird, or plant.

(b) *Presumption.* With respect to any prohibited act set forth in § 670.4 which occurs after April 29, 1979, the Act creates a rebuttable presumption that the native mammal, native bird, or native plant involved in such act was not held in captivity on or before October 28, 1978, or was not an offspring referred to in paragraph (a) of this section.

#### **§ 670.7 Food exception.**

Paragraph (e) of § 670.4 shall not apply to the introduction of animals and plants into Antarctica for use as food as long as animals and plants used for this purpose are kept under carefully controlled conditions. This exception shall not apply to living species of animals. Unconsumed poultry or its parts shall be removed from Antarctica unless incinerated, autoclaved or otherwise sterilized.

#### **§ 670.8 Foreign permit exception.**

Paragraphs (d) and (e) of § 670.4 shall not apply to transporting, carrying, receiving, or possessing native mammals, native plants, or native birds or to the introduction of non-indigenous animals and plants when conducted by an agency of the United States Government on behalf of a foreign national operating under a permit issued by a foreign government to give effect to the Protocol.

#### **§ 670.9 Antarctic Conservation Act enforcement exception.**

Paragraphs (a) through (d) of § 670.4 shall not apply to acts carried out by an Antarctic Conservation Act Enforcement Officer (designated pursuant to 45 CFR 672.3) if undertaken as part of the Antarctic Conservation Act Enforcement Officer's official duties.

#### **§ 670.10 [Reserved]**

### **Subpart C—Permits**

#### **§ 670.11 Applications for permits.**

(a) *General content of permit applications.* All applications for a permit shall be dated and signed by the applicant and shall contain the following information:

- (1) The name and address of the applicant;
  - (i) Where the applicant is an individual, the business or institutional affiliation of the applicant must be included; or
  - (ii) Where the applicant is a corporation, firm, partnership, or institution, or agency, either private or public, the name and address of its president or principal officer must be included.
- (2) Where the applicant seeks to engage in a taking,
  - (i) The scientific names, numbers, and description of native mammals, native birds or native plants to be taken; and
  - (ii) Whether the native mammals, birds, or plants, or part of them are to be imported into the United States, and if so, their ultimate disposition.
- (3) Where the applicant seeks to engage in a harmful interference, the scientific names, numbers, and description of native birds or native seals to be disturbed; the scientific names, numbers, and description of native plants to be damaged; or the scientific names, numbers, and description of native invertebrates, native mammals, native plants, or native birds whose habitat will be adversely modified;

(4) A complete description of the location, time period, and manner in which the taking or harmful interference

would be conducted, including the proposed access to the location;

(5) Where the application is for the introduction of non-indigenous plants or animals, the scientific name and the number to be introduced;

(6) Whether agents as referred to in § 670.13 will be used; and

(7) The desired effective dates of the permit.

(b) *Content of specific permit applications.* In addition to the general information required for permit applications set forth in this subpart, the applicant must submit additional information relating to the specific action for which the permit is being sought. These additional requirements are set forth in the sections of this part dealing with the subject matter of the permit applications as follows:

Native Mammals, Birds, Plants, and

Invertebrates—§ 670.17

Specially Protected Species—§ 670.23

Specially Protected Areas—§ 670.27

Import and Export—§ 670.31

Introduction of Non-Indigenous Plants and Animals—§ 670.36

(c) *Certification.* Applications for permits shall include the following certification:

I certify that the information submitted in this application for a permit is complete and accurate to the best of my knowledge and belief. Any false statement will subject me to the criminal penalties of 18 U.S.C. 1001.

(d) *Address to which applications should be sent.* Each applications shall be in writing, addressed to:

Permit Officer, Office of Polar Programs,  
National Science Foundation, Room 755,  
4201 Wilson Boulevard, Arlington, Virginia  
22230.

(e) *Sufficiency of application.* The sufficiency of the application shall be determined by the Director. The Director may waive any requirement for information, or request additional information as determined to be relevant to the processing of the application.

(f) *Withdrawal.* An applicant may withdraw an application at any time.

(g) *Publication of permit applications.* The Director shall publish notice in the **Federal Register** of each application for a permit. The notice shall invite the submission by interested parties, within 30 days after the date of publication of the notice, of written data, comments, or views with respect to the application. Information received by the Director as a part of any application shall be available to the public as a matter of public record.

#### **§ 670.12 General issuance criteria.**

Upon receipt of a complete and properly-executed application for a

permit and the expiration of the applicable public comment period, the Director will decide whether to issue the permit. In making the decision, the Director will consider, in addition to the specific criteria set forth in the appropriate subparts of this part:

(a) Whether the authorization requested meets the objectives of the Act and the requirements of the regulations in this part;

(b) The judgment of persons having expertise in matters germane to the application; and

(c) Whether the applicant has failed to disclose material information required or has made false statements about any material fact in connection with the application.

#### § 670.13 Permit administration.

(a) *Issuance of the permits.* The Director may approve any application in whole or part. Permits shall be issued in writing and signed by the Director. Each permit may contain such terms and conditions as are consistent with the Act and this part.

(b) *Denial.* The applicant shall be notified in writing of the denial of any permit request or part of a request and of the reason for such denial. If authorized in the notice of denial, the applicant may submit further information or reasons why the permit should not be denied. Such further submissions shall not be considered a new application.

(c) *Amendment of applications or permits.* An applicant or permit holder desiring to have any term or condition of his application or permit modified must submit full justification and supporting information in conformance with the provisions of this subpart and the subpart governing the activities sought to be carried out under the modified permit. Any application for modification of a permit that involves a material change beyond the terms originally requested will normally be subject to the same procedures as a new application.

(d) *Notice of issuance or denial.* Within 10 days after the date of the issuance or denial of a permit, the Director shall publish notice of the issuance or denial in the **Federal Register**.

(e) *Agents of the permit holder.* The Director may authorize the permit holder to designate agents to act on behalf of the permit holder.

(f) *Marine mammals, endangered species, and migratory birds.* If the Director receives a permit application involving any native mammal which is a marine mammal as defined by the Marine Mammal Protection Act of 1972

(16 U.S.C. 1362(5)), any species which is an endangered or threatened species under the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.* or any native bird which is protected under the Migratory Bird Treaty Act (16 U.S.C. 701 *et seq.*), the Director shall submit a copy of the application to the Secretary of Commerce or to the Secretary of the Interior, as appropriate. If the appropriate Secretary determines that a permit should not be issued pursuant to any of the cited acts, the Director shall not issue a permit. The director shall inform the applicant of any denial by the appropriate Secretary and no further action shall be taken on the application. If, however, the appropriate Secretary issues a permit pursuant to the requirements of the cited acts, the Director still must determine whether the proposed action is consistent with the Act and the regulations in this part.

#### § 670.14 Conditions of permits.

(a) *Possession of permits.* Permits issued under the regulations in this part, or copies of them, must be in the possession of persons to whom they are issued and their agents when conducting the authorized action.

(b) *Display of permits.* Any permit issued shall be displayed for inspection upon request to the Director, designated agents of the Director, or any person with enforcement responsibilities.

(c) *Filing of Reports.* Permit holders are required to file reports of the activities conducted under a permit. Reports shall be submitted to the Director not later than June 30 for the preceding 12 months.

#### § 670.15 Modification, suspension, and revocation.

(a) The Director may modify, suspend, or revoke, in whole or in part, any permit issued under this subpart.

(1) In order to make the permit consistent with any change to any regulation in this part made after the date of issuance of this permit;

(2) If there is any change in conditions which make the permit inconsistent with the purpose of the Act and the regulations in this part; or

(3) In any case in which there has been any violation of any term or condition of the permit, any regulation in this part, or any provision of the Act.

(b) Whenever the Director proposes any modifications, suspension, or revocation of a permit under this section, the permittee shall be afforded opportunity, after due notice, for a hearing by the Director with respect to such proposed modification, suspension or revocation. If a hearing is requested, the action proposed by the Director

shall not take effect before a decision is issued by him after the hearing, unless the proposed action is taken by the Director to meet an emergency situation.

(c) Notice of the modification, suspension, or revocation of any permit by the Director shall be published in the **Federal Register**, within 10 days from the date of the Director's decision.

#### § 670.16 [Reserved]

#### Subpart D—Native Mammals, Birds, Plants and Invertebrates

#### § 670.17 Specific issuance criteria.

With the exception of specially protected species of mammals, birds, and plants designated in subpart E of this part, permits to engage in a taking or harmful interference:

(a) May be issued only for the purpose of providing—

(1) Specimens for scientific study or scientific information; or

(2) Specimens for museums, zoological gardens, or other educational or cultural institutions or uses; or

(3) For unavoidable consequences of scientific activities or the construction and operation of scientific support facilities; and

(b) Shall ensure, as far as possible, that—

(1) No more native mammals, birds, or plants are taken than are necessary to meet the purposes set forth in paragraph (a) of this section;

(2) No more native mammals or native birds are taken in any year than can normally be replaced by net natural reproduction in the following breeding season;

(3) The variety of species and the balance of the natural ecological systems within Antarctica are maintained; and

(4) The authorized taking, transporting, carrying, or shipping of any native mammal or bird is carried out in a humane manner.

#### § 670.18 Content of permit applications.

In addition to the information required in subpart C of this part, an applicant seeking a permit to take a native mammal or native bird shall include a complete description of the project including the purpose of the proposed taking, the use to be made of the native mammals or native birds, and the ultimate disposition of the native mammals and birds. An applicant seeking a permit to engage in a harmful interference shall include a complete description of the project including the purpose of the activity which will result in the harmful interference. Sufficient information must be provided to establish that the taking, harmful

interference, transporting, carrying, or shipping of a native mammal or bird shall be humane.

#### § 670.19 Designation of native mammals.

The following are designated native mammals:

##### Pinnipeds:

- Crabeater seal—*Lobodon carcinophagus*
- Southern elephant seal—*Mirounga leonina*
- Souther fur seals—*Arctocephalus spp.*<sup>1</sup>
- Leopard seal—*Hydrurga leptonyx*
- Ross seal—*Ommatophoca rossi*.
- Weddell seal—*Leptonychotes weddelli*.

##### Large Cetaceans (Whales):

- Blue whale—*Balaenoptera musculus*
- Pygmy blue whale—*Balaenoptera musculus breviceauda*
- Fin whale—*Balaenoptera physalus*
- Humpback whale—*Megaptera novaeangliae*

- Minke whale—*Balaenoptera acutrostrata*
- Sei whale—*Balaenoptera borealis*
- Southern right whale—*Balaena glacialis australis*

- Sperm whale—*Physeter macrocephalus*

##### Small Cetaceans (Dolphins and porpoises):

- Arnoux's beaked whale—*Berardius arnuxii*.
- Commerson's dolphin—*Cephalorhynchus commersonii*
- Dusky dolphin—*Lagenorhynchus obscurus*
- Hourglass dolphin—*Lagenorhynchus cruciger*
- Killer whale—*Orcinus orca*
- Long-finned pilot whale—*Globicephala melaena*
- Southern right whale dolphin—*Lissodelphis peronii*
- Southern bottlenose whale—*Hyperoodon planifrons*.
- Spectacled porpoise—*Phocoena dioptrica*

#### § 670.20 Designation of native birds.

The following are designated native birds:

##### Albatross:

- Black-browed—*Diomedea melanophris*.
- Gray-head—*Diomedea chrysostoma*.
- Light-mantled sooty—*Phoebastria palpebrata*.
- Wandering—*Diomedea exulans*.

##### Fulmer:

- Northern Giant—*Macronectes halli*.
- Southern—*Fulmarus glacialis*.
- Souther Giant—*Macronectes giganteus*.

##### Gull:

- Southern Black-backed—*Larus dominicanus*.

##### Jaeger:

- Parasitic—*Stercorarius parasiticus*.
- Pomarine—*Stercorarius pomarius*.

##### Penguin:

- Adelie—*Pygoscelis adeliae*.
- Chinstrap—*Pygoscelis antarctica*.
- Emperor—*Aptenodytes forsteri*.
- Gentoo—*Pygoscelis papua*.
- King—*Aptenodytes patagonicus*.

<sup>1</sup> These species of mammals have been designated as specially protected species and are subject to subpart E of this part.

<sup>1</sup> These species of mammals have been designated as specially protected species and are subject to subpart E of this part.

Macaroni—*Eudyptes chrysolophus*.

Rockhopper—*Eudyptes crestatus*.

##### Petrel:

- Antarctic—*Thalassocia antarctica*.
- Black-bellied Storm—*Fregatta tropica*.
- Blue—*Halobaena caerulea*.
- Gray—*Procellaria cinerea*.
- Great-winged—*Pterodroma macroptera*.
- Kerguelen—*Pterodroma brevirostris*.
- Kerguelen—*Pterodroma macroptera*.
- Mottled—*Pterodroma inexpectata*.
- Snow—*Pagodroma nivea*.
- Soft-plumaged—*Pterodroma mollis*.
- South-Georgia Diving—*Pelecanoides georgicus*.
- White-bellied Storm—*Fregetta grallaria*.
- White-chinned—*Procellaria aequinoctialis*.
- White-headed—*Pterodroma lessonia*.
- Wilson's Storm—*Oceanites oceanicus*.

##### Pigeon:

- Cape—*Daption capense*.

##### Pintail:

- South American Yellow-billed—*Anas georgica spinicauda*.

##### Prion:

- Antarctic—*Pachyptila desolata*.
- Narrow-billed—*Pachyptila belcheri*.

##### Shag:

- Blue-eyed—*Phalacrocorax atriceps*.

##### Shearwater:

- Sooty—*Puffinus griseus*.

##### Sheathbill:

- American—*Chionis alba*.

##### Skua:

- Brown—*Catharacta lonnbergi*.
- South Polar—*Catharacta maccormicki*.

##### Swallow:

- Barn—*Hirundo rustica*.

##### Tern:

- Antarctic—*Sterna vittata*.
- Arctic—*Sterna paradisaea*.

#### § 670.21 Designation of native plants.

All plants whose normal range is limited to, or includes Antarctica are designated native plants, including:

- Bryophytes
- Freshwater algae
- Fungi
- Lichens
- Marine algae
- Vascular Plants

#### § 670.22 [Reserved]

### Subpart E—Specially Protected Species of Mammals, Birds and Plants

#### § 670.23 Specific issuance criteria.

Permits authorizing the taking of mammals, birds, or plants designated as a Specially Protected Species of mammals, birds, and plants in § 670.25 may only be issued if:

(a) There is a compelling scientific purpose for such taking;

(b) The actions allowed under any such permit will not jeopardize the existing natural ecological system, or the survival of the affected species or population;

(c) The taking involves non-lethal techniques, where appropriate; and

(d) The authorized taking, transporting, carrying or shipping will be carried out in a humane manner.

#### § 670.24 Content of permit applications.

In addition to the information required in subpart C of this part, an applicant seeking a permit to take a Specially Protected Species shall include the following in the application:

(a) A detailed scientific justification of the need for taking the Specially Protected Species, including a discussion of possible alternative species;

(b) Information demonstrating that the proposed action will not jeopardize the existing natural ecological system or the survival of the affected species or population; and

(c) Information establishing that the taking, transporting, carrying, or shipping of any native bird or native mammal will be carried out in a humane manner.

#### § 670.25 Designation of specially protected species of native mammals, birds and plants.

The following two species have been designated as Specially Protected Species by the Antarctic Treaty Parties and are hereby designated Specially Protected Species.

Common Name and Scientific Name  
Kerguelen Fur Seal—*Arctocephalus tropicales gazella*.  
Ross Seal—*Ommatophoca rossi*.

#### § 670.26 [Reserved]

### Subpart F—Antarctic Specially Protected Areas

#### § 670.27 Specific issuance criteria.

Permits authorizing entry into any Antarctic Specially Protected Area designated in § 670.29 may only be issued if:

(a) The entry and activities to be engaged in are consistent with an approved management plan, or

(b) A management plan relating to the area has not been approved by the Antarctic Treaty Parties, but

(1) There is a compelling scientific purpose for such entry which cannot be served elsewhere, and

(2) The actions allowed under the permit will not jeopardize the natural ecological system existing in such area.

#### § 670.28 Content of permit applications.

In addition to the information required in subpart C of this part, an applicant seeking a permit to enter an Antarctic Specially Protected Area shall include the following in the application:

(a) A detailed justification of the need for such entry, including a discussion of alternatives;

(b) Information demonstrating that the proposed action will not jeopardize the unique natural ecological system in that area; and

(c) Where a management plan exists, information demonstrating the consistency of the proposed actions with the management plan.

#### **§ 670.29 Designation of Antarctic specially protected areas.**

The following areas have been designated by the Antarctic Treaty Parties for special protection and are hereby designated as Antarctic Specially Protected Areas. Detailed maps and descriptions of the sites and complete management plans can be obtained from the National Science Foundation, Office of Polar Programs, National Science Foundation, Room 755, 4201 Wilson Boulevard, Arlington, Virginia 22230.

ASPAs 101, Taylor Rookery, MacRobertson Land.  
 ASPA 102, Rookery Islands, Holme Bay.  
 ASPA 103, Ardrey Island and Odbert Island, Budd Coast.  
 ASPA 104, Sabrina Island, Balleny Islands.  
 ASPA 105, Beaufort Island, Ross Sea.  
 ASPA 106, Cape Hallett, Victoria Land.  
 ASPA 107, Dion Islands, Marguerite Bay, Antarctic Peninsula.  
 ASPA 108, Green Island, Berthelot Islands, Antarctic Peninsula.  
 ASPA 109, Moe Island, South Orkney Islands.  
 ASPA 110, Lynch Island, South Orkney Islands.  
 ASPA 111, Southern Powell Island and adjacent islands, South Orkney Islands.  
 ASPA 112, Coppermine Peninsula, Robert Island.  
 ASPA 113, Litchfield Island, Arthur Harbor, Palmer Archipelago.  
 ASPA 114, North Coronation Island, South Orkney Islands.  
 ASPA 115, Lagotellerie Island, Marguerite Bay.  
 ASPA 116, New College Valley, Caughley Beach, Cape Bird, Ross Island.  
 ASPA 117, Avian Island, Northwest Marguerite Bay.  
 ASPA 118, Cryptogam Ridge, Mount Melbourne, Victoria Land.  
 ASPA 119, Forlidas Pond and Davis Valley Ponds.  
 ASPA 120, Pointe-Geologie Archipelago.  
 ASPA 121, Cape Royds, Ross Island.  
 ASPA 122, Arrival Heights, Hut Point Peninsula, Ross Island.  
 ASPA 123, Barwick Valley, Victoria Land.  
 ASPA 124, Cape Crozier, Ross Island.  
 ASPA 125, Fildes Peninsula, King George Island, South Shetland Islands.  
 ASPA 126, Byers Peninsula, Livingston Island, South Shetland Islands.  
 ASPA 127, Haswell Island.  
 ASPA 128, Western Shore of Admiralty Bay, King George Island.  
 ASPA 129, Rothera Point, Adelaide Island.  
 ASPA 130, Tramway Ridge, Mt. Erebus, Ross Island.  
 ASPA 131, Canada Glacier, Lake Fryxell, Taylor Valley, Victoria Land.

ASPAs 132, Potter Peninsula, King Georgia Island, South Shetland Island.  
 ASPA 133, Harmony Point.  
 ASPA 134, Cierva Point and nearby islands, Danco Coast, Antarctic Peninsula.  
 ASPA 135, Bailey Peninsula, Budd Coast, Wilkes Land.  
 ASPA 136, Clark Peninsula, Budd Coast, Wilkes Land.  
 ASPA 137, Northwest White Island, McMurdo Sound.  
 ASPA 138, Linnaeus Terrace, Asquard Range, Victoria Land.  
 ASPA 139, Biscoe Point, Anvers Island, Palmer Archipelago.  
 ASPA 140, Shores of Port Foster, Deception Island, South Shetland Islands.  
 ASPA 141, Yukidori Valley, Langhovde, Lutzow-Holm Bay.  
 ASPA 142, Svarthamaren Mountain, Muhlig-Hofmann Mountains, Queen Maud Land.  
 ASPA 143, Marine Plain, Mule Peninsula, Vestfold Hills, Princess Elizabeth Land.  
 ASPA 144, Chile Bay (Discovery Bay), Greenwich Island, South Shetland Islands.  
 ASPA 145, Port Foster, Deception Island, South Shetland Islands.  
 ASPA 146, South Bay, Doumer Island, Palmer Archipelago.  
 ASPA 147, Ablation Point-Ganymede Heights, Alexander Island.  
 ASPA 148, Mount Flora, Hope Bay, Antarctic Peninsula.  
 ASPA 149, Cape Shirreff, Livingston Island, South Shetland Islands.  
 ASPA 150, Ardley Island, Maxwell Bay, King George Island, South Shetland Islands.  
 ASPA 151, Lions Rump, King George Island, South Shetland Islands.  
 ASPA 152, Western Bransfield Strait, off Low Island, South Shetland Islands.  
 ASPA 153, East Dallmann Bay, off Brabant Island.  
 ASPA 154, Cape Evans Historic Site.  
 ASPA 155, Lewis Bay Tomb

#### **§ 670.30 [Reserved]**

### **Subpart G—Import Into and Export From the United States**

#### **§ 670.31 Specific issuance criteria for imports.**

Subject to compliance with other applicable law, any person who takes a native mammal, bird, or plant under a permit issued under the regulations in this part may import it into the United States unless the Director finds that the importation would not further the purpose for which it was taken. If the importation is for a purpose other than that for which the native mammal, bird, or plant was taken, the Director may permit importation upon a finding that importation would be consistent with the purposes of the Act, the regulations in this part, or the permit under which they were taken.

#### **§ 670.32 Specific issuance criteria for exports.**

The Director may permit export from the United States of any native mammal, bird, or native plants taken within Antarctica upon a finding that exportation would be consistent with the purposes of the Act, the regulations in this part, or the permit under which they were taken.

#### **§ 670.33 Content of permit applications.**

In addition to the information required in subpart C of this part, an applicant seeking a permit to import into or export from the United States a native mammal, a native bird, or native plants taken within Antarctica shall include the following in the application:

(a) Information demonstrating that the import or export would further the purposes for which the species was taken;

(b) Information demonstrating that the import or export is consistent with the purposes of the Act or the regulations in this part;

(c) A statement as to which U.S. port will be used for the import or export, and

(d) Information describing the intended ultimate disposition of the imported or exported item.

#### **§ 670.34 Entry and exit ports.**

(a) Any native mammal, native bird, or native plants taken within Antarctica that are imported into or exported from the United States must enter or leave the United States at ports designated by the Secretary of Interior in 50 CFR part 14. The ports currently designated are:

- (1) Los Angeles, California.
- (2) San Francisco, California.
- (3) Miami, Florida.
- (4) Honolulu, Hawaii.
- (5) Chicago, Illinois.
- (6) New Orleans, Louisiana.
- (7) New York, New York.
- (8) Seattle, Washington.
- (9) Dallas/Forth Worth, Texas.
- (10) Portland, Oregon.
- (11) Baltimore, Maryland.
- (12) Boston, Massachusetts.
- (13) Atlanta, Georgia.

(b) Permits to import or export at non-designated ports may be sought from the Secretary of Interior pursuant to subpart C, 50 CFR part 14.

#### **§ 670.35 [Reserved]**

### **Subpart H—Introduction of Non-Indigenous Plants and Animals**

#### **§ 670.36 Specific issuance criteria.**

For purposes consistent with the Act, only the following plants and animals may be considered for a permit allowing their introduction into Antarctica:

(a) Domestic plants; and  
(b) Laboratory animals and plants including viruses, bacteria, yeasts, and fungi.

Living non-indigenous species of birds shall not be introduced into Antarctica.

**§ 670.37 content of permit applications.**

Applications for the introduction of plants and animals into Antarctica must describe:

(a) The species, numbers, and if appropriate, the age and sex, of the

animals or plants to be introduced into Antarctica;

(b) The need for the plants or animals,  
(c) What precautions the applicant will take to prevent escape or contact with native fauna and flora, and

(d) How the plants or animals will be removed from Antarctica or destroyed after they have served their purposes.

**§ 670.38 Conditions of permit.**

All permits allowing the introduction of non-indigenous plants and animals will require that the animal or plant be

kept under controlled conditions to prevent its escape or contact with native fauna and flora and that after serving its purpose the plant or animal shall be removed from Antarctica or be destroyed in manner that protects the natural system of Antarctica.

**§ 670.39 [Reserved]**

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