

Antarctic Conservation Act of 1978

(Public Law 95-541)

as amended by

Antarctic Science, Tourism, and Conservation Act of 1996

(Public Law 104-227)

with

Regulations



**Management Plans with Maps for
Antarctic Specially Protected Areas**



List of Historic Sites and Monuments



Permit Application Form



**The Protocol on Environmental Protection to the
Antarctic Treaty (1991)**



**NATIONAL SCIENCE FOUNDATION
JULY 2001**

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INTRODUCTION

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 (hereafter referred to as the ACA), conserves and protects the native mammals, birds, and plants of Antarctica and the ecosystems of which they are a part.

The law applies to –

- The area south of 60° South latitude
- U.S. citizens in Antarctica,
- certain persons in Antarctica who participate in U.S. government activities,
- U.S. corporations or other legal entities that organize expeditions into the Antarctic, and
- U.S. persons wherever located, or foreign persons while in the United States, who import certain antarctic animals and plants.

A permit system authorized by the ACA allows certain activities, otherwise prohibited, when performed within prescribed restrictions for scientific or other worthwhile purposes.

The ACA provides penalties of up to \$25,000 and 1 year imprisonment for violations.

The National Science Foundation (NSF), the agency of the U.S. Government that funds and manages the U.S. Antarctic Program (USAP), administers the ACA and its permit system.

Certain NSF employees in Antarctica are designated enforcement officers. These Federal officials are responsible for ensuring compliance with the ACA implementing regulations, and issuing permits. They are also available to help people understand their obligations. They may review permits to ensure terms and conditions are fulfilled and are authorized to serve warrants; search and seize property without a warrant; take affidavits; detain for inspection and inspect packages, crates, or other containers; and make an arrest with or without a warrant.

If you believe you may have witnessed a violation of the ACA report your observation to an enforcement officer, an observer, or other authority.

SUMMARY OF THIS BOOK

This book contains the ACA its regulations, and supplementary information.

SECTION ONE:

Regulations Pursuant to the Antarctic Conservation Act as amended by the Antarctic Science, Tourism, and Conservation Act

It is unlawful, unless authorized by permit, to:

1. take native mammals, birds, or plants,
2. engage in harmful interference of native mammals, birds, or plants,
3. enter specially designated areas,
4. introduce species to Antarctica,
5. introduce substances designated as pollutants,
6. discharge designated pollutants, or
7. import certain antarctic items into the United States.

1. Taking or harmful interference of native mammals, birds or plants

It is unlawful, unless authorized by permit, to take Antarctic native mammals, birds, or plants. To take means to kill, injure, capture, handle, or molest native mammal or bird, or to adversely impact a significant number of native plants.

For example, herding a seal or a penguin into position for a photograph constitutes an illegal taking. An ornithologist with a grant to study penguin population dynamics must have a permit before banding the penguins (a grant and a permit are two different things). Further, a scientist permitted to handle ten skuas would be performing an illegal taking if he or she handled eleven skuas.

Entering a bird nesting area or approaching seals with their pups will almost certainly stimulate agitation or defensive behavior. Any action that alters the normal behavior of wildlife may be considered harassment and therefore a taking. Section 5 of this book explains how to apply for a permit.

2. Engaging in harmful interference

It is unlawful, unless authorized by permit, for any person to engage in harmful interference in Antarctica of native mammals, native birds, native plants or native invertebrates. To engage in harmful interference means to fly or land aircraft, to use vehicles or vessels, or to using explosives or firearms in a way that disturbs concentrations of birds or seals. Harmful interference also includes willfully disturbing birds or seals by persons on foot, significantly damaging concentrations of native terrestrial plants by landing aircraft, driving vehicles, walking on them, or by other means, and any activity that results in habitat degradation of any species or population.

3. Entering specially designated areas

Some precisely defined places in Antarctica are designated under the Antarctic Treaty, and in the U.S. law, as Antarctic Specially Protected Areas (ASPAs). You

must have a legitimate need to enter an ASPA, and you must have a permit. A permit is required for entry into ASPAs, and all entries must be consistent with the site specific management plan. Section 2 of this book contains the management plans for all ASPAs.

4. Introducing species

You need a permit to introduce nonindigenous species to Antarctica. Only domestic plants and animals and laboratory plants and animals may be considered for a permit.

5. Introducing substances designated as pollutants

Waste regulations authorized under the ACA ban certain substances from Antarctica. The banned substances include pesticides (other than those required for science, medical, or hygiene purposes), polychlorinated biphenyls (PCBs), nonsterile soil, and polystyrene beads and plastic chips.

The ACA identifies certain substances as designated pollutants. Designated pollutants must be used, stored, and disposed of in a way that prevents their release to or adverse impact on the environment. Designated pollutants include any substance listed by name or characteristic (ignitability, corrosivity, reactivity, and toxicity) in the Clean Air Act, the Clean Water Act, the Resource Conservation and Recovery Act, and other U.S. regulations specified in 45 CFR Part 671.

Many research and industrial supplies and common substances such as fuels, lighter fluid, and fingernail polish remover contain designated pollutants. A permit is required to use or release these substances into Antarctica. See section 4 of this book.

6. Management of designated pollutants

The USAP employs specialists to handle and remove designated pollutants in accordance with the regulations. Program participants receive assistance and instructions in the Antarctic, but are required to keep track of the designated pollutants they use, to sort and store them according to instructions provided, and to turn the waste over to USAP officials in accordance with specified procedures.

Any U.S. citizen or expedition planning to use or release designated pollutants or release wastes in Antarctica must make a plan for the use, storage, and disposal of these materials and apply for a waste management permit, if they are not already covered by a Master Permit (see section 4 for a discussion of the USAP Master Permit).

Some categories of waste must be removed from Antarctica. The list includes materials that have designated pollutants as constituents (these materials are antarctic hazardous wastes) as well as other substances that are not designated pollutants but that are persistent in the environment and could pose an inherent hazard to wildlife. Radioactive materials, batteries, fuel, wastes containing harmful levels of heavy metals, lubricants, treated timbers, poly-vinyl chloride and other plastic wastes (except low-density storage bags), solid non-combustibles, and fuel drums are

explicitly listed in antarctic waste regulations as materials that must be removed from Antarctica.

7. Importing into and exporting from the United States

In the United States it is unlawful, unless authorized by permit, to have or sell or to import or export antarctic plants, antarctic mammals, or antarctic birds. An application for a permit must demonstrate that the import or export would further the purposes for which the species was taken or collected, demonstrate that the import or export is consistent with the purposes of the ACA and state which U.S. port will be used.

Mailing items to or from the United States constitutes an import or an export.

Non-governmental expeditions

An additional regulation, Part 673, which deals with non-governmental expeditions in Antarctica, is expected to be finalized as of September 2001. The regulation implements certain of the amendments to the Antarctic Conservation Act contained in the Antarctic Science, Tourism, and Conservation Act. The new Part 673 requires U.S. tour operators to distribute educational materials to their passengers. The regulation also requires U.S. non-governmental operators using non-U.S. flagged vessels to have emergency response plans.

SECTION TWO:

Antarctic Specially Protected Areas

Some areas of Antarctica have features that require special protection. Antarctic Specially Protected Areas (ASPAs) were created to protect areas of special environmental, scientific, historic, aesthetic, or wilderness value. Designated ASPAs are required to have management plans that aim to prevent the degradation of their special values. A permit is required to enter these areas, and adherence to the management plans is required. Before the Protocol, protected areas in Antarctica were designated as Sites of Special Scientific interest (SSSIs) or as Specially Protected Areas (SPAs). All SSSIs and SPAs became ASPAs following the implementation of Annex V to the Protocol into U.S. law under the Antarctic Science, Tourism, and Conservation Act.

Section two includes the management plans (or descriptions where management plans have not yet been adopted by the Treaty parties) for each site. These sites require permits for entry and/or activity. It is important to contact NSF to obtain permit information and any information on revisions or additions to the sites.

SECTION THREE:

Historic Sites and Monuments

Just as the ecosystems of Antarctica are important, so also is Antarctica's exploration and development. It was decided at the first Antarctic Treaty Consultative Meeting to protect artifacts and areas that commemorate Antarctica's exploration. At the 5th Antarctic Treaty Consultative Meeting it was agreed that lists of historic sites and

monuments would be created. Since that meeting, lists have been consolidated into one list that has been updated continually. The monument areas have special provisions to ensure their protection. Section four of this book includes a list of the historic sites and monuments, with brief descriptions of each.

SECTION FOUR:

Permits

Individual or group permit

Individuals and groups traveling to Antarctica are responsible for obtaining any required permits. An initial assessment of permit needs should be made by the individual (or group) based on planned itinerary, the nature of interactions with wildlife, materials to be handled and shipped to and from Antarctica, and a thorough review of the ACA and associated waste management regulations. For assistance, call or write an Office of Polar Programs science manager or the Permit Officer at the address shown at the end of this summary. Or simply fill out and send in an application using the permit form in this book that is appropriate for all but waste management permits. Waste management permit applications should include the information outlined in the waste regulations, 45 CFR Part 671. Applicants should first check with the NSF Permit Officer to verify that the planned activities are not already covered by an existing permit. Permit requirements should be assessed well in advance (a minimum of 3 months) of planned travel dates to allow for public review periods and resolution of any issues that may arise. The Permit Officer may determine that no permits are required.

Once an application is received, a minimum of 65 days is required for NSF to review the application and decide on a permit. During that time, a summary of your application is published in the Federal Register so that any member of the public can comment on it during the 30-day comment period mandated by the ACA. The Foundation evaluates the public comments and performs an internal review. It then approves the application, approves it with modifications, or disapproves it.

You may not do things that require a permit unless you have a permit. Activities authorized by a permit may not take place before the permit is issued. Violating the terms of a permit can lead to a fine of up to \$25,000, imprisonment, removal from Antarctica, rescission of a grant, or sanctions by an employer.

A copy of a permit issued under the ACA must be in the personal possession of the individual directing or performing the permitted activity. An ACA permit is required in addition to any permit issued under other applicable acts (*e.g.*, the Marine Mammal Protection Act of 1972, Endangered Species Act of 1973, Migratory Bird Treaty Act, and the Convention on the Conservation of Antarctic Marine Living Resources).

Master permit (U.S. Antarctic Program)

In 1999 NSF's Antarctic support contractor, applied for and was issued a Master Permit, which expires on 30 September 2004. This Master Permit covers all USAP related activities and establishes requirements for management of all designated

pollutants and wastes, including requirements for removal and recycling or proper disposal in the United States of most wastes and excess materials generated by the USAP. Each USAP participant is required to adhere to procedures established by the Master Permit for handling, inventorying, storing, monitoring, and disposing of these wastes.

APPENDIX A:

Antarctic Conservation Act of 1978 as amended by the Antarctic Science, Tourism and Conservation Act of 1996

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) formalizes U.S. adherence to Antarctic Treaty conservation rules, notably the 1991 Protocol on Environmental Protection. The regulations in section one of this book derive from and implement this statute.

APPENDIX B:

The Protocol on Environmental Protection to the Antarctic Treaty

The Protocol on Environmental Protection to the Antarctic Treaty and its five annexes comprise a comprehensive system to protect the antarctic environment. The parties to the Antarctic Treaty held a special consultative meeting to discuss and explore proposals for protection of the antarctic environment and its dependent and associated ecosystems. This meeting consisted of several sessions held over a year. At the final session in Madrid, Spain in October 1991, representatives of the Antarctic Treaty nations adopted the Protocol on Environmental Protection to the Antarctic Treaty, including annexes I–IV. The 16th Antarctic Treaty Consultative Meeting, also held in October 1991, adopted Annex V. The Protocol and Annexes I-IV entered into force in January 1998, though as of July 2001, Annex V had not. In the Protocol, the representatives agree to the comprehensive protection of Antarctica’s environment and dependent and associated ecosystems to preserve the region as a natural reserve devoted to peace and science.

The United States implemented the Protocol and its five annexes into law with the

Antarctic Science, Tourism, and Conservation Act of 1996.

For further information

Laws change periodically. Consult the United States Code, the U.S. Code of Federal Regulations or contact the NSF Office of Polar Programs for any updated information.

Address questions or correspondence to:

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

Tel: (703) 292-7405

Fax: (703) 292-9081

E-mail: nkennedy@nsf.gov (permits)

SECTION ONE:
Regulations Pursuant to Antarctic Conservation Act as Amended
by the Antarctic Science, Tourism, and Conservation Act

PART 670—CONSERVATION OF ANTARCTIC ANIMALS AND PLANTS

Subpart A—Introduction

- 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 exceptions.
- 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 Plants

- 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.
- 670.34 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]

Part 671—WASTE REGULATION

Subpart A—Introduction

- 671.1 Purpose of regulations.
- 671.2 Scope.
- 671.3 Definitions.

Subpart B—Prohibited Acts, Exceptions

- 671.4 Prohibited acts.
- 671.5 Exceptions.

Subpart C—Permits

- 671.6 Applications for permits.
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Subpart D—Waste Management

- 671.11 Waste storage.
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671.13 Waste management for the USAP.

Subpart E—Designation of Banned Substances; Reclassification of Pollutants

671.14 Annual review.

671.15 Publication of preliminary determination.

671.16 Designation and redesignation of pollutants.

Subpart F—Cases of Emergency

671.17 Cases of emergency

PART 672 – ENFORCEMENT AND HEARING PROCEDURES

PART 673 – ANTARCTIC NON-GOVERNMENTAL EXPEDITIONS

673.1 Purpose of regulations.

673.2 Scope.

673.3 Definitions.

673.4 Environmental protection information.

673.5 Emergency response plan.

PART 670-CONSERVATION OF ANTARCTIC ANIMALS AND PLANTS

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 of this part.

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, DC 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.* §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--Section 670.17

Specially Protected Species--Section 670.23

Specially Protected Areas--Section 670.27

Import and Export--Section 670.31

Introduction of Non-Indigenous Plants and Animals--Section 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 application 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*.

Leopard seal-*Hydrurga leptonyx*.

Ross seal-*Ommatophoca rossii*.*

Southern elephant seal-*Mirounga leonina*.

Southern fur seals-*Arctocephalus spp.**

Weddell seal-*Leptonychotes weddelli*.

Large Cetaceans (Whales):

Blue whale-*Balaenoptera musculus*.

Fin whale-*Balaenoptera physalus*.

Humpback whale-*Megaptera novaeangliae*.

Minke whale-*Balaenoptera acutrostrata*.

Pygmy blue whale--*Balaenoptera musculus brevicauda*.

Sei whale--*Balaenoptera borealis*.

* These species of mammals have been designated as specially protected species and are subject to subpart E of this part.

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 bottlenose whale--*Hyperoodon planifrons*.
Southern right whale dolphin--*Lissodelphis peronii*.
Spectacled porpoise--*Phocoena dioptrica*.

§ 670.20 Designation of native birds.

The following are designated native birds:

Albatross:

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

Fulmar:

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

Gull:

- Southern Black-backed--*Larus dominicanus*.

Jaeger:

- Parasitic--*Stercorarius parasiticus*.
- Pomarine--*Stercorarius pomarinus*.

Penguin:

- Adelie--*Pygoscelis adeliae*.
- Chinstrap--*Pygoscelis antarctica*.
- Emperor--*Aptenodytes forsteri*.
- Gentoo--*Pygoscelis papua*.
- King--*Aptenodytes patagonicus*.
- Macaroni--*Eudyptes chrysolophus*.
- Rockhopper--*Eudyptes crestatus*.

Petrel:

- Antarctic--*Thalassoica antarctica*.
- Black-bellied Storm--*Fregatta tropica*.
- Blue--*Halobaena caerulea*.
- Gray--*Procellaria cinerea*.
- Great-winged--*Pterodroma macroptera*.
- Kerguelen--*Pterodroma brevirostris*.
- 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 lessoni*.
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*.

Skua:

Brown--*Catharacta lonnbergi*.

South Polar--*Catharacta maccormicki*.

Swallow:

Barn--*Hirundo rustica*.

Sheathbill:

American--*Chionis alba*.

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--Antartic 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 application.

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.

ASPAs 102, Rookery Islands, Holme Bay.

ASPAs 103, Ardrey Island and Odber Island, Budd Coast.

ASPAs 104, Sabrina Island, Balleny Islands.

ASPAs 105, Beaufort Island, Ross Sea.

ASPAs 106, Cape Hallett, Victoria Land.

ASPAs 107, Dion Islands, Marguerite Bay, Antarctic Peninsula.

ASPAs 108, Green Island, Berthelot Islands, Antarctic Peninsula.

ASPAs 109, Moe Island, South Orkney Islands.

ASPAs 110, Lynch Island, South Orkney Islands.

ASPAs 111, Southern Powell Island and adjacent islands, South Orkney Islands.

ASPAs 112, Coppermine Peninsula, Robert Island.

ASPAs 113, Litchfield Island, Arthur Harbor, Palmer Archipelago.

ASPAs 114, North Coronation Island, South Orkney Islands.

ASPAs 115, Lagotellerie Island, Marguerite Bay.

ASPAs 116, 'New College Valley', Caughley Beach, Cape Bird, Ross Island.

ASPAs 117, Avian Island, Northwest Marguerite Bay.

ASPAs 118, Cryptogam Ridge, Mount Melbourne, Victoria Land.

ASPAs 119, Forlidas Pond and Davis Valley Ponds.

ASPAs 120, Pointe-Geologie Archipelago

ASPAs 121, Cape Royds, Ross Island.

ASPAs 122, Arrival Heights, Hut Point Peninsula, Ross Island.

ASPAs 123, Barwick Valley, Victoria Land.

ASPAs 124 through 160, listing various locations in Antarctica and the South Shetland Islands, including Cape Crozier, Fildes Peninsula, Byers Peninsula, Haswell Island, Western Shore of Admiralty Bay, Rothera Point, Mt. Erebus, Canada Glacier, Potter Peninsula, Harmony Point, Cierva Point, Bailey Peninsula, Clark Peninsula, Northwest White Island, Linnaeus Terrace, Biscoe Point, Shores of Port Foster, Yukidori Valley, Svarthamaren Mountain, Marine Plain, Chile Bay, Port Foster, South Bay, Ablation Point, Mount Flora, Cape Shirreff, Ardley Island, Lions Rump, Western Bransfield Strait, East Dallmann Bay, Cape Evans, Lewis Bay, Hut and associated artifacts, Discovery Hut, Huts and associated artifacts, Summit of Mt. Melbourne, and Botany Bay.

§ 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/Fort 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 purpose.

§ 670.38 Conditions of permits.

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]

PART 671—WASTE REGULATION

Subpart A--Introduction

§ 671.1 Purpose of regulations.

The purposes of these regulations in part 671 are to protect the Antarctic environment and dependent and associated ecosystems, to preserve Antarctica's value as an area for the conduct of scientific research, and to implement the Antarctic Conservation Act of 1978, Public Law 95-541, consistent with the provisions of the Protocol on Environmental Protection to the Antarctic Treaty, signed in Madrid, Spain, on October 4, 1991.

§ 671.2 Scope.

These regulations in part 671 apply to any U.S. citizen's use or release of a banned substance, designated pollutant or waste in Antarctica.

§ 671.3 Definitions.

(a) *Definitions.* In this part:

Act means the Antarctic Conservation Act of 1978, Public Law 95-541, 92 Stat. 2048 (16 U.S.C. 2401 et seq.)

Antarctic hazardous waste means any waste consisting of or containing one or more designated pollutants.

Antarctica means the area south of 60 degrees south latitude.

Banned substance means any polychlorinated biphenyls (PCBs), non-sterile soil, polystyrene beads, plastic chips or similar loose polystyrene packing material, pesticides (other than those required for scientific, medical or hygiene purposes) or other substance designated as such under subpart E of this part.

Designated pollutant means any substance designated as such by the Director pursuant to subpart E of this part; any pesticide, radioactive substance, or substance consisting of or containing any chemical listed by source, generic or chemical name at 40 CFR 61.01, Table 116.4A of 40 CFR 116.4; subpart D of 40 CFR part 261, 40 CFR 302.4, part 355, and part 372; and any substance which exhibits a hazardous waste characteristic as defined in subparts B and C of 40 CFR part 261; but shall not include any banned substance.

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

Incinerate or *Incineration* means the processing of material by mechanisms that (1) involve the control of combustion air and/or fuel so as to maintain adequate temperature for efficient combustion; (2) contain the combustion reaction in an enclosed device with sufficient residence time and mixing for complete processing; and (3) control emission of gaseous or particulate combustion products.

Master permit means a permit issued to a federal agency, or its agents or contractors, or any other entity, covering activities conducted in connection with USAP or other group activities in Antarctica.

NSF or Foundation means the National Science Foundation.

Open burning means combustion of any material by means other than incineration.

Permit means a permit issued pursuant to subpart C of this part.

Private permit means any permit other than a master permit.

Protocol means the Protocol on Environmental Protection to the Antarctic Treaty, signed by the United States in Madrid on October 4, 1991, and any and all Annexes thereto, as amended or supplemented from time to time.

Release means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, leaching, dumping, burying or disposing of a substance, whether intentionally or accidentally.

Station means McMurdo Station, Palmer Station, Amundsen-Scott South Pole Station and any other permanent USAP facility in Antarctica designed to accommodate at least 50 persons at any one time.

Substance means any gas, liquid, or solid, or mixture thereof, including biological material.

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 and the Trust Territory of the Pacific Islands, including the Federated States of Micronesia and the Commonwealth of the Northern Mariana Islands.

United States Antarctic Program or USAP means the United States national program in Antarctica.

U.S. citizen means any individual who is a citizen or national of the United States; any corporation, partnership, trust, association, or other legal entity existing or organized under the laws of any of the United States; and any department agency or other instrumentality of the Federal government or of any State, and any officer, employee, or agent of such instrumentality.

Use means to use, generate or create a substance, or to import a substance into Antarctica, but does not include the shipboard use of a substance, provided that substance is not released or removed from the vessel.

Waste means any substance that will no longer be used for any useful purpose, but does not include substances to be recycled in Antarctica, or substances to be reused in a manner different than their initial use, provided such substances are stored in a manner that will prevent their dispersal into the environment, and further provided that they are recycled, reused or disposed of in accordance with the provisions of this Part within three years. Recycling includes, but is not limited to, the reuse, further use, reclamation or extraction of a waste through a process or activity that is separate from the process or activity that produced the waste.

(b) *Pollutants, generally.* All banned substances, designated pollutants and waste shall be considered pollutants for purposes of the Antarctic Conservation Act.

Subpart B--Prohibited Acts, Exceptions

§ 671.4 Prohibited acts.

Unless one of the exceptions stated in § 671.5 is applicable, it is unlawful for any U.S. citizen to:

- (a) Use or release any banned substance in Antarctica;
- (b) Use or release any designated pollutant in Antarctica, except pursuant to a permit issued by NSF under subpart C of this part;
- (c) Release any waste in Antarctica, except pursuant to a permit issued by NSF under subpart C of this part; or
- (d) Violate any term or condition of a permit issued by NSF under subpart C of this part, or any term or condition of any of the regulations issued under this part.

§ 671.5 Exceptions

A permit shall not be required for any use or release of designated pollutants or waste allowed under the Act to Prevent Marine Pollution from Ships (33 U.S.C. 1901 et seq.), as amended, or for any shipboard use of banned substances or designated pollutants, provided such substances are not removed from the vessel in Antarctica.

Subpart C--Permits

§ 671.6 Applications for permits.

(a) *General content of permit applications.* Each application for a permit shall be dated and signed by the applicant, and shall include the following information:

(1) The applicant's name, address and telephone number, the business or institutional affiliation of the applicant, or the name, address and telephone number of the president, principal officer or managing partner of the applicant, as applicable;

(2) A description of the types, expected concentrations and volumes of wastes and designated pollutants to be released in Antarctica; the nature and timing of such releases; arrangements for waste management, including, without limitation, plans for waste reduction, minimization, treatment and processing, recycling, storage, transportation and disposal; arrangements for training and educating personnel to comply with these waste management requirements and procedures, and arrangements for monitoring compliance; and other arrangements for minimizing and monitoring the environmental impacts of proposed operations and activities;

(3) A description of the types, expected concentrations and volumes of designated pollutants to be used in Antarctica; the nature and timing of such uses; the method of storage of designated pollutants; and a contingency plan for controlling releases in a manner designed to minimize any resulting hazards to health and the environment;

(4) The desired effective date and duration of the permit; and

(5) The following certification:

"I certify that, to the best of my knowledge and belief, and based upon due inquiry, the information submitted in this application for a permit is complete and accurate. Any

knowing or intentional false statement will subject me to the criminal penalties of 18 U.S.C. 1001."

(b) *Address to which application should be sent.* Each application shall be in writing, and sent to: Permits Office, Office of Polar Programs, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

(c) *Sufficiency of application.* The sufficiency of the application shall be determined by the Director. The Director may waive any requirement for information, or require such additional information as he determines is relevant to the processing and evaluation of the application.

(d) *Publication of permit applications.* The Director shall publish notice in the **Federal Register** of each application for a permit and the proposed conditions of its issuance (including duration). The notice shall invite the submission by interested parties, the Environmental Protection Agency and other federal agencies, within 30 days after the date of publication of 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.

§ 671.7 General issuance criteria.

(a) Upon receipt of a complete and properly executed application for a permit, the Director will decide whether and on what conditions he will issue a permit. In making this decision, the Director will carefully consider any comments or suggestions received from interested parties, the Environmental Protection Agency and other federal agencies pursuant to § 671.6(d), and will determine whether the permit requested meets the objectives of the Act, the Protocol, and the requirements of these regulations.

(b) Permits authorizing the use or release of designated pollutants or wastes may be issued only if, based on relevant available information, the Director determines that such use or release will not pose a substantial hazard to health or the environment, taking into account available information on the possible cumulative impact of multiple releases.

§ 671.8 Permit administration.

(a) *Issuance of permits.* The Director may approve an application for a permit in whole or in part, and may condition such approval upon compliance with additional terms and conditions. Permits shall be issued in writing, shall be signed by the Director, shall specify duration, and shall contain such terms and conditions as may be established by the Director and as are consistent with the Act and this part.

(b) *Denial.* An applicant shall be notified in writing of the denial of any permit request or part of a request, and 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 constitute amendments of the 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 Part.

Any application for modification of a permit that involves a material change beyond the terms originally requested will be subject to the same procedures as a new application.

(d) *Public 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**, including the conditions of issuance or basis for denial, as appropriate.

§ 671.9 Conditions of permit.

(a) *Conditions.* All permits issued pursuant to subpart C of this part shall be conditioned upon compliance with the relevant provisions of the ACA, the Treaty, the Protocol, such specific conditions or restrictions as may be imposed by the Director under § 671.7, and the provisions of subpart D of this part.

(b) *Possession of permits.* Permits issued under this part, or copies of them, must be in the possession of persons to whom they are issued or their agents when conducting the authorized action. Any permit issued shall be shown to the Director or to any other person with enforcement authority upon request.

(c)(1) *Reports.* Permit holders must provide the Director with written reports of:

(i) Any non-permitted release of designated pollutants or waste within fourteen days after the occurrence of such release, including the date, quantity and cause of the release, and plans for remediation;

(ii) The identity and quantity of all designated pollutants removed from Antarctica or otherwise disposed of, and the method of disposal; and

(iii) Any other violations of the terms and conditions of their permits.

(2) The Director may also require permit holders to file reports of activities conducted under their permits. Such reports shall be submitted to the Director not later than June 30 for the preceding 12 month period ending May 31.

§ 671.10 Review, modification, suspension, and revocation.

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

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

(2) If there is any change in conditions which makes the permit inconsistent with the Act and any regulation 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) The Director shall review all unexpired permits issued under this part at least biennially to determine whether those permits should be modified, suspended or revoked as set forth in paragraph (a) of this section.

(c) Whenever the Director proposes any modifications, suspensions or revocations of a permit under this § 671.10, the permittee shall be afforded the 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.

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

Subpart D--Waste Management

§ 671.11 Waste storage.

(a) Pending the treatment, disposal or removal of any wastes pursuant to § 671.12, all wastes shall be contained, confined or stored in a manner that will prevent dispersal into the environment;

(b) All Antarctic hazardous wastes generated at or transported to any USAP station may be temporarily stored at such station prior to the treatment, disposal or removal of any wastes pursuant to § 671.12, provided all such Antarctic hazardous waste is stored in either closed containers or tanks labeled to indicate their contents and the beginning date of accumulation of such waste, and further provided the following conditions are satisfied:

(1) If Antarctic hazardous wastes, radioactive wastes, or medical wastes, are generated at or transported to McMurdo Station, they may be temporarily stored at that station for a period not to exceed 15 months;

(2) If Antarctic hazardous wastes, radioactive wastes, or medical wastes, are generated at or transported to South Pole Station, they may be temporarily stored at that station while awaiting transport to McMurdo Station, for a period not to exceed 15 months;

(3) If Antarctic hazardous wastes, radioactive wastes, or medical wastes, are generated at or transported to Palmer Station, they may be temporarily stored at that station while awaiting transport to McMurdo Station or other disposition, for a period not to exceed 28 months;

(4) Containers holding Antarctic hazardous wastes must be:

(i) In good, non-leaking condition with sufficient structural integrity for the storage of Antarctic hazardous waste;

(ii) Made of or lined with materials which will not react with, and are otherwise compatible with, the Antarctic hazardous waste to be stored, so that the ability of the containers to contain such waste is not impaired;

(iii) Stored in a manner that allows access for inspection and response to emergencies; and

(iv) Inspected at least weekly for leakage and deterioration. All inspections must be appropriately documented.

(5) Tank systems used for storing Antarctic hazardous wastes must be in good, non-leaking condition with sufficient structural integrity for the storing of hazardous wastes; and systems must be inspected weekly to detect corrosion or releases of waste and to collect data from monitoring and leak detection equipment, to the extent available, to ensure that they are functioning properly. All inspections must be appropriately documented. Prior to the expiration of the 15 month period referred to in § 671.11(b)(1), all Antarctic hazardous wastes shall be treated or removed from Antarctica in accordance with § 671.12.

(6) Ignitable, reactive or incompatible wastes shall be properly segregated and protected from sources of ignition or reaction, as appropriate.

(c) All Antarctic hazardous wastes generated at a location other than a permanent station may be temporarily stored at such location for a period not to exceed 12 months, in closed, non-leaking containers marked to indicate their contents. Such containers must be in good condition and made of or lined with material which will not react with and is otherwise compatible with the Antarctic hazardous waste stored therein so as not to impair the ability of the container to contain the waste. Prior to the expiration of the 12 month period referred to above, all such hazardous wastes shall be either:

(1) Treated or processed, disposed of or removed from Antarctica pursuant to § 671.12, or

(2) Removed to a permanent station and temporarily stored at that station in accordance with paragraph (b) of this section.

§ 671.12 Waste disposal.

(a)(1) The following wastes shall be removed from Antarctica:

(i) Radioactive materials;

(ii) Electrical batteries;

(iii) Fuel (both liquid and solid);

(iv) Waste containing harmful levels of heavy metals or acutely toxic or harmful persistent compounds;

(v) Poly-vinyl chloride (PVC), polyurethane foam, polystyrene foam, rubber and lubricating oils, treated timbers and other products containing additives which can produce harmful emissions or releases;

(vi) All other plastic wastes except low density polyethylene containers (such as bags for storing wastes) provided such containers are incinerated in accordance with paragraph (e) of this section;

(vii) Solid, non-combustible wastes; and

(viii) Fuel, oil and chemical drums that constitute waste.

(2) Notwithstanding paragraph (a)(1) of this section, the obligations set forth in paragraphs (a)(1) (vii) and (viii) of this section shall not apply if the Director determines that the removal of such wastes by any practicable option would cause greater adverse environmental impacts than would be caused by leaving them in their existing locations.

(b) All liquid wastes other than sewage and domestic liquid wastes and wastes referred in paragraph (a) of this section shall be removed from Antarctica to the maximum extent practicable.

(c) Sewage and domestic liquid wastes may be discharged directly into the sea, taking into account the assimilative capacity of the receiving marine environment, and provided that such discharge occurs, wherever practicable, where conditions exist for initial dilution and rapid dispersal, and further provided that large quantities of such wastes (generated in a station where the average weekly occupancy over the austral summer is approximately 30 individuals or more) shall be treated at least by maceration. If biological treatment processes are used, the by-product of such treatment may be disposed of into the sea provided disposal does not adversely affect the local environment.

(d) Residues of introduced animal carcasses, laboratory culture of micro-organisms and plant pathogens, and introduced avian products must be removed from Antarctica unless incinerated, autoclaved or otherwise sterilized.

(e) Combustible wastes not removed from Antarctica other than wastes referred to in paragraph (a) of this section, shall be burnt in incinerators which reduce harmful emissions or discharges to the maximum extent practicable and the solid residue of such incineration shall be removed from Antarctica; provided, however, that USAP may continue to bury such combustible wastes in snow pits at South Pole Station, but must phase out such practices before March 1, 1995. Any emission or discharge standards and equipment guidelines which may be recommended by the Committee for Environmental Protection constituted or to be constituted pursuant to the Protocol or by the Scientific Committee on Antarctic Research shall be taken into account.

(f) Sewage and domestic liquid wastes and other liquid wastes not removed from Antarctica in accordance with other provisions of this section, shall, to the maximum extent practicable, not be disposed of onto sea ice, ice shelves or grounded ice-sheet unless such wastes were generated by stations located inland on ice shelves or on the grounded ice-sheet. In such event, the wastes may be disposed of in deep ice pits if that is the only practicable option, provided the ice pits are not located on known ice-flow lines which terminate at ice-free land areas or in blue ice areas of high ablation.

(g) No wastes may be disposed of onto ice-free areas or into any fresh water system.

(h) Open burning of wastes is prohibited at all permanent stations, and shall be phased out at all other locations by March 1, 1994. If it is necessary to dispose of waste by open burning prior to March 1, 1994, allowance shall be made for the wind direction and speed and the type of waste to be burnt to limit particulate deposition and to avoid such deposition over areas of special biological, scientific, historic, aesthetic or wilderness significance.

(i) Each unauthorized release of waste in Antarctic shall be, to the maximum extent practicable, promptly cleaned up by the person responsible for such release.

§ 671.13 Waste management for the USAP.

(a) In order to provide a basis for tracking USAP wastes, and to facilitate studies aimed at evaluating the environmental impacts of scientific activity and logistic support, the USAP shall classify its wastes in one of the following categories:

- (1) Sewage and domestic liquid wastes;
- (2) Other liquid wastes and chemicals, including fuels and lubricants;
- (3) Solid wastes to be combusted;
- (4) Other solid wastes; and
- (5) Radioactive material.

(b) USAP shall prepare and annually review and update a waste management plan (including plans for waste reduction, storage and disposal) specifying for each of its permanent stations, field camps and ships (other than small boats that are part of the operations of permanent stations or are otherwise taken into account in existing management plans for ships):

- (1) Current and planned waste management arrangements, including final disposal;

(2) Current and planned arrangement for assessing the environmental effects of waste and waste management;

(3) Other efforts to minimize environmental effects of wastes and waste management; and

(4) Programs for cleaning up existing waste disposal sites and abandoned work sites.

(c) USAP shall designate one or more waste management officials to develop and monitor waste management plans and ensure that members of expeditions receive training so as to limit the impact of their activities on the Antarctic environment, and to inform them of the requirements of the Protocol and of this Part.

(d) USAP shall, to the extent practicable, prepare an inventory of locations of past activities (i.e., traverses, fuel depots, field bases, crashed aircraft) so that such locations can be taken into account in planning future scientific, logistic and waste management programs.

(e) USAP shall clean up its past and present waste disposal sites on land and abandoned work sites, except that it shall not be required to:

(1) Remove any structure designated as a historic site or monument; or

(2) Remove any structure or waste in circumstances where the removal would result in greater adverse environmental impact than leaving the structure or waste in its existing location.

(f) USAP shall circulate waste management plans and inventories described in this section in accordance with the requirements of the Treaty and the Protocol.

Subpart E--Designation of Banned Substances; Reclassification of Pollutants

§ 671.14 Annual review.

The Director shall review the list of banned substances and designated pollutants at least annually, and may propose the designation or redesignation of any substance as a banned substance, designated pollutant or other waste, based on the following criteria:

(a) If the Director determines that a substance, including a designated pollutant, poses a substantial immediate hazard to health or the environment and such hazard cannot be eliminated through waste management practices or other methods, or if the Parties to the Protocol or Treaty agree that a substance should be banned from use in Antarctica, the Director may designate such substance a banned substance.

(b) If the Director determines that a substance is liable to create a hazard to health or the environment if improperly treated or processed, stored, transported, or disposed of, the Director may designate such substance a designated pollutant.

(c) If the Director determines that a substance previously designated a banned substance no longer displays the characteristics described in paragraph (a) of this section, the Director may remove such substance from the list of banned substances (to the extent consistent with the provisions of the Protocol), but if the Director determines that such substance has the characteristics described in paragraph (b) of this section, it shall be redesignated a designated pollutant.

(d) If the Director determines that a substance previously designated a designated pollutant no longer displays the characteristics described in paragraph (b) of this section, the Director may remove such substance from the list of designated pollutants.

(e) In making the determinations referred to in paragraphs (a) through (d) of this section, the Director shall take into account all relevant new information obtained through monitoring activities or otherwise.

§ 671.15 Publication of preliminary determination

Prior to any designation or redesignation of substances pursuant to § 671.14 (including removal of such substances from lists of banned substances or designated pollutants), the Director shall publish notice in the Federal Register of any proposed designation or redesignation, including the basis therefore. The notice shall invite the submission by interested parties, the Environmental Protection Agency and other federal agencies, within 30 days after the date of publication of notice, of written data, comments, or views with respect to such action.

§ 671.16 Designation and redesignation of pollutants

After review of any comments or suggestions received from interested parties, the Environmental Protection Agency and other Federal agencies pursuant to § 671.15, the Director will make a final determination to designate and redesignate various substances as set forth above. Within 10 days after the date of such final determination, the Director shall publish notice of any action taken in the **Federal Register**. Such action shall become effective no earlier than thirty days following publication of notice.

Subpart F--Cases of Emergency

§ 671.17 Cases of emergency.

The provisions of this part shall not apply in cases of emergency relating to the safety of human life or of ships, aircraft or other equipment and facilities of high value, or the protection of the environment. Notice of any acts or omissions resulting from such emergency situations shall be reported promptly to the Director, who shall notify the Treaty parties in accordance with the requirements of the Treaty and the Protocol, and publish notice of such acts or omissions in the **Federal Register**.

PART 672-ENFORCEMENT AND HEARING PROCEDURES

Because of its length and complicated nature, Part 672 has been excluded from this book. The rules set forth in Part 672 govern all adjudicatory proceedings for the assessment of civil penalties or imposition pursuant to the Antarctic Conservation Act of 1978 and other adjudicatory proceedings that the Foundation, in its discretion, determines are appropriate for handling under these rules.

PART 673-ANTARCTIC NON-GOVERNMENTAL EXPEDITIONS

§ 673.1 Purpose of regulations.

The purpose of the regulations in this Part is 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, and Article 15 of the Protocol on Environmental Protection to the Antarctic Treaty done at Madrid on October 4, 1991. Specifically, this part requires that all non-governmental expeditions, for which advance notice by the United States is required under the Antarctic Treaty, who use non-flagged vessels ensure that the vessel owner or operator has an appropriate emergency response plan. This Part is also designed to ensure that expedition members are informed of their environmental protection obligations under the Antarctic Conservation Act. (Approved by the Office of Management and Budget under control number 3145-0179).

§ 673.2 Scope.

The requirements in this Part apply to non-governmental expeditions to or within Antarctica for which the United States is required to give advance notice under Paragraph (5) of Article VII of the Antarctic Treaty.

§ 673.3 Definitions.

In this part:

Antarctica means the area south of 60 degrees south latitude

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

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.

§ 673.4 Environmental protection information.

(a) Any person who organizes a non-governmental expedition to Antarctica and who does business in the United States shall notify expedition members of the environmental protection obligations of the Antarctic Conservation Act.

(b) The National Science Foundation's Office of Polar Programs may prepare for publication and distribution explanation of the prohibited acts set forth in the Antarctic Conservation Act, as well as other appropriate educational material for tour operators,

their clients, and employees. Such material provided to tour operators for distribution to their passengers and crew shall be disseminated prior to or during travel to the Antarctic.

§ 673.5 Emergency response plan.

Any person organizing a non-governmental expedition to or within Antarctica who is transporting passengers aboard a non-U.S. flagged vessel shall ensure that:

- (a) the vessel owner's or operator's shipboard oil pollution emergency plan, prepared and maintained according to Regulation 26 of Annex I of the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto (MARPOL 73/78), has provisions for prompt and effective response action to such emergencies as might arise in the performance of the vessel's activities in Antarctica. Any emergency response plan which satisfies the requirements contained in 33 CFR Section 151.26 of the U.S. Coast Guard regulations will also satisfy the requirements of this paragraph. If the vessel owner or operator does not have a shipboard oil pollution emergency plan, a separate plan for prompt and effective response action is required.
- (b) the vessel owner or operator agrees to take all reasonable measures to implement the plan for a prompt and effective response action in the event of an emergency, taking into account considerations of risk to human life and safety.