

formed within 30 days of consent, the physician must certify that the sterilization was performed less than 30 days, but not less than 72 hours after informed consent was obtained because of premature delivery or emergency abdominal surgery and—

(i) In the case of premature delivery, must state the expected date of delivery; or

(ii) In the case of abdominal surgery, must describe the emergency.

(4) If an interpreter is provided, the interpreter must certify that he or she translated the information and advice presented orally and read the consent form and explained its contents to the individual to be sterilized and that, to the best of the interpreter's knowledge and belief, the individual understood what the interpreter told him or her.

§ 441.259 Review of regulations.

The Secretary will request public comment on the operation of this subpart not later than 3 years after its effective date.

APPENDIX: REQUIRED CONSENT FORM

NOTICE: Your decision at any time not to be sterilized will not result in the withdrawal or withholding of any benefits provided by programs or projects receiving Federal funds.

CONSENT TO STERILIZATION

I have asked for and received information about sterilization from (doctor or clinic). When I first asked for the information, I was told that the decision to be sterilized is completely up to me. I was told that I could decide not to be sterilized. If I decide not to be sterilized, my decision will not affect my right to future care or treatment. I will not lose any help or benefits from programs receiving Federal funds, such as A.F.D.C. or Medicaid that I am now getting or for which I may become eligible.

I understand that the sterilization must be considered permanent and not reversible. I have decided that I do not want to become pregnant, bear children or father children.

I was told about those temporary methods of birth control that are available and could be provided to me which will allow me to bear or father a child in the future. I have rejected these alternatives and chosen to be sterilized.

I understand that I will be sterilized by an operation known as a \_\_\_\_\_. The discomforts, risks and benefits associated with the operation have been explained to me. All my questions have been answered to my satisfaction.

I understand that the operation will not be done until at least 30 days after I sign this form. I understand that I can change my mind at any time and that my decision at any time not to be sterilized will not result in the withholding of any benefits or medical services provided by Federally funded programs.

I am at least 21 years of age and was born on (Day) (Month) (Year).

I, \_\_\_\_\_, hereby consent of my own free will to be sterilized by \_\_\_\_\_ by a method called \_\_\_\_\_. My consent expires 180 days from the date of my signature below.

I also consent to the release of this form and other medical records about the operation to:

Representatives of the Department of Health, Education, and Welfare or

Employees of programs or projects funded by that Department but only for determining if Federal laws were observed.

I have received a copy of this form. (Signature) (Date) (Month) (Day) (Year).

You are requested to supply the following information, but it is not required: (Race and ethnicity designation (please check)) Black (not of Hispanic origin); Hispanic; Asian or Pacific Islander; American Indian or Alaskan native; or White (not of Hispanic origin).

INTERPRETER'S STATEMENT

If an interpreter is provided to assist the individual to be sterilized:

I have translated the information and advice presented orally to the individual to be sterilized by the person obtaining this consent. I have also read him/her the consent form in \_\_\_\_\_ language and explained its contents to him/her. To the best of my knowledge and belief he/she understood this explanation. (Interpreter) (Date).

STATEMENT OF PERSON OBTAINING CONSENT

Before (name of individual) signed the consent form, I explained to him/her the nature of the sterilization operation \_\_\_\_\_, the fact that it is intended to be a final and irreversible procedure and the discomforts, risks and benefits associated with it.

I counseled the individual to be sterilized that alternative methods of birth control are available which are temporary. I explained that sterilization is different because it is permanent.

I informed the individual to be sterilized that his/her consent can be withdrawn at any time and that he/she will not lose any health services or any benefits provided by Federal funds.

To the best of my knowledge and belief the individual to be sterilized is at least 21 years old and appears mentally competent. He/She knowingly and voluntarily requested to be sterilized and appears to understand the nature and consequence of the procedure. (Signature of person obtaining consent) (Date) (Facility) (Address).

PHYSICIAN'S STATEMENT

Shortly before I performed a sterilization operation upon (Name of individual to be sterilized) on (Date of sterilization) (operation), I explained to him/her the nature of the sterilization operation (specify type of operation), the fact that it is intended to be a final and irreversible procedure and the discomforts, risks and benefits associated with it.

I counseled the individual to be sterilized that alternative methods of birth control are available which are temporary. I explained that sterilization is different because it is permanent.

I informed the individual to be sterilized that his/her consent can be withdrawn at any time and that he/she will not lose any health services or benefits provided by Federal funds.

To the best of my knowledge and belief the individual to be sterilized is at least 21 years old and appears mentally competent. He/She knowingly and voluntarily request-

ed to be sterilized and appeared to understand the nature and consequences of the procedure.

(Instructions for use of alternative final paragraphs: Use the first paragraph below except in the case of premature delivery or emergency abdominal surgery where the sterilization is performed less than 30 days after the date of the individual's signature on the consent form. In those cases, the second paragraph below must be used. Cross out the paragraph which is not used.)

(1) At least 30 days have passed between the date of the individual's signature on this consent form and the date the sterilization was performed.

(2) This sterilization was performed less than 30 days but more than 72 hours after the date of the individual's signature on this consent form because of the following circumstances (check applicable box and fill in information requested):  Premature delivery.

Individual's expected date of delivery: \_\_\_\_\_

Emergency abdominal surgery; (describe circumstances): \_\_\_\_\_ (Physician) (Date).

(Catalog of Federal Domestic Assistance Program No. 13.714, Medical Assistance Program.)

Dated: September 11, 1978.

ROBERT A. DERZON,  
Administrator, Health Care  
Financing Administration.

Approved: October 30, 1978.

JOSEPH A. CALIFANO, Jr.,  
Secretary.

[FR Doc. 78-31577 Filed 11-7-78; 8:45 am]

[4110-92-M]

Title 45—Public Welfare

CHAPTER II—SOCIAL AND REHABILITATION SERVICE (ASSISTANCE PROGRAMS); DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

FEDERAL FINANCIAL PARTICIPATION IN STATE CLAIMS FOR STERILIZATION AND ABORTIONS

AGENCY: Administration for Public Services (APS), Office of Human Development Services (OHDS), HEW.

ACTION: Final rules.

SUMMARY: These rules amend the requirements for sterilizations for which Federal financial assistance might be claimed under the six social services programs administered by APS. The purpose is to conform the rules for these programs to the rules being adopted for Medicaid and for programs administered by the Public Health Service.

EFFECTIVE DATE: These rules are effective on February 6, 1979.

## FOR FURTHER INFORMATION CONTACT:

Mrs. Johnnie U. Brooks, Room 2225, Switzer Building, 330 C Street, SW., Washington, D.C. 20201, 202-245-9415.

**SUPPLEMENTARY INFORMATION:** In three sets of regulations published today in the FEDERAL REGISTER, the Department is issuing new rules governing expenditures for sterilizations provided under various Department programs. One set of rules applies to the title XIX program (Medicaid); one set applies to programs administered by the Public Health Service; and this set applies to the social services programs administered by the Administration for Public Services. A comprehensive preamble, discussing the provisions of the new rules and responding to the comments received on the notice of proposed rulemaking, is set forth with the PHS regulations (42 CFR Part 50) published elsewhere in this issue.

The programs administered by APS are those under titles I, IV-A, X, XIV, XVI(AABD) and XX of the Social Security Act. The title XX program is implemented in the 50 States and the District of Columbia. The regulations for title XX appear in 45 CFR Part 228. The other programs are implemented in Guam, Puerto Rico and the Virgin Islands and are subject to the regulations in 45 CFR Parts 220 and 222.

These six programs, and the Medicaid program, are currently subject to the rule on sterilizations set forth in 45 CFR 205.35. However, the Medicaid regulation being published today revises that rule and recodifies it in 42 CFR Part 441, Subpart F. Rather than setting out the rule in detail for the APS programs, we are merely incorporating the new Medicaid rule by reference in the pertinent regulations for APS. The present rule in 45 CFR 205.35 is vacated.

We are also taking this opportunity to correct a technical omission with respect to the rules on abortions for which financial assistance might be claimed under the APS programs. On July 21, 1978, final rules were published governing Federal financial participation in State claims for abortions. (43 FR 31868) These rules are effective August 21, 1978 for Medicaid, for programs administered by the Public Health Service, and for title XX. Through an oversight, the rules for the other social services programs administered by APS were not amended to reflect the change in policy on abortions. Since we are again incorporating the Medicaid rule by reference, and are doing so in the same section that deals with sterilization, we have added that amendment to this rule.

For a full discussion of the rule on abortion, see the preamble for the July 21, 1978 publication.

## WAIVER OF PROPOSED RULEMAKING

Because these amendments merely conform the APS regulations to the amendments adopted for Medicaid and PHS, we consider them to be technical in nature and believe that their omission from the proposed rule did not preclude full public review and comment. Therefore, we believe that further notice of proposed rulemaking is unnecessary and are publishing these rules in final. In accordance with the Medicaid and PHS regulations, the amendments pertaining to sterilizations will be effective February 6, 1978. The rules pertaining to abortions are effective on August 21, the effective date of the rules published on July 21. Therefore, the Secretary amends 45 CFR Chapter II as set forth below.

## PART 205—GENERAL ADMINISTRATION—PUBLIC ASSISTANCE PROGRAMS

1. Section 205.35 of Part 205 is vacated and reserved as follows, and its content amended and relocated to 42 CFR Part 441, Subpart F.

## § 205.35 [Reserved]

## PART 220—SERVICE PROGRAMS FOR FAMILIES AND CHILDREN: TITLE IV PARTS A AND B OF THE SOCIAL SECURITY ACT

2. Section 220.21 of Part 220 is revised to codify the first paragraph as (a) and to add paragraphs (b) and (c) to read as follows:

## § 220.21 Family planning services.

(a) Family planning services must be offered and provided to those individuals wishing such services, specifically including medical contraceptive services (diagnosis, treatment, supplies, and followup), social services and educational services. Such services must be available without regard to marital status, age, or parenthood. Individuals must be assured choice of method and there must be arrangements with varied medical resources so that individuals can be assured choice of source of service. Acceptance of any services must be voluntary on the part of the individual and may not be a prerequisite or impediment to eligibility for the receipt of any other service or aid under the plan. Medical services must be provided in accordance with the standards of other State programs

providing medical services for family planning (e.g., maternal and child health services).

(b) Federal financial participation in State claims for abortions is governed by 42 CFR 449.100 through 449.109.

(c) If a State authorized sterilization as a family planning service, it must comply with the provisions of 42 CFR Part 441, Subpart F.

## PART 222—SERVICE PROGRAMS FOR AGED, BLIND, OR DISABLED PERSONS: TITLES I, X, XIV AND XVI OF THE SOCIAL SECURITY ACT

3. Section 222.59 of Part 222 is revised to codify the first paragraph as (a) and to add paragraph (b) to read as follows:

## § 222.59 Services to individuals to meet special needs.

(a) Services may include any or all of the following individual service items: Legal services for persons desiring the help of lawyers with their legal problems (see separate policies governing the provision of such services); family planning; services for such groups as alcoholics, drug addicts, and mentally retarded individuals; special services to the blind, deaf, and other disabled individuals.

(b) Regarding the provision of family planning services:

(1) If a State authorizes abortions, Federal financial participation in State claims is governed by 42 CFR 449.100 through 449.109.

(2) If a State authorizes sterilization, it must comply with the provisions of 42 CFR Part 441, Subpart F.

## PART 228—SOCIAL SERVICE PROGRAMS FOR INDIVIDUALS AND FAMILIES: TITLE XX OF THE SOCIAL SECURITY ACT

4. Section 228.63 of Part 228 is revised to amend paragraph (c) to read as follows:

## § 228.63 Family planning services.

(a) FFP is available in the cost of family planning services provided without regard to income.

(b) For purposes of this part, family planning services means counseling, educational and medical services (including diagnosis, treatment and continuing supervision, necessary laboratory examinations and tests, drugs, supplies, devices and related counseling furnished, prescribed by, or under the supervision of, a physician) to enable individuals (including minors) voluntarily to limit their family size, to space their children, or to correct infertility.

(c) If a state authorizes sterilization as a family planning service, it must comply with the provisions of 42 CFR Part 441, Subpart F, except that the State plan requirement under 42 CFR 441.252 does not apply to the title XX program.

(Sec. 101, Pub. L. 95-205, 91 Stat. 1461, December 9, 1977; Sec. 1102, 49 Stat. 647 (42 U.S.C. 1302).)

(Catalog of Federal Domestic Assistance Program No. 13.642, Social Services for Low Income and Public Assistance Recipients.)

NOTE.—It has been determined that this document does not require preparation of an Inflationary Impact Statement under Executive Order 11821 and OMB Circular A-107.

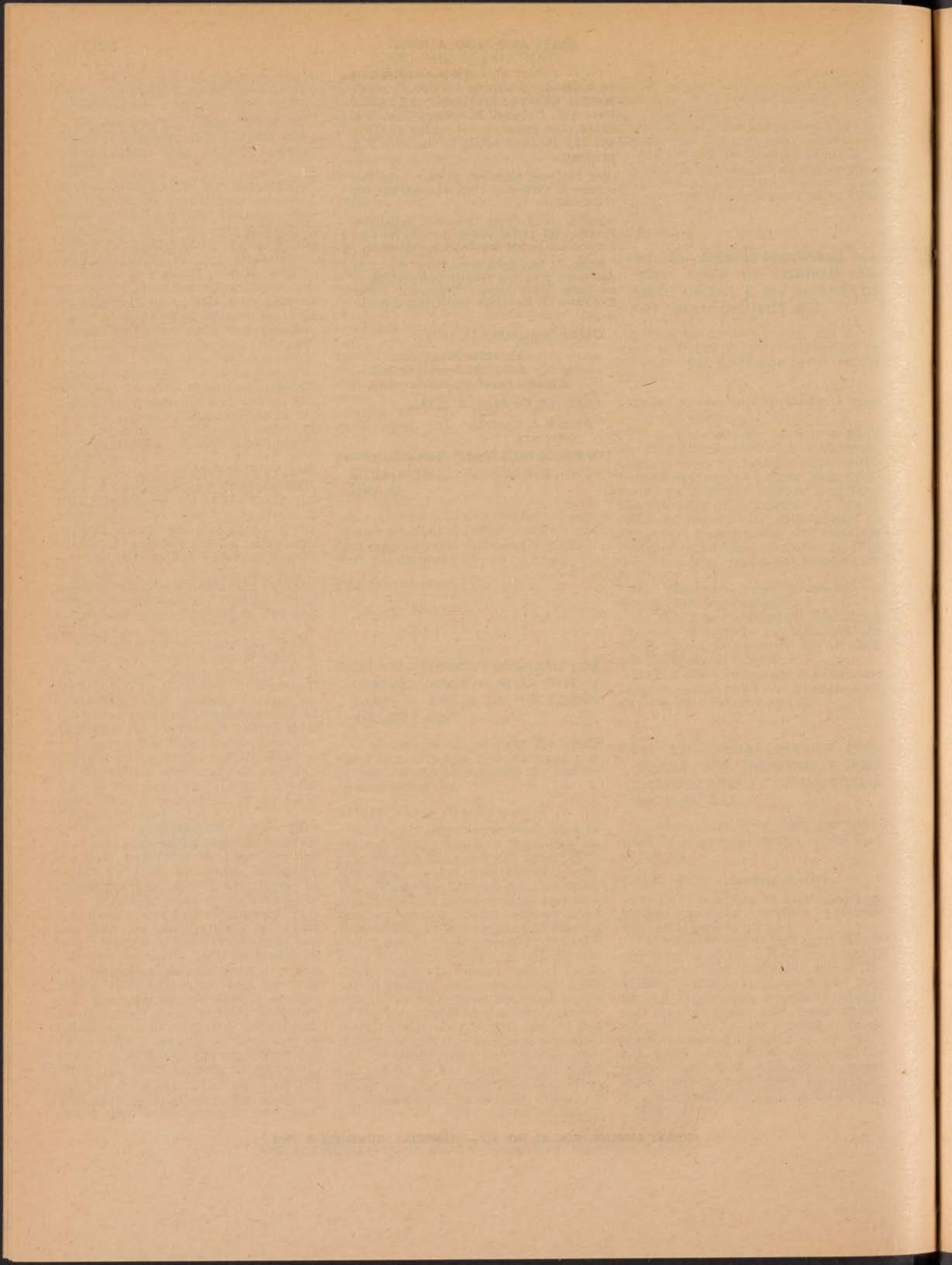
Dated: September 11, 1978.

ARABELLA MARTINEZ,  
*Assistant Secretary for  
Human Development Services.*

Approved: October 30, 1978.

JOSEPH A. CALIFANO, Jr.,  
*Secretary.*

[FR Doc. 78-31578 Filed 11-7-78; 8:45 am]



**Register  
of  
Federal  
Orders**

**WEDNESDAY, NOVEMBER 8, 1978  
PART VI**



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**DEPARTMENT OF  
THE INTERIOR**

**Bureau of Land  
Management**



**WETLAND-RIPARIAN  
AREA PROTECTION AND  
MANAGEMENT**

**Availability of Interim Guidelines  
To Implement E.O. 11990**

### PREVIOUSLY PUBLISHED DOCUMENTS

Listed below are other documents on implementation of Executive Orders 11988 and 11990 previously published in the FEDERAL REGISTER:

Agency	1978 Date of Issue	Vol. 43 FR, Page No.
Interior Department, Bureau of Land Management ...	Sept. 28	44798
Commerce Department, Office of the Secretary .....	Sept. 29	45284
Transportation Department, Office of the Secretary...	Sept. 29	45285
Nuclear Regulatory Commission.....	Oct. 6	46499
Interior Department, Heritage Conservation and Rec- reation Service.....	Oct. 13	47449
Small Business Administration .....	Oct. 20	49237
Interior Department, Reclamation Bureau.....	Oct. 27	50391

[4310-84-M]

**DEPARTMENT OF THE INTERIOR**

Bureau of Land Management

**WETLAND-RIPARIAN AREA PROTECTION AND MANAGEMENT**

Policy and Protection Procedures—Interim Guidelines

AGENCY: Bureau of Land Management, Department of the Interior.

ACTION: Notice of Availability of Interim Guidelines.

SUMMARY: The Bureau of Land Management (BLM) has developed interim policy and interim internal procedures to implement Executive Order 11990, Protection of Wetlands. The purpose of this notice is to inform the public that these guidelines are available for review. The final policy and procedures will be published in the FEDERAL REGISTER and made part of the Bureau Manual after the guidelines are reviewed and revised.

DATE: Comment by: January 8, 1978.

ADDRESS: Copies of the interim guidelines are available from the Director (360), Bureau of Land Management, 18th and C Streets, NW., Washington, D.C. 20240. Comment should be sent to the preceding address and all comments will be available for

public inspection in room 2649 at the above address from 7:45 a.m. to 4:15 p.m., Monday through Friday.

**FOR FURTHER INFORMATION CONTACT:**

Dr. William B. Krohn, 202-343-6189 or 6792.

**SUPPLEMENTARY INFORMATION:** BLM anticipates publishing Manual Section 6740 (Wetland-Riparian Area Protection and Management) to provide policy and internal procedures to implement Executive Order 11990. Additionally, Executive Order 11988 (Floodplain Management) and Section 102(a) (8) and (11) of the Federal Land Policy and Management Act of 1976 (43 USC 1701) mandate strong Bureau programs for the conservation of wetland-riparian areas.

The proposed Manual Section establishes policy and procedures for the identification, enhancement, and protection of fresh, brackish, and saline wetland areas. These guidelines have been reviewed internally by BLM and are applicable to all Bureau actions. In meeting BLM responsibilities for the acquisition, disposal, and management of public lands it will be policy:

1. To avoid long- and short-term adverse impacts associated with the destruction, loss, or degradation of wetland-riparian areas.

2. To avoid the direct or indirect support of new construction in wetland-riparian areas whenever there is a practical alternative.

3. To preserve and enhance the natural and beneficial values of wetland-riparian areas which may include constraining or excluding those uses causing irreparable damage.

4. To include practical measures to minimize harm in all actions causing definable adverse impacts to wetland-riparian areas.

The Bureau's planning process will be the mechanism for implementing BLM Manual Section 6740. An outline of this process, specifically as related to floodplain management, was published on September 28, 1978, in the FEDERAL REGISTER (43 FR 44798). The major steps of BLM's planning system described in this publication apply to the protection and management of wetland-riparian areas.

The Department of the Interior's interim guidelines on floodplain management and wetland protection, published on June 9, 1978, in the FEDERAL REGISTER (43 FR 25319-25321), were used in developing the proposed BLM Manual Section 6740.

ARNOLD E. PETTY,  
Director,

*Bureau of Land Management.*

OCTOBER 31, 1978.

[FR Doc. 78-31601 Filed 7-8-78; 8:45 am]