

**ADDRESS:** Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of San Leanna, Travis County, Texas, are available for review at the City Secretary's Office, P.O. Box 86, Manchaca, Texas.

**FOR FURTHER INFORMATION CONTACT:** Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of San Leanna, Travis County, Texas.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Slaughter Creek.....	Eastern Corporate Limits.....	621
	Western Corporate Limits.....	640

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

**Note.**—In accordance with Section 7(o)(4) of the Department of Housing and Urban Development Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 23, 1979.

Gloria M. Jimenez,  
Federal Insurance Administrator.  
[Docket No. FI-4825]  
[FR Doc. 79-11066 Filed 4-11-79; 8:46 am]  
BILLING CODE 4210-01-M

## DEPARTMENT OF JUSTICE 28 CFR Part 60

### Federal Law Enforcement Officers Authorized To Request the Issuance of a Search Warrant

**AGENCY:** Department of Justice.  
**ACTION:** Final rule.

**SUMMARY:** Rule 41(h) of the Federal Rules of Criminal Procedure authorizes the Attorney General to designate categories of federal law enforcement officers who may request issuance of search warrants. Previous authorizations were made by Order No. 510-73 (38 FR 7244, March 19, 1973) as amended by Order No. 521-73 (38 FR 18389, July 10, 1973). This order revises the categories of authorized officers by adding civilian agents of the Department of Defense authorized to enforce the Uniform Code of Military Justice and civilian agents of the Department of Defense not subject to military direction who are authorized to enforce the criminal laws of the United States. The order also makes the categories of authorized officers part of the Department's permanent published regulations. Organizational changes have been recognized.

**EFFECTIVE DATE:** April 4, 1979.

**FOR FURTHER INFORMATION CONTACT:** Philip B. Heymann, Assistant Attorney General, Criminal Division, Department of Justice, Washington, D.C. 20530 (202-633-2601).

**SUPPLEMENTARY INFORMATION:** Previous versions of the Attorney General Order had been published in the *Federal Register* (Order No. 510-73 (38 FR 7244, March 19, 1973) as amended by Order No. 521-73 (38 FR 18389, July 10, 1973)) but not published in the Code of Federal Regulations. For the convenience of the public, this order classifies the federal officers authorized to obtain search warrants. In that the material contained herein is a matter of Department of Justice procedure and practice, the requirement of the Administrative Procedure Act (5 U.S.C. section 553) requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date are inapplicable.

By virtue of the authority vested in me by Rule 41(h), Fed. R. Crim. P., Chapter I of Title 28, Code of Federal Regulations, is amended by adding the following new Part 60:

## PART 60—AUTHORIZATION OF FEDERAL LAW ENFORCEMENT OFFICERS TO REQUEST THE ISSUANCE OF A SEARCH WARRANT

Sec.  
60.1 Purpose.  
60.2 Authorized categories.  
60.3 Agencies with authorized personnel.  
Authority: Rule 41(h), Fed. R. Crim. P.

### § 60.1 Purpose.

This regulation authorizes certain categories of federal law enforcement officers to request the issuance of search warrants under Rule 41, Fed. R. Crim. P., and lists the agencies whose officers are so authorized. Rule 41(a) provides in part that a search warrant may be issued "upon the request of a federal law enforcement officer," and defines that term in Rule 41(h) as "any government agent, \* \* \* who is engaged in the enforcement of the criminal laws and is within the category of officers authorized by the Attorney General to request the issuance of a search warrant." The publication of the categories and the listing of the agencies is intended to inform the courts of the personnel who are so authorized. It should be noted that only in the very rare and emergent case is the law enforcement officer permitted to seek a search warrant without the concurrence of the appropriate United States Attorney's office.

### § 60.2 Authorized categories.

The following categories of federal law enforcement officers are authorized to request the issuance of a search warrant:

(a) Any person authorized to execute search warrants by a statute of the United States.

(b) Any person who has been authorized to execute search warrants by the head of a department, bureau, or agency (or his delegate, if applicable) pursuant to any statute of the United States.

(c) Any peace officer or customs officer of the Virgin Islands, Guam, or the Canal Zone.

(d) Any officer of the Metropolitan Police Department, District of Columbia.

(e) Any person authorized to execute search warrants by the President of the United States.

(f) Any civilian agent of the Department of Defense not subject to military direction who is authorized by statute or other appropriate authority to enforce the criminal laws of the United States.

(g) Any civilian agent of the Department of Defense who is



authorized to enforce the Uniform Code of Military Justice.

**§ 60.3 Agencies with authorized personnel.**

The following agencies have law enforcement officers within the categories listed in § 60.2 of this part:

**(a) National Law Enforcement Agencies:**

- (1) Department of Agriculture:  
National Forest Service
- (2) Department of Defense:  
Defense Investigative Service  
Criminal Investigation Command,  
United States Army  
Naval Investigative Service, United States Navy  
Office of Special Investigation, United States Air Force
- (3) Department of Health, Education, and Welfare:  
Center for Disease Control  
Food and Drug Administration
- (4) Department of the Interior:  
Bureau of Indian Affairs  
Bureau of Sport Fisheries and Wildlife  
National Park Service
- (5) Department of Justice:  
Drug Enforcement Administration  
Federal Bureau of Investigation  
Immigration and Naturalization Service
- U.S. Marshals Service
- (6) Department of Transportation:  
U.S. Coast Guard
- (7) Department of the Treasury:  
Bureau of Alcohol, Tobacco, and Firearms
- Executive Protective Service  
Internal Revenue Service  
Criminal Investigation Division  
Internal Security Division, Inspection Service
- U.S. Customs Service  
U.S. Secret Service
- (8) U.S. Postal Service:  
Inspection Service

**(b) Local Law Enforcement Agencies:**

- (1) District of Columbia Metropolitan Police Department
- (2) Law Enforcement Forces and Customs Agencies of Guam, The Virgin Islands, and the Canal Zone

Dated: April 4, 1979.

Griffin B. Bell,  
Attorney General.

[Order 626-79]

[FR Doc. 79-11380 Filed 4-11-79; 8:45 am]

BILLING CODE 4410-01-M

**DEPARTMENT OF DEFENSE**

**Office of the Secretary**

**32 CFR Part 197**

**Environmental Effects Abroad of Major Department of Defense Actions; Policies and Procedures**

**AGENCY:** Office of the Secretary of Defense.

**ACTION:** Final rule.

**SUMMARY:** This rule provides Department of Defense policies and procedures to implement Executive Order 12114, "Environmental Effects Abroad of Major Federal Actions," that was signed by the President on January 4, 1979. It provides for procedural and other actions to be taken to enable officials to be informed and take account of pertinent considerations with respect to the environment of places outside the United States when authorizing or approving certain major Department of Defense actions, and it provides for exceptions from these requirements. This rule outlines the process and assigns responsibilities.

**EFFECTIVE DATE:** March 31, 1979.

**FOR FURTHER INFORMATION CONTACT:** Mr. Gurden E. Drake, Office of the Assistant General Counsel, (Logistics), Office of the Secretary of Defense, Washington, D.C. 20301, telephone 202-697-6921.

Accordingly, Title 32 of the Code of Federal Regulations is amended by adding a new Part 197, reading as follows:

**PART 197—ENVIRONMENTAL EFFECTS ABROAD OF MAJOR DEPARTMENT OF DEFENSE ACTIONS.**

Sec.

197.1 Purpose.

197.2 Applicability.

197.3 Definitions.

197.4 Policy.

197.5 Responsibilities.

197.6 Information Requirements.

Enclosure 1 Requirements for Environmental Considerations—Global Commons

Enclosure 2 Requirements for Environmental Considerations—Foreign Nations and Protected Global Resources

Authority: Title 10, U.S.C., and Executive Order 12114.

**§ 197.1 Purpose.**

Executive Order 12114 provides the exclusive and complete requirement for taking account of considerations with respect to actions that do significant harm to the environment of places outside the United States. This Part provides policy and procedures to enable Department of Defense (DoD)

officials to be informed and take account of environmental considerations when authorizing or approving certain major federal actions that do significant harm to the environment of places outside the United States. Its sole objective is to establish internal procedures to achieve this purpose, and nothing in it shall be construed to create a cause of action. Guidance for taking account of considerations with respect to the environment of places within the United States is set out in 32 CFR 214 (under rev.) That guidance is grounded on legal and policy requirements different from those applicable to this Part.

**§ 197.2 Applicability.**

The provisions of this Part apply to the Office of the Secretary of Defense, the Military Departments, the Organization of the Joint Chiefs of Staff, the Unified and Specified Commands, and the Defense Agencies (hereafter referred to as "DoD components").

**§ 197.3 Definitions.**

(a) *Environment* means the natural and physical environment, and it excludes social, economic, and other environments. Social and economic effects do not give rise to any requirements under this Part.

(b) *Federal Action* means an action that is implemented or funded directly by the United States Government. It does not include actions in which the United States participates in an advisory, information-gathering, representational, or diplomatic capacity but does not implement or fund the action; actions taken by a foreign government or in a foreign country in which the United States is a beneficiary of the action, but does not implement or fund the action; or actions in which foreign governments use funds derived indirectly from United States funding.

(c) *Foreign Nation* means any geographic area (land, water, and airspace) that is under the jurisdiction of one or more foreign governments; any area under military occupation by the United States alone or jointly with any other foreign government; and any area that is the responsibility of an international organization of governments. "Foreign nation" includes contiguous zones and fisheries zones of foreign nations. "Foreign government" in this context includes governments regardless of whether recognized by the United States, political factions, and organizations that exercise governmental power outside the United States.



(d) *Global Commons* are geographical areas that are outside the jurisdiction of any nation, and include the oceans outside territorial limits and Antarctica. Global commons do not include contiguous zones and fisheries zones of foreign nations.

(e) *Major Action* means an action of considerable importance involving substantial expenditures of time, money, and resources, that affects the environment on a large geographic scale or has substantial environmental effects on a more limited geographical area, and that is substantially different or a significant departure from other actions, previously analyzed with respect to environmental considerations and approved, with which the action under consideration may be associated. Deployment of ships, aircraft, or other mobile military equipment is not a major action for purposes of this Part.

(f) *United States* means all States, territories, and possessions of the United States; and all waters and airspace subject to the territorial jurisdiction of the United States. The territories and possessions of the United States include the Virgin Islands, American Samoa, Wake Island, Midway Island, Guam, Palmyra Island, Johnston Atoll, Navassa Island, and Kingman Reef.

#### § 197.4 Policy.

(a) Executive Order 12114 is based on the authority vested in the President by the Constitution and the laws of the United States. The objective of the Order is to further foreign policy and national security interests while at the same time taking into consideration important environmental concerns.

(b) The Department of Defense acts with care in the global commons because the stewardship of these areas is shared by all the nations of the world. The Department of Defense will take account of environmental considerations when it acts in the global commons in accordance with procedures set out in enclosure 1 and its attachment.

(c) The Department of Defense also acts with care within the jurisdiction of a foreign nation. Treaty obligations and the sovereignty of other nations must be respected, and restraint must be exercised in applying United States laws within foreign nations unless Congress has expressly provided otherwise. The Department of Defense will take account of environmental considerations in accordance with enclosure 2 and its attachments when it acts in a foreign nation.

(d) Foreign policy considerations require coordination with the Department of State on communications with foreign governments concerning environmental agreements and other formal arrangements with foreign governments concerning environmental matters under this Part.

Informal working-level communications and arrangements are not included in this coordination requirement. Consultation with the Department of State also is required in connection with the utilization of additional exemptions from this Part as specified in paragraph C.3.b. of enclosure 2. Coordination and consultation with the Department of State will be through the Assistant Secretary of Defense (International Security Affairs).

(e) Executive Order 12114, implemented by this Part prescribes the exclusive and complete procedural measures and other actions to be taken by the Department of Defense to further the purpose of the National Environmental Policy Act with respect to the environment outside the United States.

#### § 197.5 Responsibilities.

(a) The Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics) shall:

(1) Serve as the responsible Department of Defense official for policy matters under Executive Order 12114 and this Part;

(2) Modify or supplement any of the enclosures to this Part in a manner consistent with the policies set forth in this Part;

(3) Maintain liaison with the Council on Environmental Quality with respect to environmental documents;

(4) Participate in determining whether a recommendation should be made to the President that a natural or ecological resource of global importance be designated for protection; and

(5) Consult with the Assistant Secretary of Defense (International Security Affairs) on significant or sensitive actions or decisions affecting relations with another nation.

(b) The Assistant Secretary of Defense (International Security Affairs) shall:

(1) Maintain liaison and conduct consultations with the Department of State as required under this Part; and

(2) Serve as the responsible official, in consultation with the Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics), for monitoring the continuing cooperation and the exchange of information with

other nations concerning the environment.

(c) The General Counsel, DoD, shall provide advice and assistance concerning the requirements of Executive Order 12114 and this Part.

(d) The Secretaries of the Military Departments, Directors of the Defense Agencies, and Commanders of the Unified and Specified Commands, for operations under their jurisdiction, shall:

(1) Prepare and consider environmental documents when required by this directive for proposed actions within their respective DoD component (this reporting requirement has been assigned Report Control Symbol DD-M(AR) 1327 (§ 197.6));

(2) Insure that regulations and other major policy issuances are reviewed for consistency with Executive Order 12114 and this Part;

(3) Designate a single point-of-contact for matters pertaining to this Part; and

(4) Consult with the Assistant Secretary of Defense (International Security Affairs) on significant or sensitive actions or decisions affecting relations with another nation.

#### § 197.6 Information requirements.

The documents to be prepared under § 197.5(d) and enclosures 1 and 2, "Requirements for Environmental Considerations—Global Commons," and "Requirements for Environmental Considerations—Foreign Nations and Protected Global Resources," respectively, are assigned Report Control Symbol DD-M(AR) 1327.

#### Enclosure 1.—Requirements for Environmental Considerations—Global Commons

A. *General.* This enclosure implements the requirements of Executive Order 12114 with respect to major Department of Defense actions that do significant harm to the environment of the global commons. The focus is not the place of the action, but the location of the environment with respect to which there is significant harm. The actions prescribed by this enclosure are the exclusive and complete requirement for taking account of environmental considerations with respect to Department of Defense activities that affect the global commons.

B. *Actions included.* The requirements of this enclosure apply only to major federal actions that do significant harm to the environment of the global commons.

#### C. Environmental Document Requirements.

1. *General.* When an action is determined to be a major federal action that significantly harms the environment of the global commons, an environmental impact statement, as described below, will be prepared to enable the responsible decision-making official to be informed of pertinent environmental considerations. The statement may be a specific statement for the particular



action, a generic statement covering the entire class of similar actions, or a program statement.

**2. Limitations on Actions.** Until the requirements of this enclosure have been met with respect to actions involving the global commons, no action concerning the proposal may be taken that does significant harm to the environment or limits the choice of reasonable alternatives.

**3. Emergencies.** Where emergency circumstances make it necessary to take an action that does significant harm to the environment without meeting the requirements of this enclosure, the DoD component concerned shall consult with the Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics). This includes actions that must be taken to promote the national defense or security and that cannot be delayed, and actions necessary for the protection of life or property.

**4. Combining Documents.** Environmental documents may be combined with other agency documents to reduce duplication. If an environmental impact statement for a particular action already exists, regardless of what federal agency prepared it, no new statement is required by this Part.

**5. Collective Statements.** Consideration should be given to the use of generic and program statements. Generic statements may include actions with relevant similarities such as common timing, environmental effects, alternatives, methods of implementation, or subject matter.

**6. Tiering.** Consideration should be given to tiering of environmental impact statements to eliminate repetitive discussions of the same issue and to focus the issues. Tiering refers to the coverage of general matters in broader environmental impact statements, with succeeding narrower statements or environmental analyses that incorporate by reference the general discussion and concentrate only on the issues specific to the statement subsequently prepared.

**7. Lead Agency.** When one or more other federal agencies are involved with the Department of Defense in an action or program, a lead agency may be designated to supervise the preparation of the environmental impact statement. In appropriate cases, more than one agency may act as joint lead agencies. The following factors should be considered in making the lead agency designation: a. The magnitude of agency involvement;

b. Which agency or agencies have project approval and disapproval authority;

c. The expert capabilities concerning the environmental effects of the action;

d. The duration of agency involvement; and

e. The sequence of agency involvement.

**8. Categorical Exclusions.** The Department of Defense may provide categorical exclusions for actions that normally do not, individually or cumulatively, do significant harm to the environment. If an action is covered by a categorical exclusion no environmental assessment or environmental impact statement is required. Categorical exclusions will be established by the Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics) and will be

identified in Attachment 1 to this enclosure, to be entitled, "Categorical Exclusions—Global commons." DoD components identifying recurring actions that have been determined, after analysis, not to do significant harm to the environment should submit recommendations for categorical exclusions and accompanying justification to the Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics).

**9. Environmental Assessments.** The purpose of an environmental assessment is to assist DoD components in determining whether an environmental impact statement is required for a particular action. The assessment should be brief and concise but should include sufficient information on which a determination can be made whether the proposed action is major and federal, and whether it significantly harms the environment of the global commons. As a minimum, the assessment should include consideration of the need for the proposed action and the environmental effect of the proposed action. The environmental assessment will be made available to the public in the United States upon request, but there is no requirement that it be distributed for public comment.

**D. Environmental Impact Statements.** 1. *General.* Environmental impact statements will be concise and no longer than necessary to permit an informed consideration of the environmental effects of the proposed action on the global commons and the reasonable alternatives. If an action requiring an environmental impact statement also has effects on the environment of a foreign nation or on a resource designated as one of global importance, the statement need not consider or be prepared with respect to these effects. The procedures for considering these effects are set out in enclosure 2, below.

2. *Draft Statement.* Environmental impact statements will be prepared in two stages and may be supplemented. The first, or draft statement, should be sufficiently complete to permit meaningful analysis and comment. The draft statement will be made available to the public, in the United States, for comment. The Department of State, the council on environmental Quality, and other interested federal agencies will be informed of the availability of the draft statement and will be afforded an opportunity to comment. Contacts with foreign governments are discussed in § 197.4(d) and subsection D.11. of this enclosure.

3. *Final statement.* Final statements will consider, either individually or collectively, substantive comments received on the draft statement. The final statement will be made available to the public in the United States.

4. *Supplemental statement.* Supplements to the draft or final statement should be used when substantial changes to the proposed action are made relative to the environment of the global commons or when significant new information or circumstances, relevant to environmental concerns, bears on the proposed action or its environmental effects on the global commons. Supplemental statements will be circulated for comment as in subsection 2. above unless alternative procedures are approved by the Assistant

Secretary of Defense (Manpower, Reserve Affairs, and Logistics).

5. *Statement content.* The statement will include: a section on consideration of the purpose of and need for the proposed action; a section on the environmental consequences of the proposed action and reasonable alternatives; a section that provides a succinct description of the environment of the global commons affected by the proposed action and reasonable alternatives; and a section that analyzes, in comparative form, the environmental effects on the global commons of the proposed action and reasonable alternatives.

6. *Incomplete Information.* The statement should indicate when relevant information is missing due to unavailability or scientific uncertainty.

7. *Hearings.* Public hearings are not required, consideration should be given in appropriate cases to holding or sponsoring public hearings. Factors in this consideration include: foreign relations sensitivities; whether the hearings would be an infringement or create the appearance of infringement on the sovereign responsibilities of another government; requirements of domestic and foreign governmental confidentiality; requirements of national security; whether meaningful information could be obtained through hearings; time considerations; and requirements for commercial confidentiality. There is no requirement that all factors listed in this section be considered when one or more factors indicate that public hearings would not produce a substantial net benefit to those responsible for authorizing or approving the proposed action.

8. *Decision.* Relevant environmental documents developed in accordance with this enclosure will accompany the proposal for action through the review process to enable officials responsible for authorizing or approving the proposed action to be informed and to take account of environmental considerations. One means of making an appropriate record with respect to this requirement is for the decision-maker to sign and date a copy of the environmental impact statement indicating that it has been considered in the decision-making process. Other means of making an appropriate record are also acceptable.

9. *Timing.* No decision on the proposed action may be made until the later of 90 days after the draft statement has been made available and notice thereof published in the Federal Register, or 30 days after the final statement has been made available and notice thereof published in the Federal Register. The 90-day period and the 30-day period may run concurrently. Not less than 45 days may be allowed for public comment. The Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics) may, upon a showing of probable important adverse effect on national security or foreign policy, reduce the 30-day, 45-day, and 90-day periods.

10. *Classified Information.* Environmental assessments and impact statements that address classified proposals will be safeguarded and classified information will



be restricted from public dissemination in accordance with Department of Defense procedures (32 CFR 159) established for such information under Executive Order 12065. The requirements of that Executive Order take precedence over any requirement of disclosure in this Part. Only unclassified portions of environmental documents may be disseminated to the public.

11. *Foreign Governments.* Consideration will be given to whether any foreign government should be informed of the availability of environmental documents. Communications with foreign governments concerning environmental agreements and other formal arrangements with foreign governments concerning environmental matters under this Part will be coordinated with the Department of State. Informal, working-level communications and arrangements are not included in this coordination requirement. Coordination with the Department of State will be through the Assistant Secretary of Defense (International Security Affairs).

#### Enclosure 2.—Requirements for Environmental Considerations—Foreign Nations and Protected Global Resources

A. *General.* This enclosure implements the requirements of Executive Order 12114 to provide for procedural and other actions to be taken to enable officials to be informed of pertinent environmental considerations when authorizing or approving certain major Department of Defense actions that do significant harm to the environment of a foreign nation or to a protected global resource.

B. *Actions included.* 1. The requirements of this enclosure apply only to the following actions:

a. Major federal actions that significantly harm the environment of a foreign nation that is not involved in the action. The involvement of the foreign nation may be directly by participation with the United States in the action, or it may be in conjunction with another participating nation. The focus of this category is on the geographical location of the environmental harm and not on the location of the action.

b. Major federal actions that are determined to do significant harm to the environment of a foreign nation because they provide to that nation: (1) a product, or involve a physical project that produces a principal product, emission, or effluent, that is prohibited or strictly regulated by federal law in the United States because its toxic effects on the environment create a serious public health risk; or (2) a physical project that is prohibited or strictly regulated in the United States by federal law to protect the environment against radioactive substances. Included in the category of "prohibited or strictly regulated" are the following: asbestos, vinyl chloride, acrylonitrile, isocyanates, polychlorinated biphenyls, mercury, beryllium, arsenic, cadmium, and benzene.

c. Major federal actions outside the United States that significantly harm natural or ecological resources of global importance designated for protection by the President or,

in the case of such a resource protected by international agreement binding on the United States, designated for protection by the Secretary of State. Such determinations by the President or the Secretary of State to be listed in Attachment 1 to this enclosure, entitled, "Protected Global Resources".

2. The actions prescribed by this enclosure are the exclusive and complete requirement for taking account of environmental considerations with respect to federal actions that do significant harm to the environment of foreign nations and protected global resources as described in subsection B.1., above. No action is required under this enclosure with respect to federal actions that affect only the environment of a participating or otherwise involved foreign nation and that do not involve providing products or physical projects producing principal products, emissions, or effluents that are prohibited or strictly regulated by federal law in the United States, or resources of global importance that have been designated for protection.

#### C. *Environmental Document Requirements.*

1. *General.* a. There are two types of environmental documents officials shall use in taking account of environmental considerations for actions covered by this enclosure:

(1) Environmental studies—bilateral or multilateral environmental studies, relevant or related to the proposed action, by the United States and one or more foreign nations or by an international body or organization in which the United States is a member or participant; and

(2) Environmental reviews—concise reviews of the environmental issues involved that are prepared unilaterally by the United States.

b. This section identifies the procedures for the preparation of environmental studies or reviews when required by this enclosure and the exceptions from the requirement to prepare environmental studies or reviews. If an environmental document already exists for a particular action, regardless of what federal agency prepared it, no new document is required by this enclosure.

2. *Lead Agency.* When one or more other federal agencies are involved with the Department of Defense in an action or program, a lead agency may be designated to supervise the preparation of environmental documentation. In appropriate cases, more than one agency may act as joint lead agencies. The following factors should be considered in making the lead agency designation:

- The magnitude of agency involvement;
- Which agency or agencies have project approval and disapproval authority;
- The expert capabilities concerning the environmental effects of the action;
- The duration of agency involvement; and
- The sequence of agency involvement.

3. *Exemptions.* There are general exemptions from the requirements of this enclosure provided by Executive Order 12114, and the Secretary of Defense has the authority to approve additional exemptions.

a. *General Exemptions.* The following actions are exempt from the procedural and other requirements of this enclosure under

general exemptions established for all agencies by Executive Order 12114:

(1) Actions that the DoD component concerned determines do not do significant harm to the environment outside the United States or to a designated resource of global importance.

(2) Actions taken by the President. These include: signing bills into law; signing treaties and other international agreements; the promulgation of Executive Orders; Presidential proclamations; and the issuance of Presidential decisions, instructions, and memoranda. This includes actions taken within the Department of Defense to prepare, or assist in preparing recommendations, advice, or information for the President in connection with one of these actions by the President. It does not include actions taken within the Department of Defense to implement or carry out these instruments and issuances after they are promulgated by the President.

(3) Actions taken by or pursuant to the direction of the President or a cabinet officer in the course of armed conflict. The term "armed conflict" refers to: hostilities for which Congress has declared war or enacted a specific authorization for the use of armed forces; hostilities or situations for which a report is prescribed by section 4(a)(1) of the War Powers Resolution, 50 U.S.C.A. § 1543(a)(1) (Supp. 1978); and other actions by the armed forces that involve defensive use or introduction of weapons in situations where hostilities occur or are expected. This exemption applies as long as the armed conflict continues.

(4) Actions taken by or pursuant to the direction of the President or a cabinet officer when the national security or national interest is involved. The determination that the national security or national interest is involved in actions by the Department of Defense must be made in writing by the Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics).

(5) The activities of the intelligence components utilized by the Secretary of Defense under Executive Order 12036, 43 FR 3674 (1978). These components include the Defense Intelligence Agency, the National Security Agency, the offices for the collection of specialized intelligence through reconnaissance programs, the Army Office of the Assistant Chief of Staff for Intelligence, the Office of Naval Intelligence, and the Air Force Office of the Assistant Chief of Staff for Intelligence.

(6) The decisions and actions of the Office of the Assistant Secretary of Defense (International Security Affairs), the Defense Security Assistance Agency, and the other responsible offices within DoD components with respect to arms transfers to foreign nations. The term "arms transfers" includes the grant, loan, lease, exchange, or sale of defense articles or defense services to foreign governments or international organizations, and the extension or guarantee of credit in connection with these transactions.

(7) Votes and other actions in international conferences and organizations. This includes all decisions and actions of the United States with respect to representation of its interests



at international organizations, and at multilateral conferences, negotiations, and meetings.

(8) Disaster and emergency relief actions.

(9) Actions involving export licenses, export permits, or export approvals, other than those relating to nuclear activities. This includes: advice provided by DoD components to the Department of State with respect to the issuance of munitions export licenses under section 38 of the Arms Export Control Act, 22 U.S.C. § 2778 (1976); advice provided by DoD components to the Department of Commerce with respect to the granting of export licenses under the Export Administration Act of 1969, 50 U.S.C. App. §§ 2401-2413 (1970 & Supp. V 1975); and direct exports by the Department of Defense of defense articles and services to foreign governments and international organizations that are exempt from munitions export licenses under section 38 of the Arms Export Control Act, 22 U.S.C. § 2778 (1976). The term "export approvals" does not mean or include direct loans to finance exports.

(10) Actions relating to nuclear activities and nuclear material, except actions providing to a foreign nation a nuclear production or utilization facility, as defined in the Atomic Energy Act of 1954, as amended, or a nuclear waste management facility.

b. *Additional Exemptions.* The Department of Defense is authorized under Executive Order 12114 to establish additional exemptions that apply only to the Department's operations. There are two types of additional exemptions: case-by-case and class.

(1) *Case-by-Case Exemptions.* Exemptions other than those specified above may be required because emergencies, national security considerations, exceptional foreign policy requirements, or other special circumstances preclude or are inconsistent with the preparation of environmental documentation and the taking of other actions prescribed by this enclosure. The following procedures apply for approving these exemptions:

(a) *Emergencies.* This category includes actions that must be taken to promote the national defense or security and that cannot be delayed, and actions necessary for the protection of life or property. The heads of the DoD components are authorized to approve emergency exemptions on a case-by-case basis. The Department of Defense is required to consult as soon as feasible with the Department of State and the Council on Environmental Quality with respect to emergency exemptions. The requirement to consult as soon as feasible is not a requirement of prior consultation. A report of the emergency action will be made by the DoD component head to the Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics), who, with the Assistant Secretary of Defense (International Security Affairs), shall undertake the necessary consultations.

(b) *Other Circumstances.* National security considerations, exceptional foreign policy requirements, and other special circumstances not identified in paragraph C.3.a. above, may preclude or be inconsistent

with the preparation of environmental documentation. In these circumstances, the head of the DoD component concerned is authorized to exempt a particular action from the environmental documentation requirements of this enclosure after obtaining the prior approval of the Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics), who, with the Assistant Secretary of Defense (International Security Affairs), shall consult, before approving the exemption, with the Department of State and the Council on Environmental Quality. The requirement for prior consultation is not a requirement for prior approval.

(2) *Class Exemptions.* Circumstances may exist where a class exemption for a group of related actions is more appropriate than a specific exemption. Class exemptions may be established by the Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics), who, with the Assistant Secretary of Defense (International Security Affairs), shall consult, before approving the exemption, with the Department of State and the Council on Environmental Quality. The requirement for prior consultation is not a requirement for prior approval. Requests for class exemptions will be submitted by the head of the DoD component concerned to the Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics) after coordination with other interested DoD components. Notice of the establishment of a class exemption will be issued as Attachment 2 to this enclosure to be entitled, "Class Exemptions—Foreign Nations and Protected Global Resources."

4. *Categorical Exclusions.* The Department of Defense is authorized by Executive Order 12114 to provide for categorical exclusions. A categorical exclusion is a category of actions that normally do not, individually or cumulatively, do significant harm to the environment. If an action is covered by a categorical exclusion, no environmental document is required. Categorical exclusions will be established by the Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics), and will be identified in Attachment 3 to this enclosure to be entitled, "Categorical Exclusions—Foreign Nations and Protected Global Resources." DoD components identifying recurring actions that have been determined, after analysis, not to do significant harm to the environment should submit requests for categorical exclusions and accompanying justification to the Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics).

D. *Environmental studies.* 1. *General.* Environmental studies are one of two alternative types of documents to be used for actions described by section B. of this enclosure.

a. An environmental study is an analysis of the likely environmental consequences of the action that is to be considered by DoD components in the decision-making process. It includes a review of the affected environment, significant actions taken to avoid environmental harm or otherwise to better the environment, and significant environmental considerations and actions by

the other participating nations, bodies, or organizations.

b. An environmental study is a cooperative action and not a unilateral action undertaken by the United States. It may be bilateral or multilateral, and it is prepared by the United States in conjunction with one or more foreign nations, or by an international body or organization in which the United States is a member or participant. The environmental study, because it is prepared as a cooperative undertaking, may be best suited for use with respect to actions that provide strictly regulated or prohibited products or projects to a foreign nation (B.l.b.) and actions that affect a protected global resource (B.l.c.).

2. *Department of State Coordination.* Communications with foreign governments concerning environmental studies and other formal arrangements with foreign governments concerning environmental matters under this directive will be coordinated with the Department of State. Informal, working-level communications and arrangements are not included in this coordination requirement. Coordination with the Department of State will be through the Assistant Secretary of Defense (International Security Affairs).

3. *Whether to Prepare an Environmental Study.* The judgment whether the action is one that would do significant harm to one of the environments covered by this enclosure normally will be made in consultation with concerned foreign governments or organizations. If a negative decision is made, the file will be documented with a record of that decision and the decision-makers who participated. If a decision is made to prepare a study then, except as provided by this enclosure, no action concerning the proposal may be taken that would do significant harm to the environment until the study has been completed and the results considered.

4. *Content of the Study.* The document is a study of the environmental aspects of the proposed action to be considered in the decision-making process. The precise content of each study must be flexible because of such considerations as the sensitivity of obtaining information from foreign governments, the availability of useful and understandable information, and other factors identified under "Limitations," (subsection D.6., below). The study should, however, include consideration of the following:

- A general review of the affected environment;
- The predicted effect of the action on the environment;
- Significant known actions taken by governmental entities with respect to the proposed action to protect or improve the environment; and
- If no actions are being taken to protect or enhance the environment, whether the decision not to do so was made by the affected foreign government or international organization.

5. *Distribution of the Study.* Except as provided under "Limitations," (subsection D.6., below), and except where classified information is involved, environmental studies will be made available to the



Department of State, the Council on Environmental Quality, other interested federal agencies, and, on request, to the public in the United States. Interested foreign governments also may be informed of the studies, subject to the "Limitations" (subsection D.6., below) and controls on classified information, and furnished copies of the documents. No distribution is required prior to the preparation of the final version of the study or prior to taking the action that caused the study to be prepared.

6. *Limitations.* The requirements with respect to the preparation, content, and distribution of environmental studies in the international context must remain flexible. The specific procedures must be determined on a case-by-case basis and may be modified where necessary to:

a. Enable the component to act promptly. Considerations such as national security and foreign government involvement may require prompt action that must take precedence in the environmental review process;

b. Avoid adverse impacts on relations between the United States and foreign governments and international organizations;

c. Avoid infringement or the appearance of infringement on the sovereign responsibilities of another government. The collection of information and the preparation and distribution of environmental documentation for actions in which another nation is involved, or with respect to the environment and resources of another nation, unless done with proper regard to the sovereign authority of that nation, may be viewed by that nation as an interference in its internal affairs and its responsibility to evaluate requirements with respect to the environment;

d. Ensure consideration of:

(1) Requirements of governmental confidentiality. This refers to the need to protect sensitive foreign affairs information and information received from another government with the understanding that it will be protected from disclosure regardless of its classification;

(2) National security requirements. This refers to the protection of classified information and other national security interests;

(3) Availability of meaningful information. Information on the environment of foreign nations may be unavailable, incomplete, or not susceptible to meaningful evaluation, particularly where the affected foreign nation is not a participant in the analysis. This may reduce or change substantially the normal content of the environmental study;

(4) The extent of the participation of the DoD component concerned and its ability to affect the decision made. The utility of the environmental analysis and the need for an in-depth review diminishes as DoD's role and control over the decision lessens; and

(5) International commercial, commercial confidentiality, competitive, and export promotion factors. This refers to the requirement to protect domestic and foreign trade secrets and confidential business information from disclosure. Export promotion factors includes the concept of not unnecessarily hindering United States exports.

7. *Classified Information.* Classified information will be safeguarded from disclosure in accordance with the Department of Defense procedures (32 CFR 159) established for such information under Executive Order 12065. The requirements of that Executive Order take precedence over any requirement of disclosure in this directive.

E. *Environmental Reviews.* 1. *General.* Environmental reviews are the second of the two alternative types of documents to be used for actions covered by section B. of this enclosure.

a. An environmental review is a survey of the important environmental issues involved. It includes identification of these issues, and a review of what if any consideration has been or can be given to the environmental aspects by the United States and by any foreign government involved in taking the action.

b. An environmental review is prepared by the DoD component concerned either unilaterally or in conjunction with another federal agency. While an environmental review may be used for any of the actions identified by section B., it may be uniquely suitable, because it is prepared unilaterally by the United States, to actions that affect the environment of a nation not involved in the undertaking (B.1.a.).

2. *Department of State Coordination.* Communications with foreign governments concerning environmental agreements and other formal arrangements with foreign governments concerning environmental matters under this enclosure will be coordinated with the Department of State. Informal working-level communications and arrangements are not included in this coordination requirement. Coordination with the Department of State will be through the Assistant Secretary of Defense (International Security Affairs).

3. *Whether to Prepare an Environmental Review.* Sufficient information will be gathered, to the extent it is reasonably available, to permit an informed judgment as to whether the proposed action would do significant harm to the environments covered by this enclosure. If a negative decision is made, a record will be made of that decision and its basis. If a decision is made to prepare a review, then, except as provided by this enclosure, no action concerning the proposal may be taken that would do significant environmental harm until the review has been completed.

4. *Content of the Review.* An environmental review is a survey of the important environmental issues associated with the proposed action that is to be considered by the DoD component concerned in the decision-making process. It does not include all possible environmental issues and it does not include the detailed evaluation required in an environmental impact statement under enclosure 1 of this Part. There is no foreign government or international organization participation in its preparation, and the content therefore may be circumscribed because of the availability of information and because of foreign relations sensitivities. Other factors affecting

the content are identified under "Limitations," (subsection E.6., below). To the extent reasonably practical the review should include consideration of the following:

a. A statement of the action to be taken including its timetable, physical features, general operating plan, and other similar broad-gauge descriptive factors;

b. Identification of the important environmental issues involved;

c. The aspects of the actions taken or to be taken by the DoD component that ameliorate or minimize the impact on the environment; and

d. The actions known to have been taken or to be planned by the government of any participating and affected foreign nations that will affect environmental considerations.

5. *Distribution.* Except as provided under "Limitations," (subsection E.6., below), and except where classified information is involved, environmental reviews will be made available to the Department of State, the Council on Environmental Quality, other interested federal agencies, and, on request, to the public in the United States. Interested foreign governments also may be informed of the reviews and, subject to the "Limitations" (subsection E.6., below) and controls on classified information, will be furnished copies of the documents on request. This provision for document distribution is not a requirement that distribution be made prior to taking the action that is the subject of the review.

6. *Limitations.* The requirements with respect to the preparation, content, and distribution of environmental reviews in the international context must remain flexible. The specific procedures must be determined on a case-by-case basis and may be modified where necessary to:

a. Enable the component to act promptly. Considerations such as national security and foreign government involvement may require prompt action that must take precedence in the environmental review process;

b. Avoid adverse impacts on relations between the United States and foreign governments and international organizations;

c. Avoid infringement or the appearance of infringement on the sovereign responsibilities of another government. The collection of information and the preparation and distribution of environmental documentation for actions in which another nation is involved or with respect to the environment and resources of another nation, unless done with proper regard to the sovereign authority of that nation, may be viewed by that nation as an interference in its internal affairs and its prerogative to evaluate requirements with respect to the environment; and

d. Ensure consideration of:

(1) Requirements of governmental confidentiality. This refers to the need to protect sensitive foreign affairs information and information received from another government with the understanding that it will be protected from disclosure regardless of its classification;

(2) National security requirements. This refers to the protection of classified information;



(3) Availability of meaningful information. Information on the environment of foreign nations may be unavailable, incomplete, or not susceptible to meaningful evaluation, and this may reduce or change substantially the normal content of the environmental review;

(4) The extent of the participation of the DoD component concerned and its ability to affect the decision made. The utility of the environmental analysis and the need for an in-depth review diminishes as the role of the Department of Defense and control over the decision lessens; and

(5) International commercial, commercial confidentiality, competitive, and export promotion factors. This refers to the requirements to protect domestic and foreign trade secrets and confidential business information from disclosure. Export promotion factors includes the concept of not unnecessarily hindering United States exports.

7. *Classified Information.* Classified information will be safeguarded from disclosure in accordance with the DoD procedures (32 CFR 159) established for such information under Executive Order 12065. The requirements of that Executive Order take precedence over any requirement of disclosure in this Part.

H. E. Lofdahl,

Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

April 9, 1979.

[DoD Directive 6050.7]

[FR Doc. 79-11365 Filed 4-11-79; 8:45 am]

BILLING CODE 3810-70-M

## DEPARTMENT OF TRANSPORTATION

### Coast Guard

#### 33 CFR Part 110

#### Anchorage Regulations; Anchorage Grounds and Special Anchorage Areas, Newport Harbor, Newport, R.I.

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

**SUMMARY:** This rule disestablishes two anchorage grounds and establishes three special anchorage areas in Newport Harbor, Newport, Rhode Island. This regulation is needed to provide adequate anchorage space for pleasure craft in this vicinity. Vessels not more than 65 feet in length, when at anchor in any special anchorage area, are not required to carry or exhibit anchor lights. This amendment will enhance maritime safety in Newport Harbor by providing areas, well removed from channels and traffic traversing the harbor, in which small craft may safely anchor.

**EFFECTIVE DATE:** This amendment is effective on May 12, 1979.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant Commander H. E. Snow, Office of Marine Environment and Systems (G-WLE/73), Room 7315, Department of Transportation, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590, (202) 426-1934.

**SUPPLEMENTARY INFORMATION:** On November 30, 1978, the Coast Guard published a proposed rule (43 FR 56058), concerning this amendment. Interested persons were given until January 16, 1979 to submit comments. No comments were received.

**DRAFTING INFORMATION:** The principal persons involved in drafting this rule are Lieutenant Commander H. E. Snow, Project Manager, Office of Marine Environment and Systems, and Lieutenant J. W. Salter, Project Attorney, Office of the Chief Counsel.

In consideration of the foregoing, Part 110, Title 33, Code of Federal Regulations is amended as follows:

1. By adding a new section 110.46 to read as follows:

#### § 110.46 Newport Harbor, Newport, Rhode Island.

(a) Area No. 1. The waters of Brenton Cove south of a line extending from latitude 41°28'50" N., longitude 71°18'58" W.; to latitude 41°28'45" N., longitude 71°20'08" W.; thence along the shoreline to the point of beginning.

(b) Area No. 2. The waters east of Goat Island beginning at a point bearing 090°, 245 yards from Goat Island Shoal Light; thence 007°, 505 yards; thence 054°, 90 yards; thence 086°, 330 yards; thence 122°, 90 yards; thence 179°, 290 yards; thence 228°, 380 yards; thence 270°, 250 yards to the point of beginning.

(c) Area No. 3. The waters north of Goat Island Causeway Bridge beginning at Newport Harbor Light; thence 023° to the southwest corner of Anchorage E; thence 081° following the southerly boundary of Anchorage E to the shoreline; thence south along the shoreline to the east foot of the Goat Island Causeway bridge; thence west following Goat Island Causeway Bridge to the shoreline of Goat Island; thence north following the east shore of Goat Island to the point of beginning. 2. By deleting from section 110.145 subparagraphs (a)(6) and (a)(7).

#### § 110.145 Narragansett Bay, Rhode Island.

(a) \* \* \*

(6) Delete.

(7) Delete.

(Sec. 1, 30 Stat. 98, as amended (33 U.S.C. 180); Sec. 7, 38 Stat. 1053, as amended (33 U.S.C. 471); Sec. 6(g)(1) 80 Stat. 937 (49 U.S.C. 1655(g)(1); 49 CFR 1.46(c)).

Dated: April 4, 1979.

R. H. Scarborough,

Vice Admiral, U.S. Coast Guard, Acting Commandant.

[CGD 76-104]

[FR Doc. 79-11353 Filed 4-11-79; 8:45 am]

BILLING CODE 4910-14-M

## GENERAL SERVICES ADMINISTRATION

### 41 CFR Ch 1

#### Appendix—Temporary Regulation; Use of Small Purchase Procedures and Schedule Contracts for Automatic Data Processing (ADP) Requirements

AGENCY: General Services Administration.

ACTION: Extension of expiration date.

**SUMMARY:** This regulation extends the expiration date of Federal Procurement Regulations Temporary Regulation 46 (43 FR 40015, September 8, 1978). The extension will allow more time for an orderly codification process. The intended effect is to lower administrative costs by including other anticipated changes in the codification of the temporary regulation provisions.

**DATES:** Effective date: March 1, 1979. Expiration date: September 30, 1979, unless revised or superseded prior to that time.

**FOR FURTHER INFORMATION CONTACT:** Philip G. Read, Acting Director, Federal Procurement Regulations Directorate, 703-557-8947.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

In 41 CFR Chapter 1, FPR Temporary Regulation 46, Supplement 1 is added to the appendix at the end of the chapter.

Federal Procurement Regulations Temporary Regulation 46 Supplement 1

TO: Heads of Federal agencies.

**SUBJECT:** Use of small purchase procedures and schedule contracts for automated data processing (ADP) requirements.

1. *Purpose.* This supplement extends the expiration date of FPR Temporary Regulation 46.

2. *Effective date.* This regulation was effective March 1, 1979.

3. *Expiration date.* This regulation expires September 30, 1979, unless revised or superseded prior to that time.

4. *Explanation of changes.* The expiration date of March 31, 1979, contained in paragraph 3 of FPR Temporary Regulation 46, is extended to September 30, 1979.