

Environmental Protection Agency

§ 8.6

this section; EPA's review, in consultation with other interested federal agencies, and comment on the multi-year environmental documentation and subsequent annual submissions; and a finding the EPA may make, with the concurrence of the National Science Foundation, that the environmental documentation submitted does not meet the requirements of Article 8 and Annex I of the Protocol and the provisions of this part.

§ 8.5 Submission of environmental documents.

(a) An operator shall submit environmental documentation to the EPA for review. The EPA, in consultation with other interested federal agencies, will carry out a review to determine if the submitted environmental documentation meets the requirements of Article 8 and Annex I of the Protocol and the provisions of this part. The EPA will provide its comments, if any, on the environmental documentation to the operator and will consult with the operator regarding any suggested revisions. If EPA has no comments, or if the documentation is satisfactorily revised in response to EPA's comments, and the operator does not receive a notice from EPA that the environmental documentation does not meet the requirements of Article 8 and Annex I of the Protocol and the provisions of this part, the operator will have no further obligations pursuant to the applicable requirements of this part provided that any appropriate measures, which may include monitoring, are put in place to assess and verify the impact of the activity. Alternatively, following final response from the operator, the EPA, in consultation with other federal agencies and with the concurrence of the National Science Foundation, will inform the operator that EPA finds that the environmental documentation does not meet the requirements of Article 8 and Annex I of the Protocol and the provisions of this part. If the operator then proceeds with the expedition without fulfilling the requirements of this part, the operator is subject to enforcement proceedings pursuant to sections 7, 8, and 9 of the Antarctic Conservation Act, as amended by the Act;

16 U.S.C. 2407, 2408, 2409, and 45 CFR part 672.

(b) The EPA may waive or modify deadlines pursuant to this part where EPA determines an operator is acting in good faith and that circumstances outside the control of the operator created delays, provided that the environmental documentation fully meets deadlines under the Protocol.

§ 8.6 Preliminary environmental review.

(a) Unless an operator has determined to prepare an IEE or CEE, the operator shall conduct a preliminary environmental review that assesses the potential direct and reasonably foreseeable indirect impacts on the Antarctic environment of the proposed expedition. A Preliminary Environmental Review Memorandum (PERM) shall contain sufficient detail to assess whether the proposed activity may have less than a minor or transitory impact, and shall be submitted to the EPA for review no less than 180 days before the proposed departure of the expedition. The EPA, in consultation with other interested federal agencies, will review the PERM to determine if it is sufficient to demonstrate that the activity will have less than a minor or transitory impact or whether additional environmental documentation, *i.e.*, an IEE or CEE, is required to meet the obligations of Article 8 and Annex I of the Protocol. The EPA will provide its comments to the operator within fifteen (15) days of receipt of the PERM, and the operator shall have seventy-five (75) days to prepare a revised PERM or an IEE, if necessary. Following the final response from the operator, EPA may make a finding that the environmental documentation submitted does not meet the requirements of Article 8 and Annex I of the Protocol and the provisions of this part. This finding will be made with the concurrence of the National Science Foundation. If EPA does not provide such notice within thirty (30) days, the operator will be deemed to have met the requirements of this part provided that any required procedures, which may include appropriate monitoring, are put in place to assess and verify the impact of the activity.

§ 8.7

(b) If EPA recommends an IEE and one is prepared and submitted within the seventy-five (75) day response period, it will be reviewed under the time frames set out for an IEE in § 8.7. If EPA recommends a CEE and one is prepared, it will be reviewed under the time frames set out for a CEE in § 8.8.

§ 8.7 Initial environmental evaluation.

(a) *Submission of IEE to the EPA.* Unless a PERM has been submitted pursuant to § 8.6 which meets the environmental documentation requirements under Article 8 and Annex I to the Protocol and the provisions of this part or a CEE is being prepared, an IEE shall be submitted by the operator to the EPA no fewer than ninety (90) days before the proposed departure of the expedition.

(b) *Contents.* An IEE shall contain sufficient detail to assess whether a proposed activity may have more than a minor or transitory impact on the Antarctic environment and shall include the following information:

(1) A description of the proposed activity, including its purpose, location, duration, and intensity; and

(2) Consideration of alternatives to the proposed activity and any impacts that the proposed activity may have on the Antarctic environment, including consideration of cumulative impacts in light of existing and known proposed activities.

(c) *Further environmental review.* (1) The EPA, in consultation with other interested federal agencies, will review an IEE to determine whether the IEE meets the requirements under Annex I to the Protocol and the provisions of this part. The EPA will provide its comments to the operator within thirty (30) days of receipt of the IEE, and the operator will have forty-five (45) days to prepare a revised IEE, if necessary. Following the final response from the operator, EPA may make a finding that the documentation submitted does not meet the requirements of Article 8 and Annex I of the Protocol and the provisions of this part. This finding will be made with the concurrence of the National Science Foundation. If such a notice is required, EPA will provide it within fifteen (15) days of receiving the final IEE from the op-

40 CFR Ch. I (7-1-04 Edition)

erator or, if the operator does not provide a final IEE, within sixty (60) days following EPA's comments on the original IEE. If EPA does not provide notice within these time limits, the operator will be deemed to have met the requirements of this part provided that any required procedures, which may include appropriate monitoring, are put in place to assess and verify the impact of the activity.

(2) If a CEE is required, the operator must adhere to the time limits applicable to such documentation. (See: § 8.8.) In this event EPA, at the operator's request, will consult with the operator regarding possible changes in the proposed activity which would allow preparation of an IEE.

§ 8.8 Comprehensive environmental evaluation.

(a) *Preparation of a CEE.* Unless a PERM or an IEE has been submitted and determined to meet the environmental documentation requirements of this part, the operator shall prepare a CEE. A CEE shall contain sufficient information to enable informed consideration of the reasonably foreseeable potential environmental effects of a proposed activity and possible alternatives to that proposed activity. A CEE shall include the following:

(1) A description of the proposed activity, including its purpose, location, duration and intensity, and possible alternatives to the activity, including the alternative of not proceeding, and the consequences of those alternatives;

(2) A description of the initial environmental reference state with which predicted changes are to be compared and a prediction of the future environmental reference state in the absence of the proposed activity;

(3) A description of the methods and data used to forecast the impacts of the proposed activity;

(4) Estimation of the nature, extent, duration and intensity of the likely direct impacts of the proposed activity;

(5) A consideration of possible indirect or second order impacts from the proposed activity;

(6) A consideration of cumulative impacts of the proposed activity in light of existing activities and other known planned activities;