



## **NATIONAL SCIENCE FOUNDATION**

### **45 CFR Part 670**

#### **Conservation of Antarctic Animals and Plants**

**RIN: 3145-AA59**

**AGENCY:** National Science Foundation.

**ACTION:** Final rule.

**SUMMARY:** Pursuant to the Antarctic Conservation Act of 1978, as amended, the National Science Foundation (NSF) is amending its regulations to reflect changes to the list of designated historic sites or monuments (HSM) in Antarctica. These changes reflect decisions adopted by the Antarctic Treaty Parties at the XLII Antarctic Treaty Consultative Meeting, held in Prague, Czech Republic in 2019. The United States Department of State heads the United States delegation to these annual Antarctic Treaty meetings.

**DATES:** Effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**FOR FURTHER INFORMATION CONTACT:** Bijan Gilanshah, Assistant General Counsel, Office of the General Counsel, at 703-292-8060, National Science Foundation, 2415 Eisenhower Avenue, Suite W 18200, Alexandria, VA 22314.

**SUPPLEMENTARY INFORMATION:** The Antarctic Conservation Act of 1978, as amended ("ACA") (16 U.S.C. 2401, et seq.) implements the Protocol on Environmental Protection to the Antarctic Treaty ("the Protocol").

Annex V contains provisions for the protection of specially designated areas specially managed areas and historic sites and monuments. Section 2405 of title 16 of the ACA directs the Director of the National Science Foundation to issue such regulations as are necessary and appropriate to implement Annex V to the Protocol.

The Antarctic Treaty Parties, which includes the United States, periodically adopt measures to establish, consolidate or revoke specially protected areas, specially managed areas and historical sites or monuments in Antarctica. The regulation is being revised to reflect two newly added historical sites and monuments (HSM) in Antarctica, HSMs 93 and 94.

### ***Public Participation***

The changes to these areas and sites reflect decisions already made by the Antarctic Treaty Parties at recent international ATCM meetings. Because these amendments directly involve a foreign affairs function, the provisions of Executive Order 12866 and the Administrative Procedure Act (5 U.S.C. 553), requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date, are inapplicable. Further, because no notice of proposed rulemaking is required for this rule, the Regulatory Flexibility Act (5 U.S.C. 601-612) does not apply.

### ***Environmental Impact***

This final rule makes technical conforming changes to the National Science Foundation's regulations to reflect the substantive outcomes of recent Antarctic Treaty Consultative Meetings. The actions taken by the Antarctic Treaty Parties protect additional historic resources.

### ***Reducing Regulation and Controlling Regulatory Costs***

In implementing these international ATCM agreed to changes, this direct final rule relates to a foreign affairs function of the United States. Accordingly, NSF has determined that this document is not a regulation or rule subject to Executive Order 12866. *Furthermore, this direct final rule is not a significant regulatory action as defined in Executive Order 12866.*

### ***No Takings Implications***

The Foundation has determined that the final rule will not involve the taking of private property pursuant to E.O. 12630.

### ***Civil Justice Reform***

The Foundation has considered this final rule under E.O. 12988 on civil justice reform and determined the principles underlying and requirements of E.O. 12988 are not implicated.

### ***Federalism and Consultation and Coordination with Indian Tribal Governments***

The Foundation has considered this final rule under the requirements of E.O. 13132 on federalism and has determined that the final rule conforms with the federalism principles set out in this E.O.; will not impose any compliance costs on the States; and will not have substantial direct effects on the States, the relationship between the Federal government and the States, or the distribution of power and responsibilities among the various levels of government. Therefore, the Foundation has determined that no further assessment of federalism implications is necessary. Moreover, the Foundation has determined that promulgation of this final rule does not require advance consultation with Indian Tribal officials as set forth in E.O. 13175, Consultation and Coordination with Indian Tribal Governments.

### ***Energy Effects***

The Foundation has reviewed this final rule under E.O. 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. The Foundation has determined that this final rule does not constitute a significant energy action as defined in the E.O.

### ***Unfunded Mandates***

Pursuant to Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538), the Foundation has assessed the effects of this final rule on State,

local, and Tribal governments and the private sector. This final rule will not compel the expenditure of \$100 million or more by any State, local, or Tribal government or anyone in the private sector. Therefore, a statement under section 202 of the act is not required.

### ***Controlling Paperwork Burdens on the Public***

This final rule does not contain any recordkeeping or reporting requirements or other information collection requirements as defined in 5 CFR part 1320 that are not already required by law or not already approved for use. Accordingly, the review provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.) and its implementing regulations at 5 CFR part 1320 do not apply.

### ***Congressional Review Act***

The Office of Information and Regulatory Affairs in the Office of Management and Budget has determined that this action is not a major rule as defined by Subtitle E of the Small Business Regulatory Enforcement Fairness Act of 1996 (also known as the Congressional Review Act or CRA), 5 U.S.C. 804(2). This action will not result in: “an annual effect on the economy of \$100,000,000 or more; a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets.” Pursuant to the CRA, however, NSF will submit a copy of this final rule to both Houses of Congress and to the Comptroller General.

### **List of Subjects in 45 CFR Part 670**

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

Pursuant to the authority granted by 16 U.S.C. 2405(a)(1), NSF hereby

amends 45 CFR Part 670 as set forth below:

**PART 670--[AMENDED]**

1. The authority citation for part 670 continues to read as follows:

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

2. Amend § 670.29 in paragraph (c) by adding entries for “HSM 93” and “HSM 94” in alphanumeric order to read as follows:

**§ 670.29 Designation of Antarctic specially protected areas, specially managed areas, and historic sites and monuments.**

\* \* \* \* \*

(c) \* \* \*

HSM 93 Endurance, Wreck of the vessel owned and used by Sir Ernest Shackleton during his 1914-15 Trans-Antarctic Expedition.

HSM 94 C.A. Larsen Multiexpedition cairn.

**Dated:** May 18, 2021.

**Suzanne H. Plimpton,**

*Reports Clearance Officer,*

*National Science Foundation.*

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