§ 81.2 Cooperation with the States.

The Secretary is authorized by the act to cooperate with any State which establishes and maintains an adequate and active program for the conservation of various endangered and threatened species. In order for a State program to be deemed an adequate and active program, the Secretary must find and reconfirm, on an annual basis, that under the State program, either:

(a) Authority resides in the State agency to conserve resident species of fish and wildlife or plants determined by the State agency or the Secretary to be endangered or threatened;
(b) The State agency has established an acceptable conservation program, consistent with the purposes and policies of the act, for all resident species of fish and wildlife or plants in the State which are deemed by the Secretary to be endangered or threatened; and has furnished a copy of such program together with all pertinent details, information, and data requested to the Secretary;
(c) The State agency is authorized to conduct investigations to determine the status and requirements for survival of resident species of fish and wildlife or plants;
(d) The State agency is authorized to establish programs, including the acquisition of land or aquatic habitat or interests therein, for the conservation of resident endangered or threatened species; and
(e) Provisions are made for public participation in designating resident species of fish and wildlife or plants as endangered or threatened, or that under the State program: (1) The requirements set forth in paragraphs (c), (d), and (e) of this section are complied with concerning fish and wildlife and in paragraphs (c) and (e) of this section concerning plants, and plans are included under which immediate attention will be given to those resident species of fish and wildlife or plants which are determined by the Secretary or the State agency to be endangered or threatened and which the Secretary and the State agency agree are most urgently in need of conservation programs; except that a cooperative agreement entered into with a State whose program is deemed adequate and active pursuant to this paragraph shall not affect the applicability of prohibitions set forth in or authorized pursuant to
U.S. Fish and Wildlife Serv., Interior

§ 81.6 Project Agreement.

(a) Subsequent to the establishment of a Cooperative Agreement pursuant to §81.3, the Secretary may further agree with the States to provide financial assistance in the development and implementation of acceptable projects for the conservation of endangered and threatened species. Financial agreements will consist of an Application for Federal Assistance and a Project Agreement. Such agreements' continued existence, and continued financial assistance under such agreements, shall be contingent upon the continued existence of the Cooperative Agreement described in §81.3 of this part.

(b) The Application for Federal Assistance will show the need for the project, the objectives, the expected benefits and results, the approach, the period of time necessary to accomplish the objectives, and both the Federal and State costs. All of a State's activities proposed for this Federal grant support will be incorporated in one or more project applications.

(c) To meet the requirements of the Act, the Application for Federal Assistance shall certify that the State agency submitting the project is committed to its execution and that it has been reviewed by the appropriate State officials and is in compliance with other requirements of the Office of Management and Budget Circular No. A-87 (as revised).

(d) The Project Agreement will follow approval of the Application for Federal Assistance by the Secretary. The mutual obligations by the cooperating agencies will be shown in this agreement executed between the State and the Secretary. An agreement shall cover the financing proposed in one

§ 81.5 Information for the Secretary.

Before any Federal funds may be obligated for any project to be undertaken in a State, the State must have entered into a Cooperative Agreement with the Secretary pursuant to section 6(c) of the Act.

§ 81.4 Allocation of funds.

The Secretary shall semi-annually allocate funds, appropriated for the purpose of carrying out Section 6, to various State programs using the following as the basis for his determination:

(a) The international commitments of the United States to protect endangered or threatened species;

(b) The readiness of a State to proceed with a conservation program consistent with the objectives and purposes of the Act;

(c) The number of endangered and threatened species within a State;

(d) The potential for restoring endangered and threatened species within a State; and

(e) The relative urgency to initiate a program to restore and protect an endangered or threatened species in terms of survival of the species.

§ 81.3 Cooperative Agreement.

Upon determination by the Secretary that a State program is adequate and active and complies with §81.2, the Secretary shall enter into an Agreement with the State. A Cooperative Agreement is necessary before a Project Agreement can be approved for endangered or threatened species projects. A cooperative agreement under §81.2 must be reconfirmed annually to reflect new laws, species lists, rules and regulations, and programs, and to demonstrate that the program is still active and adequate. The Secretary, in determining which species are most urgently in need of a conservation program as provided for in §81.2(e), shall apply the following criteria: (1) The degree of threat to the continued existence of the species; (2) the recovery potential of the species; (3) the taxonomic status, e.g., giving full species priority over subspecies or populations; and (4) such other relevant biological factors as determined appropriate.