

Department of the Interior Departmental Manual

Effective Date: 6/25/80

Series: Public Lands

Part 601: Federal Areas Within States

Chapter 1: Jurisdiction

Originating Office: Office of the Solicitor

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1.1 **Scope.** This Chapter has no application to lands which are held by the United States in trust for Indians or Indian tribes.

1.2 **Explanation of Terms.**

A. A cession of jurisdiction over land by a State confers upon the Federal Government the right to legislate with respect to such land and the persons residing or present on it. If the cession is complete so that a State is precluded from exercising any control, the jurisdiction of the Federal Government is considered to be exclusive. If the cession is such that the State may exercise control with respect to some matters, the jurisdiction of the Federal Government is considered to be partial. Concurrent jurisdiction is the parallel right of both the State and the Federal Government to legislate for an area.

B. The term proprietary interest means the right or title of the Federal Government to land over which it has not obtained any measure of the State's legislative authority by virtue of a cession of jurisdiction by the State. The fact that the United States has only a proprietary interest in land does not mean that the Federal Government is without authority to administer it. The United States has certain powers and immunities with respect to such land arising from the legal doctrine that the States cannot without the consent of the Congress, interfere with any legally authorized program or function of the Federal Government.

C. As used in this Chapter, the word State means any one of the 50 states, and does not include the District of Columbia or any of the territories of the United States.

1.3 **Policy.**

A. A proprietary interest in lands under the administrative control of the Secretary of the Interior will ordinarily constitute an adequate basis for their administration. Except as provided by law or where circumstances require an exception, no cession of jurisdiction shall hereafter be obtained from a State with respect to lands under the administrative control of the Department of the Interior.

B. Where it has been determined that a proprietary interest in land will not permit a

bureau to adequately fulfill its management responsibilities, a cession of concurrent jurisdiction may be obtained from a State with the prior approval of the Assistant Secretary - Policy, Budget and Administration.

C. Except as provided by law or where circumstances require exception, concurrent jurisdiction shall be the jurisdiction of choice under circumstances where the bureau deems additional jurisdiction is necessary.

D. If land is or will be included in an area which is under the administrative control of the Department and over which a uniform degree of jurisdiction has been ceded by a State, then, to prevent confusion respecting the jurisdictional status of lands within the area, a bureau may, without Secretarial approval, seek to obtain a cession from the State of the same degree of jurisdiction.

E. With regard to lands within the National Park System, it is the policy of the Department to diligently pursue the establishment of concurrent legislative jurisdiction as mandated by the Act of October 7, 1976, 16 U.S.C. 1z-3.