

# federal register

WEDNESDAY, JUNE 30, 1976



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June 25, 1976, the section heading under Part 91, should be corrected to read as follows:

§ 91.103 Frequency stability.

Title 22—Foreign Relations

CHAPTER II—AGENCY FOR INTERNATIONAL DEVELOPMENT, DEPARTMENT OF STATE

[Reg. 16]

PART 216—ENVIRONMENTAL PROCEDURES

On March 24, 1976, the Agency for International Development (AID) proposed regulations to amend 22 CFR by adding a new Part 216 entitled "Environmental Procedures" in accordance with the requirements of the National Environmental Policy Act of 1969 (NEPA). These regulations were proposed in accordance with the Stipulation and Court Order of December 5, 1975, issued by the US District Federal Court for the District of Columbia in the case of Environmental Defense Fund, Inc. for International Development, et al.

At the time of the March 29, 1976 publication of the proposed regulations, AID solicited comments on all aspects of the regulations and received 14 comments in response from environmental organizations, federal agencies, consultants and interested persons. The comments have been carefully considered and several changes have been made to the proposed regulations in response to the suggestions made.

RESPONSE TO COMMENTS ON THE PROPOSED PROCEDURES

Comments received in response to the proposed March 29, 1976 regulations are available for public inspection at AID. All comments received, including those received after the terminal date of the period, have been fully considered and many of the suggestions have been adopted or substantially satisfied by editorial changes, deletions or additions to the regulations. The regulations have also been reorganized in response to the suggestion of one commenter to facilitate an understanding of the applicable procedures.

The principal comments are discussed as follows:

1. APPLICABILITY OF PROCEDURES

One commenter felt that the language of this section restricted the coverage of these procedures to "selected" research and commodity procurement and that no guidance was available to explain which of these areas were to be either included or excluded. To accommodate this concern this part of the procedures has been revised to make clear that they apply to all agency programs. The use of the word "selected" had been utilized to indicate that some activities such as AID research and commodity procurement would not normally be expected to significantly affect the environment.

2. GENERAL PROCEDURES

One commenter was concerned that a draft Environmental Impact Statement

(EIS) will not be circulated prior to the approval of the Project Review Paper or its equivalent. The proposed procedures required an Environmental Analysis to be prepared at the earliest possible time in the cycle between program conception and implementation. This became the basis for the Threshold Decision which determined whether a program or activity was likely to significantly affect the environment. The proposed activity at this and the next stage of development, the Project Review Paper (PRP), is in a very formative state. For this reason the actual preparation of a draft EIS with alternative considerations does not begin until after a decision has been made in the Project Review Paper that the overall concept of an activity is consistent with AID objectives and recipient country request. However, approval of the PRP does not insure that the activity will go forward—that decision is made after preparation of the Project Paper which will be accompanied by the final EIS which has had full public exposure. Therefore the agency feels that the public and other Federal agencies will be brought into the EIS process at the earliest possible time after the conceptual stage with sufficient agreement that it is worthy of being further considered. To bring the public and other agencies into the EIS process at an earlier time would be inconsistent with good management and utilization of valuable expertise. It should be noted that in the final regulations that the term Environmental Analysis has been replaced by Initial Environmental Examination.

3. MISCELLANEOUS EXPLANATORY STATEMENTS OR WORDS

One commenter expressed concern that the agency by using certain words or phrases or explanation within the regulations was unnecessarily prejudging issues and implying a biased position. These appeared in I-B as " \* \* \* in the context of the realities of the sovereignty of developing countries their differing priorities and the limited data (including environmental) available", in III-C as "(or EIS in rare cases)". These words have been deleted in view of the fact that they are not essential to the guidance which is provided by the procedures.

4. POSITION OF ENVIRONMENTAL COORDINATOR

One commenter suggested that specific responsibilities should be written into the position description of the newly established position of Agency Environmental Coordinator. Another commenter also suggested that the identified organizational location of the position should be changed to lend more prestige and authority to the position.

The Agency feels that while this concern is well intended it is based only on information contained within the regulations and not on other factors that influence both the role and organizational level of the Environmental Coordinator, therefore no changes have been made in the proposed regulations in § 216.4, Responsibilities.

5. SCOPE OF ENVIRONMENTAL ASSESSMENTS

One federal and four public commenters expressed concern that the word "generally" used in Section I-C4 to describe the similarity of the scope of the EA and EIS indicated that AID was attempting to avoid the type of analysis for proposed activities in "host" countries that is envisioned by NEPA. In order to clarify that the EA is an independent assessment apart from the EIS, Section-C4 has been clarified and the final sentence deleted.

To accomplish the Agency's policies of (1) assisting in the strengthening of the indigenous capabilities of developing countries to appreciate and evaluate the potential environmental effects of proposed projects and (2) ensuring that any environmental consequences of proposed AID activities are considered in collaboration with the host country, and yet remain consistent with the intent of NEPA, AID approaches the evaluative process differently depending upon the environment likely to be impacted. When impacts are limited to a foreign jurisdiction, the approach is to enlist the cooperation of the host country in anticipating and preventing decline in the quality of the environment. U.S. Federal agencies are also requested to participate in defining any likely impacts and alternatives to the proposed activity. When the U.S. or global environments or areas outside the jurisdiction of any nation are likely to be significantly affected, AID utilizes the EIS review procedures of NEPA. This is now clarified in § 216.3B.

6. EIS PREPARATION AND COVERAGE

Three commenters expressed concern that EIS category (3) of § 216.7 was too ambiguous and needed clarification as to the areas of impact that are included. Three public commenters also suggested that the discretionary authority of the Administrator for determining whether an Environmental Impact Statement would be prepared for actions deemed to significantly affect areas of unique natural or cultural heritage value was inappropriate and that Environmental Impact Statement preparation in these instances should be made mandatory. One Federal agency supported the discretionary authority but joined one public commenter in suggesting that the regulations should include a procedure for bringing the question of Environmental Impact Statement preparation to the Administrator for resolution.

The ambiguity of the term "areas of unique natural or cultural heritage value" became apparent during the review and discussion of the proposed procedures with other federal agencies. The resolution of the issue of what constitutes an area of unique natural or cultural heritage value in the developing countries, requires the formulation of a clear definition that would take into account views of the host government, AID and likely reactions to decisions on the part of the public at large. AID, has therefore, decided to provide, in its identification of significant effects of proposed actions, for the flagging of effects

upon "natural or cultural heritage" listed by the World Heritage Committee pursuant to Article XI of the Convention Concerning the Protection of the World Cultural and Natural Heritage, of November 1972. This aspect is addressed by the inclusion in 216.1, C, 3 of the procedures, of the listings of the World Heritage Committee as an item to be carefully considered in determining any significant effects of proposed Agency actions. In order to provide that any actions of the Agency that are highly controversial or of significant public interest in the US receive attention at the highest policy level of the Agency, the regulations state in 216.6 that the Administrator may exercise his discretion and elect to prepare an Environmental Impact Statement rather than an Environmental Assessment on any aspect of the human environment whenever he feels it is warranted. The administrative structure of the Agency is such that issues of important policy are automatically brought to the attention of the administrators who are charged in § 214.4 with the responsibility for implementing these regulations. No further guidance is appropriate at this time, however, this process will be reviewed after additional experience is gained with the overall procedures.

Because of the importance of promptly making known to AID offices, other governments and US Federal Agencies, environmentalists, and other interested persons, the content of these regulations and because of the desire to promptly implement this program, the Administrator finds good cause to declare these regulations effective immediately upon publication.

Title 22 of the Code of Federal Regulations, setting forth "Environmental Procedures" in accordance with the requirements of the National Environmental Policy Act of 1967 (NEPA), is amended by adding a new Part 216 as set forth below.

Dated: June 28, 1976.

DANIEL PARKER,  
Administrator.

Sec.

- 216.1 Introduction.
- 216.2 Applicability of procedures.
- 216.3 General procedures.
- 216.4 Responsibilities.
- 216.5 Environmental assessments.
- 216.6 Environmental impact statements.
- 216.7 Public hearings.
- 216.8 Records and reports.

AUTHORITY: (42 U.S.C. 4332; 22 U.S.C. 2381, 2381).

§ 216.1 Introduction.

(a) *Purpose.* In accordance with the National Environmental Policy Act of 1969 (NEPA) and relevant AID policies, the following general procedures are established. These procedures have been developed to insure that environmental factors and values are integrated into the decision-making process and to assign responsibility within the Agency for assessing the environmental effects of AID's actions.

(b) *Environmental policy.* In the conduct of its mandate to help upgrade the

quality of life of the poor in developing countries, AID conducts a broad range of activities addressing such basic problems as hunger and malnutrition, overpopulation, disease, disaster, illiteracy and lack of adequate housing and transportation. As authorized by the Foreign Assistance Act (AA) of 1961 as amended, AID finances or directly furnishes both bilateral and multilateral development assistance through loan and grant programs of technical advisory services, research, training, construction and commodity support. These programs are carried out under the foreign policy guidance of the Secretary of State and in the context of the realities of the differing priorities of the developing countries. Within this framework, it is AID policy:

(1) To ensure that the environmental consequences of proposed AID-financed activities are identified and considered by AID and the host country<sup>1</sup> prior to a final decision to proceed, and that appropriate environmental safeguards are adopted;

(2) To assist in strengthening the indigenous capabilities of developing countries to appreciate and evaluate the potential environmental effects of proposed development strategies and projects, and to select, implement and manage effective environmental protection measures; and

(3) To identify impacts resulting from its actions upon the environment including those elements of the world biosphere which are the common natural and cultural heritage of mankind.

(c) *Definitions.*—(1) *CEQ guideline or guidelines.* Guidelines promulgated by the President's Council on Environmental Quality (CEQ) under NEPA and Executive Order 11514, entitled "Preparation of Environmental Impact Statements" (FEDERAL REGISTER, Volume 38, Number 147, August 1, 1973), and amendments thereto.

(2) *Initial environmental examination.* As used, herein, an Initial Environmental Examination is the initial study of the reasonably foreseeable effects of a proposed action on the human environment. Its function is to provide the basis for a Threshold Decision as to whether an Environmental Assessment or an Environmental Impact Statement will be required. If an Environmental Assessment or an Environmental Impact Statement is required, the Examination will also provide the basis for its preparation. The Initial Environmental Examination should identify and describe where appropriate: (i) The nature, scope and magnitude of any reasonably foreseeable effects of an action or any part of an action on the human environment; (ii) the reasonably foreseeable effects of any such environmental impact on organisms in the biosphere including human life; and, where an Environmental As-

<sup>1</sup> In every instance in these procedures the terms "host country" or "host government" or "recipient country" are meant to refer to the country that is both receiving and financially participating in the AID assistance under the terms of the FAA.

essment or an Environmental Impact Statement is required; (iii) reasonable alternatives to the proposed action which will be studied in detail in the Environmental Assessment or draft Environmental Impact Statement. The Initial Environmental Examination will be an integral part of the Project Review Paper or equivalent document which will be circulated to selected Federal agencies for comment, when an Environmental Assessment is to be prepared.

(3) *Threshold decision.* A formal Agency decision which determines, based on an Initial Environmental Examination, whether a proposed agency action is or is not an action which will have a significant effect on the human environment, and, if so, whether an Environmental Assessment or an Environmental Impact Statement is required. This decision is made in the very early stages of activity conception, even before the activity is reviewed for consistency with AID objectives and recipient requests. While it is difficult to inclusively identify all such actions, types to be carefully considered for environmental effects would include those:

(i) Where the impact is localized, but the human environment will be significantly affected;

(ii) Where the impact is likely to be irreversible or highly controversial;

(iii) Which involve a complex of projects, with individually limited but cumulatively considerable effects;

(iv) Which involve a limited amount of money, but which set a precedent for future actions; or represent a decision in principle about future courses of action;

Actions that should be considered in determining "significant effects" include those which adversely affect such aspects of the human environment as air, water, land, flora and fauna, and socio-economic conditions. Special attention should be given to problems involving solid waste, noise, radiation, hazardous substances, energy sources and natural resources development, and in addition, actions which:

(a) Degrade the quality of the human environment;

(b) Curtail the range of beneficial uses of the human environment and its resources and serve short-term, to the disadvantage of long-term, environmental goals;

(c) May have both detrimental and beneficial effects even if on balance the Agency believes that the effect will be beneficial;

(d) Have secondary effects which may be more substantial than the primary effects of the original action.

(e) Are likely to have an effect on any natural or cultural heritage listed by the World Heritage Committee pursuant to Article XI of the "Convention Concerning the Protection of the World Cultural and Natural Heritage," of November 1972.

(4) *Environmental Assessment (EA).* The Environmental Assessment is a detailed study of the reasonably foreseeable environmental effects, both positive and negative, of a proposed action and

its reasonable alternatives carried out within or affecting specific developing countries as further described in § 216.5 of these procedures. To the extent practicable the Assessment will be developed in close collaboration with the host country institutions and subject to recipient country review.

(5) *Environmental Impact Statement (EIS)*. The EIS is a detailed study of the reasonably foreseeable environmental impacts, both positive and negative, of a proposed AID action and its reasonable alternatives on areas described in § 216.6 of these procedures. It is a specific document having a definite format and content, as required by NEPA and as recommended by CEQ Guidelines, which is circulated in draft form in order to obtain the comment or review by other Federal, State and local domestic agencies and the US general public. The final Environmental Impact Statement takes into consideration the comments received on the draft. The required form and content of an Environmental Impact Statement is further defined in §§ 216.5 and 216.6 of these procedures.

(6) *Negative Determination*. A Negative Determination is a formal written document based on a Threshold Decision that a proposed action is not a major action which will have a significant effect on the human environment and is, therefore, an action for which an Environmental Impact Statement or an Environmental Assessment will not be required.

(7) *Negative Declaration*. A Negative Declaration is an official written Agency decision made by an Assistant Administrator which states that the Agency will not develop an Environmental Impact Statement or an Environmental Assessment for an action which the Agency has identified as being normally covered by these procedures. The decision may be based on (i) overriding considerations such as the provision of disaster relief (ii) the fact that a substantial number of Environmental Assessments or Environmental Impact Statements relating to similar activities have been prepared in the past, or (iii) the fact that the Agency has previously decided to prepare a programmatic Statement or Assessment covering the activity in question.

(8) *Project Identification Document (PID)*. An internal AID document which initially identifies and describes a proposed project. It is a short paper presenting enough information on the project to demonstrate its relevance to Agency priorities and its practical potential.

(9) *Program Assistance Initial Proposal (PAIP)*. An internal AID document used to initiate and identify proposed non-project commodity import programs. It is analogous to the Project Identification Document.

(10) *Project Review Paper (PRP)*. An internal AID document presented during the analytical stage of a project in conjunction with formulation of the Agency's Congressional Presentation.

The PRP identifies major project issues and assures that necessary steps can be agreed upon to examine if the project is feasible and to determine the best possible implementation plan for the project.

(11) *Program Assistance Review Document (PARD)*. An internal AID document used for a more detailed review of an approved Program Assistance Initial Proposal under a non-project commodity import program. It is analogous to the Project Review Paper and contains a section which identifies categories of commodities and provides the justification for the proposed AID financing.

(12) *Project Paper (PP)*. An internal AID document which provides a definitive description and appraisal of the project and particularly, the plan of implementation. Project Papers form the basis for a final decision on whether or not to offer AID funding for a project.

(13) *Program Assistance Approval Document (PAAD)*. An internal AID document approving non-project commodity import program assistance. It is analogous to the Project Paper.

#### § 216.2 Applicability of procedures.

These procedures apply to all new programs or activities, including those that may arise in connection with on-going projects, for project assistance, research and commodity procurement. Not every AID activity, however, will be a major action significantly affecting the human environment for purposes of these procedures. For example, the following general classes of activities will not normally require the filing of an Environmental Impact Statement or the preparation of an Environmental Assessment:

(a) Education or training programs not designed to result in activities directly affecting the environment;

(b) Controlled experimentation exclusively for the purpose of research which is confined to small areas and carefully monitored;

(c) Analyses, studies, academic or investigative research, workshops and meetings;

(d) Projects where AID is a minor donor to a multidonor project and there are no potential effects upon the environment of the US or areas outside any nation's jurisdiction;

(e) Document and information transfers;

(f) Contributions to international, regional or national organizations by the US which are not for the purpose of carrying out a specifically identifiable project or projects;

(g) Disaster and emergency relief activities;

(h) US institution building grants, as provided for under Section 211(d) of the Foreign Assistance Act.

#### § 216.3 General procedures.

(a) An Initial Environmental Examination will be prepared by the originator of a project concurrently with the Project Review Paper or Program Assistance Review Document or earlier. When Project Review Papers or Program Assistance

Review Documents are not utilized, the Initial Environmental Examination will be prepared concurrently with the preparation of the Project Identification Document or Project Assistance Initial Proposal or at the earliest appropriate time.

(b) Based on the Initial Environmental Examination, a Threshold Decision will be specifically recommended in the Project Review Paper, Program Assistance Review Document or Project Identification Document and acted upon at the Bureau or Office level concurrently with approval of the Project Review Paper, Program Assistance Review Document or Project Identification Document. If the Threshold Decision is negative (i.e. an Environmental Assessment or an Environmental Impact Statement is not required), the cognizant Bureau or Office will record this decision and such record will constitute a Negative Determination. If the Threshold Decision based on an Initial Environmental Examination is positive (i.e. a significant environmental impact is likely to occur) then the activity is to be evaluated to determine if an EIS is to be prepared pursuant to Section 216.6 of these procedures. When a Threshold Decision based on an Initial Environmental Examination indicates that an Environmental Assessment is required, the procedures of § 216.5 will be followed and the approved Project Review Paper or equivalent document containing the Initial Environmental Examination will be circulated to selected U.S. Federal agencies with relevant expertise, utilizing the list provided in the CEQ Guidelines. Such agencies will be invited to make written comments within thirty days on the Examination and on matters that should be considered in preparation of the Environmental Assessment. Comments received on environmental aspects from reviewing Federal agencies will be forwarded to the originating project office for consideration in the formulation of the design and implementation of the project and the required Environmental Assessment and will form part of the project file when the project comes forward in the Project Paper stage for final approval.

(c) If the Project Review Paper, Program Assistance Review Document or Project Identification Document is approved and the Threshold Decision positive, the originator of the project will prepare, prior to or concurrently with the Project Paper or Program Assistance Approval Document, an Environmental Assessment or draft Environmental Impact Statement as required. Draft Environmental Impact Statements will be circulated for review and comment as part of the review of Project Papers and as outlined further in § 216.6 of these procedures. Final approval of the Project Paper or Program Assistance Approval Document and the method of implementation will include consideration of the Environmental Assessment or final Environmental Impact Statement as well as other required (non-environmental) analyses. If loans or grants for broad sector activities (e.g. river basin

development, etc.) are proposed, a general or programmatic Environmental Assessment or Environmental Impact Statement consistent with the scope of the proposed loan or grant will be prepared in conjunction with the Project Paper and agreement will be reached with the recipient government that a detailed Assessment will be prepared and considered on each individual project as it is developed and prior to its approval.

(d) Processing and Review Within AID Initial Environmental Examinations, Environmental Assessments and final Environmental Impact Statements will be processed within AID in accordance with the normal AID procedures for other documents. These procedures call for participation in the project review process of technical, legal and country specialists. Environmental Assessments and final Environmental Impact Statements will be reviewed as an integral part of the Project Paper or equivalent. In addition to these normal procedures, Environmental Assessments will be reviewed by the appointed Bureau environmental officer and, periodically, by the Environmental Coordinator who will monitor the Environmental Assessment process. Draft and final Environmental Impact Statements will be reviewed by the Environmental Coordinator and the Office of the General Counsel.

(e) Monitoring: To the extent feasible and relevant, projects and programs for which Environmental Impact Statements or Environmental Assessments have been prepared, should be designed to include measurement of any changes in environmental quality, positive or negative, during their implementation. This will require recording of baseline data at the start. To the extent that available data permits, originating offices of AID will formulate systems in collaboration with the recipient nation(s), to monitor such impacts during the life of AID's involvement in the activity.

(f) Revisions: If, after a Threshold Decision is made resulting in a Negative Determination, a project is revised or new information becomes available which indicates that a proposed action might be "major" and its effects "significant", the Negative Determination will be reviewed and revised by the cognizant Bureau and an Environmental Assessment or Environmental Impact Statement will be prepared, if appropriate. Environmental Assessments and Environmental Impact Statements will be amended and processed appropriately if there are major changes in the project or program, or when significant new information becomes available. When ongoing programs are revised to incorporate a change in scope or nature, a determination will be made as to whether such change may have an environmental impact not previously assessed. If so, the procedures outlined above will be followed.

#### § 216.4 Responsibilities.

(a) As a general principle, responsibilities for environmental decisions and

actions will be similar to normal AID organizational responsibilities so that an environmental awareness will permeate the entire organization and environmental considerations will be weighed with others in an integrated manner at each level of responsibility. Thus each AID official empowered to authorize funds will be responsible to the Administrator for implementing these procedures and obtaining and managing the required resources.

(b) In view of the need for an internal and external focal point for environmental matters, the position of AID Environmental Coordinator has been established in the Office of Science and Technology, Technical Assistance Bureau (TA/OST). This person will serve as the principal environmental affairs coordinator for the entire Agency and will provide policy guidance and professional leadership within AID and will serve as chairman of the AID Committee on Environment and Development. The Environmental Coordinator will also be the principal point of contact on environmental affairs with the Council on Environmental Quality, the Department of State, all other Federal agencies and the public.

(c) The head of each Bureau, Mission and major Office will designate a competent officer to act as coordinator, advisor and principal point of contact for environmental matters within his organizational unit. Those officers located in AID/Washington will also be members of the AID Committee for Environment and Development.

(d) The Committee on Environment and Development will provide advice on major issues, policies or procedures having agency-wide implications.

(e) Central technical offices will provide support and advice to AID Bureaus, Offices, and Missions as requested in their respective areas of expertise. The following Offices are expected to be involved most frequently:

1. Office of Engineering (SER/ENG)
2. Office of Agriculture (TA/AGR)
3. Office of Science and Technology (TA/OST)
4. Office of Commodity Management (SER/COM)
5. Office of Health (TA/H)
6. Office of Urban Development (TA/UD)
7. Office of Nutrition (TA/H)

(f) When required by responsible offices, qualified outside contractors may be employed to assist in preparing Initial Environmental Examinations, Environmental Assessments or Environmental Impact Statements.

#### § 216.5 Environmental Assessments (EA).

(a) *General purpose.* The purpose of the Environmental Assessment is to provide Agency and host country decision makers with a comprehensive understanding of the reasonably foreseeable environmental effects of proposed actions and their reasonable alternatives so that the expected benefits of development objectives can be weighed against any adverse short or long-term impacts upon

the human environment or any irreversible or irretrievable commitment of resources. The Environmental Assessment will be considered by AID prior to final approval of any activity as outlined in § 216.3 of these procedures.

(b) *Collaboration with Recipient Nation on Preparation.* Collaboration in obtaining data, conducting analyses and considering alternatives will help build an awareness of development-associated environmental problems in less developed countries as well as assist in building an indigenous institutional capability to deal nationally with such problems. Missions, Bureaus and Offices will collaborate with recipient countries to the maximum extent possible, in the development of any Environmental Assessments required and obtain agreement of the recipient country to participate in the preparation of any required Assessment and to consider environmental consequences as set forth therein. In some cases, centrally funded Project Papers are prepared and approved prior to country selection. In such cases, prior agreements, collaboration and specific details of any required Assessments must be deferred until a later date. In many recipient countries, neither baseline data for complete Environmental Assessments or monitoring may be available, nor local personnel with the knowledge required to participate substantively in the Assessments. In these cases, Missions should encourage and be responsive to host-country requests for training or technical assistance. When AID unilaterally considers that there is a reasonable risk of significant adverse effects on the environment from an activity proposed to it for support, and where efforts to encourage the incorporation of appropriate safeguards are unsuccessful, AID reserves the prerogative of declining to participate in the activity.

(c) *Content and Form.*<sup>2</sup> The scope and depth of information and data gathered for Environmental Assessments should be similar to that for economic, technical and other analyses required by AID and must be relevant to the specific environmental issues involved.

(1) Environmental Assessments should include or make reference within the same document to a description of the proposed action, a statement of its purposes, and a description of the environment affected, including information, summary technical data and maps and diagrams where relevant, adequate to permit an assessment of potential environmental impact. Highly technical and specialized analyses and data should be avoided in the body of the draft, but, if required, should be attached as appendices or footnoted with adequate bibliographic references and, if difficult to obtain, a notation of where they are available. In addition to a description of the proposed action and the environment affected, the Environmental Assessment

<sup>2</sup> This section is substantially taken from CEQ Guidelines, Section 1500.8.

should identify and describe further related activities which are intended to be undertaken in the same general area and of substantially the same nature which are promoted and financed by AID or another US Government agency, or where AID assistance is conditioned upon the recipient country's undertaking further related activities in the same general area and of substantially the same nature. The interrelationships and cumulative environmental impacts of the proposed action and other related activities, as described above, must be presented in the Environmental Assessment. The amount of detail provided in such descriptions should be commensurate with the extent and expected impact of the action, and with the amount of information required at the particular level of decision-making (planning, feasibility, design, etc.). In order to ensure accurate descriptions of a proposed action and its alternatives, site visits should be made as appropriate. Population and growth characteristics of the affected area and any population and growth assumptions used to justify the project or program or to determine secondary population and growth impacts resulting from the proposed action and its alternatives should be identified. It is essential that the sources of data used to identify, quantify or evaluate any and all environmental consequences be expressly noted.

(2) The relationship of the proposed action to plans for land and resources use, policies and controls for the affected area and sectoral or national development plans should be examined. Since AID programs and projects are undertaken only at the request of and in collaboration with the recipient country, there should be no conflict with the objective and specific terms of LDC approved or proposed land use plans, policies and controls, if any, for the area affected.

(3) The reasonably foreseeable impact of the proposed action on the human environment must be assessed.

(i) Identification and quantification of such impacts requires an assessment of the positive and negative effects of the proposed action as it affects the environment of the recipient country or neighboring countries as appropriate. The attention given to different environmental factors will vary according to the nature, scale, and location of the proposed action. Among factors to consider should be the reasonably foreseeable effect of the action on such aspects of the environment as those listed in § 216.1(c)(3) of these procedures. Primary attention should be given in the Environmental Assessment to discussing those factors most evidently impacted by the proposed action.

(ii) Secondary or indirect, as well as primary or direct, consequences for the environment should be included in the Assessment. Many major Agency actions, in particular those that involve the construction or funding of infrastructure investment (e.g., irrigation projects, rural water supply systems, rural access roads,

water resource development projects, etc.) could stimulate or induce secondary effects in the form of associated investments, introduction of disease vectors, and changed patterns of social and economic activities. Such secondary effects, through their impacts on human health and existing community facilities and activities, through inducing new facilities and activities, or through changes in natural conditions, may often be even more substantial than the primary effects of the original action itself. For example, the effects of the proposed action on population movement and growth may be among the more significant secondary effects. Such population and growth impacts should be estimated if expected to be significant and an assessment made of the effect or any possible change in population patterns or growth upon the resource base, including land use, water, and public services of the area in question.

(4) Reasonable alternatives to the proposed action including, where relevant, those not within the existing authority of AID should be investigated. The sponsoring Office or Bureau should study, develop and describe appropriate alternatives to the recommended course of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources. A rigorous exploration and objective evaluation of reasonably foreseeable environmental impacts of all reasonable alternative actions, particularly those that might enhance environmental quality or avoid some or all of the adverse environmental effects, is essential. Sufficient analysis of such alternatives and their environmental benefits, costs and risks should accompany the proposed action through the review process in order not to foreclose prematurely options which might enhance environmental quality or have less detrimental effects. Examples of such alternatives include: the alternative of taking no action or of postponing action pending further study; alternatives requiring actions of a significantly different nature which would provide similar benefits with different environmental impacts (e.g., nonstructural alternatives to flood control programs); alternatives related to different designs or details of the proposed action which would present different environmental impacts (e.g., cooling ponds versus cooling towers for a power plant); alternatives that will significantly conserve energy; alternative measures to provide for compensation of fish and wildlife losses including the acquisition of land, waters, and interests therein. In each case, the analysis should be sufficiently detailed to reveal the comparative evaluation of the environmental benefits, costs and risks of the proposed action and each reasonable alternative.

(5) Any reasonably foreseeable adverse environmental effects which cannot be avoided (such as water or air pollution, undesirable land use patterns, damage to life systems, urban congest-

tion, threats to health or other adverse consequences) should be identified. This should be a brief section summarizing in one place those effects that are adverse and unavoidable under the proposed action. Included for purposes of contrast should be a clear statement of how other avoidable adverse effects discussed in this section will be mitigated.

(6) Except for provision of some direct disaster relief and short-term balance of payments or budgetary assistance, AID's activities are normally to provide long-term benefits. However, the relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity should be explored. This section should contain a brief discussion of the extent to which the proposed action involves trade-offs between short-term environmental gains at the expense of long-term losses, or vice versa, and a discussion of the extent to which the proposed action forecloses future options. In this context, short-term and long-term do not refer to any fixed time periods, but should be viewed in terms of the environmentally significant consequences of the proposed action.

(7) Any irreversible and irretrievable commitments of natural or cultural resources that would be involved in the proposed action should be identified. This requires the sponsoring Office or Bureau to identify unavoidable impacts such as those listed in paragraph five of this section and the extent to which the action irreversibly curtails the range of potential uses of the environment.

(8) An indication of what other interests and considerations of US, AID or LDC policy are thought to offset the adverse environmental effects of the proposed action. The Environmental Assessment should also indicate the extent to which these stated countervailing benefits could be realized by following reasonable alternatives to the proposed action that would avoid some or all of the adverse environmental effects. Where cost-benefit analyses of a proposed action are prepared they should be attached and should clearly indicate the extent to which environmental costs have not been reflected in such analyses.

(9) In developing the above points, every effort should be made to convey the required information succinctly, in a form easily understood, giving attention to the substance of the information conveyed rather than to the particular form, length or detail of the Assessment. Each of the above points, for example, need not always occupy a distinct section if it is otherwise adequately covered in discussing the impact of the proposed action and its alternatives—items which should normally be the focus of the statement.

(10) Environmental Assessments should indicate at appropriate points in the text any underlying studies, reports, and other information obtained and considered in their preparation, including any cost-benefit analyses prepared.

In the case of documents not likely to be easily accessible (such as internal studies or reports), the Environmental Assessment should indicate how such information may be obtained.

(11) To the extent required to obtain a reasoned analysis, each Assessment should be prepared utilizing a systematic interdisciplinary approach which will ensure the integrated use of the natural and social sciences and the environmental design arts in planning and decision-making which may have an impact on man's environment. If required disciplines are not available within AID, appropriate use of relevant US Government and local LDC agencies or the professional services of universities and outside consultants should be made. The interdisciplinary approach should not be limited to the preparation of the Environmental Assessment, but should also be used in the early planning and design stages of the proposed action and in its evaluation. Early application of such an approach should help assure a systematic evaluation of reasonable alternative courses of action and their potential social, economic, and environmental consequences as well as mitigating detrimental effects of the chosen project or activity.

(12) Broad program Assessments may be required in order to assess the environmental effects of a number of individual actions and their cumulative environmental impact in a given country or geographic area, or the environmental impacts that are generic or common to a class of agency actions, or other activities which are not country-specific. In these cases, a single, programmatic Assessment will be prepared in AID/Washington and circulated to appropriate overseas Missions, host governments, and to interested parties within the United States. Based upon consultation with the Committee on Environment and Development, the Environmental Coordinator shall recommend to the Administrator the subjects and appropriate preparing Offices for such Agency-wide programmatic Assessments. Decisions on the need for programmatic Environmental Assessments on actions relating to a specific country or region will be made by the cognizant Bureau or Office head in consultation with the Environmental Coordinator. To the extent practicable, the form and content of the programmatic Environmental Assessment will be the same as for project Assessments. Subsequent Environmental Assessments on major individual actions will be necessary where such follow-on or subsequent activities may have significant environmental impacts on specific countries where such impacts have not been adequately evaluated in the programmatic Environmental Assessment.

(13) In a situation where an analysis indicates that potential effects may extend beyond the national boundaries of a recipient country and adjacent foreign nations may be affected, AID will urge the recipient country to consult with its neighbor(s) in advance of project ap-

proval and to negotiate mutually acceptable accommodations.

(14) Environmental Assessments will not normally include material classified or administratively controlled. However, there may be situations where environmental aspects cannot be adequately discussed without the inclusion of such material. The handling and disclosure of classified or administratively controlled material shall be governed by 22 CFR Part 9. Those portions of an Environmental Assessment which are not classified or administratively controlled will be made available to persons outside the Agency as provided for in 22 CFR Part 212.

(d) *Consultation and Review.* When Environmental Assessments are prepared on activities carried out within or focused on specific LDCs consultations will be held between AID staff and the host government both in the early stages of preparation and on the results and significance of the completed Assessment before the project is authorized. Missions will encourage the host government to make the Environmental Assessment available to the general public of the recipient country. If Environmental Assessments are prepared on activities which are not country-specific, the Assessment will be circulated by the Environmental Coordinator to AID's overseas Missions and interested LDC governments for information, guidance and comment, and will be made available in the US to interested parties.

#### § 216.6 Environmental impact statements (EIS).

Environmental Impact Statements (EISs) will be prepared and circulated in accordance with section 102(2)(c) of NEPA, as amplified by the CEQ Guidelines, when major agency actions significantly affect:

(a) The global environment or areas outside the jurisdiction of any nation (e.g., the oceans);

(b) The environment of the United States; or

(c) As a matter of policy, other aspects of the human environment at the discretion of the Administrator.

The content and form of the draft and final Environmental Impact Statement will generally follow Section 1500.8 of the Guidelines, but will take into account the special considerations and concerns of AID, such as those set forth in § 216.5 of these procedures. Circulation of an Environmental Impact Statement in draft form will precede approval of a Project Paper or equivalent and comments from such circulation will be considered before final project authorization as outlined in § 216.3 of these procedures. The draft Environmental Impact Statement will also be circulated via the Missions to affected LDC governments for information and comment. Draft Environmental Impact Statements will be made available for comment to US Federal agencies with jurisdiction by law or special expertise with respect to any environmental impact involved, and

to public and private organizations and individuals for not less than forty-five (45) days (see Section 1500.9 (b), (c), (d), and (f) of CEQ Guidelines for details); and notice of the draft Environmental Impact Statements availability will be published in the Federal Register. Cognizant Bureaus and Offices will submit these drafts for circulation via the AID Environmental Coordinator who will have the responsibility for coordinating all such communications with persons outside AID. Any comments received by the Environmental Coordinator will be forwarded to the originating Bureau or Office for consideration in final policy decisions and the preparation of a final Environmental Impact Statement. All such comments will be attached to the final Statement, and those responsible comments not adequately discussed in the draft Statement will be appropriately dealt with in the final Statement. Copies of the final Environmental Impact Statement, with comments attached, will be sent by the Environmental Coordinator to CEQ and to all other Federal, state and local agencies and private organizations that made substantive comments on the draft, including affected LDC governments. Where emergency circumstances or considerations of foreign policy make it necessary to take an action without observing the provisions of Section 1500.11 of the CEQ Guidelines<sup>3</sup>, or when there are overriding considerations of expense to the US or foreign governments, the originating Office will advise the Environmental Coordinator who will consult with Department of State and CEQ concerning appropriate modification of review procedures.

#### § 216.7 Public hearings.

(a) In most instances AID will be able to gain the benefit of public participation in the impact statement process through circulation of draft statements and notice of public availability in CEQ publications. However, in some cases the Administrator may wish to hold public hearings on draft Environmental Impact Statements. In deciding whether or not a public hearing is appropriate, Bureaus in conjunction with the Environmental Coordinator should consider:

(1) The magnitude of the proposal in terms of economic costs, the geographic area involved, and the uniqueness or size of commitment of the resources involved;

(2) The degree of interest in the proposal as evidenced by requests from the public and from Federal, state and local authorities, and private organizations and individuals, that a hearing be held;

(3) The complexity of the issue and likelihood that information will be presented at the hearing which will be of assistance to the Agency; and

(4) The extent to which public involvement already has been achieved through other means, such as earlier public hear-

<sup>3</sup>Section 1500.11 of CEQ Guidelines outlines requirements for transmittal of statements to CEQ, minimum periods for review, etc.

ings, meetings with citizen representatives, and/or written comments on the proposed action.

(a) If public hearings are held, draft Environmental Impact Statements to be discussed should be made available to the public at least fifteen (15) days prior to the time of the public hearings, and a notice will be placed in the FEDERAL REGISTER giving the subject, time and place of the proposed hearings.

**§ 216.8 Records and reports.**

Each Agency Bureau will maintain a list of activities for which Environmental Assessments and Environmental Impact Statements are being prepared and for which Negative Determinations and Declarations have been made and will revise the list quarterly and provide copies to the Environmental Coordinator for transmittal to CEQ. Final Project Papers containing the Environmental Assessment will be forwarded to CEQ as soon as they are available. Copies will also be available to interested Federal agencies upon request. The cognizant Bureau will maintain a permanent file (which may be part of its normal project files) of Statements, Assessments, Determinations and Declarations which will be available to the public under the Freedom of Information Act except for actions covered by § 216.6(d) (14) of these procedures.

[FR Doc.76-18997 Filed 6-28-76;3:36 pm]

**CHAPTER IX—FOREIGN SERVICE GRIEVANCE BOARD REGULATIONS**

[Dept. Reg. 108.722]

**Establishment of Chapter**

On June 7, 1976 a notice of proposed rulemaking was published in the FEDERAL REGISTER (41FR22828) establishing the internal organization of the Foreign Service Grievance Board, and prescribing procedures governing the conduct of its proceedings.

Interested persons were invited to submit written comments, suggestions, or objections regarding the proposed regulations not later than June 22, 1976. After consideration of all relevant matter presented, the regulations for Chapter IX are hereby adopted as set forth below.

Effective date: These regulations are effective June 23, 1976.

Dated: June 23, 1976.

ALEXANDER B. PORTER,  
Chairman,  
Foreign Service Grievance Board.

- Part
- 901 General.
- 902 Organization.
- 903 Filing and withdrawal of grievances.
- 904 Jurisdiction.
- 905 Hearings.
- 906 Procedures when hearing is not held.
- 907 Decision making.
- 908 Miscellaneous.

**PART 901—GENERAL**

**Subpart A—Purpose and Scope**

Sec. 901.1 Purpose and scope.

**Subpart B—Meanings of Terms as Used in This Chapter**

- 901.10 Act.
- 901.11 Agency.
- 901.12 Board.
- 901.13 Executive secretary.
- 901.14 Grievant.
- 901.15 Grievance.
- 901.16 Party.
- 901.17 Record of proceedings.
- 901.18 Representative.

AUTHORITY: Sec. 692(2) (B) of the Foreign Service Act, as amended (22 U.S.C. 1037); Pub. L. 94-141.

**Subpart A—Purpose and Scope**

**§ 901.1 Purpose and scope.**

The regulations contained in this chapter establish the internal organization and operations of the Foreign Service Grievance Board and prescribe its procedures in:

- (a) Determining its jurisdiction over grievances submitted to it for adjudication;
- (b) Compiling a record in such grievances;
- (c) Mediating such grievances;
- (d) Conducting hearings in such grievances, when required or deemed necessary; and
- (e) Deciding grievances or otherwise disposing of them, so as to insure a full measure of due process and their just and fair resolution.

**Subpart B—Meanings of Terms as Used in This Chapter**

§ 901.10 Act.

"Act" means the Foreign Service Act of 1946 (22 U.S.C. 1037), as amended.

§ 901.11 Agency.

"Agency" means the foreign affairs agency—the Department of State, the Agency for International Development, or the U.S. Information Agency—employing the grievant or having control over the act or condition forming the subject matter of the grievance.

§ 901.12 Board.

"Board" means the Foreign Service Grievance Board, including any designated panel or member thereof.

§ 901.13 Executive secretary.

"Executive Secretary" means the executive secretary of the board.

§ 901.14 Grievant.

"Grievant" means any Foreign Service officer or employee of the Department of State, U.S. Information Agency, or Agency for International Development, who is a citizen of the United States, or for the purposes of § 901.15 (b) and (c), a former officer or employee of the Service, or in the case of death of the officer or employee, a surviving spouse or dependent family member of the officer or employee.

§ 901.15 Grievance.

"Grievance" means (a) any act or condition subject to the control of the

Department of State, U.S. Information Agency, or Agency for International Development, (hereinafter referred to as the foreign affairs agency or agencies) which is alleged to deprive the grievant of a right or benefit authorized by law or regulations, or is otherwise a source of concern or dissatisfaction to the grievant. Grievances shall include but not be limited to complaints against separation of an officer or employee allegedly contrary to law or regulation or predicated upon alleged inaccuracy (including inaccuracy resulting from omission of any relevant and material document), or falsely prejudicial character of any part of the grievant's official personnel record; other alleged violation, misinterpretation or misapplication of applicable law, regulation, or published policy affecting the terms and conditions of the grievant's employment or career status; allegedly wrongful disciplinary action against an employee constituting a reprimand or suspension from official duties; dissatisfaction with any matter subject to the control of the agency with respect to the grievant's physical working environment; alleged inaccuracy, error, or falsely prejudicial material in the grievant's official personnel file; and action alleged to be in the nature of reprisal for an employee's participation in grievance procedures; but grievances shall not include complaints against individual assignments or transfers of Foreign Service officers or employees which are ordered in accordance with law and regulation, judgments of Selection Boards pursuant to section 623 of the Act or of equivalent bodies in ranking Foreign Service officers and employees for promotion on the basis of merit or judgments in examinations prescribed by the Board of Examiners pursuant to section 516 or 517 of the Act, termination of time limited appointments pursuant to 22 U.S.C. 929 and 1008, and the pertinent regulations prescribed by the employing agency, or any complaints or appeals where a specific statutory appeal procedure exists. Other matters not specified in this paragraph may be excluded as grievances only by written agreement of the agencies and the exclusive representative organization(s).

(b) Except as provided in paragraph (c) of this section, when the grievant is a former officer or employee or a surviving spouse or dependent family member, "grievance" shall mean a complaint that an allowance or other financial benefit has been denied arbitrarily, capriciously, or contrary to applicable law or regulation.

(c) When the grievant is a former officer who was involuntarily retired pursuant to sections 633 and 634 of the Act within six years prior to November 29, 1975, "grievance" shall mean a complaint that such involuntary retirement violated applicable law or regulation effective at the time of the retirement, or that the involuntary retirement was predicated directly upon material contained in the grievant's official personnel file alleged to be erroneous or falsely prejudicial in character.