

design of the multidonor project and either (i) A.I.D.'s total contribution to the project is both less than \$1,000,000 and less than 25 percent of the estimated project cost, or (ii) A.I.D.'s total contribution is more than \$1,000,000 but less than 25 percent of the estimated project cost and the environmental procedures of the donor in control of the planning of design of the project are followed, but only if the A.I.D. Environmental Coordinator determines that such procedures are adequate.

[45 FR 70244, Oct. 23, 1980]

§ 216.2 Applicability of procedures.

(a) *Scope.* Except as provided in § 216.2(b), these procedures apply to all new projects, programs or activities authorized or approved by A.I.D. and to substantive amendments or extensions of ongoing projects, programs, or activities.

(b) *Exemptions.* (1) Projects, programs or activities involving the following are exempt from these procedures:

- (i) International disaster assistance;
- (ii) Other emergency circumstances; and
- (iii) Circumstances involving exceptional foreign policy sensitivities.

(2) A formal written determination, including a statement of the justification therefore, is required for each project, program or activity for which an exemption is made under paragraphs (b)(1) (ii) and (iii) of this section, but is not required for projects, programs or activities under paragraph (b)(1)(i) of this section. The determination shall be made either by the Assistant Administrator having responsibility for the program, project or activity, or by the Administrator, where authority to approve financing has been reserved by the Administrator. The determination shall be made after consultation with CEQ regarding the environmental consequences of the proposed program, project or activity.

(c) *Categorical exclusions.* (1) The following criteria have been applied in determining the classes of actions including in § 216.2(c)(2) for which an Initial Environmental Examination, Environmental Assessment and Environmental Impact Statement generally are not required;

(i) The action does not have an effect on the natural or physical environment;

(ii) A.I.D. does not have knowledge of or control over, and the objective of A.I.D. in furnishing assistance does not require, either prior to approval of financing or prior to implementation of specific activities, knowledge of or control over, the details of the specific activities that have an effect on the physical and natural environment for which financing is provided by A.I.D.;

(iii) Research activities which may have an effect on the physical and natural environment but will not have a significant effect as a result of limited scope, carefully controlled nature and effective monitoring.

(2) The following classes of actions are not subject to the procedures set forth in § 216.3, except to the extent provided herein;

(i) Education, technical assistance, or training programs except to the extent such programs include activities directly affecting the environment (such as construction of facilities, etc.);

(ii) Controlled experimentation exclusively for the purpose of research and field evaluation which are confined to small areas and carefully monitored;

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

(iv) Projects in which A.I.D. is a minor donor to a multidonor project and there is no potential significant effects upon the environment of the United States, areas outside any nation's jurisdiction or endangered or threatened species or their critical habitat;

(v) Document and information transfers;

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

(vii) Institution building grants to research and educational institutions in the United States such as those provided for under section 122(d) and title XII of chapter 2 of part I of the FAA (22 USCA 2151 p. (b) 2220a. (1979));

(viii) Programs involving nutrition, health care or population and family planning services except to the extent

designed to include activities directly affecting the environment (such as construction of facilities, water supply systems, waste water treatment, etc.)

(ix) Assistance provided under a Commodity Import Program when, prior to approval, A.I.D. does not have knowledge of the specific commodities to be financed and when the objective in furnishing such assistance requires neither knowledge, at the time the assistance is authorized, nor control, during implementation, of the commodities or their use in the host country.

(x) Support for intermediate credit institutions when the objective is to assist in the capitalization of the institution or part thereof and when such support does not involve reservation of the right to review and approve individual loans made by the institution;

(xi) Programs of maternal or child feeding conducted under title II of Pub. L. 480;

(xii) Food for development programs conducted by food recipient countries under title III of Pub. L. 480, when achieving A.I.D.'s objectives in such programs does not require knowledge of or control over the details of the specific activities conducted by the foreign country under such program;

(xiii) Matching, general support and institutional support grants provided to private voluntary organizations (PVOs) to assist in financing programs where A.I.D.'s objective in providing such financing does not require knowledge of or control over the details of the specific activities conducted by the PVO;

(xiv) Studies, projects or programs intended to develop the capability of recipient countries to engage in development planning, except to the extent designed to result in activities directly affecting the environment (such as construction of facilities, etc.); and

(xv) Activities which involve the application of design criteria or standards developed and approved by A.I.D.

(3) The originator of a project, program or activity shall determine the extent to which it is within the classes of actions described in paragraph (c)(2) of this section. This determination shall be made in writing and be submitted with the PID, PAIP or comparable document. This determination,

which must include a brief statement supporting application of the exclusion shall be reviewed by the Bureau Environmental Officer in the same manner as a Threshold Decision under §216.3(a)(2) of these procedures. Notwithstanding paragraph (c)(2) of this section, the procedures set forth in §216.3 shall apply to any project, program or activity included in the classes of actions listed in paragraph (c)(2) of this section, or any aspect or component thereof, if at any time in the design, review or approval of the activity it is determined that the project, program or activity, or aspect or component thereof, is subject to the control of A.I.D. and may have a significant effect on the environment.

(d) *Classes of actions normally having a significant effect on the environment.* (1) The following classes of actions have been determined generally to have a significant effect on the environment and an Environmental Assessment or Environmental Impact Statement, as appropriate, will be required:

- (i) Programs of river basin development;
- (ii) Irrigation or water management projects, including dams and impoundments;
- (iii) Agricultural land leveling;
- (iv) Drainage projects;
- (v) Large scale agricultural mechanization;
- (vi) New lands development;
- (vii) Resettlement projects;
- (viii) Penetration road building or road improvement projects;
- (ix) Powerplants;
- (x) Industrial plants;
- (xi) Potable water and sewerage projects other than those that are small-scale.

(2) An Initial Environmental Examination normally will not be necessary for activities within the classes described in §216.2(d), except when the originator of the project believes that the project will not have a significant effect on the environment. In such cases, the activity may be subjected to the procedures set forth in §216.3.

(e) *Pesticides.* The exemptions of paragraph (b)(1) of this section and the categorical exclusions of paragraph (c)(2)

of this section are not applicable to assistance for the procurement or use of pesticides.

[45 FR 70244, Oct. 23, 1980]

§ 216.3 Procedures.

(a) *General procedures*—(1) *Preparation of the Initial Environmental Examination.* Except as otherwise provided, an Initial Environmental Examination is not required for activities identified in § 216.2(b)(1), (c) (2), and (d). For all other A.I.D. activities described in § 216.2(a) an Initial Environmental Examination will be prepared by the originator of an action. Except as indicated in this section, it should be prepared with the PID or PAIP. For projects including the procurement or use of pesticides, the procedures set forth in paragraph (b) of this section will be followed, in addition to the procedures in this paragraph. Activities which cannot be identified in sufficient detail to permit the completion of an Initial Environmental Examination with the PID or PAIP, shall be described by including with the PID or PAIP: (i) An explanation indicating why the Initial Environmental Examination cannot be completed; (ii) an estimate of the amount of time required to complete the Initial Environmental Examination; and (iii) a recommendation that a Threshold Decision be deferred until the Initial Environmental Examination is completed. The responsible Assistant Administrator will act on the request for deferral concurrently with action on the PID or PAIP and will designate a time for completion of the Initial Environmental Examination. In all instances, except as provided in paragraph (a)(7) of this section, this completion date will be in sufficient time to allow for the completion of an Environmental Assessment or Environmental Impact Statement, if required, before a final decision is made to provide A.I.D. funding for the action.

(2) *Threshold decision.* (i) The Initial Environmental Examination will include a Threshold Decision made by the officer in the originating office who signs the PID or PAIP. If the Initial Environmental Examination is completed prior to or at the same time as the PID or PAIP, the Threshold Deci-

sion will be reviewed by the Bureau Environmental Officer concurrently with approval of the PID or PAIP. The Bureau Environmental Officer will either concur in the Threshold Decision or request reconsideration by the officer who made the Threshold Decision, stating the reasons for the request. Differences of opinion between these officers shall be submitted for resolution to the Assistant Administrator at the same time that the PID is submitted for approval.

(ii) An Initial Environmental Examination, completed subsequent to approval of the PID or PAIP, will be forwarded immediately together with the Threshold Determination to the Bureau Environmental Officer for action as described in this section.

(iii) A Positive Threshold Decision shall result from a finding that the proposed action will have a significant effect on the environment. An Environmental Impact Statement shall be prepared if required pursuant to § 216.7. If an impact statement is not required, an Environmental Assessment will be prepared in accordance with § 216.6. The cognizant Bureau or Office will record a Negative Determination if the proposed action will not have a significant effect on the environment.

(3) *Negative Declaration.* The Assistant Administrator, or the Administrator in actions for which the approval of the Administrator is required for the authorization of financing, may make a Negative Declaration, in writing, that the Agency will not develop an Environmental Assessment or an Environmental Impact Statement regarding an action found to have a significant effect on the environment when (i) a substantial number of Environmental Assessments or Environmental Impact Statements relating to similar activities have been prepared in the past, if relevant to the proposed action, (ii) the Agency has previously prepared a programmatic Statement or Assessment covering the activity in question which has been considered in the development of such activity, or (iii) the Agency has developed design criteria for such an action which, if applied in the design of the action, will avoid a significant effect on the environment.