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highlights

"THE FEDERAL REGISTER—WHAT IT IS AND HOW TO USE IT"

Reservations for May are being accepted for the free Friday workshops on how to use the FEDERAL REGISTER. The sessions are held at 1100 L Street NW., Washington, D.C. in room 9409 from 9 to 11:30 a.m.

Each session includes a brief history of the FEDERAL REGISTER, the difference between legislation and regulations, the relationship of the FEDERAL REGISTER to the Code of Federal Regulations, the elements of a typical FEDERAL REGISTER document, and an introduction to the finding aids.

FOR RESERVATIONS call: Martin V. Franks, Workshop Coordinator, 202-523-3517.

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(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: May 4, 1978.

C. D. VAN HOUWELING,
Director, Bureau of Veterinary Medicine.

[FR Doc. 78-12788 Filed 5-11-78; 8:45 am]

[4710-02]

Title 22—Foreign Relations

CHAPTER II—AGENCY FOR INTERNATIONAL DEVELOPMENT, DEPARTMENT OF STATE

PART 216—ENVIRONMENTAL PROCEDURES

Amendment of Regulations—Pesticide and Other Environmental Procedures

AGENCY: Agency for International Development (A.I.D.).

ACTION: Final rule.

SUMMARY: This rule adds to current A.I.D. regulations supplemental procedures for the environmental assessment of proposed A.I.D. projects involving the procurement and use of pesticides and makes other changes in A.I.D.'s environmental procedures required as a result of changes in A.I.D.'s project review and approval process.

EFFECTIVE DATE: May 12, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Albert Printz, A.I.D. Environmental Coordinator, Agency for International Development, Department of State, Washington, D.C. 20523, telephone No. 202-632-1036.

SUPPLEMENTARY INFORMATION: On December 21, 1977, a notice was published in the FEDERAL REGISTER (42 FR 63900) proposing certain amendments to A.I.D.'s environmental procedures. The proposed amendments would add supplemental procedures for the environmental assessment of all proposed A.I.D. projects involving assistance for the procurement or use, or both, of pesticides. Additional modifications were proposed to A.I.D.'s environmental procedures in order to adapt them to recent changes in A.I.D.'s project and program review and approval process that have eliminated the stage in those processes at which initial environmental examinations were previously conducted. All comments with respect to the proposed revisions were given due consideration.

As a result of comments received, the following changes in the revised procedures have been made:

1. The definition of "minor donor" as proposed in §216.1(c)(12) has been more clearly stated, in response to a comment from several bureaus within A.I.D.

2. Section 216.3(b)(1)(i) has been revised by deleting the words "for research or limited field evaluation purposes, or if the pesticides are". In conjunction with this, a new §216.3(b)(2)(iii) has been added, excepting from the supplemental evaluation procedures those projects including assistance for procurement or use, or both, of pesticides for research or limited field evaluation purposes. Certain limitations are established for such projects. The revisions respond to recommendations received from pesticide specialists from several universities and the Environmental Protection Agency who commented that it would be impractical to apply the supplemental evaluation procedures to pesticides being used for research purposes and for which development of risk/benefit data was the object of the research.

3. The word "costs" in §216.3(b)(1)(i) has been changed to "risks" to emphasize the importance of non-economic factors in the supplemental evaluation.

4. Based upon a recommendation from the Department of the Interior, hydrology and soils have been added to the list of factors to be considered in the risk/benefit evaluation (§216.3(b)(1)(i)(h)).

Certain other recommendations have been carefully considered but have not been accepted. The following suggestions were not adopted for the reasons indicated.

1. Two commentors suggested that the contribution levels used in the definition of "minor donor" in §216.1(c)(12) be lowered. A third commentor suggested that the minor donor exception should not be used to exempt the Agency from applying the supplemental pesticide evaluation procedures in multidonor projects.

The monetary and percentage limitations used in the definition are based on A.I.D. experience in multidonor projects and represent levels below which A.I.D. generally has little voice in the conduct of the project in the absence of control provisions in the agreement establishing the project. Accordingly, these limits have not been modified. A.I.D. intends, however, to reassess continually the appropriateness of these levels. In instances where A.I.D. is a minor contributor to a multidonor project, A.I.D. will attempt to influence others to conduct comprehensive assessments and incorporate integrated pest management techniques to the fullest extent possible.

2. The automatic requirement for the preparation of an EA or EIS in §216.3(b)(1)(iii) in the case of a pesticide for which EPA has issued a notice of rebuttable presumption against reregistration (RPAR) was questioned on the basis of the informal nature of the RPAR process and the absence of an established finding of environmental problems with the use of a pesticide prior to the issuance of a RPAR. The Agency believes that the issuance of an RPAR raises serious questions about the safety of a pesticide that should be taken into account in determining the acceptability of that chemical under the unique conditions in the requesting country. Accordingly, the mandatory requirement for an EA or EIS in such instances has been retained.

3. One commentor suggested the addition of a separate policy section to the regulations summarizing an A.I.D. policy of not financing unregistered pesticides and recommended that the regulations include a preference for the use of integrated pest management techniques before chemical pesticides are used. These and other agency policies relating to pest management will be addressed in separate agency policy statements and need not be included in these procedural regulations.

4. It was proposed that the regulations provide for notice in the FEDERAL REGISTER whenever pesticides are approved for which either RPAR's, notices of cancellation or suspension have been issued by EPA.

The proposed regulations require that either an EA or EIS be prepared in each of these cases. A.I.D. believes that procedures for preparing such assessments already provide adequate information to the concerned agencies or interest groups; therefore, no changes were made in the proposed procedures.

5. One commentor questioned the need for an exception from the pesticide procedures under both "emergency conditions" and "compelling circumstances." Each of these exceptions was included to cover different circumstances and accordingly no change has been made in the proposed revisions.

6. One commentor suggested that the regulations should treat as registered, unregistered pesticides with the same active ingredients as pesticides already registered by EPA. This suggestion was not adopted because the environmental effects of a pesticide may vary significantly depending on the specific formulation utilized. While EPA has considered registering pesticides based on active ingredients, it has not yet adopted such an approach.

All comments received in response to the proposed procedures are available for public inspection at A.I.D.

Because of the importance of promptly making known to A.I.D. offices, other governments and U.S. Federal agencies, and other interested per-

sons, the content of these regulations, the Administrator finds good cause to declare these regulations effective upon publication. A.I.D.'s Interim Pesticide Procedures (41 FR 1297, January 7, 1976) are hereby superseded and revoked.

Accordingly, 22 CFR part 216 is amended as follows:

§ 216.1 [Amended]—

1. By revising the last sentence of § 216.1(c)(2) to read:

* * * * *

(c) * * *

(2) * * * The Initial Environmental Examination will be an integral part of the Project Identification Document or equivalent document which will be circulated to selected Federal agencies for comment, when an Environmental Assessment is to be prepared.

* * * * *

2. By revising the first sentence of § 216.1(c)(3) to read:

* * * * *

(c) * * *

(3) * * * A formal Agency decision which determines, based on an Initial Environmental Examination, whether a proposed agency action is or is not a major action significantly affecting the human environment, and, if so, whether an Environment Assessment or an Environment Impact Statement is required.

* * * * *

3. By deleting §§ 216.1(c)(10), *Project Review Paper* (PRP), and 216.1(c)(11), *Program Assistance Review Document* (PARD).

4. By renumbering §§ 216.1(c)(12), *Project Paper* (PP), and 216.1(c)(13), *Program Assistance Approval Document* (PAAD) to read respectively, 216.1(c)(10) and 216.1(c)(11).

5. By adding a new § 216.1(c)(12) to read as follows:

* * * * *

(c) * * *

(12) *Minor Donor.* For the purposes of these procedures, A.I.D. is a minor donor to a multidonor project when (i) A.I.D.'s total contribution to the project will not exceed either $1,000,000 or 25 percent of the estimated project cost; and (ii) A.I.D. does not, under the terms of the agreement governing its contribution, control the planning or design of the multidonor project.

6. By revising § 216.3, *General Procedures*, to read:

§ 216.3 Procedures.

(a) *General Procedures*—(1) *Preparation of the Initial Environmental Examination.* An Initial Environmental Examination will be prepared by the originator of a project concurrently with the Project Identification Document (PID) or Program Assistance Initial Proposal (PAIP). For projects including the procurement or use, or both, of pesticides, the procedures set forth in § 216.3(b) will be followed in addition to the procedures in paragraph (a). If some of the activities to be conducted under the project are not identified in sufficient detail to permit the completion of an Initial Environmental Examination at the PID or PAIP stage, the PID or PAIP will include (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 analysis; 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 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 project.

(2) *Threshold Decision.* If the Initial Environmental Examination is completed prior to or at the same time as the Project Identification Document or Program Assistance Initial Proposal, a Threshold Decision will be specifically recommended in the Project Identification Document or Program Assistance Initial Proposal and acted upon at the Bureau or office level concurrently with approval of those documents. When a Initial Environmental Examination is completed subsequent to approval of the Program Identification document or Program Assistance Initial Proposal pursuant to § 216.3(a)(1) above, it will be immediately forwarded to the responsible Assistant Administrator with a recommended Threshold Decision. 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 prepared pursuant to § 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 Identification Document or other 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.

(3) *Preparation of Environmental Assessments and Environmental Impact Statements.* If the Project Identification Document or Program Assistance Initial Proposal is approved, and if the Threshold Decision is 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.

(4) *Processing and Review Within A.I.D.* Initial Environmental Examinations, Environmental Assessments and final Environmental Impact Statements will be processed within A.I.D. in accordance with the normal A.I.D. 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.

(5) *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 A.I.D. will formulate systems in collaboration with the recipient nation(s), to monitor such impacts during the life of A.I.D.'s involvement in the activity.

(6) *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 of 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 on-going 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.

(b) *Pesticide Procedures*—(1) *Project Assistance.* Except as provided in § 216.3(b)(2), all proposed projects involving assistance for the procurement or use, or both, of pesticides shall be subject to the procedures prescribed in § 216.3(b)(1) (i) through (v) below. These procedures shall also apply, to the extent permitted by agreements entered into by A.I.D. before the effective date of these pesticide procedures, to such projects that have been authorized but for which pesticides have not been procured as of the effective date of these pesticide procedures.

(i) When a project includes assistance for procurement or use, or both, of pesticides registered for the same or similar uses by USEPA without restriction, the Initial Environmental Examination for the project shall include a separate section evaluating the economic, social and environmental risks and benefits of the planned pesticide use to determine whether the use may result in significant environmental impact. Factors to be considered in such an evaluation shall include, but not be limited to the following:

(*a*) The USEPA registration status of the requested pesticide;

(*b*) The basis for selection of the requested pesticide;

(*c*) The extent to which the proposed pesticide use is part of an integrated pest management program;

(*d*) The proposed method or methods of application, including availability of appropriate application and safety equipment;

(*e*) Any acute and long-term toxicological hazards, either human or environmental, associated with the proposed use and measures available to minimize such hazards;

(*f*) The effectiveness of the requested pesticide for the proposed use;

(*g*) Compatibility of the proposed pesticide with target and nontarget ecosystems;

(*h*) The conditions under which the pesticide is to be used, including climate, flora, fauna, geography, hydrology, and soils;

(*i*) The availability and effectiveness of other pesticides or nonchemical control methods;

(*j*) The requesting country's ability to regulate or control the distribution, storage, use and disposal of the requested pesticide;

(*k*) The provisions made for training of users and applicators; and

(*l*) The provisions made for monitoring the use and effectiveness of the pesticide.

In those cases where the evaluation of the proposed pesticide use in the Initial Environmental Examination indicates that the use will significantly effect the human environment, the Threshold Decision will include a recommendation for the preparation of an Environmental Assessment or Environmental Impact Statement, as appropriate. In the event a decision is made to approve the planned pesticide use, the Project Paper shall include to the extent practicable, provisions designed to mitigate potential adverse effects of the pesticide. When the pesticide evaluation section of the Initial Environmental Examination does not indicate a potentially unreasonable risk arising from the pesticide use, an Environmental Assessment or Environmental Impact Statement shall nevertheless be prepared if the environmental effects of the project otherwise require further assessment.

(ii) When a project includes assistance for the procurement or use, or both, of any pesticide registered for the same or similar uses in the United States but the proposed use is restricted by the USEPA on the basis of user hazard, the procedures set forth in § 216.3(b)(1)(i) above will be followed. In addition, the Initial Environmental Examination will include an evaluation of the user hazards associated with the proposed USEPA restricted uses to ensure that the implementation plan which is contained in the Project Paper incorporates provisions for making the recipient government aware of these risks and providing, if necessary, such technical assistance as may be required to mitigate these risks. If the proposed pesticide use is also restricted on a basis other than user hazard, the procedures in § 216.3(b)(1)(iii) shall be followed in lieu of the procedures in this subsection.

(iii) If the project includes assistance for the procurement or use, or both of:

(*a*) Any pesticide other than one registered for general use or for restricted use on the basis of user hazard; or

(*b*) Any pesticide for which a notice of rebuttable presumption against reregistration, notice of intent to cancel, or notice of intent to suspend has been issued by USEPA,

The Threshold Decision will provide for the preparation of an Environmental Assessment or Environmental Impact Statement, as appropriate (§ 216.6(a)). The EA or EIS shall include, but not be limited to, an analysis of the factors identified in § 216.3(b)(1)(i) above.

(iv) Notwithstanding the provisions of §§ 216.3(b)(1) (i) through (iii) above, if the project includes assistance for the procurement or use, or both, of a pesticide against which USEPA has initiated a regulatory action for cause, or for which it has issued a notice of rebuttable presumption against reregistration, the nature of the action or notice, including the relevant technical and scientific factors will be discussed with the requesting government and considered in the IEE and, if prepared, in the EA or EIS. If USEPA initiates any of the regulatory actions above against a pesticide subsequent to its evaluation in an IEE, EA or EIS, the nature of the action will be discussed with the recipient government and considered in an amended IEE or amended EA or EIS, as appropriate.

(v) If the project includes assistance for the procurement or use, or both of pesticides but the specific pesticides to be procured or used cannot be identified at the time the IEE is prepared, the procedures outlined in §§ 216.3(b)(i) through (iv) will be followed when the specific pesticides are identified and before procurement or use is authorized. Where identification of the pesticides to be procured or used does not occur until after Project Paper approval, neither the procurement nor the use of the pesticides shall be undertaken unless approved, in writing, by the Assistant Administrator (or in the case of projects authorized at the Mission level, the Mission Director) who approved the Project Paper.

(2) *Exceptions to Pesticide Procedures.* The procedures set forth in § 216.3(b)(1) above shall not apply to the following projects including assist-

ance for the procurement or use, or both, of pesticides.

(i) Projects under emergency conditions.

Emergency conditions shall be deemed to exist when it is determined by the Administrator, A.I.D., in writing that:

(*a*) A pest outbreak has occurred or is imminent; and

(*b*) Significant health problems (either human or animal) or significant economic problems will occur without the prompt use of the proposed pesticide; and

(*c*) Insufficient time is available before the pesticide must be used to evaluate the proposed use in accordance with the provisions of this regulation.

(ii) Projects where A.I.D. is a minor donor, as defined in § 216.1(c)(12) above, to a multi-donor project.

(iii) Projects including assistance for procurement or use, or both, of pesticides for research or limited field evaluation purposes by or under the supervision of project personnel. In such instances, however, A.I.D. will ensure that the manufacturers of the pesticides provide toxicological and environmental data necessary to safeguard the health or research personnel and the quality of the local environment in which the pesticides will be used. Furthermore, treated crops will not be used for human or animal consumption unless appropriate tolerances have been established by EPA or recommended by FAO/WHO, and the rates and frequency of application, together with the prescribed preharvest intervals, do not result in residues exceeding such tolerances. This prohibition does not apply to the feeding of such crops to animals for research purposes.

(3) *Non-Project Assistance.* In a very few limited number of circumstances A.I.D. may provide non-project assistance for the procurement and use of pesticides. Assistance in such cases shall be provided if the A.I.D. Administrator determines in writing that (i) emergency conditions, as defined in § 216.3(b)(2)(i) above exists; or (ii) that compelling circumstances exist such that failure to provide the proposed assistance would seriously impede the attainment of U.S. foreign policy objectives or the objectives of the foreign assistance program. In the latter case, a decision to provide the assistance will be based to the maximum extent practicable, upon a consideration of the factors set forth in § 216.3(b)(1)(i) and, to the extent available, the history of efficacy and safety covering the past use of the pesticide the in recipient country.

Dated: May 3, 1978.

JOHN J. GILLIGAN,
Administrator.

[FR Doc. 78-13027 Filed 5-11-78; 8:45 am]

[4810-31]

Title 27—Alcohol, Tobacco Products and Firearms

CHAPTER I—BUREAU OF ALCOHOL, TOBACCO AND FIREARMS, DEPARTMENT OF THE TREASURY

[T.D. ATF-50]

RECORD RETENTION REQUIREMENTS

AGENCY: Bureau of Alcohol, Tobacco and Firearms.

ACTION: Final rule.

SUMMARY: This document increases the required time period for retention of records prescribed by the regulations listed above. The new time period is 3 years, and the regional regulatory administrator is given discretionary authority to prescribe an additional retention period of not more than 3 years. The purpose of the change is to insure that records will be available long enough to support any action that might be taken within the applicable statutes of limitation.

EFFECTIVE DATE: June 12, 1978.

FOR FURTHER INFORMATION CONTACT:

Steven C. Simon, Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms, Room 622B, 1200 Pennsylvania Avenue NW., Washington, D.C. 20226, 202-566-7626.

SUPPLEMENTARY INFORMATION: On page 3137 of the FEDERAL REGISTER for Monday, January 23, 1978, there was published a proposed rule to increase to 3 years the record retention period of 27 CFR Parts 18, 194, 250, and 251. The proposed amendments also granted discretionary authority to the regional regulatory administrator to prescribe an additional retention period of up to 3 years.

Public participation was solicited, and a 60-day comment period was prescribed. No written public comments have been received during this period. Accordingly, the proposed amendments are adopted without change (except to incorporate the changes of T.D. ATF-48, published March 31, 1978).

DRAFTING INFORMATION

The principal drafter of this document was Steven C. Simon of the Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms. However, supervisors and reviewers from both the Bureau and the Department of the Treasury exercised control over the development of the regulations, both as to matters of substance and style.

AUTHORITY: This Treasury decision is issued under the authority contained in 26 U.S.C. 7805 (68A Stat. 917).

Signed: April 20, 1978.

REX D. DAVIS,
Director.

Approved: May 1, 1978.

RICHARD J. DAVIS,
Assistant Secretary of the Treasury.

PART 18—PRODUCTION OF VOLATILE FRUIT-FLAVOR CONCENTRATES

PARAGRAPH A. The regulations in 27 CFR Part 18 are amended as follows:

1. Section 18.11 is amended to add, in alphabetical order, a definition of "regional regulatory administrator," and to revise the definition of "regional director." As amended, the affected portions of § 18.11 read as follows:

§ 18.11 Meaning of terms.

* * * * *

Regional regulatory administrator. The principal regional official responsible for administering regulations in this part.

* * * * *

2. Section 18.141 is amended to increase the records retention period to 3 years (rather than 2 years, as it currently is), and to provide that the regional regulatory administrator may prescribe an additional retention period of up to 3 years in certain circumstances. (Currently, the regulations have only a 2-year discretionary additional period.) The amendment also reflects the change in title from "regional director" to "regional regulatory administrator," and it includes clarifying and stylistic changes. As amended, § 18.141 reads as follows:

§ 18.141 Records and reports.

Each proprietor shall keep records and submit reports (including applications and notices) as required by this part. These records, and copies of applications, notices, and reports, shall be maintained on or convenient to the concentrate plant, and be available for inspection by ATF officers during business hours. The records and copies of applications, notices and reports shall be retained for not less than three years from the date they were made, or the date of the last entry required to be made in them, whichever is the later. Furthermore, the regional regulatory administrator may require these records and copies of applications, notices, and reports to be kept for an additional period of not more than three years in any case where he determines retention necessary or advisable.