

§ 407.5

closed, such record shall be accompanied by: (i) A full written explanation of the reasons for closing such meeting or portion thereof and (ii) a list of all persons expected to attend such meeting or portion thereof and their affiliation.

§ 407.5 Certification by General Counsel.

For every meeting closed pursuant to any paragraph of § 407.2(a), the General Counsel of Eximbank will be asked to certify prior to such meeting that in his or her opinion such meeting may properly be closed to the public, and to state which of the exemptions set forth in § 407.2(a) he or she has relied upon. A copy of such certification will be posted in the Office of the Secretary. The original certification together with a statement from the presiding officer of such meeting setting forth the time, date and place of such meeting and the persons present will be retained by Eximbank as part of the transcript, recording or minutes of such meeting described below.

§ 407.6 Transcripts, recordings and minutes of closed meetings.

Eximbank will maintain a complete transcript or electronic recording of the proceedings of every meeting or portion thereof closed to the public. *Provided, however,* That if any meeting or portion thereof is closed pursuant to paragraphs (8), (9)(i) or (10) of § 407.2(a), Eximbank may maintain a set of detailed minutes for such meetings in lieu of a transcript or electronic recording. The entire transcript, electronic recording or set of minutes of a meeting will be made promptly available to the public for inspection and copying in the Office of the Secretary. Copies of such transcript or minutes, as well as copies of the transcription of such recording disclosing the identity of each speaker, will be furnished to any person at the actual cost of duplication or transcription. However, Eximbank will not make available for inspection or copying the transcript, electronic recording or minutes of the discussions of any item on the agenda of such meeting which contains information of the kind described in § 407.2(a). Requests to inspect or to

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have copies made of any transcript, electronic recording or set of minutes of any meeting or item(s) on the agenda, thereof should be made in writing to the General Counsel and if possible, identify the time, date and place of such meeting and briefly describe the item(s) being sought. Eximbank will maintain a complete verbatim copy of the transcript, a complete electronic recording or a complete copy of the minutes of each meeting, or portion thereof, closed to the public for two years after such meeting or one year from the date of final action of the Board of Directors or the Executive Committee on all items on the agenda of such meeting, whichever occurs later.

§ 407.7 Relationship to Freedom of Information Act.

Nothing in this part expands or limits the present rights of any person under part 404, except that the exemptions contained in § 407.2 shall govern in the case of any request made pursuant to part 404 to copy or inspect the transcripts, recordings or minutes described in § 407.6.

PART 408—PROCEDURES FOR COMPLIANCE WITH THE NATIONAL ENVIRONMENTAL POLICY ACT

Subpart A—General

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AUTHORITY: National Environmental Policy Act of 1969; 42 U.S.C. 4321 *et seq.*

SOURCE: 44 FR 50811, Aug. 30, 1979, unless otherwise noted.

Subpart A—General**§ 408.1 Background.**

(a) The National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321 *et seq.*) establishes national policies and goals for the protection of the environment. Section 102(2) of NEPA contains certain procedural requirements directed toward the attainment of such goals. In particular, all Federal agencies are required to give appropriate consideration to the environmental effects of their proposed actions in their decision-making and to prepare detailed environmental statements on recommendations or reports on proposals for legislation and other major Federal Actions significantly affecting the quality of the human environment.

(b) Executive Order 11991 of May 24, 1977, directed the Council on Environmental Quality (CEQ) to issue regulations to implement the procedural provisions of NEPA (NEPA Regulations). Accordingly, CEQ issued final NEPA Regulations which are binding on all Federal agencies as of July 30, 1979 (40 CFR parts 1500 through 1508) on November 29, 1979. These Regulations provide that each Federal agency shall as necessary adopt implementing procedures to supplement the NEPA Regulations. Section 1507.3(b) of the NEPA Regulations identifies those sections of the NEPA Regulations which must be addressed in agency procedures.

§ 408.2 Purpose.

The purpose of this part is to establish procedures which supplement the NEPA Regulations and provide for the implementation of those provisions identified in § 1507.3(b) of the NEPA Regulations.

§ 408.3 Applicability.

Historically, virtually all financing provided by Eximbank has been in aid of U.S. exports which involve no effects on the quality of the environment within the United States, its territories or possessions. Eximbank has separate procedures for conducting environmental reviews where such reviews are required by E.O. 12114 (January 4, 1979) because of potential effects on the environment of global commons areas or on the environment of foreign

nations. The procedures set forth in this part apply to the relatively rare cases where Eximbank financing of U.S. exports may affect environmental quality in the United States, its territories or possessions.

Subpart B—Eximbank Implementing Procedures**§ 408.4 Early involvement in foreign activities for which Eximbank financing may be requested.**

(a) Section 1501.2(d) of the NEPA Regulations requires agencies to provide for early involvement in actions which, while planned by private applicants or other non-Federal entities, require some form of Federal approval. Pursuant to the Export-Import Bank Act of 1945, as amended, Eximbank is asked to provide financing for transactions involving exports of U.S. goods and services for projects in foreign countries which are planned by non-U.S. entities (Transactions).

(b) To implement the requirements of § 1501.2(d) with respect to these Transactions, Eximbank:

(1) Will provide on a project-by-project basis to applicant seeking financing from Eximbank guidance as to the scope and level of environmental information to be used in evaluating a proposed Transaction where: (i) The proposed Eximbank financing would be a major action and (ii) a Transaction may significantly affect the quality of the human environment in the United States, its territories or possessions.

(2) Upon receipt of an application for Eximbank financing or notification that an application will be filed, will consult as required with other appropriate parties to initiate and coordinate the necessary environmental analyses.

These responsibilities will be performed by the General Counsel and the Engineers of Eximbank.

(c) To facilitate Eximbank review of Transactions for which positive determinations have been made under paragraphs (b)(1)(i) and (ii) of this section, applicants should:

(1) Consult with the Engineer as early as possible in the planning process for guidance on the scope and level of environmental information required