



USAID
FROM THE AMERICAN PEOPLE



Overview of Reg. 216

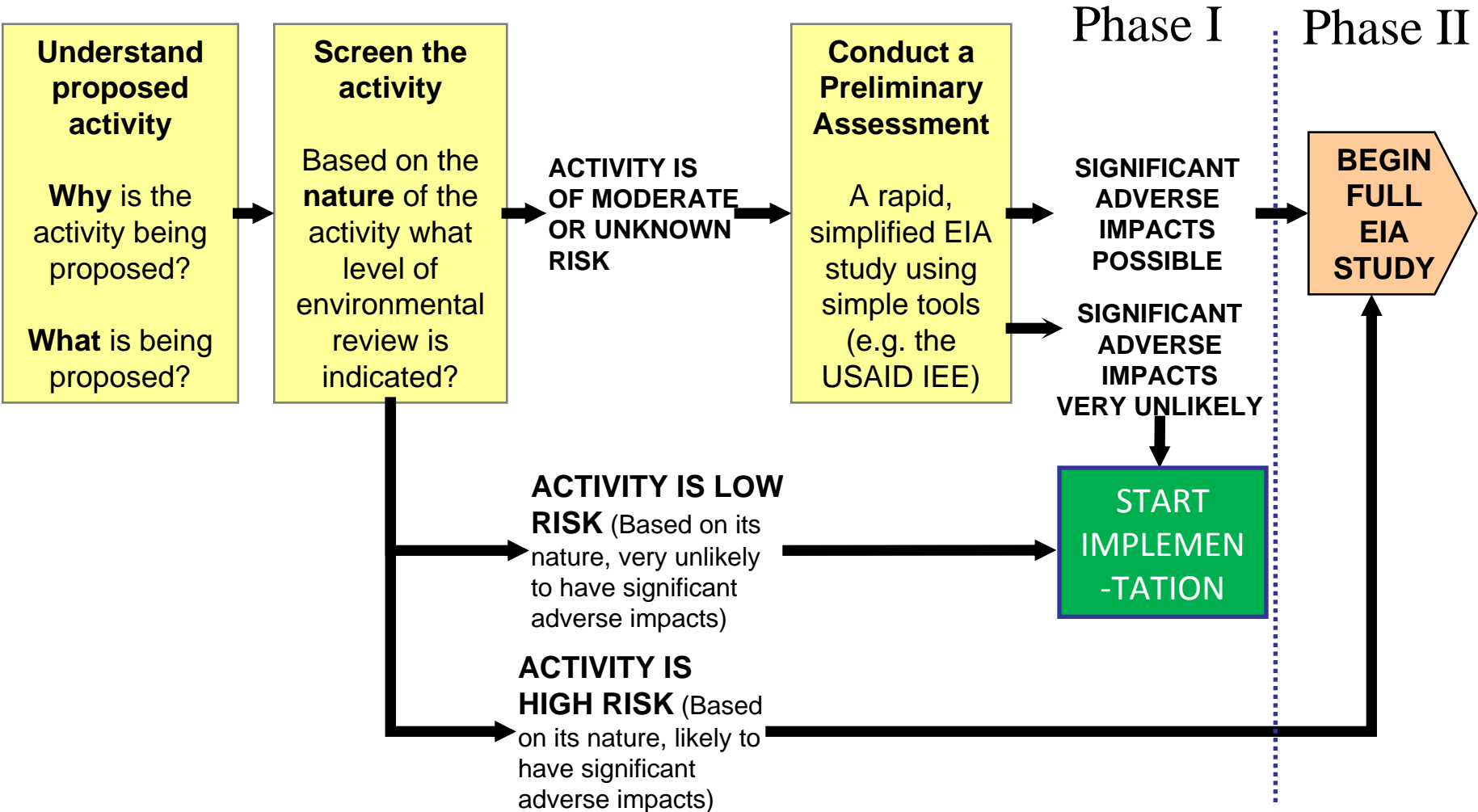
GEMS Environmental Compliance-ESDM Training Series
Africa-Asia-Latin America-Middle East 2012-2013

What is Reg. 216?

- ❖ Sets out USAID's pre-implementation EIA process for new activities
- ❖ Applies to:
 - *All USAID programs or activities, (including non-project assistance.)*
 - *Substantive amendments or extensions to ongoing activities*

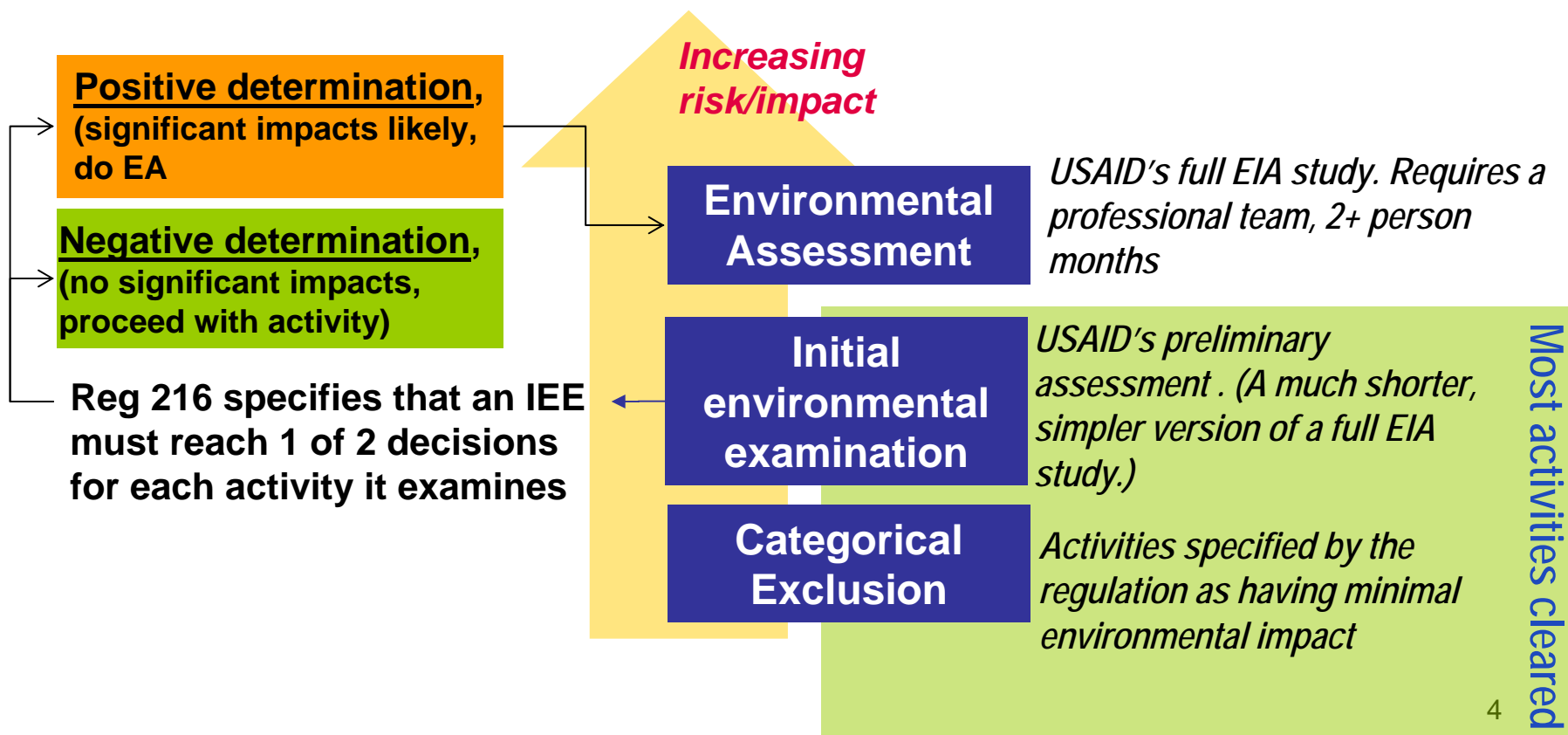
 Reg. 216 (22 CFR 216) is a **US FEDERAL REGULATION. Compliance is mandatory.**

Review of the EIA Process

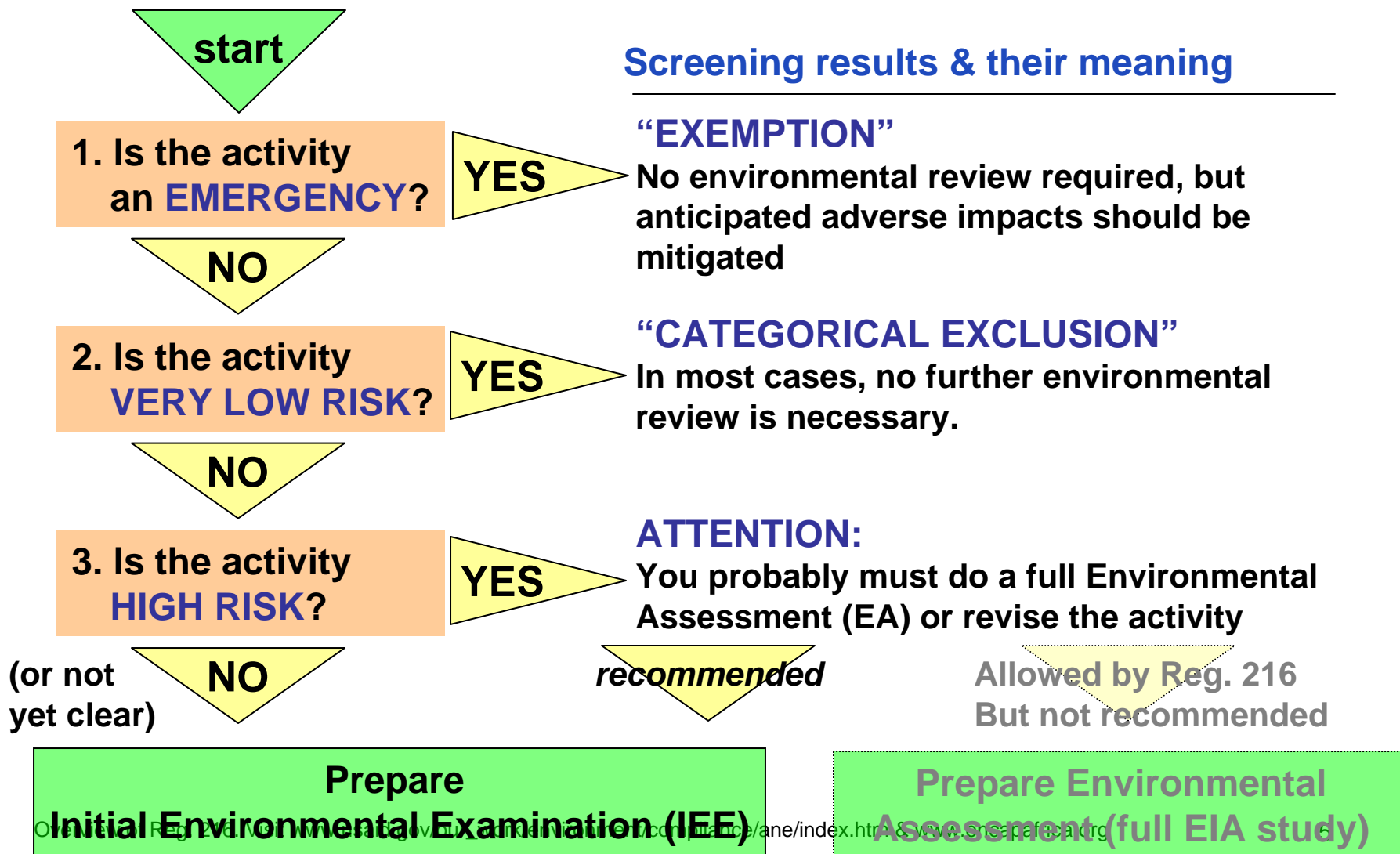


Reg 216: The big picture

*Like any EIA system, Reg. 216 features a **tiered review system** to focus review effort where it is needed.*



Screening under Reg. 216



USAID Screening Categories: Exemptions

start

1. Is the activity
an **EMERGENCY**?

YES



**TO ANSWER “YES”, THE ACTIVITY
MUST MEET THE REG’S
DEFINITION OF “EXEMPTION”**

USAID Screening Categories: Exemptions

Under Reg 216,
EXEMPTIONS are ONLY...

1. International disaster assistance

2. Other emergency situations

*requires Administrator (A/AID) or
Assistant Administrator (AA/AID)
formal approval*

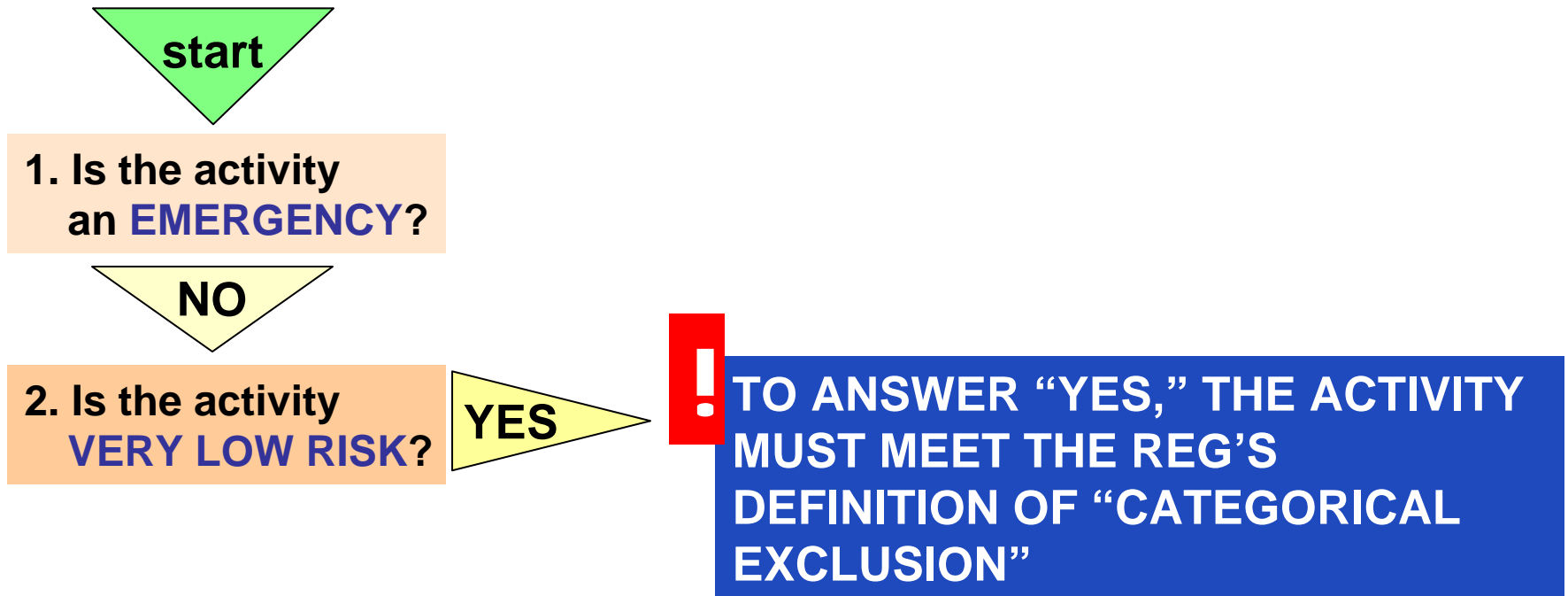
**3. Circumstances with “exceptional
foreign policy sensitivities”**

*requires A/AID or AA/AID formal
approval*

! “Exempt” activities
often have significant
adverse impacts.

**Good practice
requires mitigating
these impacts, where
possible.**

USAID Screening Categories: Categorical Exclusions



USAID Screening Categories: Categorical Exclusions (CEs)

Under Reg. 216,
ONLY a specific set of activities may
receive categorical exclusions. . .

1. Education, tech. assistance, training
2. Documents or information transfers
3. Analyses, studies, academic or research workshops and meetings
4. Support to intermediate credit institutions *where USAID does not review loans*
5. Nutrition, health, family planning activities *except where infectious medical waste is generated*

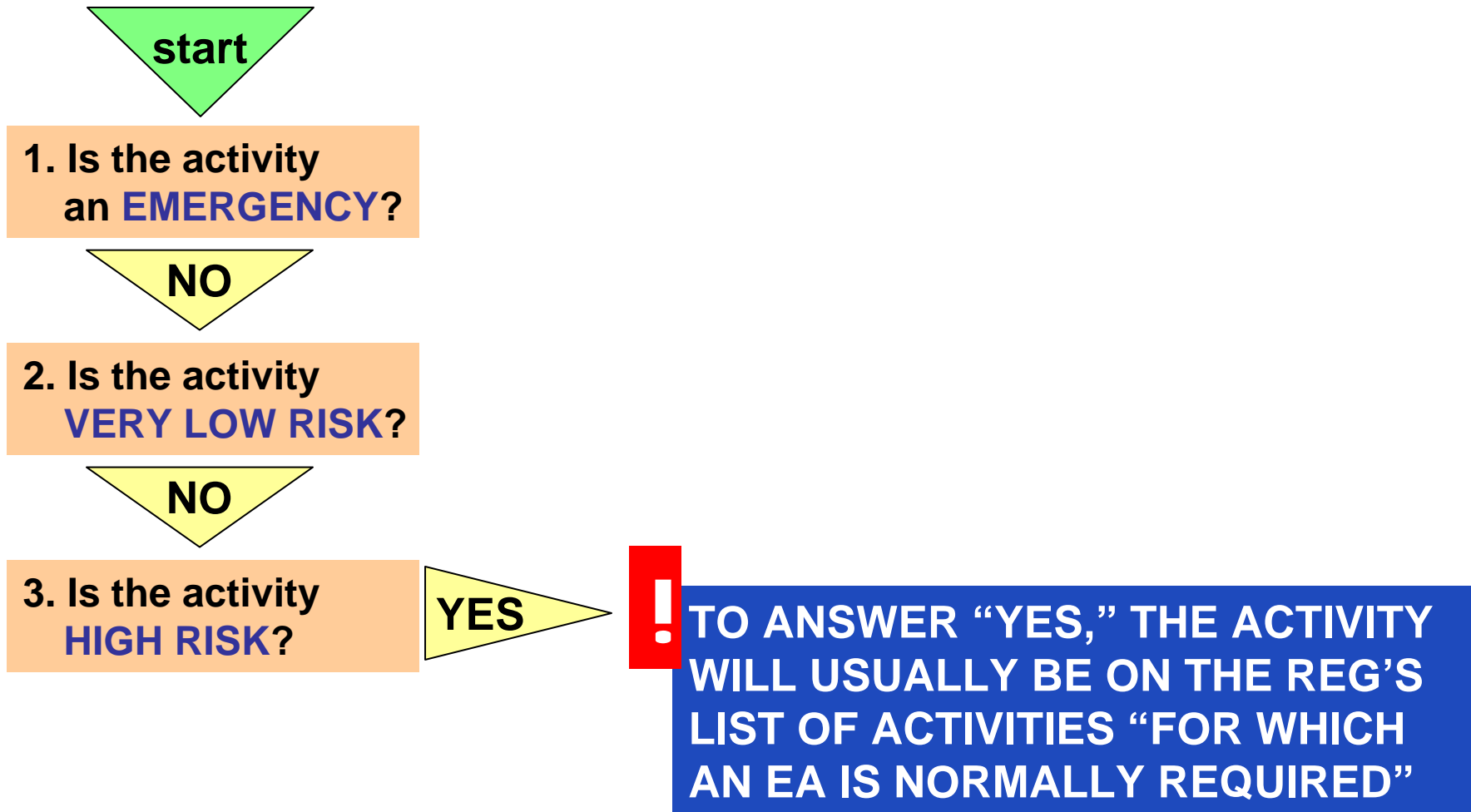
And certain other situations where USAID does not have direct knowledge or control

! No categorical exclusions are possible when an activity involves pesticides

! CEs do NOT apply when a significant adverse direct or indirect effect on the environment is possible.

Note:
see 22 CFR 216.2(c)(2)
for full list

USAID Screening Categories: EA Typically Required



USAID Screening Categories: EA Typically Required

Under Reg. 216, the following activities **USUALLY** require a full environmental assessment

- Penetration road building or improvement
- Irrigation, water management, or drainage projects
- Agricultural land leveling
- New land development; Programs of river basin development
- Large scale agricultural mechanization
- Resettlement
- Powerplants & Industrial plants
- Potable water & sewage, “except small-scale”

AND . . .

! Reg. 216 does not specify scales for these activities.

USAID Screening Categories: EA Typically Required

AND . . .

Sections 118 & 119 of the Foreign Assistance Act require an EA for . . .

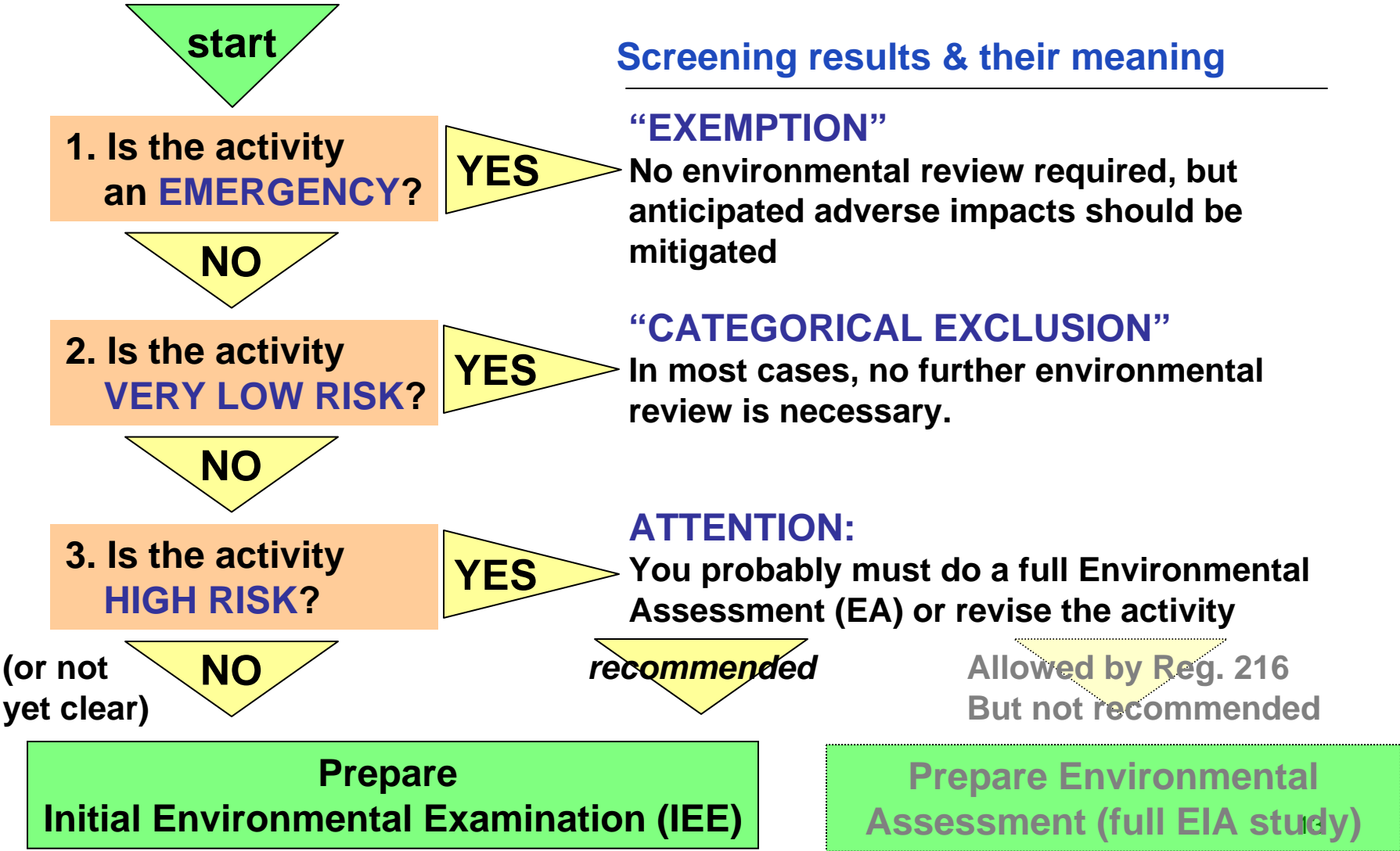
1. **Activities involving procurement or use of logging equipment.**
2. **Activities with the potential to significantly degrade national parks or similar protected areas or introduce exotic plants or animals into such areas.**

! Reg. 216 allows you to proceed directly to an Environmental Assessment for these activities.

However, we generally recommend doing a preliminary assessment (IEE) first.

Review: Screening under Reg. 216

Screening results & their meaning



What documentation is required?

- ❖ The outcome of your screening process determines the documentation you must submit:

Overall screening results	Environmental documentation required
All activities are exempt	None*
All activities are categorically excluded	Categorical Exclusion request*
All activities require an IEE	IEE covering all activities*
Some activities are categorically excluded, some require an IEE	An IEE that*: <ul style="list-style-type: none">■ covers activities for which an IEE is required AND■ Justifies the categorical exclusions

***plus a
Compliance
facesheet**

Basic Reg. 216 compliance documents

1

Initial Environmental Examination

1. Goals and purpose of project; list of activities
2. Baseline information
3. Evaluation of potential environmental impacts
4. Recommended findings, mitigation & monitoring

The IEE is USAID's "preliminary assessment"

2

Request for Categorical Exclusion

1. Goals and purpose of project: list activities
2. Justification for a Categorical Exclusion (must cite the appropriate section of Reg. 216.)

The RCE is a simple document used when ALL activities are "low risk"

3

A "facesheet" accompanies both the IEE & the CatEx Request

! **No activities may be implemented without APPROVED Reg. 216 environmental documentation in hand.**

IEEs for activities involving pesticides. . .

must satisfy additional requirements via a Pesticide Evaluation Report and Safe Use Action Plan (PERSUAP)

What does “approved” mean?

- ❖ Both IEEs and RCEs must be cleared at the Mission Level & by the BEO
- ❖ BEO concurrence *not* automatic or guaranteed
- ❖ Back-and-forth dialogue is sometimes required

Who signs?

Clearances:

- Team leader
- MEO
- Regional Environmental Advisor
- Mission Director

Concurrence

- Bureau Environmental Officer

Approval

- General Counsel (rarely)

Be aware. . .



**Categorical
exclusions exist AT
THE DISCRETION of
the BEO**

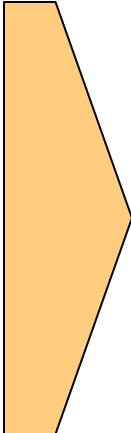
**To avoid rejection or delay
of IEEs, RCEs . .**

**Consult with the MEO/BEO/
REA on difficult issues
BEFORE submission.**

**Submit a quality IEE (coming
up)**

An IEE is a likely result of the screening process. . .

The most common screening result is that an IEE is required.

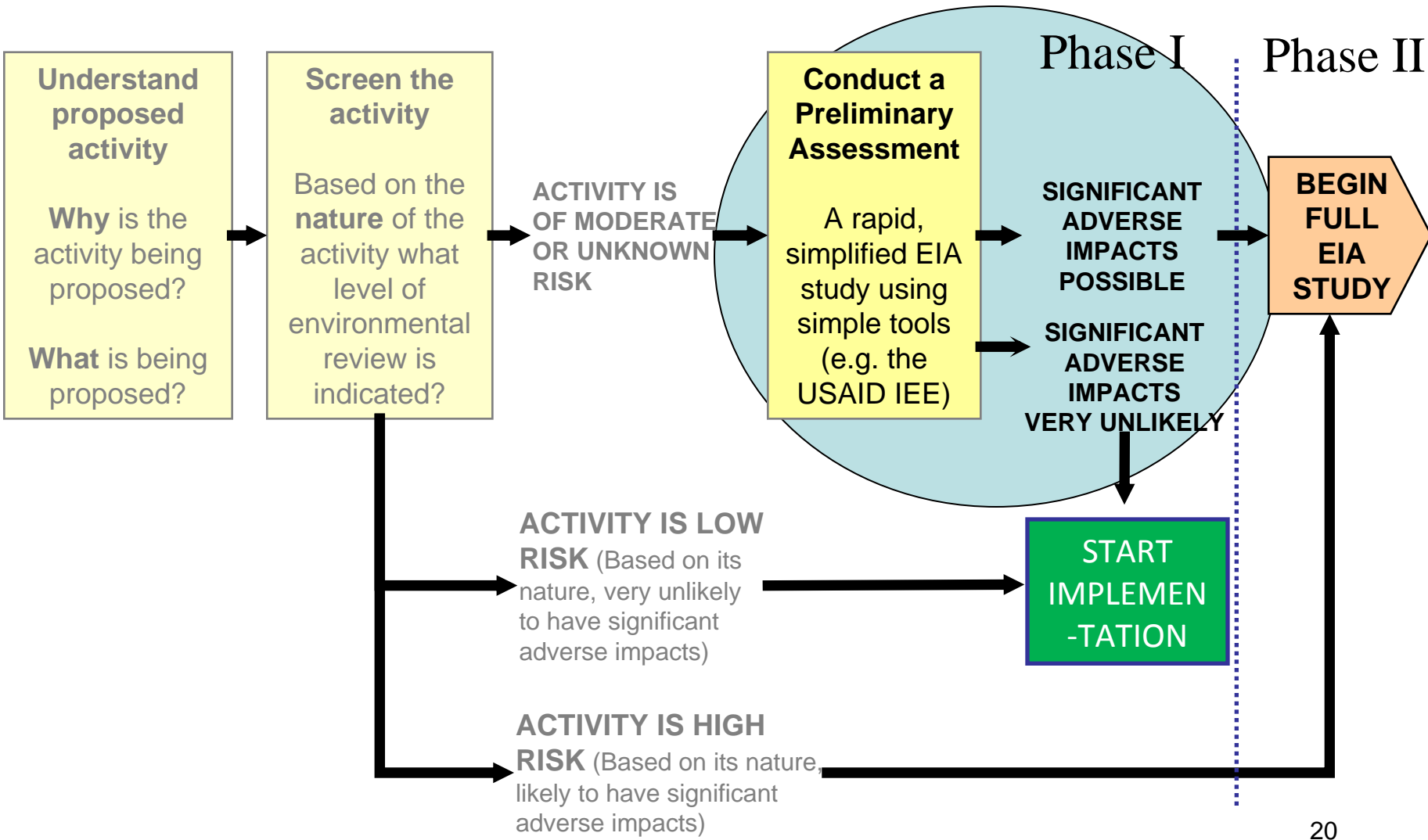


The IEE is USAID's "preliminary assessment"

What is the purpose of a preliminary assessment?



Review: Purpose of the Preliminary Assessment



Purpose of the IEE

Like any preliminary assessment the purpose of the IEE is to . . .

Provide documentation and analysis that:

- Allows the preparer to determine whether or not significant adverse impacts are likely
- Allows the reviewer to agree or disagree with the preparer's determinations
- Sets out mitigation and monitoring for adverse impacts

**What
determinations
result from an
IEE?**

Recommended Determinations in the IEE

- ❖ For **each** activity addressed, the IEE makes one of 4 recommendations regarding its possible impacts:

Recommendation	Reg. 216 terminology	Implications (if IEE is approved)
No significant adverse environmental impacts	<i>NEGATIVE DETERMINATION</i>	Activity passes environmental review
With specified mitigation and monitoring, no significant environmental impacts	<i>NEGATIVE DETERMINATION WITH CONDITIONS</i>	The activity passes environmental review on the condition that the specified mitigation and monitoring is implemented
Significant adverse environmental impacts are possible	<i>POSITIVE DETERMINATION</i>	Do full EA or redesign activity
Not enough information to evaluate impacts	<i>DEFERRAL</i>	You cannot implement the activity until the IEE is finalized



Note:

**If a
“negative determination
with conditions”
is approved, those
conditions become
REQUIRED parts of
project implementation
& monitoring**

Applying Reg. 216 at the Sector level

- ❖ **Reg. 216 was written with the idea that it would be applied at the project or activity level**
- ❖ **Over the past decade, many IEEs written at the SO/Sector Program level**
 - *To make MEO, BEO workload more manageable*
 - *To better consider environmental issues early in program design*
- ❖ **The success of these IEEs depends on:**
 - *Mitigation and monitoring conditions successfully transferred to projects (e.g., written into contractor/partner SOWs)*
 - *Effective implementation of sub-project review where required*