

# Session 4.

## Overview of Life-of-Project Environmental Compliance for USAID Staff & Partners

(0:40)

### Objectives

Brief the origin of, mandate behind and purpose of USAID's mandatory, EIA-based environmental procedures.

Achieve a common understanding of the key LOP environmental compliance requirements set out by these procedures.

Specifically establish (1) that the primary environmental compliance responsibility of IPs is implementation of environmental conditions resulting from the pre-implementation environmental review process, and (2) that providing participants with the tools, skills and knowledge to do so is the primary purpose of this workshop.

### Format

Presentation.

### Important note

*Note that in this workshop, the term "USAID Environmental Procedures" does not refer only to 22 CFR 216 (Reg. 216), but collectively to Reg. 216, relevant FAA requirements, and to the mandatory procedures and directives contained in the ADS.*

### Summary

The preceding sessions make the case that:

- ESDM is a key objective for the ethical and effective practice of development.
- Achieving ESDM requires explicit and systematic attention to environmental issues in program/project development and implementation.
- The EIA process is the internationally accepted standard for achieving ESDM in project-based development activities.

USAID's mandatory, EIA-based Environmental Procedures are intended to assure that this 'explicit and systematic attention' actually occurs over life-of-project. USAID is *required by both court settlement and US law* to utilize an EIA-based process to "fully take into account" environmental sustainability in designing and carrying out its development programs:

- The procedures specify an EIA process that must be applied to all activities **before** implementation.
- The output of this process, defined by 22 CFR 216 (Reg. 216), is approved Reg. 216 documentation (Requests for Categorical Exclusion, Initial Environmental Examinations (IEEs), and Environmental Assessments (EAs)).
- Most IEEs and all EAs specify environmental management conditions (mitigative measures).

- These measures (“IEE/EA conditions”) must be implemented and monitored over the life of the activity (or life of project, LOP). Such implementation is the responsibility of the implementing partner.
- C/AORs have are required to actively manage and monitor compliance with IEE/EA conditions. This requires that IPs *report* on their implementation of these conditions.

This session will introduce —*but not go into detail regarding*—these key LOP compliance requirements and who is responsible for them. (MEOs, CORs/AORs, Activity Managers, Implementing Partners, etc.).

This LOP compliance process can be divided into “upstream compliance”—the pre-implementation environmental review process culminating in approved Reg 216 documentation—and “downstream compliance,” focused on implementation of IEE/EA conditions and associated reporting. Later, we will divide into two “streams,” with one stream focusing on building skills and knowledge for upstream compliance and one for downstream compliance.

In AFR missions and programs and across the agency, downstream compliance is weaker than upstream compliance. To strengthen downstream compliance, AFR IEEs and award documents are increasingly requiring IPs to develop, submit and implement environmental mitigation and monitoring plans (EMMPs) for their projects. EMMPs are a systematic vehicle to implement IEE and EA conditions. EMMPs are the focus of the downstream compliance stream.

### **More about Reg. 216 (22 CFR 216)**

Reg. 216 is a US federal regulation that sets out USAID’s mandatory pre-obligation/ pre-implementation EIA process. The Regulation applies to all USAID programs or activities, including non-project assistance *and* substantive amendments or extensions to ongoing activities.

The Reg. 216 process results in environmental review documentation (a Request for Categorical Exclusion (RCE), an Initial Environmental Examination (IEE), an Environmental Assessment (EA)), that must be approved by the Mission Director and by the BEO. The IEE is USAID’s version of a preliminary assessment. The EA is a full EIA study.

No “irreversible commitment of resources” can occur to implement an activity unless the activity is covered by appropriate, approved Reg. 216 documentation.

When IEEs are approved with mitigation and monitoring conditions attached to one or more activities, those conditions become a required part of project design/implementation. (EAs always have such conditions.)

Across USAID programs, **Reg. 216 documentation is developed both by Mission staff and Partners**, depending on the situation. Title II Cooperating Sponsors, for example, are required to develop IEEs as part of their MYAPs, and other partners are often asked to develop Reg. 216 documentation for new project components. Reg. 216 documentation covering multiple projects at the sector program level is developed by Mission staff or 3<sup>rd</sup>-party contractors.

Reg 216 is the best-known portion of USAID’s environmental procedures. However, Reg. 216 simply defines the pre-implementation EIA process. Unless the IEE and EA conditions that result from this process are actually implemented, (1) the activity is out of compliance; (2) the Reg. 216 process is largely meaningless; and (3) the objective of the environmental procedures (ESDM) is not achieved.

For this reason, the ADS requires C/AORs to REMEDY or HALT activities where IEE/EA conditions are not being implemented, or which are otherwise out of compliance.

## **Key resource**

The *Environmental Procedures Briefing for Mission Staff* is a key reference to LOP environmental compliance. This training draws heavily from the *Briefing*. It is included in this Sourcebook and available at [www.encapafrika.org/meoEntry.htm](http://www.encapafrika.org/meoEntry.htm).