



**USAID**  
FROM THE AMERICAN PEOPLE

# 3. REGULATION 216: PROCESS AND DOCUMENTATION

—

Location · Month Year



GLOBAL ENVIRONMENTAL  
MANAGEMENT SUPPORT

# OBJECTIVES/LEARNING OUTCOMES

## Learning Outcomes

1. Understand 22 CFR 216
  - A. Screening Process
  - B. Documents
  - C. Post-approval process
2. Differentiate criteria for various threshold decisions

The screenshot shows a web browser window displaying the USAID website. The URL is [https://www.usaid.gov/our\\_work/environment/compliance/22cfr216](https://www.usaid.gov/our_work/environment/compliance/22cfr216). The page features the USAID logo and navigation links such as 'WHO WE ARE', 'WHAT WE DO', 'WHERE WE WORK', 'REPORTS & DATA', 'NEWS & INFORMATION', and 'WORK WITH USAID'. The main heading is '22 CFR 216 AGENCY ENVIRONMENTAL PROCEDURES'. Below this, there is a list of sections: Preface, 216.1 Introduction, 216.2 Applicability of procedures, 216.3 Procedures, 216.4 Private applicants, 216.5 Endangered species, 216.6 Environmental assessments, 216.7 Environmental impact statements, 216.8 Public hearings, 216.9 Bilateral and multi-lateral studies and concise reviews of environmental issues, and 216.10 Records and reports. The page also contains introductory text about the revision of these procedures and the application of NEPA to extraterritorial situations.

USAID LEADERSHIP

WHO WE ARE | WHAT WE DO | WHERE WE WORK | REPORTS & DATA | NEWS & INFORMATION | WORK WITH USAID

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### 22 CFR 216 AGENCY ENVIRONMENTAL PROCEDURES

- Preface
- 216.1 Introduction
- 216.2 Applicability of procedures
- 216.3 Procedures
- 216.4 Private applicants
- 216.5 Endangered species
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- 216.7 Environmental impact statements
- 216.8 Public hearings
- 216.9 Bilateral and multi-lateral studies and concise reviews of environmental issues
- 216.10 Records and reports

These procedures have been revised based on experience with previous ones agreed to in settlement of a law suit brought against the Agency in 1975. The Procedures are Federal Regulations and therefore, it is imperative that they be followed in the development of Agency programs.

In preparing these Regulations, some interpretations and definitions have been drawn from Executive Order No. 12114 of January 1979, on the application of the National Environmental Policy Act (NEPA) to extraterritorial situations. Some elements of the revised regulations on NEPA issued by the President's Council on Environmental Quality have also been adopted. Examples are: The definition of significant impact, the concept of scoping of issues to be examined in a formal analysis, and the elimination of certain AID activities from the requirement for environmental review.

In addition, these procedures: 1) provide advance notice that certain types of projects will automatically require detailed environmental analysis thus eliminating one step in the former process and permitting early planning for this activity; 2) permit the use of specially prepared project design considerations or guidance to be substituted for environmental analysis in selected situations; 3) advocate the use of indigenous specialists to examine pre-defined issues during the project design stage; 4) clarify the role of the Bureau's Environmental Officer in the review and approval process, and 5) permit in certain circumstances, projects to go forward prior to completion of environmental analysis.

Note that only minimal clarification changes have been made in those sections dealing with the evaluation and selection of pesticides to be supported.

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# USAID'S ENVIRONMENTAL PROCEDURES: ENVIRONMENTAL COMPLIANCE OVERVIEW

Environmental considerations integrated early in project design process to reduce risk and increase sustainability



22 CFR 216 Process / ADS



22 CFR 216 documentation

Request for Categorical Exclusion, Initial Environmental Examination (IEE), or Environmental Assessment (EA). Must be approved by MD & BEO *before* obligation of funds.



Awards require IP Compliance with 22 CFR 216 documentation  
Agreement Officer's Representative/Contracting Officers



Representative (AOR/COR) monitors IP compliance & modifies or ends activities *not* in compliance

Environmental compliance is assessed annually as part of formal Mission (operating unit) reporting.

# 22 CFR 216 PROCESS – SIMPLIFIED OVERVIEW

Understand Purpose & Need | Understand the proposed action

Screen the action

Exempt

Low Impact/  
Categorically  
Excluded

Moderate or Unknown  
Impact

High Impact:

Exemption  
Memo

Request for  
Categorical  
Exclusion

Initial Environmental Examination (IEE)

Negative  
Determination

Negative  
Determination  
with Conditions

Positive  
Determination

Scoping → Environmental Assessment  
(EA)

Submit for MD & BEO Approval

Implement in compliance with approved conditions

# TYPES OF DOCUMENTATION

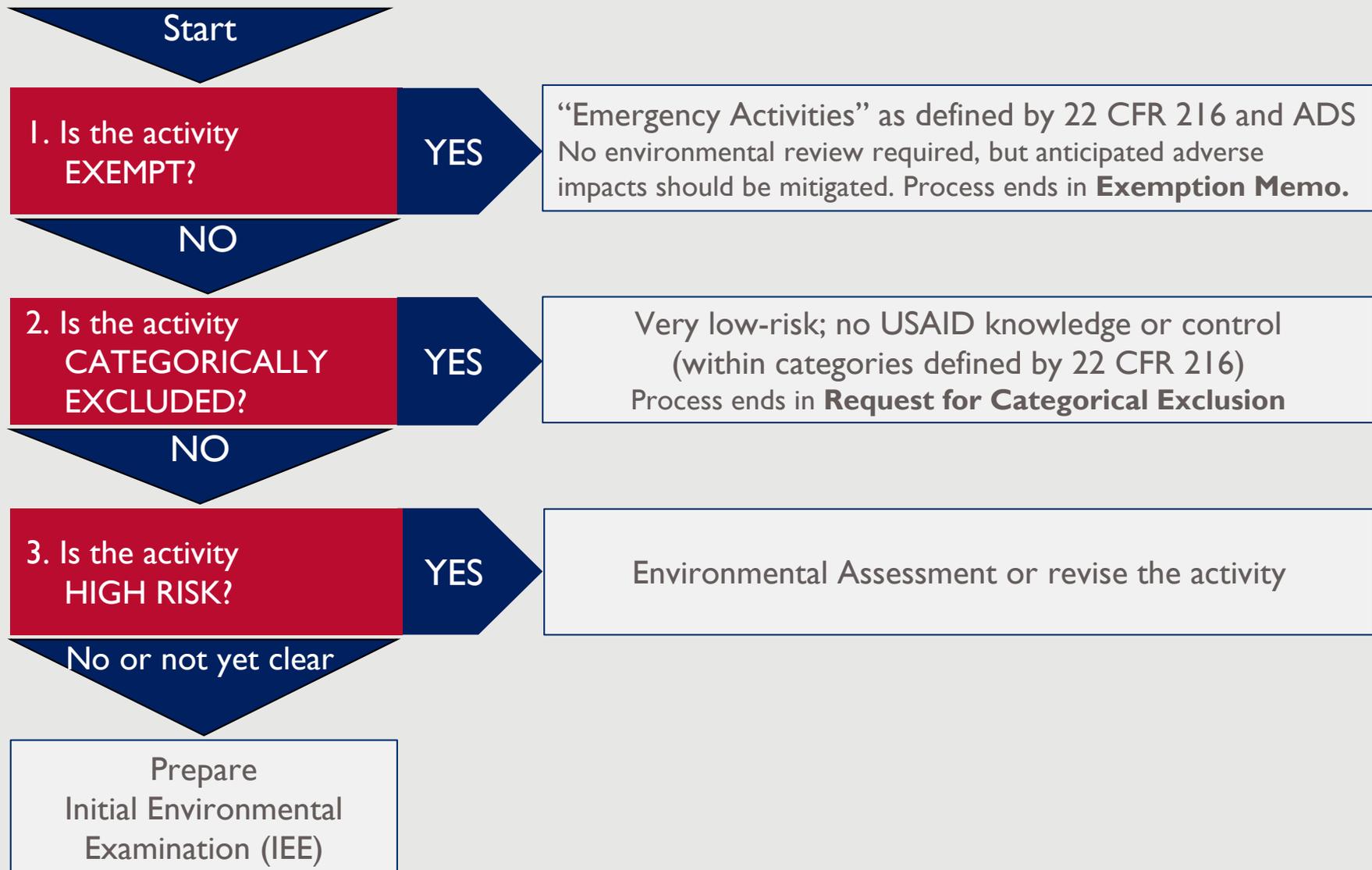
Screening results	22 CFR 216 documentation required
All activities exempt	Statement of Justification
All activities categorically excluded	Request for Categorical Exclusion (RCE)
All activities require an IEE	An IEE covering all activities
Some activities are categorically excluded, some require an IEE	An IEE that: <ul style="list-style-type: none"><li>▪ Covers activities for which an IEE is required AND</li><li>▪ Justifies the categorical exclusions</li></ul>
High-risk activities	Initiate scoping and preparation of an Environmental Assessment

# SCREENING

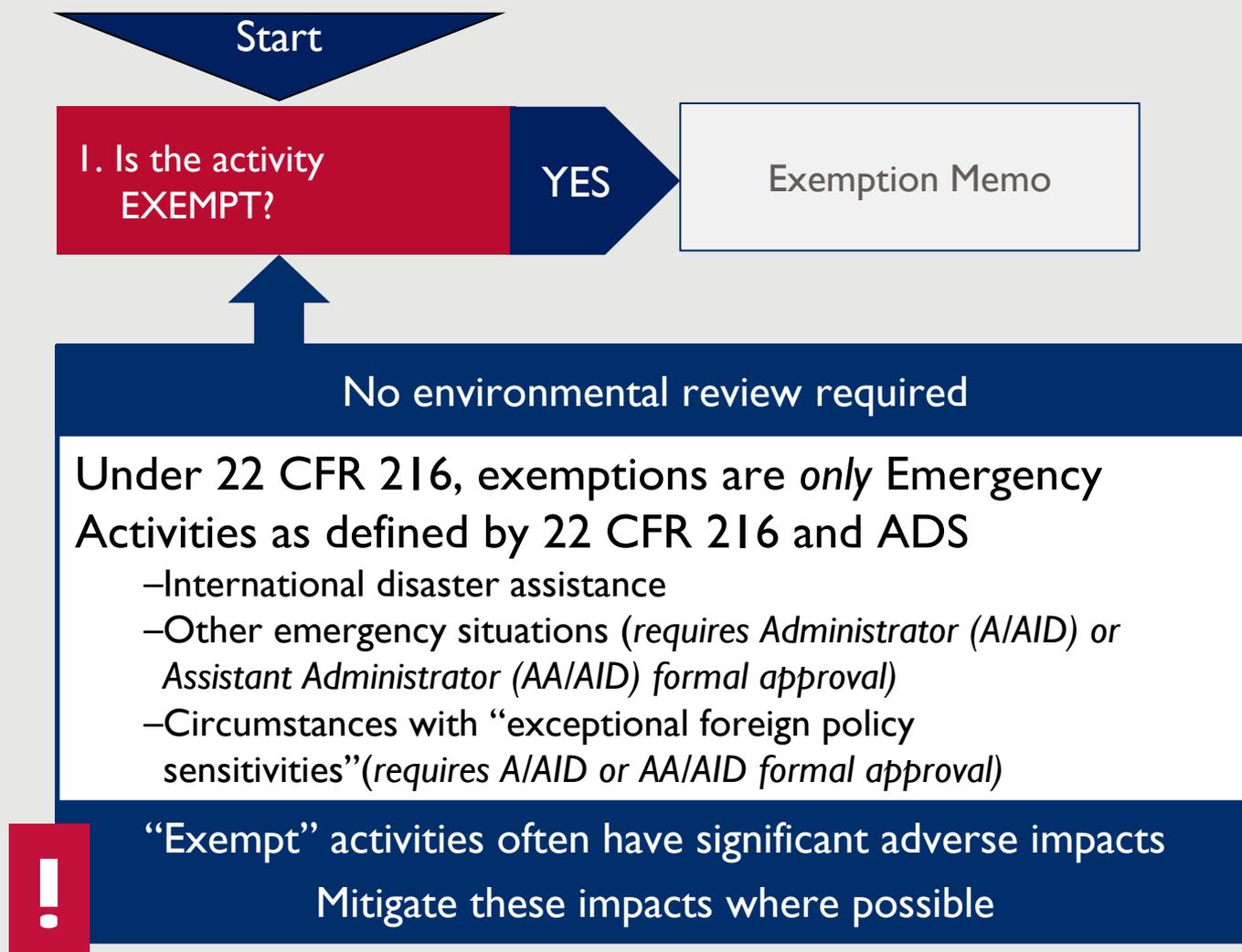
- ALWAYS the first step in the process
- Sorting proposed activities into risk categories
  - Does NOT require detailed analysis or extensive baseline data.
  - DOES require a basic understanding of what the proposed activity is, and where it will be undertaken.
- The risk category determines the next step in the process.



# APPLYING REG 216



# APPLYING REG 216: EXEMPTIONS



# APPLYING REG 216: CATEGORICAL EXCLUSIONS

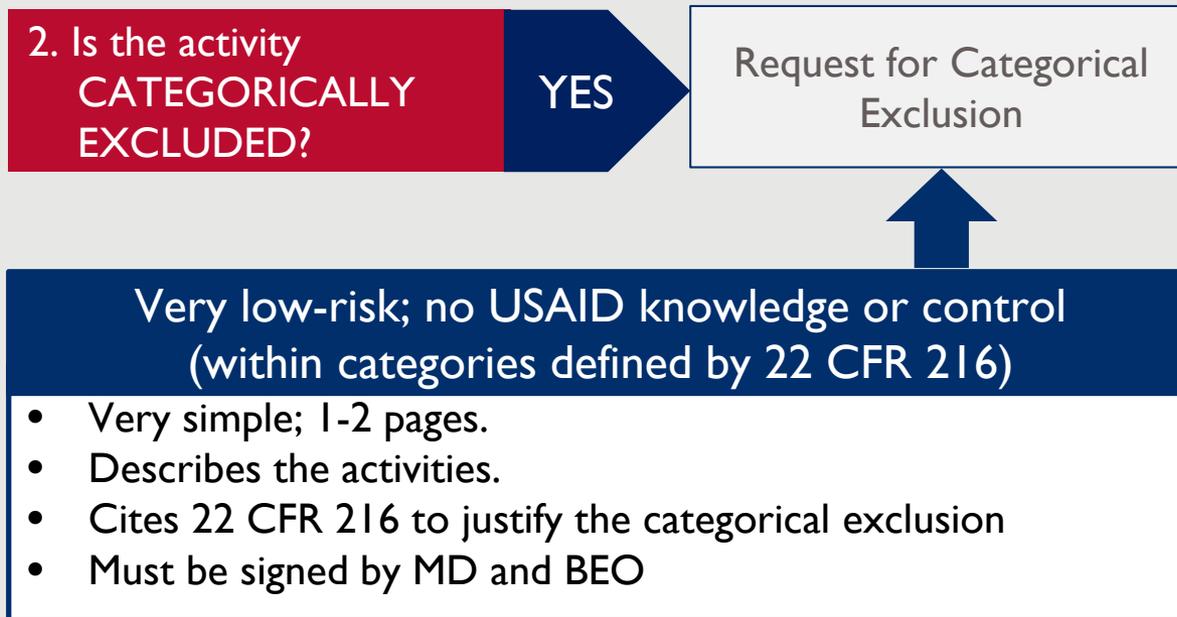


Very low-risk; no USAID knowledge or control  
(within categories defined by 22 CFR 216)

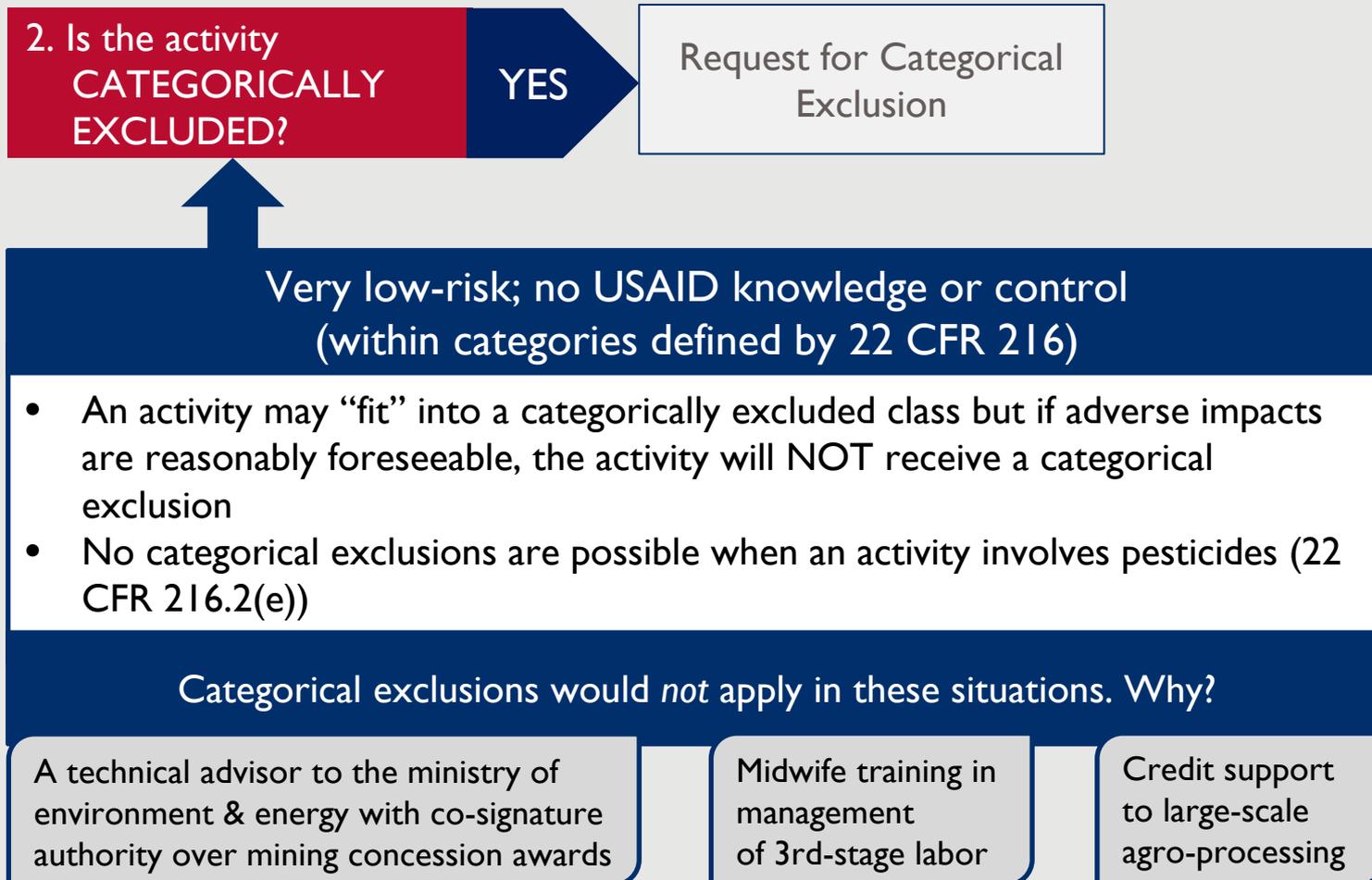
ONLY activities fitting in a set of 15 specific categories MAY qualify for categorical exclusions, including:

- Education, technical assistance, or training programs  
(as long as no foreseeable adverse impacts)
- Documents or information transfers
- Analyses, studies, academic or research workshops and meetings
- Nutrition, health, family planning activities except where medical waste is generated directly or indirectly

# SCREENING DOCUMENTATION UNDER 22 CFR 216: REQUEST FOR CATEGORICAL EXCLUSION



# SCREENING PROCESS UNDER REG 216: CATEGORICAL EXCLUSIONS - LIMITATIONS



# APPLYING REG 216

For each activity addressed, an IEE makes one of 4 **recommended determinations** regarding its possible impacts

If the IEE analysis finds	The IEE recommends a	Implications and conditions
No significant adverse environmental impacts	<b>NEGATIVE DETERMINATION</b>	No <b>conditions</b> , go ahead
With specified mitigation and monitoring, no significant environmental impacts	<b>NEGATIVE DETERMINATION WITH CONDITIONS</b>	Specified mitigation and monitoring <b>conditions</b> must be implemented
Significant adverse Environmental impacts are possible	<b>POSITIVE DETERMINATION</b>	<b>Do full Environmental Assessment or redesign activity.</b> <b>Conditions</b> imposed by the Environmental Assessment must be implemented.
Not enough information to evaluate impacts	<b>DEFERRAL</b>	Activity cannot be implemented until the IEE is amended
Additionally, the IEE will address any <b>CATEGORICAL EXCLUSIONS</b> carried over from the screening process.		

**IMPACTS NEED NOT BE DIRECT**  
 Significant adverse indirect or cumulative impacts will trigger a positive determination

# APPLYING REG 216:



## IEE conditions can be mitigation measures

Implementation and monitoring of IEE conditions is *required* by the ADS

### Illustrative IEE Conditions

Global Health: med waste management; training on standards of care

Econ. Growth: training in environmental BMPs for agriculture, safeguards for institutional TA

Education: WASH provision, standards for small-scale construction

D&G: ensure CBO, peace-building, service delivery efforts are environmentally sound

# INITIAL ENVIRONMENTAL EXAMINATION (IEE)

A rapid analysis using simple tools that:

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



## Typical outline

- a) Background/project description/purpose and need
- b) Baseline characterization
- c) Evaluation of potential impacts
- d) Mitigation and monitoring
- e) Recommended findings\*

*\*Significant Adverse Impacts: (1) very unlikely, (2) very unlikely with specified mitigation; (3) possible (even with mitigation)*

# SCREENING DOCUMENTATION UNDER 22 CFR 216: INITIAL ENVIRONMENTAL EXAMINATION



## Basic outline

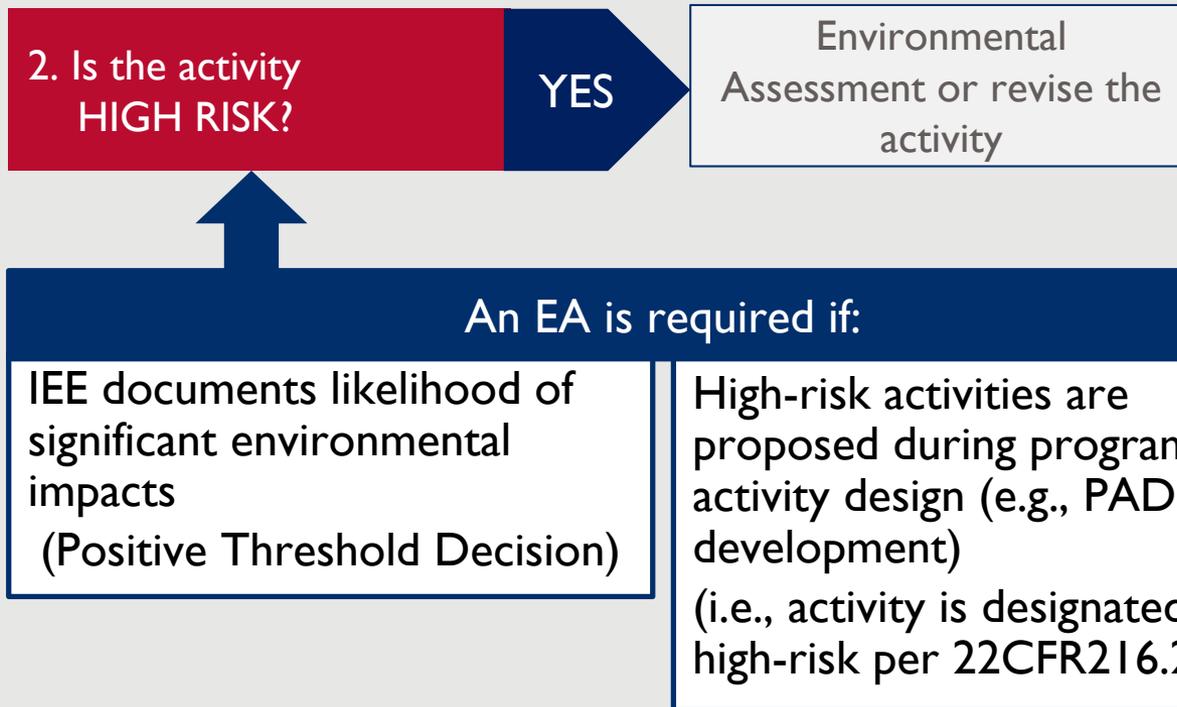
- 1. Background & Activity Description**
  - Purpose & Scope of IEE
  - Background
  - Description of activities
- 2. Country & Environmental information**
  - Locations affected
  - National environmental policies and procedures
- 3. Evaluation of potential environmental impacts**
- 4. Recommended threshold decisions and mitigation actions**
  - Recommended threshold decisions and conditions**
  - Mitigation, monitoring & evaluation

# APPLYING REG 216



- Recommended determinations are well reasoned and substantiated (may include all)
  - Categorical Exclusion
  - Negative Determination With or Without Conditions
  - Positive Determination
- Deferrals
- Provide sufficient information for the reviewer to agree or disagree with the preparer's determinations

# SCREENING PROCESS UNDER 22 CFR 216: HIGH RISK



## “HIGH RISK” MEANS:

- activities “for which an EA is normally required”\* per 22 CFR 216
- Activities for which FAA 118 & 119 require an EA.

EA DEFINITELY REQUIRED	NOT CLEAR— proceed to IEE
New 500Ha irrigation scheme	Rehabilitation of 50Ha irrigation scheme
Major expansion of a 100MW thermal power plant & construction of new transmission lines	Mini-hydro installations of 500 kw total
Widening 30km of a 2-lane road to 6-lane tollway thru an urban area	Rehabilitation of multiple short segments of rural feeder road
<b>Sections 118 &amp; 119 of the Foreign Assistance Act REQUIRE an EA for. .</b>	*“Classes of actions. . . determined generally to have a significant impact on the environment” (22 CFR 216.2(d))
Activities involving procurement or use of logging equipment	
Activities with the potential to significantly degrade national parks or similar protected areas or introduce exotic plants or animals into such areas	

# ACTIVITY TRACKING TABLE

- EACH activity in your program/project must be screened
- As each activity is screened, use a table like this for tracking. It helps.

Activity	Exempt	Categorical Exclusion	IEE Required	EA Required
1. Small clinic rehabilitation			<b>X</b>	
2. Borehole Installations			<b>X</b>	
3. Training in patient record-keeping		<b>X</b>		
4. Construct provincial medical waste disposal facility				<b>X</b>

# SCREENING DETERMINES REQUIRED DOCUMENTATION

Screening results	22 CFR 216 documentation required
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# AFTER THE IEE IS APPROVED

Recommended determinations & categorical exclusions become  
**Threshold decisions**

IEE is posted to USAID's environmental compliance database

Conditions become required elements of project implementation and monitoring

Conditions are written into or written in solicitation & award documents

AORs & CORs oversee implementation

# USAID'S ENVIRONMENTAL PROCEDURES: RESPONSIBILITIES

- **Assures** approved 22 CFR 216 documentation in place
- **Establishes** and **approves** environmental mitigation & monitoring conditions
- **Oversees** compliance with these conditions, a core part of AOR/COR responsibilities
- Requires IP to implement conditions and comply with Reg. 216

## Implementing Partner

- **Implements** environmental management conditions established in 22 CFR 216 documentation
- **Reports** on implementation to USAID

# USAID'S ENVIRONMENTAL PROCEDURES: RESPONSIBILITIES WITHIN USAID

## Project Design Team Lead, AOR/COR if designated

Assures approved 22 CFR 216 documentation is in place prior to obligation/implementation.

## Mission Environmental Officers (MEO), Regional Environmental Advisors (REA)

First point of contact; advice; quality control

## Mission Director

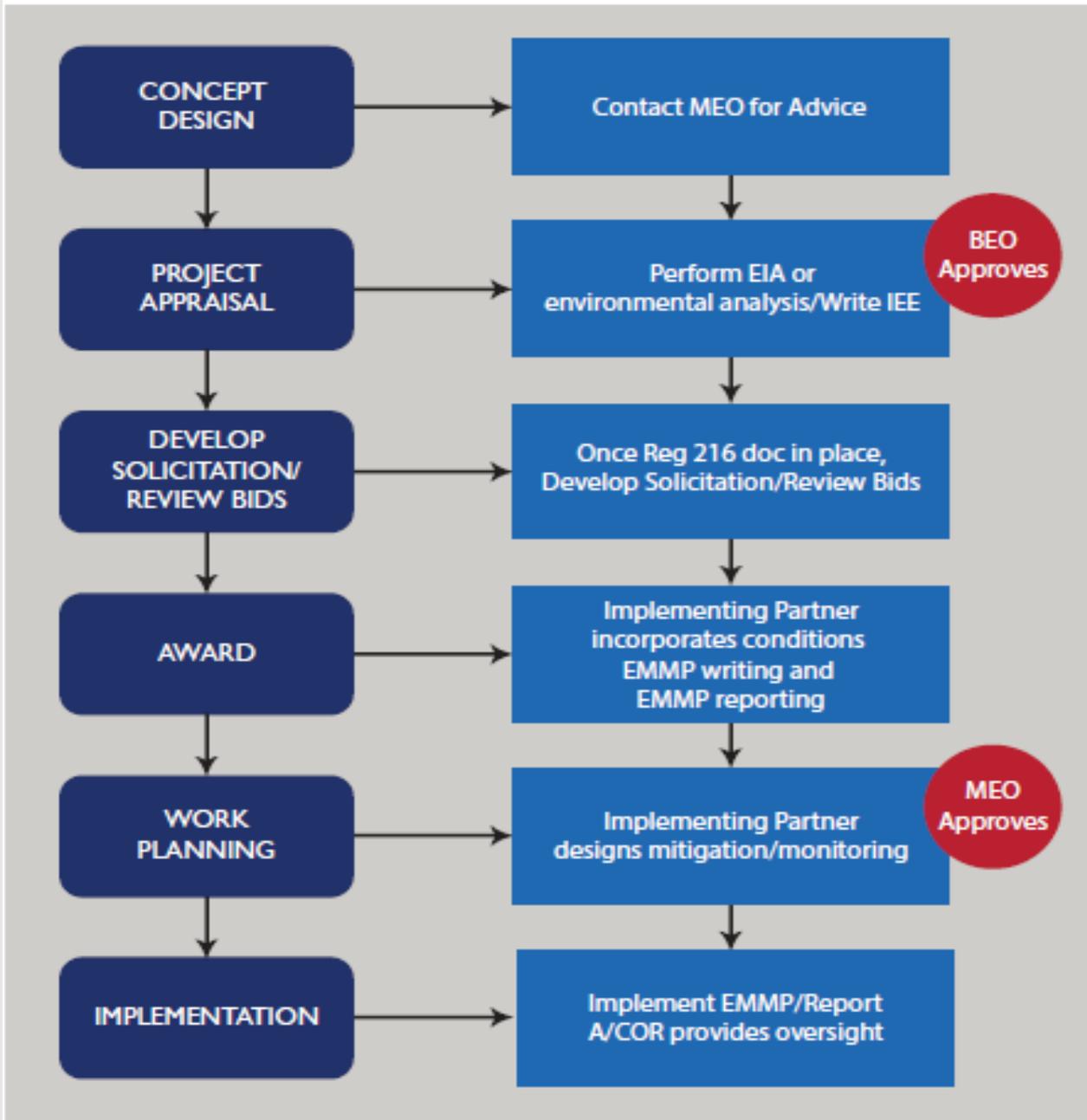
Clears\* 22 CFR 216 documents. Ultimately responsible for compliance

## Bureau Environmental Officer (BEO)

Concurs on 22 CFR 216 documents

## AOR/COR or AM

Oversees compliance with IEE/Environmental Assessment conditions; makes sure activities stay within the scope of approved 22 CFR 216 documentation.



# FULL ENVIRONMENTAL ASSESSMENT STUDY (IF REQUIRED)



## ENVIRONMENTAL ASSESSMENT OF THE USAID/HAITI NORTH PARK POWER PROJECT



June 2011

This publication was produced for review by the United States Agency for International Development. It was prepared by AECOM.

Used for highest-risk activities  
and/or projects

Very similar in outline to a  
preliminary assessment, but  
has important differences:

# HOW IS A FULL ENVIRONMENTAL ASSESSMENT DIFFERENT FROM AN INITIAL ENVIRONMENTAL EXAMINATION (IEE)?

- ! A formal scoping process IDs issues to be addressed
- ! Analysis of environmental impacts is much more detailed
- ! Alternatives\* must be formally defined. The impacts of each alternative must be identified & evaluated, and the results compared.
- ! Public consultation is required
- ! A professional team is usually required.



*\*includes the project as proposed, the no action alternative at least one other real alternative*

# COORDINATION WITH HOST COUNTRY EIA PROCEDURES

1

*The large majority of host countries now have EIA policies and procedures*

&

2

*Most projects that require an EA under Reg. 216 will also require a full EIA under host country procedures*

## Implications:

- Ideally, make one document to satisfy both USAID & host country requirements
- Requires up-front discussions with host country EIA agency.

**Note: Reg. 216 REQUIRES** collaboration with host country “to the maximum extent possible” in developing EAs.

# QUICK GROUP QUIZ

What will the 22 CFR 216 threshold decision likely be?



# Classroom instruction on education curriculum development

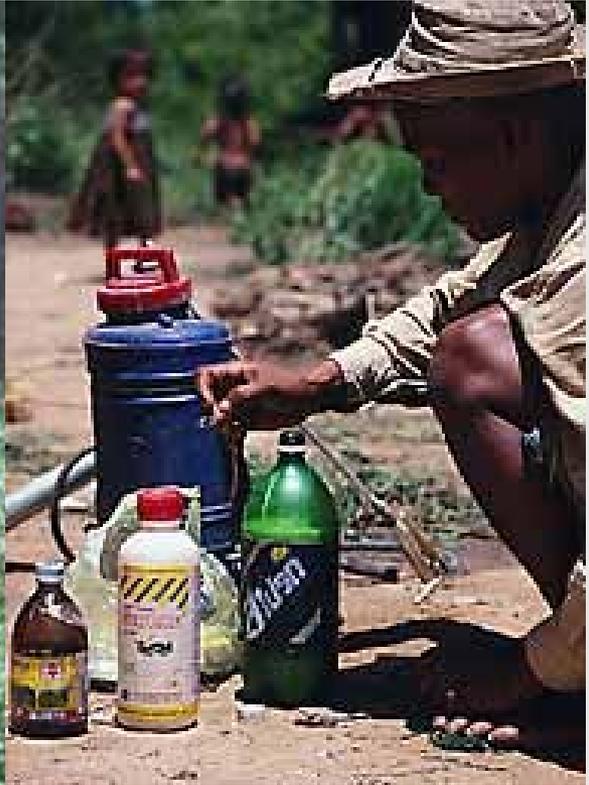


## Market feeder road rehabilitation only, Liberia





# Pesticide use





## Hurricane disaster response:

- Initial?
- Long term reconstruction?





# Forestry





## Promoting Cacao cultivation



## Commercial Nursery

