



Environmental Impact Assessment and “USAID Environmental Procedures”: the Reg. 216 Review Process



GEMS Environmental Compliance-
ESDM Training Series

Jordan ■ March 2018



SESSION OBJECTIVES:

- Review background and principles of Environmental Impact Assessment (EIA)
- Review EIA process and fundamental skills:
 - *Baseline characterization*
 - *Identifying impacts of concern*
 - *Developing a mitigation strategy*
- Explain USAID implementation of the EIA process
- Understand preparation of USAID environmental compliance documentation



USAID ENVIRONMENTAL PROCEDURES

- Specifies an Agency-wide approach to environmental management of USAID-funded activities.
- “Environmental Procedures” Encompass:
 - 22 CFR 216 (“Reg. 216”)
 - Foreign Assistance Act (FAA) Sections 117, 118 & 119.
 - USAID-internal Automated Directives System (ADS)
 - Regional Best Practices



“USAID Environmental Procedures” refers generally to all relevant laws, Agency guidance, and prevailing best practices.



APPLYING THE EIA PROCESS

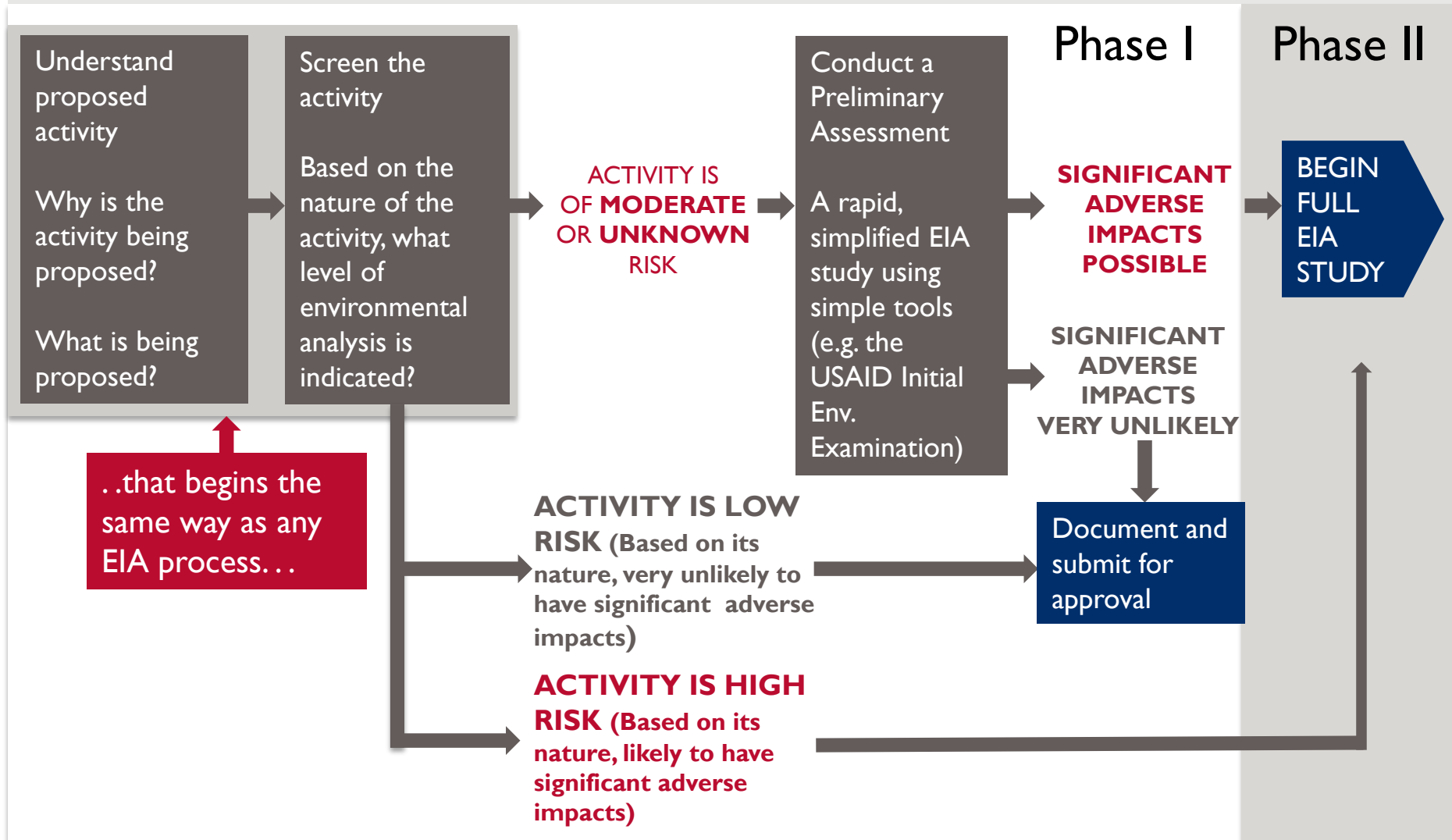
- The USAID approach to EIA is established in Reg. 216
- Reg. 216 defines a pre-implementation EIA process
- This process applies to:
 - **All** USAID programs or activities, (including non-project assistance.)
 - New activities
 - Substantive amendments or extensions to ongoing activities



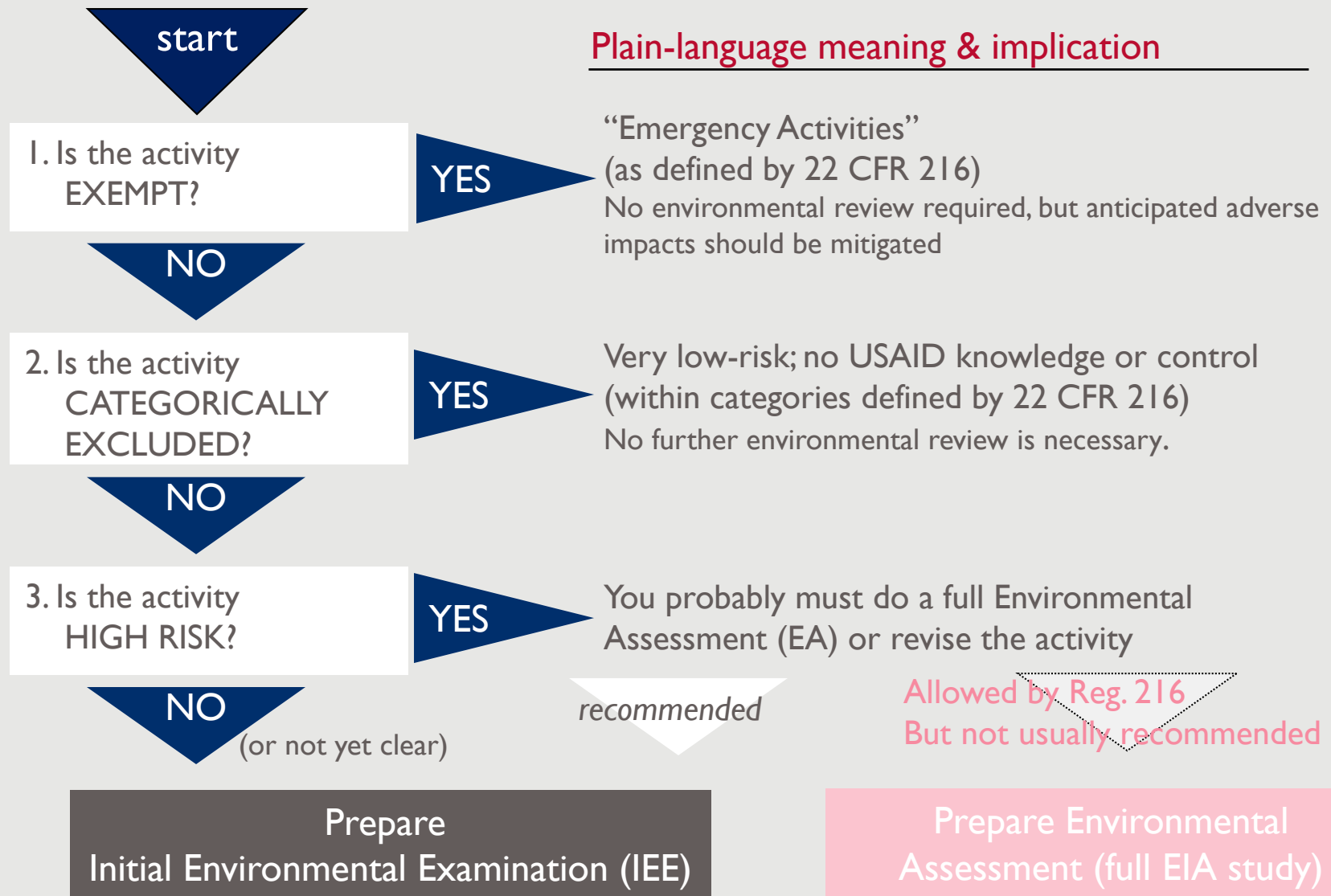
Reg. 216
(22 CFR 216) is a
US FEDERAL REGULATION.
Compliance is mandatory.

REG. 216

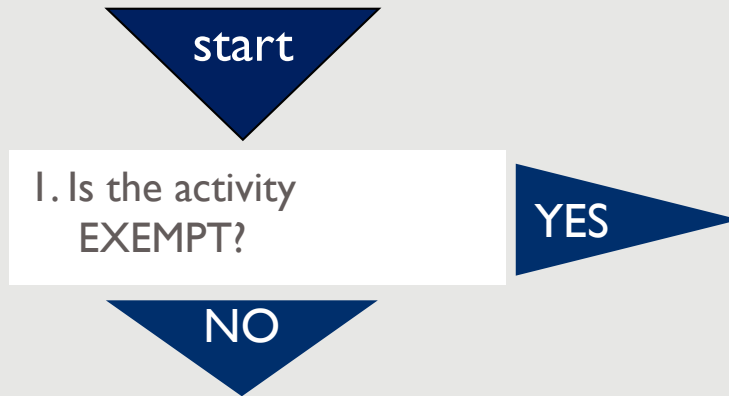
USAID'S IMPLEMENTATION OF GENERAL EIA PROCESS...



THE USAID SCREENING PROCESS



SCREENING UNDER 22 CFR 216: EXEMPTIONS

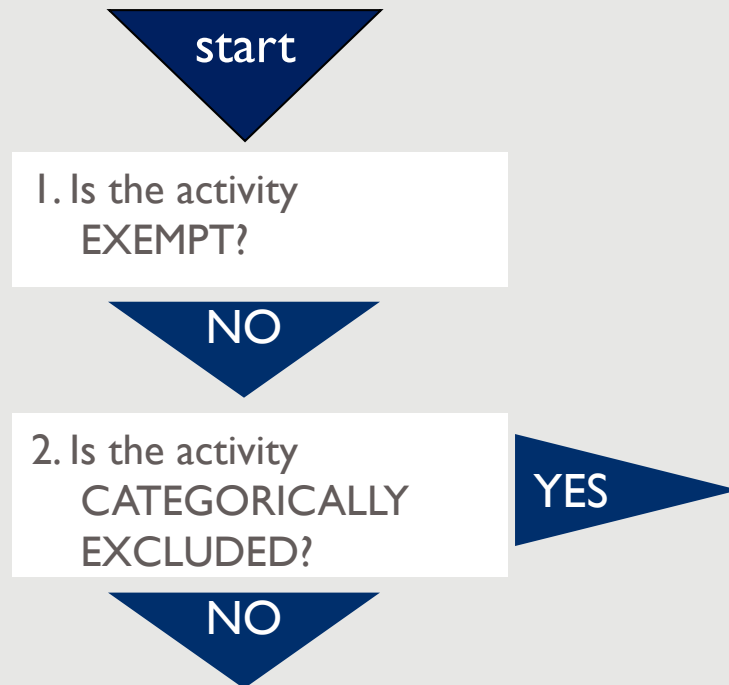


Under Reg. 216 EXEMPTIONS are ONLY...

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. Mitigate these impacts where possible.

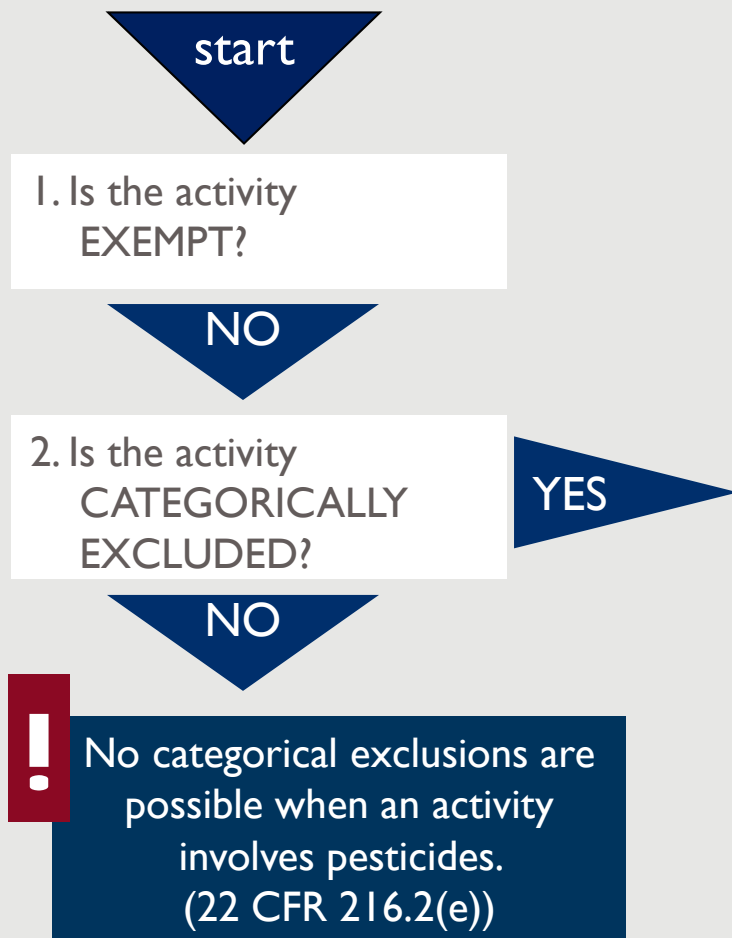
SCREENING UNDER 22 CFR 216: CATEGORICAL EXCLUSIONS



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 activities directly affect the environment)
- Documents or information transfers
- Analyses, studies, academic or research workshops and meetings
- Nutrition, health, family planning activities except where medical waste is generated

CATEGORICAL EXCLUSIONS: LIMITATIONS



An activity may “fit” into a categorically excluded class...

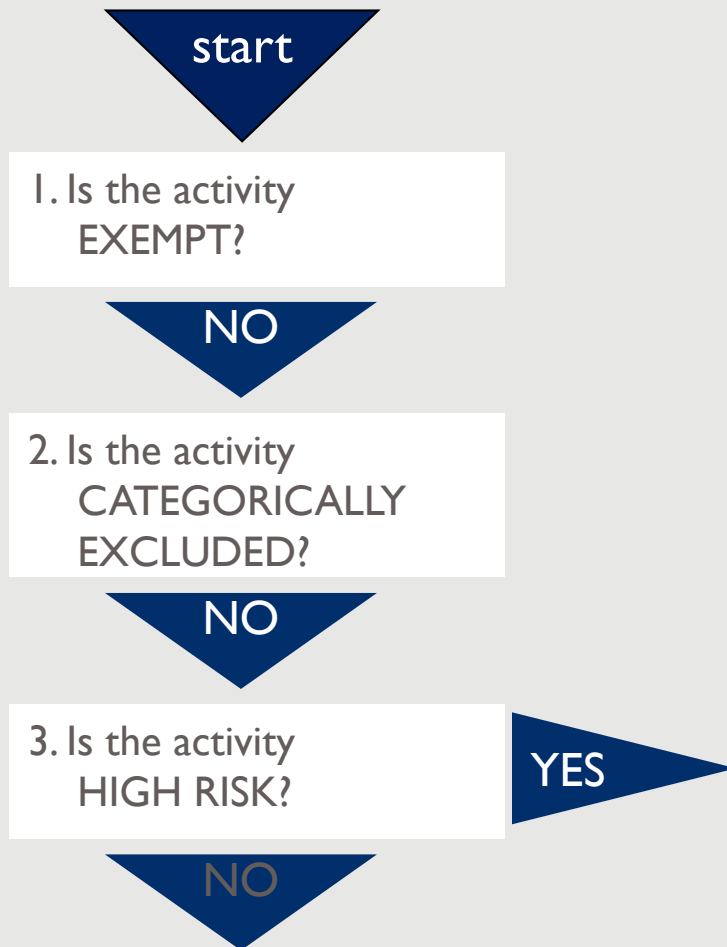
... but if adverse impacts are reasonably foreseeable, the activity will NOT receive a categorical exclusion.

Why would categorical exclusions NOT apply if USAID funds...

- A technical advisor to the ministry of environment and energy with co-signature authority over mining concession awards?
- Midwife training in management of 3rd-stage labor?
- Credit support to large-scale agro-processing?

SCREENING UNDER 22CFR216

“HIGH RISK” (EA LIKELY REQUIRED)



“HIGH RISK” = activities “for which an EA is normally required” per 22 CFR 216
OR other activities which clearly present high environmental risks

- 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”

What if my activity is “high risk”?

3. Is the activity
HIGH RISK?

YES

You probably must do a full Environmental Assessment (EA) or revise the activity

NO

(or not yet clear)

recommended

Allowed by Reg. 216
But not usually recommended

Prepare
Initial Environmental Examination (IEE)

Prepare Environmental
Assessment (full EIA study)

Can proceed directly to an EA
(USAID’s full EIA study)

But unless the activity is VERY clearly
“high risk”, do an IEE (USAID’s
preliminary assessment) instead

WHY a preliminary assessment?

An IEE will:

- Allow you to determine if impacts can be easily controlled below a significant level—if so, an EA is not necessary
- Gather information needed to jump-start the EA process

WHAT IS CLEARLY “HIGH RISK”?

EA DEFINITELY REQUIRED

- New 500Ha irrigation scheme
- Major expansion of a 100MW thermal power plant & construction of new transmission lines
- Widening 30km of a 2-lane road to 6-lane tollway thru an urban area

NOT CLEAR—proceed to IEE

- Rehabilitation of 50Ha irrigation scheme
- Mini-hydro installations of 500 kw total
- Rehabilitation of multiple short segments of rural feeder road

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

- 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

ONCE EACH ACTIVITY HAS BEEN SCREENED...

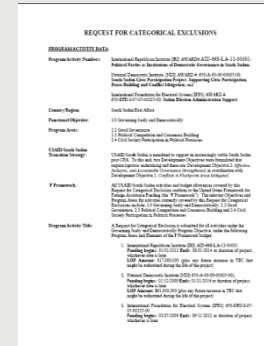
ACTIVITY*	EXEMPT	CATEX	IEE REQ'D	EA REQ'D
1. Small clinic rehabilitation			X	
2. Borehole Installations			X	
3. Training in patient record-keeping		X		
4. Construct provincial medical waste disposal facility				X

*Use a table like this. It helps.

DEVELOP YOUR 22 CFR 216 DOCUMENTATION...

...AS DETERMINED BY THE OUTCOME OF YOUR SCREENING PROCESS

OVERALL SCREENING RESULTS	22 CFR 216 DOCUMENTATION REQUIRED
All activities are exempt	Statement of Justification
All activities categorically excluded	Categorical Exclusion Request + FACESHEET
All activities require an IEE	IEE covering all activities + FACESHEET
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 + FACESHEET
High-risk activities	<ul style="list-style-type: none"> ▪ Initiate scoping and preparation of an EA



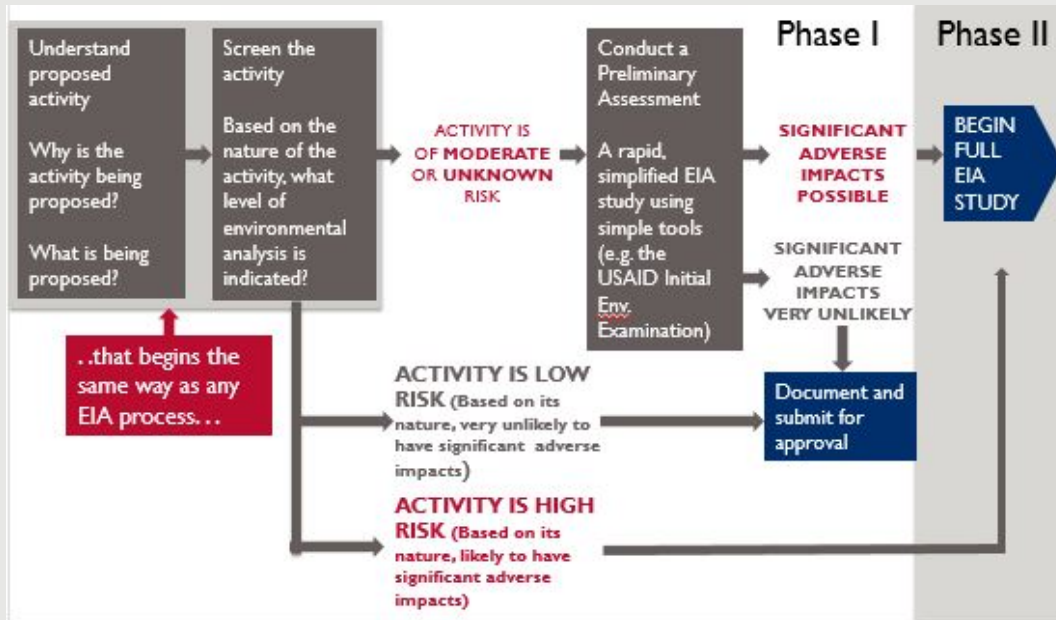
CATEGORICAL EXCLUSION REQUEST

Very simple; 1-2 pages.
Describes the activities.
Cites 22 CFR 216 to justify the catex.



Initial Environmental Examination (USAID's preliminary assessment)

PURPOSE OF IEE



Provides 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




THE IEE: USAID'S PRELIMINARY ASSESSMENT

Use new standardized, cross-bureau—
"global"—template to prepare IEEs

Includes:

- Detailed Cover Sheet
 - Summary of Findings
 - Signature Page
- Project/Activity Description
- Baseline Environmental Information
- Analysis of Potential Environmental Risk
- Environmental Determinations
- Conditions and Mitigation Measures
- Limitations/Revisions



INITIAL ENVIRONMENTAL EXAMINATION

PROJECT/ACTIVITY DATA

Project/Activity Name:	
Geographic Location(s) (Country/Region):	
Amendment (Yes/No), if Yes Indicate # (1, 2...):	
Implementation Start/End Dates (FY or M/D/Y):	
If Amended, specify New End Date:	
Solicitation/Contract/Award Number:	
Implementing Partner(s):	
Bureau Tracking ID:	
Tracking ID of Related RCE/IEE (if any):	
Tracking ID of Other, Related Analyses:	

ORGANIZATIONAL/ADMINISTRATIVE DATA

Implementing Operating Unit(s): (e.g. Mission or Bureau or Office)	
Other Affected Operating Unit(s):	
Lead BEO Bureau:	
Funding Operating Unit(s): (e.g. Mission or Bureau or Office)	
Funding Account(s) (if available):	
Original Funding Amount:	
If Amended, specify funding amount:	
If Amended, specify new funding total:	
Prepared by:	
Date Prepared:	

ENVIRONMENTAL COMPLIANCE REVIEW DATA

Analysis Type:	<input type="checkbox"/> Environmental Examination	<input type="checkbox"/> Deferral
Environmental Determination(s):	<input type="checkbox"/> Categorical Exclusion(s)	<input type="checkbox"/> Positive
	<input type="checkbox"/> Negative	<input type="checkbox"/> Deferred (per 22CFR216.3(a)(7)(iv))
IEE Expiration Date (if different from implementation end date):		
Additional Analysis/Reporting Required:		
Climate Risks Identified (#):	Low _____ Moderate _____ High _____	
Climate Risks Addressed (#):	Low _____ Moderate _____ High _____	

THRESHOLD DETERMINATION AND SUMMARY OF FINDINGS

PROJECT/ACTIVITY SUMMARY

New template publically available on
GEMS project Web site:
<http://www.usaidgems.org/compliance.htm>

IEE includes Climate Risk Management

- Climate Risk Management (CRM) is a required element of the IEE
 - Consistent with Executive Order 13677: Climate-Resilient International Development (30 Sep. 2014)
- CRM typically integrated as part of Environmental Determinations (Section 4)
 - Global template includes a table
- CRM analysis in IEE should draw on any mission-level climate risk assessments
- Compels preparer to consider climate impacts on proposed activities and opportunities to strengthen resilience.



Five Basic Rules of Good IEES

- Make a determination for each activity
- Specify a mitigation (“condition”) for each impact
- Make mitigation commensurate to impacts
- Use clear, uncluttered language
- Don’t copy blindly—“cut and paste”



Information Sources

- Project documentation
 - PAD
 - Concept Note
 - Scope of Work
- Regional or country information
 - I18/I19 Assessments
 - Non USAID reports
- Existing EC documentation that is relevant to you project or activity
 - Current or previous IEEs
- Stakeholders!
- Aim for effectiveness without sacrificing quality or sound decision making



WHAT DETERMINATIONS RESULT FROM AN IEE?

FOR **EACH** ACTIVITY ADDRESSED, THE IEE MAKES ONE OF 4 RECOMMENDATIONS REGARDING ITS POSSIBLE IMPACTS:

If the IEE analysis finds. . .	The IEE recommends a. . .	Implications (if IEE is approved)
No significant adverse environmental impacts	NEGATIVE DETERMINATION	No conditions. Go ahead.
With specified mitigation and monitoring, significant adverse environmental impacts unlikely	NEGATIVE DETERMINATION WITH CONDITIONS	Specified mitigation and monitoring must be implemented
Significant adverse environmental impacts are possible	POSITIVE DETERMINATION	Do full EA or redesign activity. Conditions imposed by the EA must be implemented.
Not enough information to evaluate impacts	DEFERRAL	You cannot implement the activity until the IEE is amended

PLUS, the IEE will address any CATEGORICAL EXCLUSIONS carried over from the screening process.

REG. 216 DOCUMENTATION & APPROVAL

IMPORTANCE:

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

APPROVED =

- **Mission Director (or Washington equivalent) & Bureau Environmental Officer (BEO) signatures**
- BEO concurrence *not* automatic or guaranteed—not a ‘rubber stamp’ process
- Dialogue is sometimes required

WHO SIGNS?

Clearances:

- COR/AOR or Team leader
- Mission Environmental Officer (for Missions)
- Regional Environmental Advisor (depending on mission)
- Mission Director or Washington equivalent*

Concurrence

- Bureau Environmental Officer*

Approval

- General Counsel (rarely)

*required by Reg 216

WHEN THE IEE IS DULY APPROVED...

Recommended determinations & categorical exclusions become THRESHOLD DECISIONS

Conditions become REQUIRED elements of project implementation & monitoring (ADS 204.3.4(b))

The IEE is posted to USAID's environmental compliance database*

Conditions are written into or referenced in solicitation & award documents (ADS 204.3.4(a)(6))

IEE conditions provide the bedrock on which life-of-project mitigation and monitoring criteria are established.

AORs/CORs oversee implementation (ADS 204.3.4(b))

*www.usaid.gov/our_work/environment/compliance/database.html

WHAT IF I NEED TO DO AN ENVIRONMENTAL ASSESSMENT*?

- First step: a formal scoping process (22 CFR 216.3(a)(4))
- Scoping Statement must be approved by Mission Director, Bureau Environmental Officer.
- Informs the SOW for the Environmental Assessment itself.
- EAs are far more detailed than IEEs. They must address alternatives to the proposed activities. Public consultations are required.



*If a proposed action may affect the US environment or the global commons, an EIS is required, not an EA. (EIS = **Environmental Impact Statement**, per the US National Environmental Policy Act (NEPA)). This is RARE. (22 CFR 216.7.)

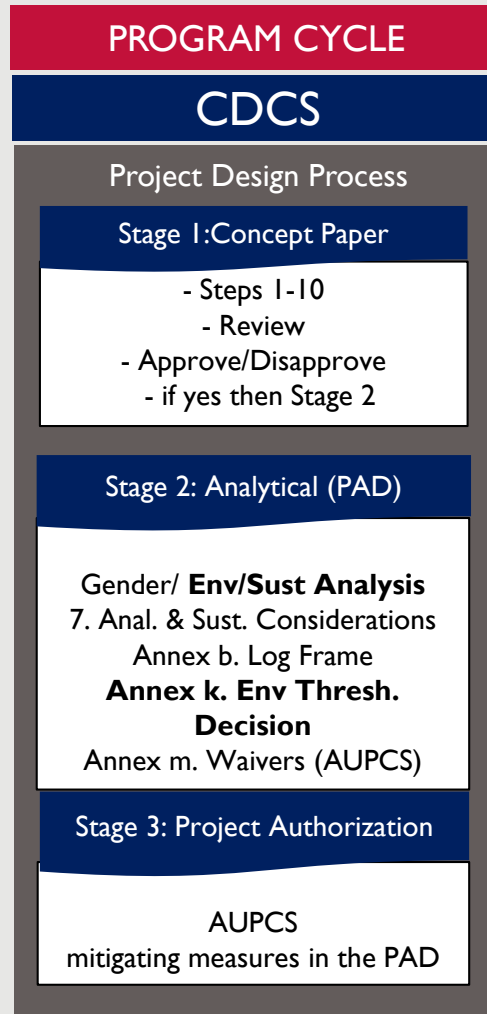


WHAT ABOUT HOST-COUNTRY EIA PROCEDURES?

- Most host countries—Jordan included—have domestic EIA requirements
- USAID projects must also comply with these requirements
- So, during screening, also screen against host-country categories or criteria
- If a host-country preliminary assessment or full EIA is required, the objective is to prepare ***one document that satisfies both systems***

TIMING OF 22 CFR 216 DOCUMENTATION...

USAID's project design process requires approved Reg. 216 documentation as annex to the Project Appraisal Document



Environmental Planning, FAA 117, 118, 119

Threshold Decision

SUMMARY

- Reg. 216 establishes the pre-implementation USAID environmental review process
- This reflects the general EIA methodology
- It begins with a systematic screening and decision-making process with more detailed review, if needed
- USAID documentation and approval processes are clear and mandatory
- Reg. 216 documents define project environmental management criteria, most frequently as IEE conditions