



**USAID**  
FROM THE AMERICAN PEOPLE

# **Session 6:**

## **22 CFR 216 (Reg. 216):**

### **USAID's Pre-implementation EIA Process**



# Session Objectives:

- Identify the pre-implementation environmental review process defined by 22 CFR 216;
- Identify this process as a specific implementation of the general Environmental Impact Assessment process;
- Practice deciding determinations for given USAID-funded activities.



# What is 22 CFR 216 (Reg. 216)?

- **Sets out USAID's pre-implementation EIA 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.**

# 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

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

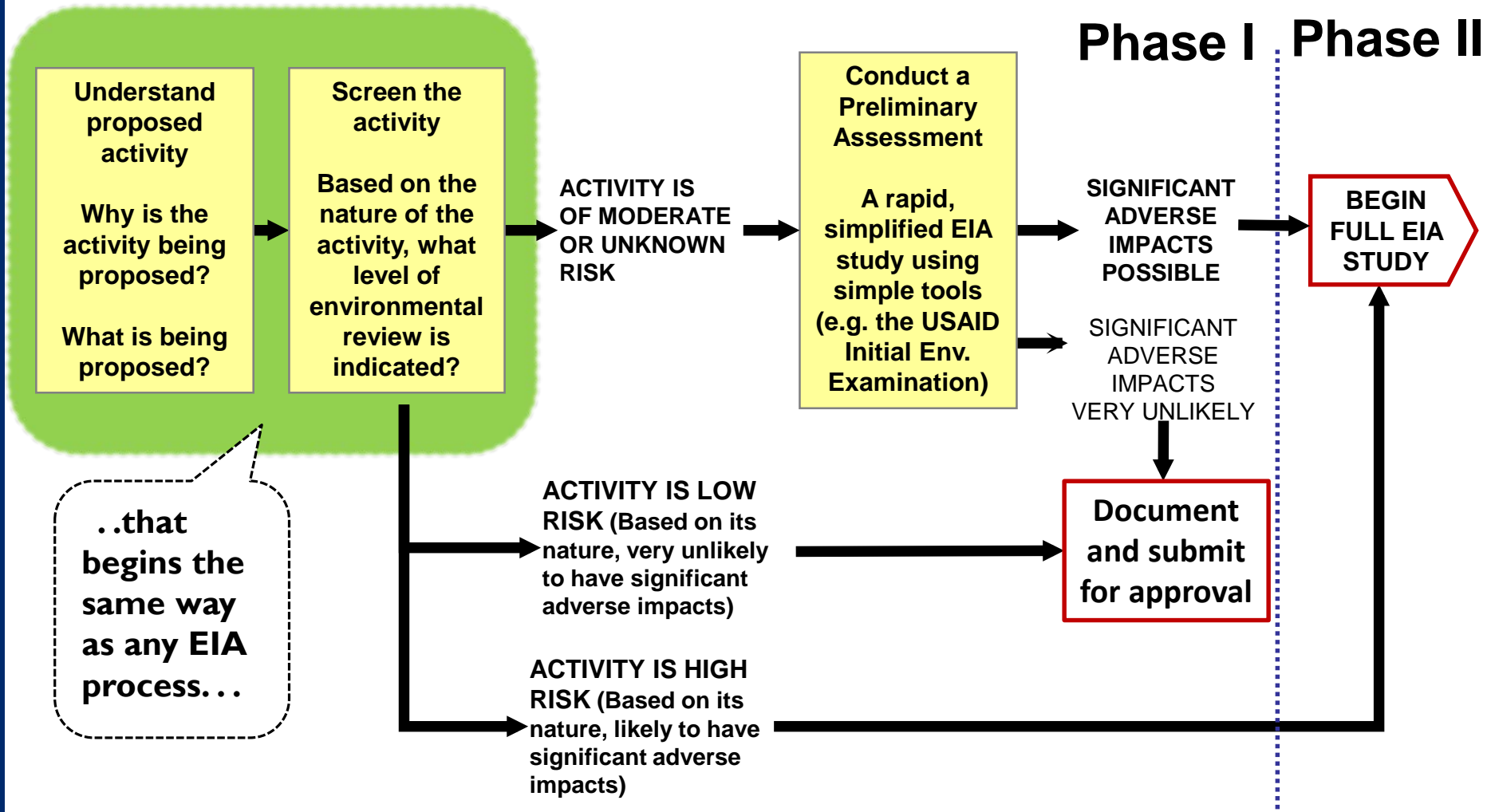
- Bureau Environmental Officer\*

### Approval

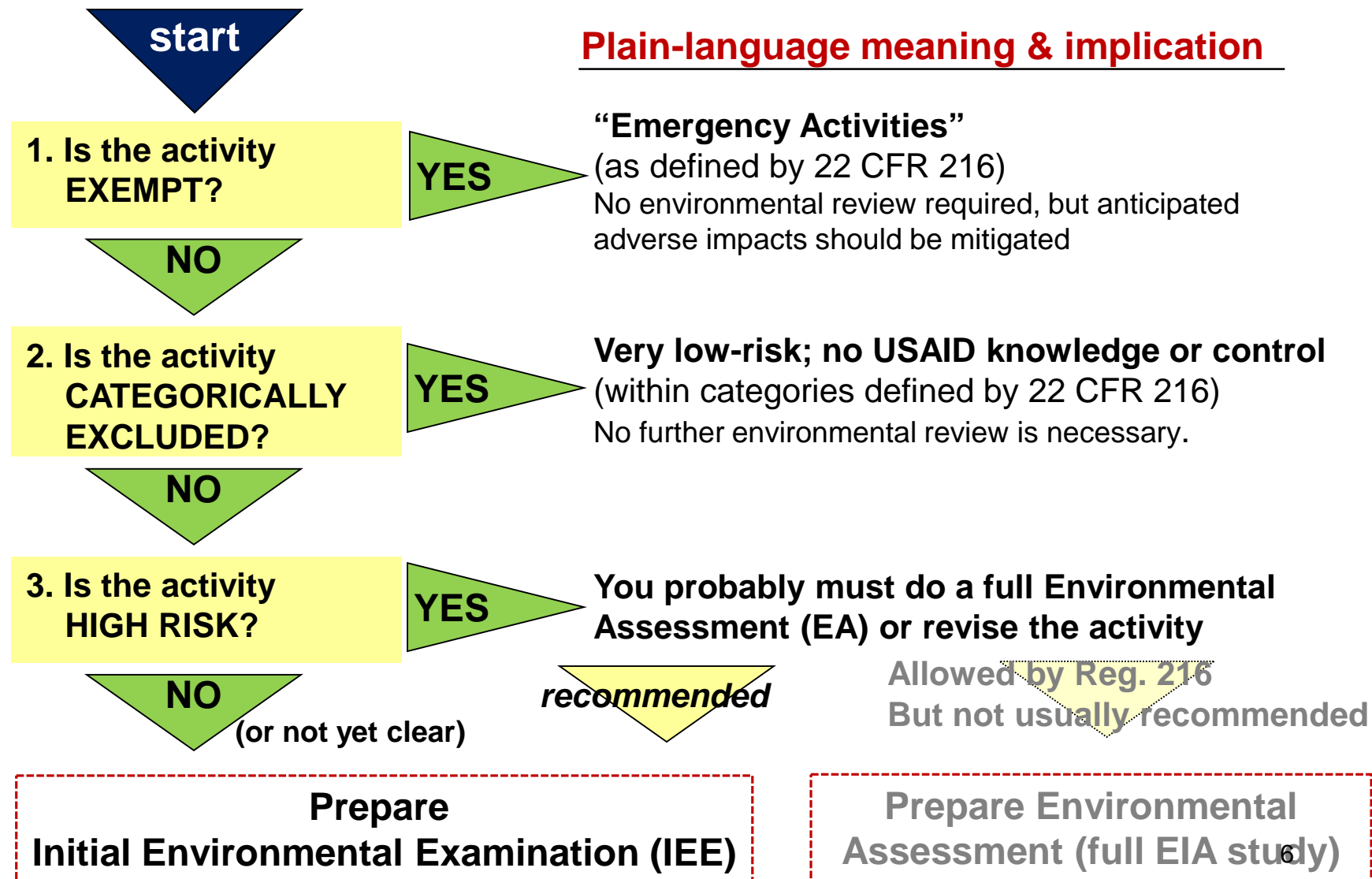
- General Counsel (rarely)

\*required by Reg 216

# Reg. 216: specific USAID implementation of general EIA process. . .



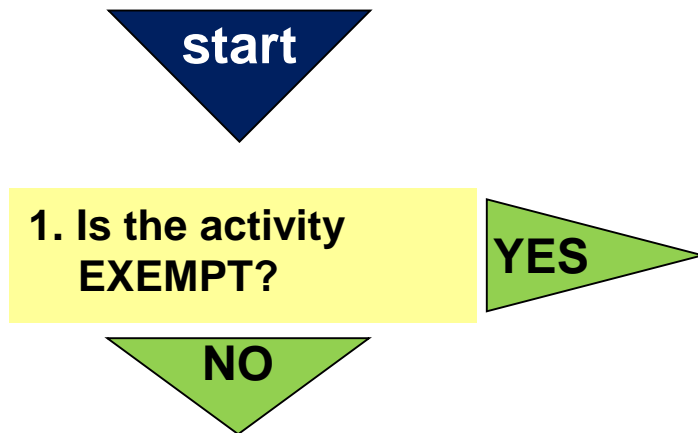
# Screening under Reg. 216



# Screening under 22 CFR 216: Exemptions



“Exempt” activities often have significant adverse impacts.  
Mitigate these impacts where possible.

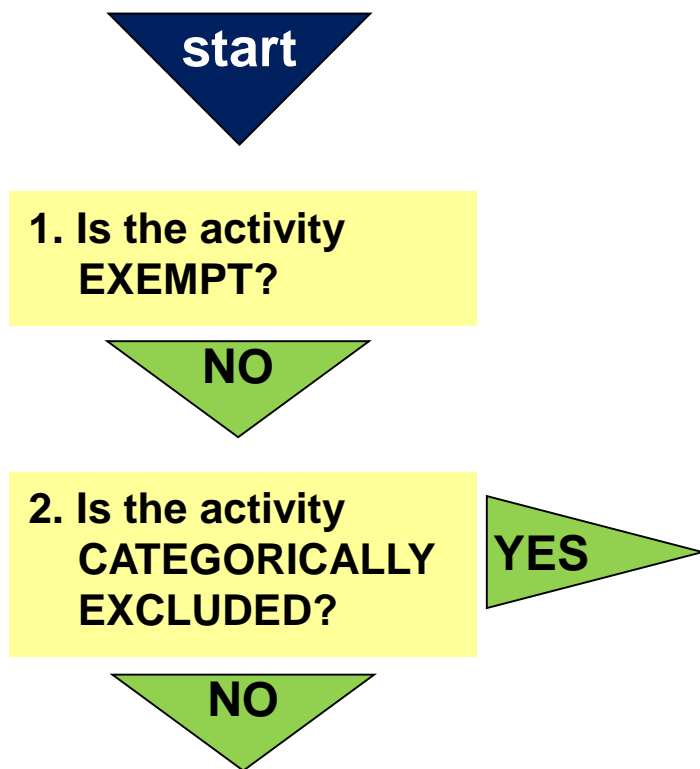


**Under Reg 216,  
EXEMPTIONS are ONLY. . .**

- 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*

# Screening under 22 CFR 216:

## Categorical Exclusions

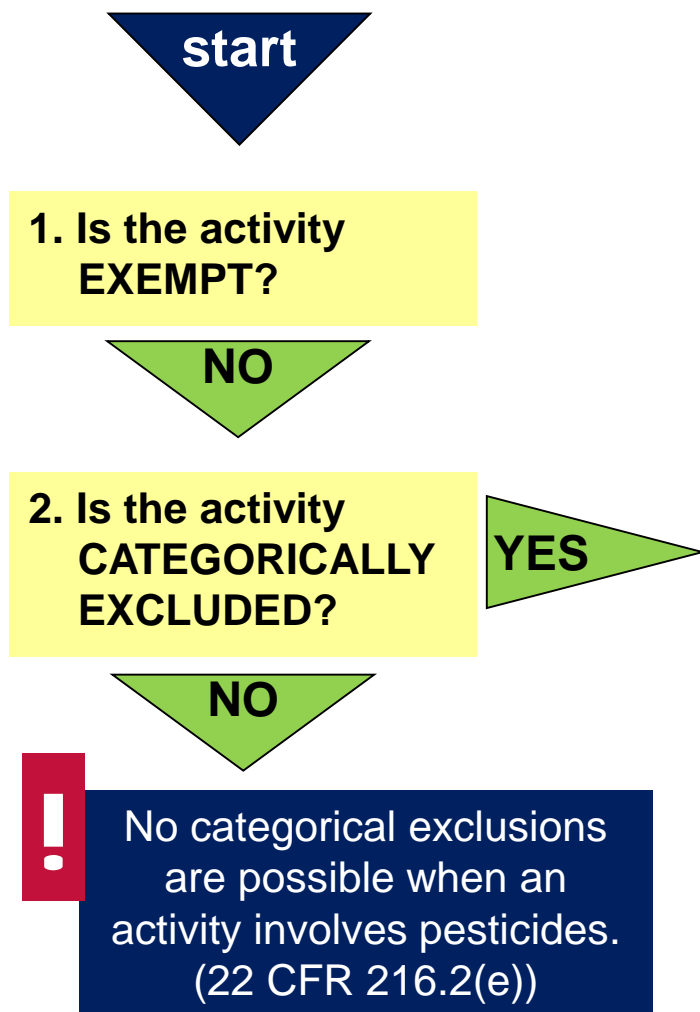


**ONLY activities fitting in a set of 15 specific categories MAY qualify for categorical exclusions, including. . .**

- 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



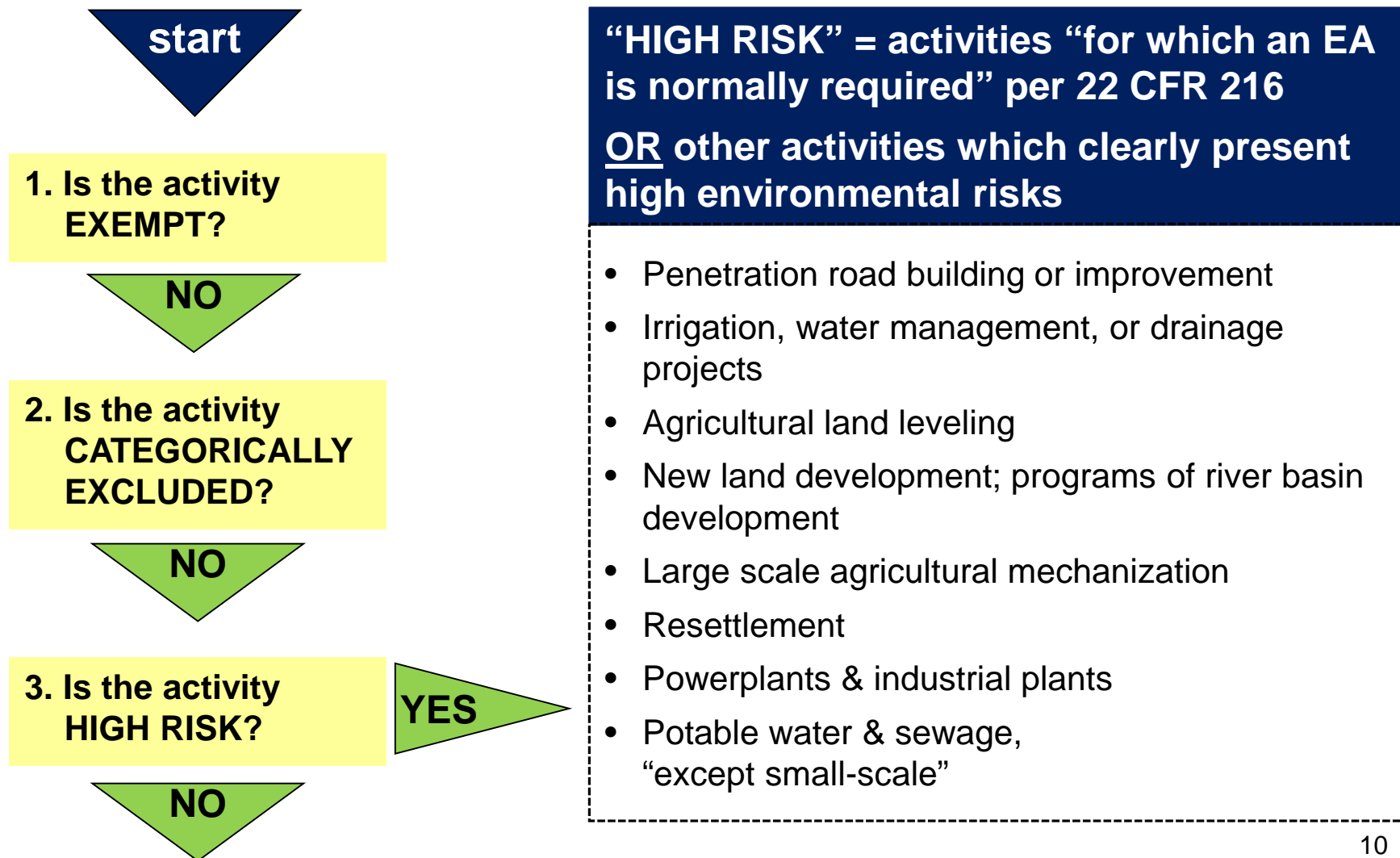
An activity may “fit” into a categorically excluded class. . .

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

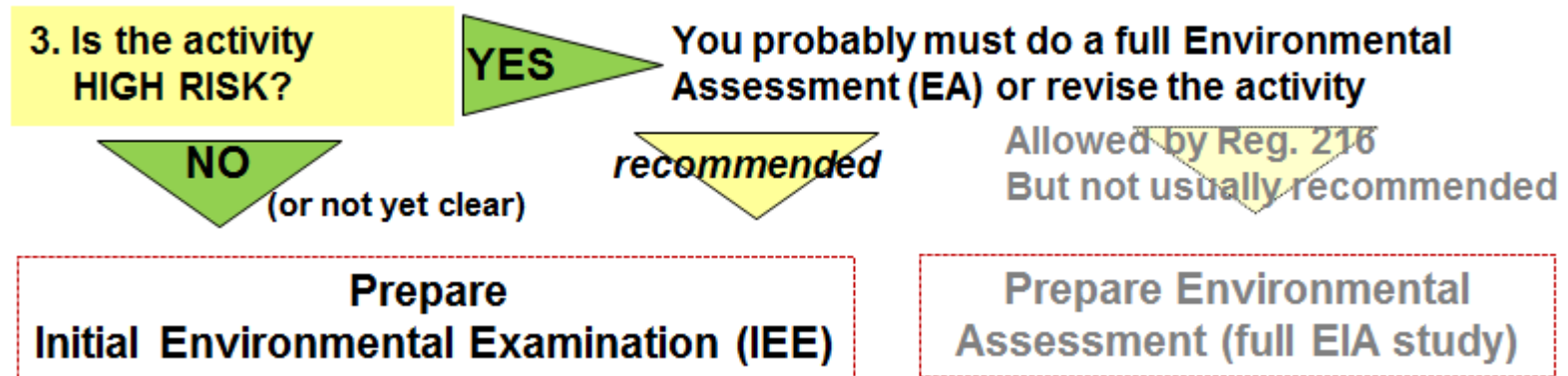
Why would categorical exclusions NOT apply if USAID funds. . .

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

# “High Risk” (EA Likely Required)



# What if my activity is “high risk”?



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	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

## 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	<b>Categorical Exclusion Request + FACESHEET</b>
All activities require an IEE	<b>IEE</b> covering all activities + FACESHEET
Some activities are categorically excluded, some require an IEE	An <b>IEE</b> 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> + FACESHEET
High-risk activities	<ul style="list-style-type: none"> <li>Initiate scoping and preparation of an EA</li> </ul>

REQUEST FOR CATEGORICAL EXCLUSIONS

PROGRAM/ACTIVITY NUMBER: [blank]

PROGRAM/ACTIVITY NAME: [blank]

Country/Region: [blank]

Principal Investigator: [blank]

Program Start: [blank]

Program End: [blank]

Program Status: [blank]

Program Title: [blank]

Program Description: [blank]

Program Justification: [blank]

Program Objectives: [blank]

Program Results: [blank]

Program Budget: [blank]

Program Evaluation: [blank]

Program Monitoring: [blank]

Program Reporting: [blank]

Program Documentation: [blank]

Program Compliance: [blank]

Program Accountability: [blank]

Program Transparency: [blank]

Program Integrity: [blank]

Program Effectiveness: [blank]

Program Efficiency: [blank]

Program Economy: [blank]

Program Equity: [blank]

Program Inclusion: [blank]

Program Sustainability: [blank]

Program Resilience: [blank]

Program Adaptability: [blank]

Program Innovation: [blank]

Program Leadership: [blank]

Program Collaboration: [blank]

Program Partnership: [blank]

Program Accountability: [blank]

Program Transparency: [blank]

Program Integrity: [blank]

Program Effectiveness: [blank]

Program Efficiency: [blank]

Program Economy: [blank]

Program Equity: [blank]

Program Inclusion: [blank]

Program Sustainability: [blank]

Program Resilience: [blank]

Program Adaptability: [blank]

Program Innovation: [blank]

Program Leadership: [blank]

Program Collaboration: [blank]

Program Partnership: [blank]

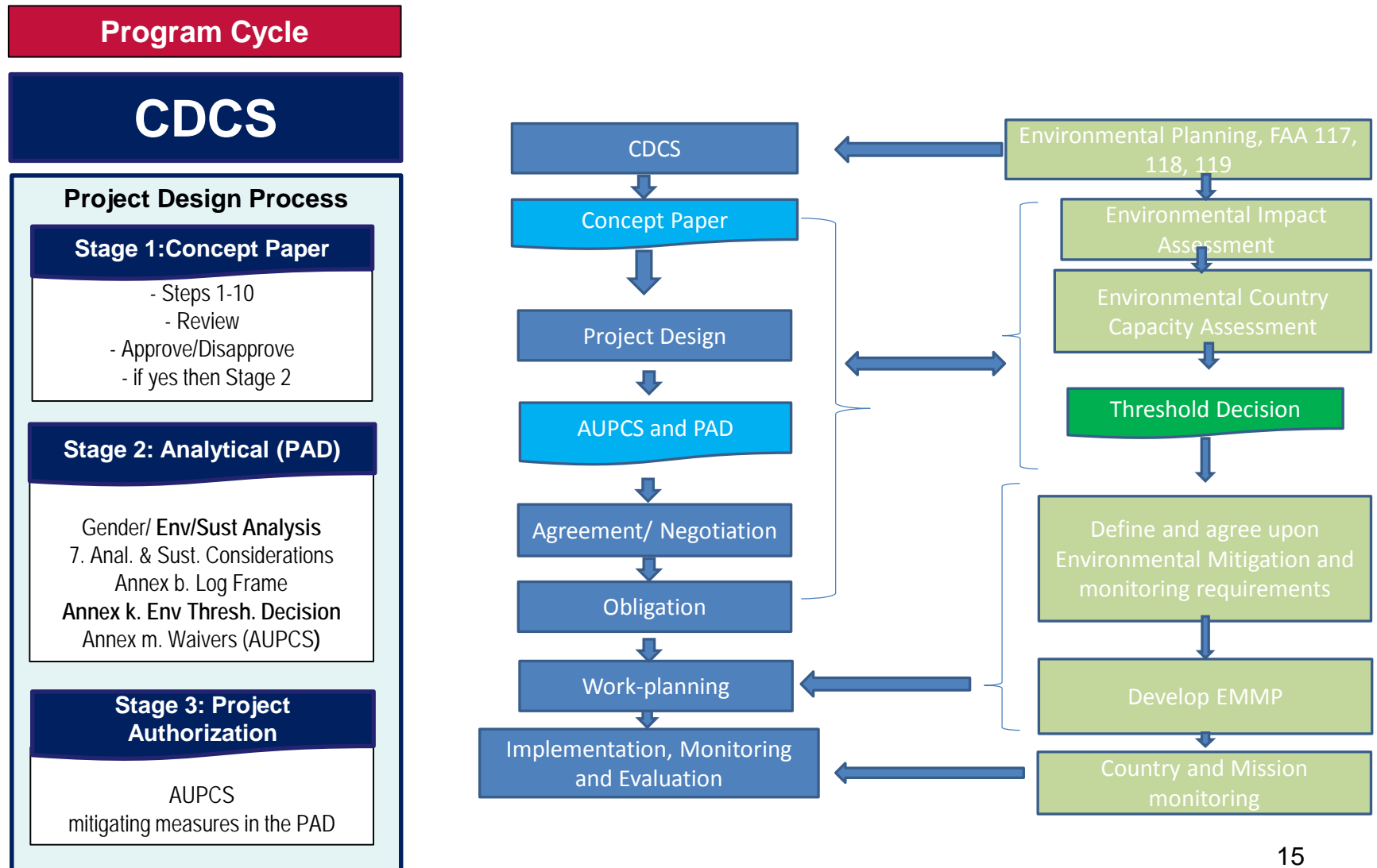
## CATEGORICAL EXCLUSION REQUEST

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



**Initial Environmental Examination (USAID's preliminary assessment)**

# Timing of 22 CFR 216 documentation. . .





# Initial Environmental Examination: What it looks like

## Basic IEE 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

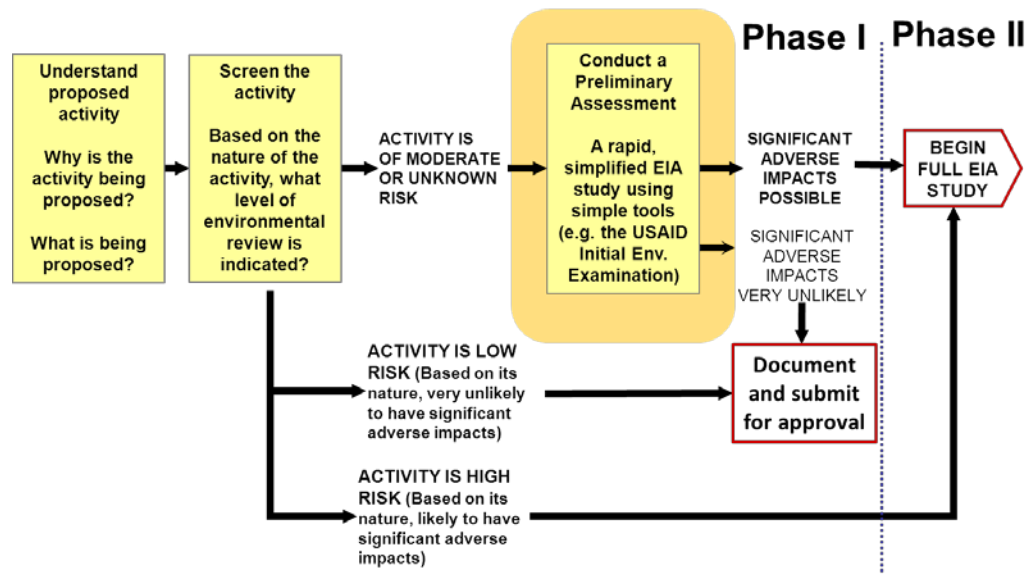
- Recommended threshold decisions and conditions
- Mitigation, monitoring & evaluation



**The IEE is very similar to preliminary assessments required by other donors and governments.**



# Purpose of Initial Environmental Examination



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

# 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	<b>NEGATIVE DETERMINATION</b>	No conditions. Go ahead.
With specified mitigation and monitoring, no significant environmental impacts	<b>NEGATIVE DETERMINATION WITH CONDITIONS</b>	Specified mitigation and monitoring must be implemented
Significant adverse environmental impacts are possible	<b>POSITIVE DETERMINATION</b>	Do full EA or redesign activity. Conditions imposed by the EA must be implemented.
Not enough information to evaluate impacts	<b>DEFERRAL</b>	You cannot implement the activity until the IEE is amended

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

# 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))

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

\*[www.usaid.gov/our\\_work/environment/compliance/database.html](http://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.)*





# And now: **A QUIZ!!**

**What will the 22 CFR 216 threshold decision likely be?**

- **Categorical Exclusion?**
  - **Negative Determination?**
  - **Negative Determination w/ Conditions?**
  - **Positive Determination?**
  - **Exemption?**
- 

# Categorical Exclusion



**Classroom instruction on education curriculum development**



# Negative Determination with Conditions



Market feeder road rehabilitation on  
Liberia



**Negative Determination  
with Conditions, or**

**Positive Determination (EA)**

**Commercial Nursery**





**Negative Determination  
with Conditions**

**Promoting Cacao  
cultivation**

# Positive Determination (EA)



Forestry activity



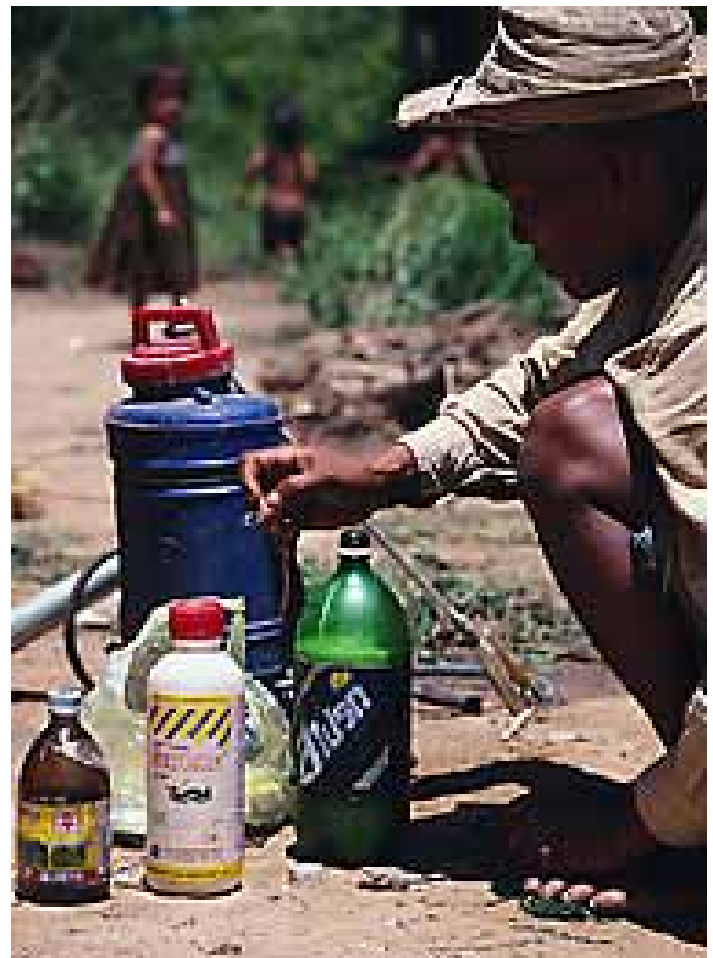
**Initial – Exemption**

**Long term – Positive  
Determination or  
Negative Determination  
with Conditions**



**Hurricane disaster response:**  
- Initial?  
- Long term reconstruction?

# Positive Determination or Negative Determination with Conditions Pesticide Procedures



**Pesticide use,  
Central America**



# Reg. 216 at the sector/Project Appraisal Document level



Reg. 216 written for the **project/activity level**

But many RCEs/IEEs written at the **Sector Portfolio** level

- To better consider environment in program design
- To satisfy the need for pre-obligation threshold decision
- AND NOW, program design guidance requires Reg. 216 documentation to be in place for the Project Appraisal Document (PAD). Each PAD covers multiple procurement actions.

## **RISKS:**

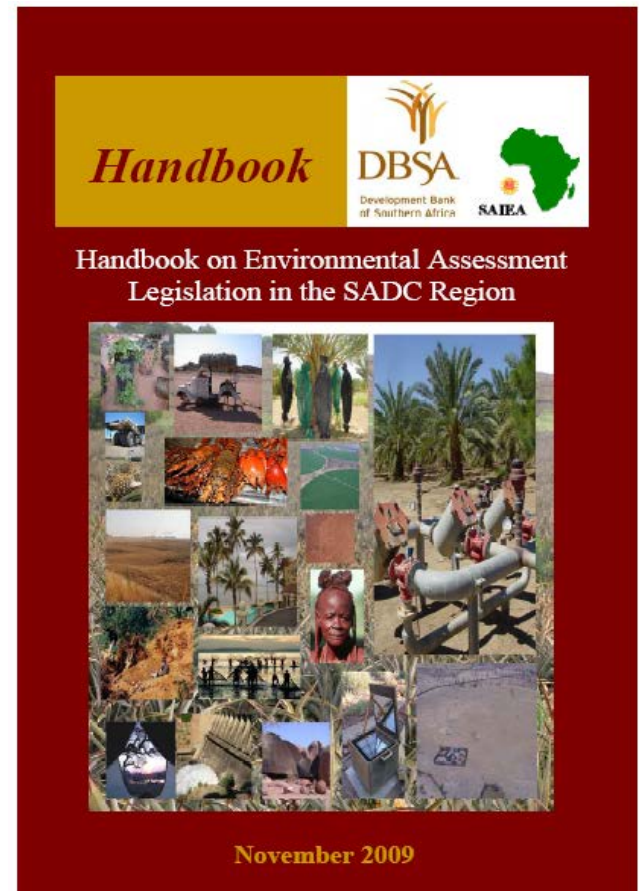
- failure to apply IEE at project level;
- project-level activities outside the scope of the IEE

**Operating Units must have a system in place to assure conditions from high-level IEEs are applied at the project level.**



# What about host-country EIA procedures?

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



# Summary

- 22 CFR 216 defines USAID's pre-implementation environmental review process;
- It is a specific implementation of the general EIA process;
- It begins with a systematic screening and decision-making process that leads to more detailed review, if necessary;
- Documentation and approval processes are clear and mandatory.