



USAID
FROM THE AMERICAN PEOPLE

**Session 5:
22 CFR 216 (Reg. 216):
USAID's Pre-implementation Environmental
Impact Assessment 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

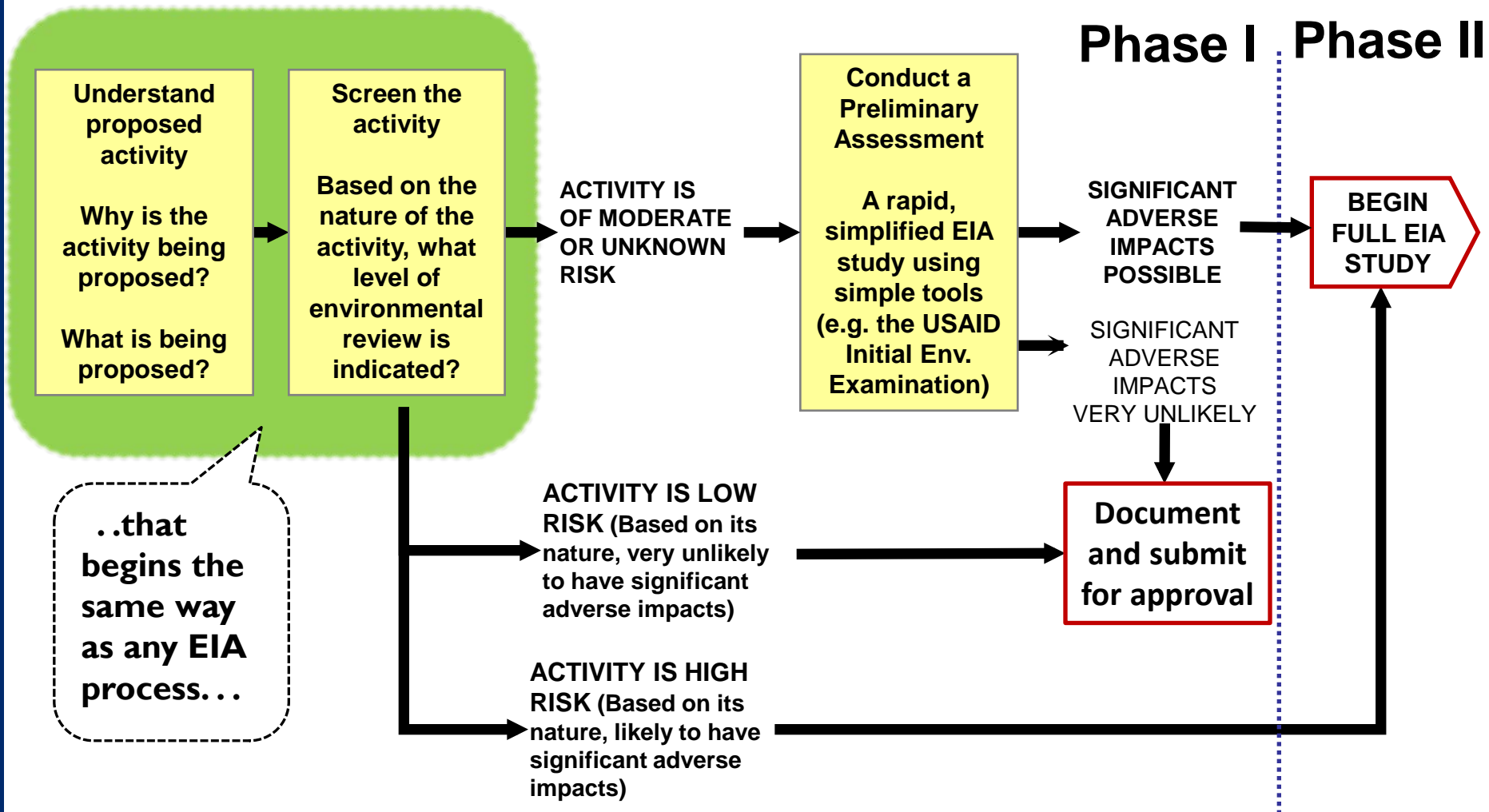
- Bureau Environmental Officer*

Approval

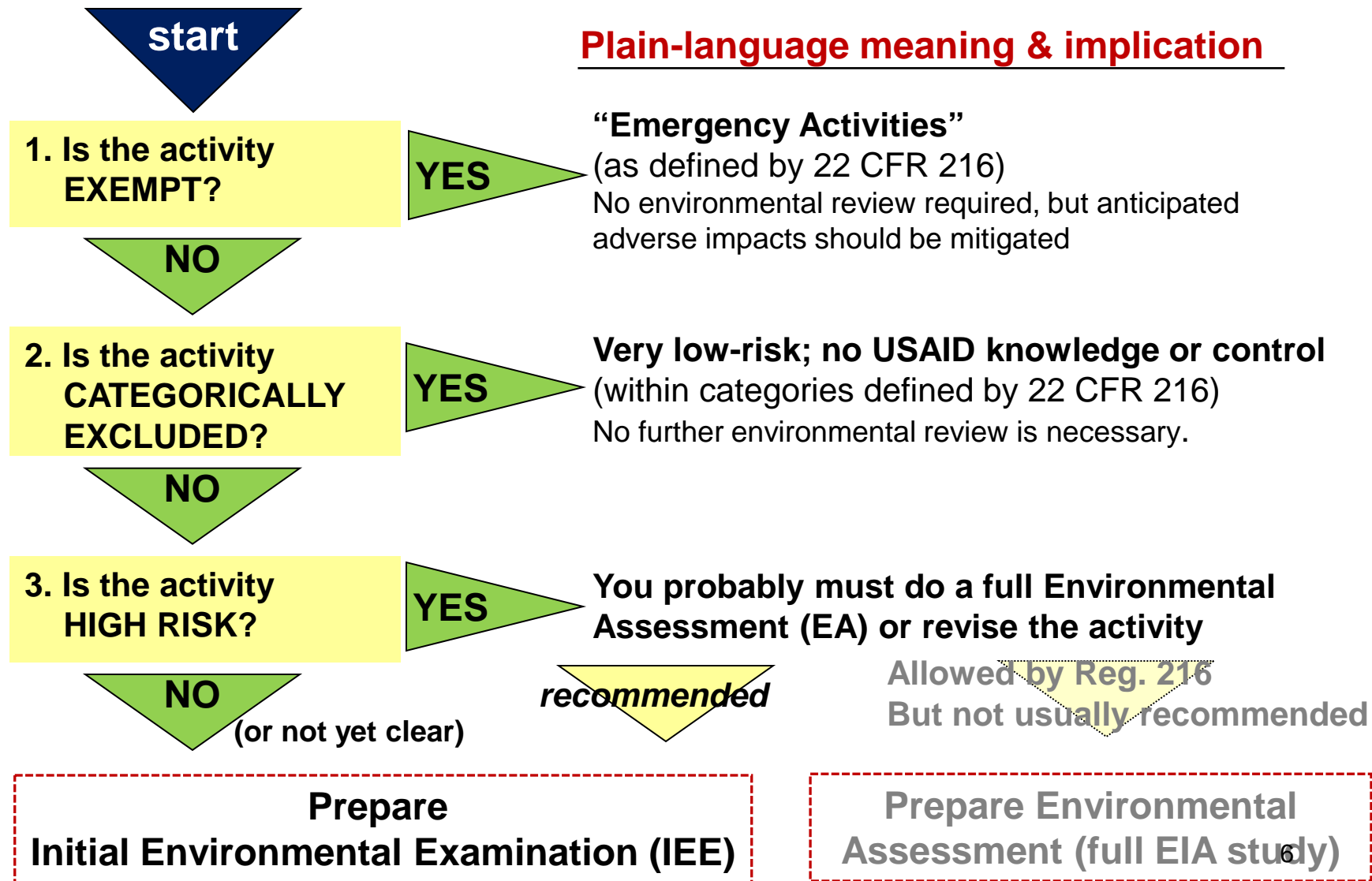
- General Counsel (rarely)

*required by Reg 216

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

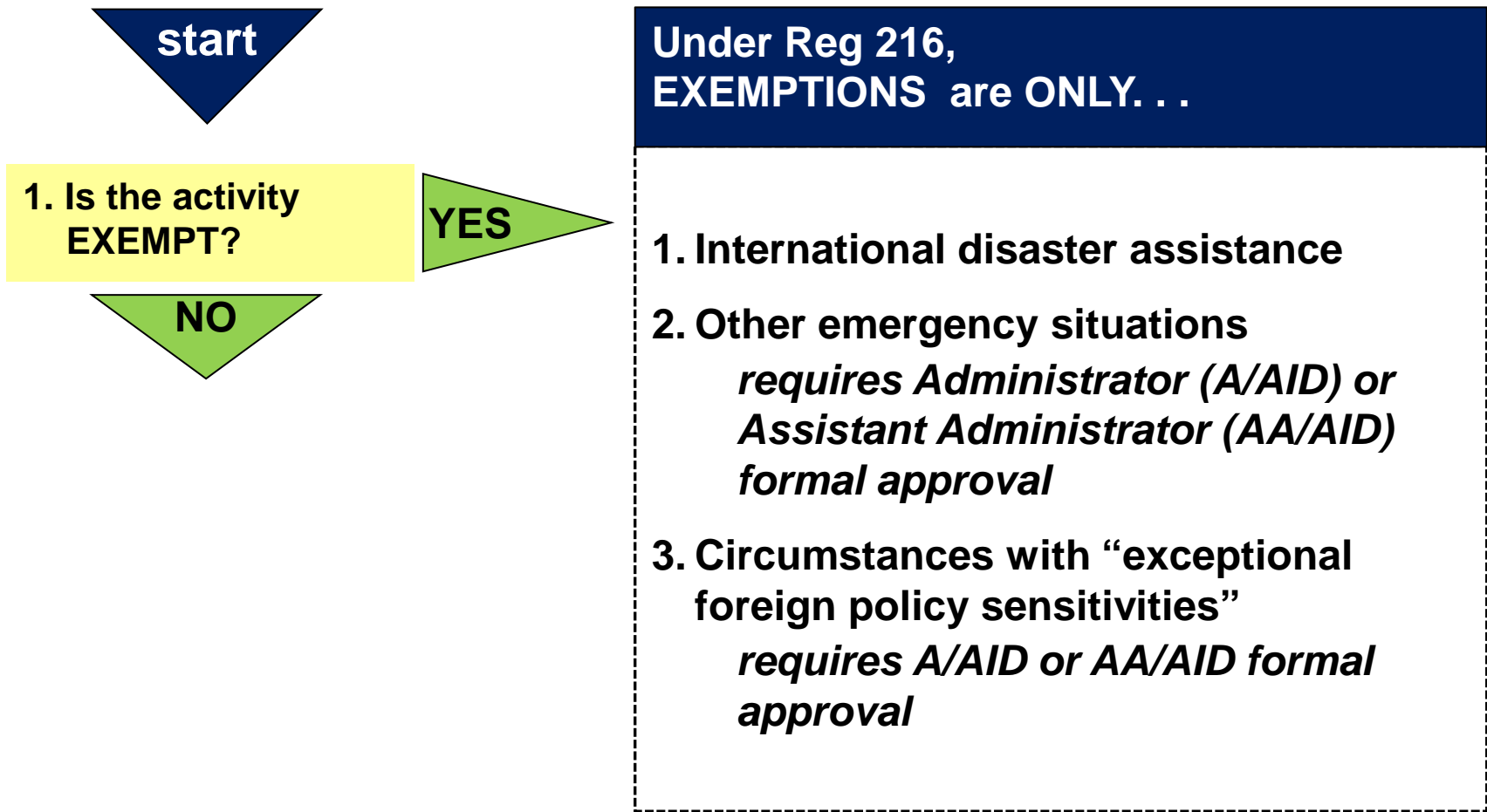


Screening under Reg. 216

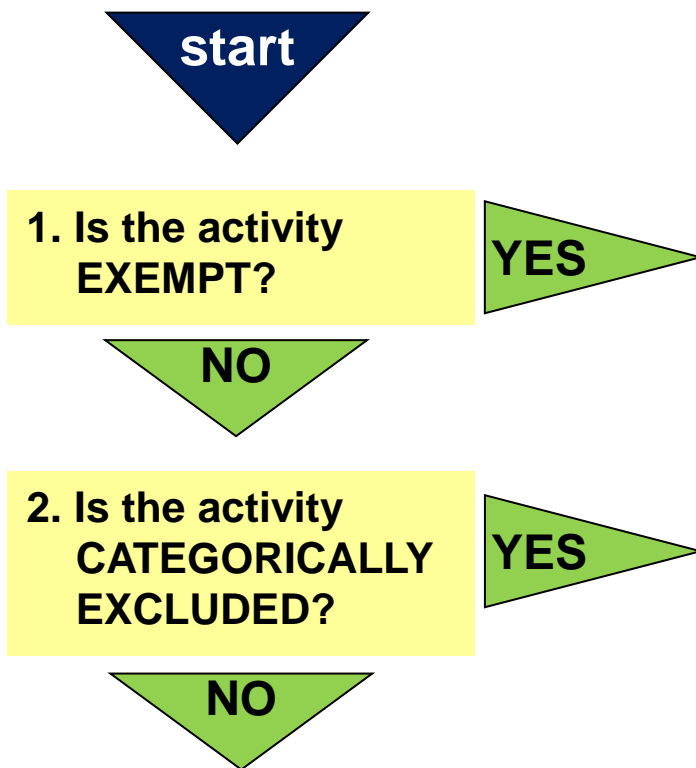


Screening under 22 CFR 216: Exemptions

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



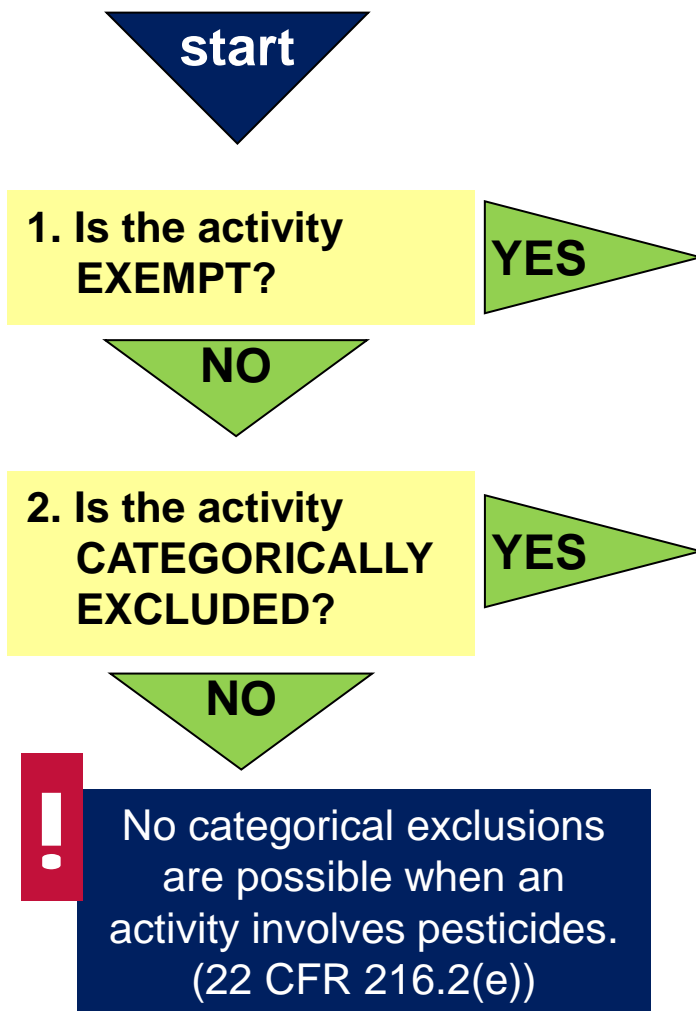
Screening under 22 CFR 216: Categorical Exclusions



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



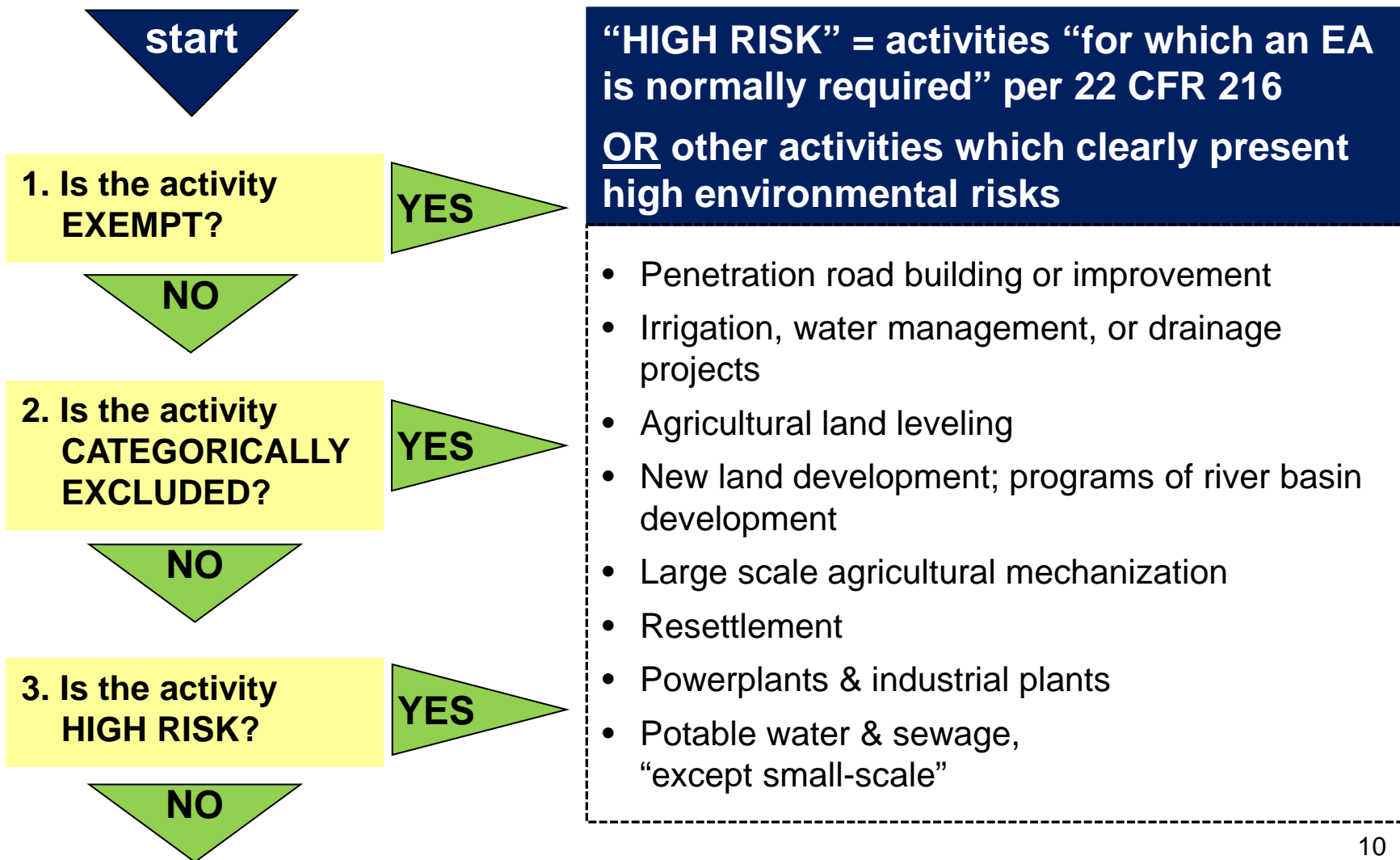
An activity may “fit” into a categorically excluded class. . .

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

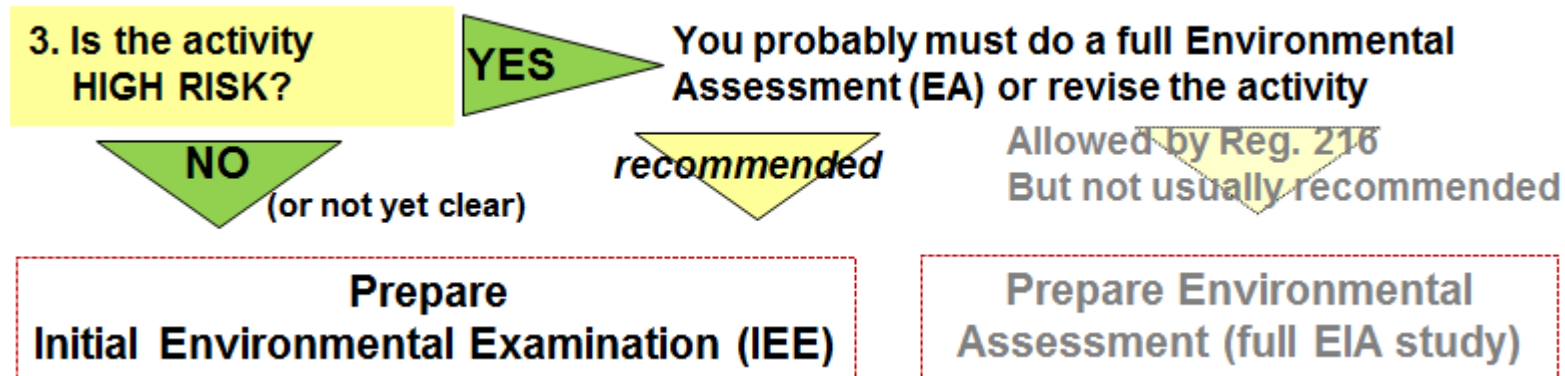
Why would categorical exclusions NOT apply if USAID funds. . .

- A technical advisor to the ministry of environment & energy with co-signature authority over mining concession awards?
- Midwife training in management of 3rd-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

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...

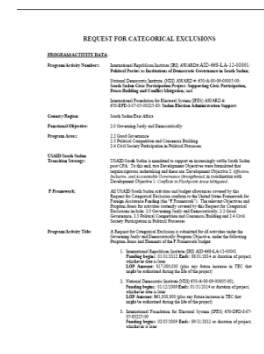
Activity*	Exempt	CatEx	IEE Req'd	EA Req'd
1. Small clinic rehabilitation			X	
2. Borehole Installations			X	
3. Training in patient record-keeping		X		
4. Construct provincial medical waste disposal facility				X

*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



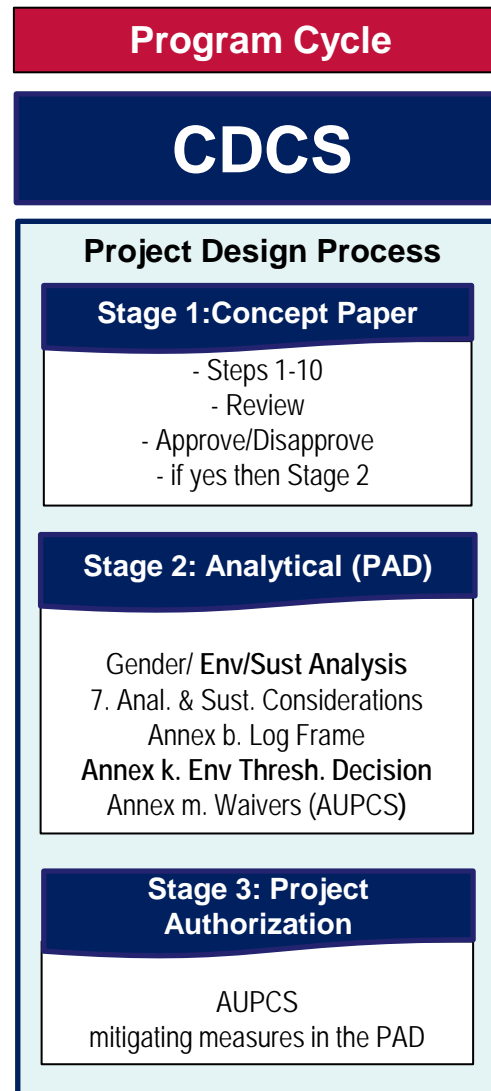
CATEGORICAL EXCLUSION REQUEST
 Very simple; 1-2 pages.
 Describes the activities.
 Cites 22 CFR 216 to justify the catex.



Initial Environmental Examination (USAID's preliminary assessment)

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

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

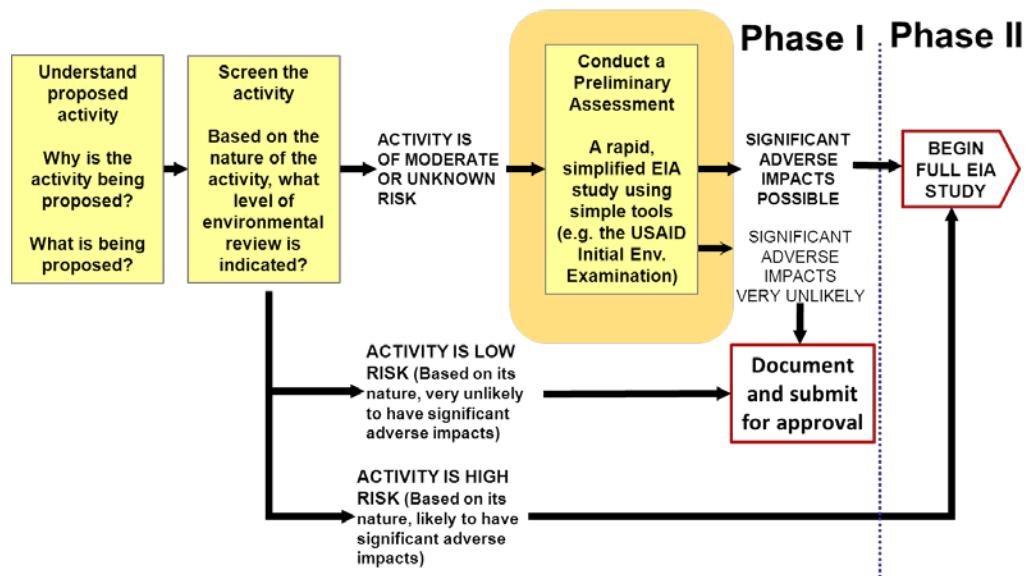
4. Recommended threshold decisions and mitigation actions

- 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	NEGATIVE DETERMINATION	No conditions. Go ahead.
With specified mitigation and monitoring, no significant environmental impacts	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.

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))

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))

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

*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



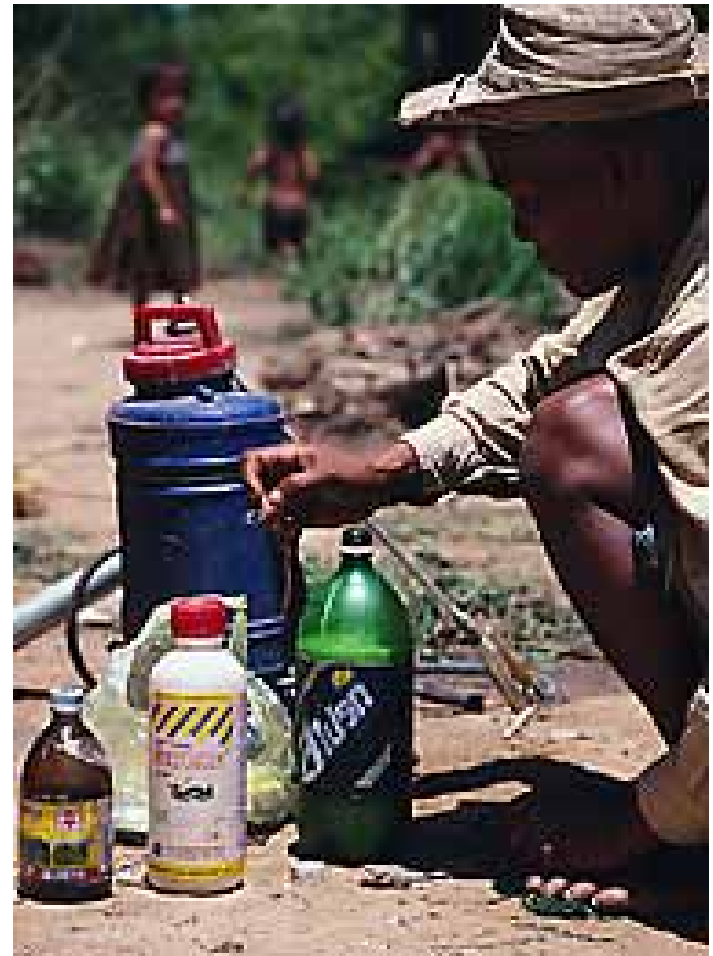
Initial – Exemption

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.

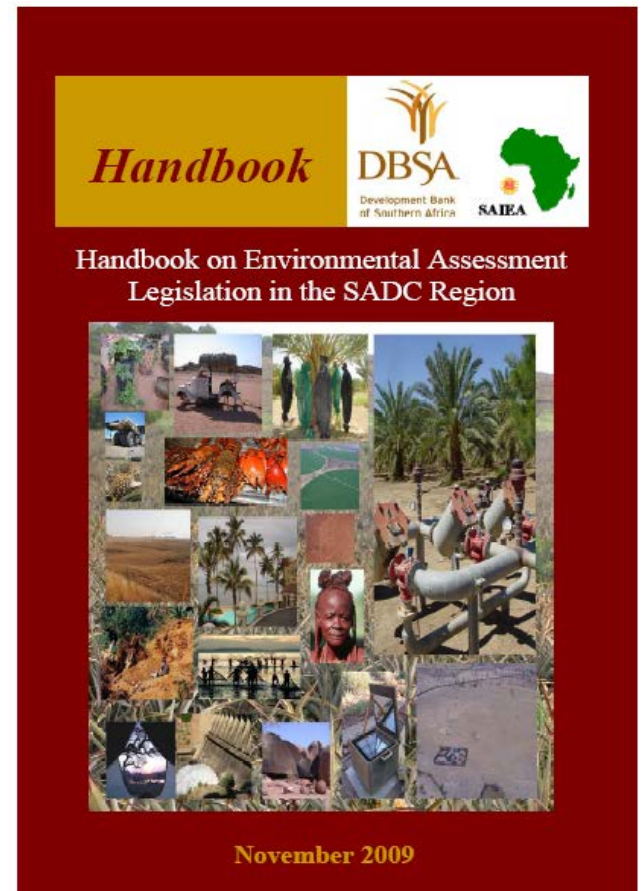
RISKS:

- 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.