



SESSION 3: ENVIRONMENTAL PROCEDURES: INTENSIVE REVIEW

Maputo, Mozambique • May 2018



GLOBAL ENVIRONMENTAL
MANAGEMENT SUPPORT

SESSION LEARNING OBJECTIVES

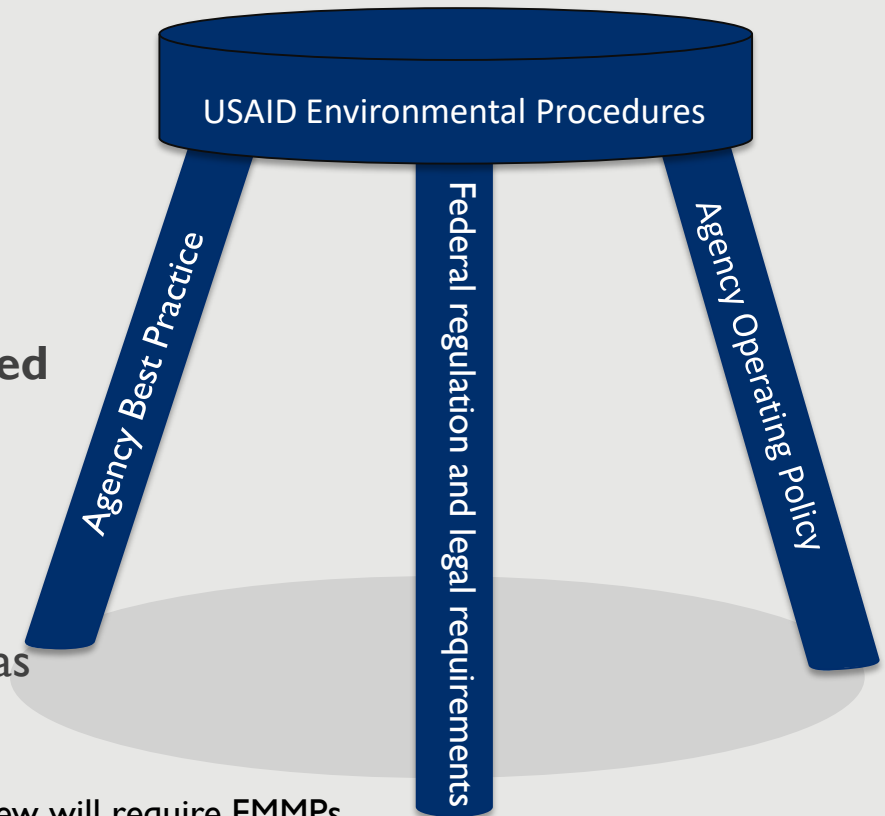
- Ensure we all have a common baseline knowledge of
 - USAID's environmental compliance requirements over the program cycle, including roles and responsibilities
 - Why a systematic environmental compliance process is necessary
 - The EIA process and concept on which the requirements are based
 - 22 CFR 216's specific implementation of the general EIA process
 - 22 CFR 216 documentation & EMMPs



USAID'S ENVIRONMENTAL PROCEDURES: 3 KEY COMPONENTS

- **Federal statute, regulation and executive order**
 - 22 CFR 216, underpinned by NEPA
 - FAA Sections 117, 118, 119
- **Agency Operating Policy**
 - Automated Directives System (ADS)
- **Best Practices Required via approved Reg 216 documentation***
 - Environmental Mitigation and Monitoring Plans (EMMPs)
 - Including environmental compliance as part of regular project reporting

*draft revised ADS204 now entering agency review will require EMMPs, environmental compliance reporting & other best practices





SCOPE

- The procedures apply to all USAID-funded and USAID-managed programs and activities. Including:
 - Substantive amendments or extensions to ongoing activities
 - Non-project assistance
- Exemptions are very limited, principally disaster assistance. (216.2(b); ADS 204.3.10)

ORIGINS & MANDATES

1970: NEPA.

US Congress passes National Environmental Policy Act—world's first national EIA law*

Requires USG agencies to assess the potential environmental and social impacts of their actions

Early 1970s:

USAID resisted implementation of NEPA

Unsafe use of the pesticide malathion by USAID/Pakistan project-- 5 dead, 100s poisoned

Consortium of US NGOs sued USAID to force it to comply with NEPA

Dec 1975: In court settlement, USAID agreed to develop procedures for NEPA implementation that became 22 CFR 216.

The mandate was reinforced:

1979: Presidential Executive Order requires USG agencies to comply with spirit of NEPA in overseas activities

1985: Foreign Assistance Act EIA mandate

**National EIA requirements are now nearly universal*



OVERVIEW: ROLES & RESPONSIBILITIES

USAID

Assures approved Reg. 216 documentation in place.

Establishes/approves environmental mitigation & monitoring conditions.

Oversees compliance with these conditions, a core part of AOR/COR responsibilities.

Implementing Partners

Implement environmental management conditions established in Reg. 216 documentation.

Report on implementation to USAID.

RESPONSIBILITIES WITHIN USAID

Project Design Team Lead;
AOR/COR if designated: assures approved Reg. 216 documentation is in place prior to obligation/implementation.

MEO, REA: Advice; quality gatekeepers

Mission Director. Approves Reg. 216 documents. Ultimately responsible for compliance

BEO. Concurs on Reg. 216 documents;

AOR/COR or AM. Oversees compliance with IEE/EA conditions; makes sure activities stay within the scope of approved Reg. 216 documentation.



EIA = ENVIRONMENTAL IMPACT ASSESSMENT

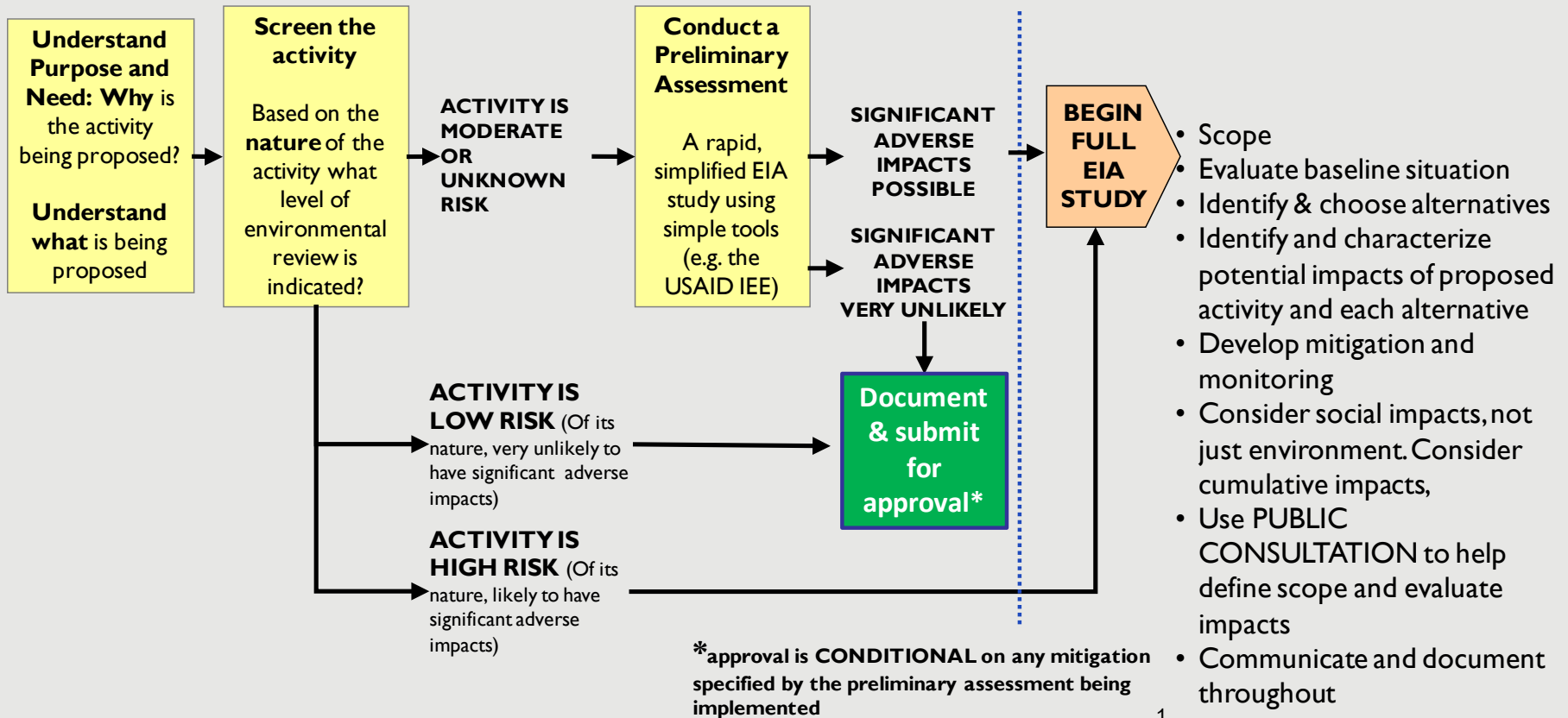
- A formal process for identifying:
 - Likely effects of activities or projects on the environment, and on human health and welfare
 - Means and measures to mitigate and monitor adverse effects
- Internationally relatively standardized, good practices well-understood
- For USAID, defined by 22 CFR 216 *and* consistent with the National Environmental Policy Act (NEPA)



GENERIC EIA PROCESS

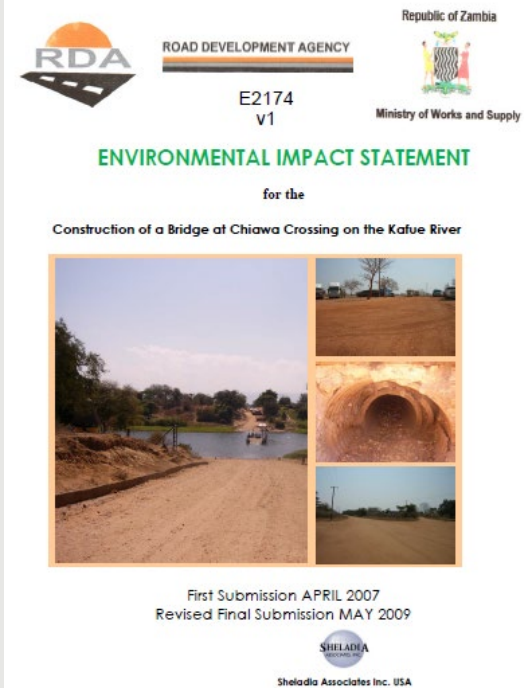
Phase 1: Preliminary Inquiries

Phase 2: Full EIA Study



ENVIRONMENTAL IMPACT ASSESSMENT: A UNIVERSAL REQUIREMENT

- 1970 US National Environmental Policy Act response to domestic environmental incidents
- EIA now extends to:
 - *Infrastructure and economic development projects funded by the private sector & donors*
 - *Analysis of policies, not just projects*
- In many developing countries, EIA is the core of national environmental regulation
- Most countries & almost all donors (including USAID) now have EIA requirements



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Operational Manual

Home > Projects > Policies > Ext Opmanual > Table of Contents > OPs > **OP 4.01 - Environmental Assessment**

OP 4.01 - Environmental Assessment

These policies were prepared for use by World Bank staff and are not necessarily a complete treatment of the subject. OP 4.01
January, 1999

This Operational Policy statement was updated in February 2011 to clarify the use of framework instruments and to add strategic environmental and social assessment (SESA) to the list of available instruments. It was previously revised in March 2007 to reflect the issuance of OP/BP 8.00, *Rapid Response to Crises and Emergencies*, and in August 2004 to ensure consistency with the requirements of OP/BP 8.60.

Note: OP and BP 4.01 together replace OMS 2.36, *Environmental Aspects of Bank Work*; OD 4.00, *Annex A, Environmental Assessment*; OD 4.00, *Annex B, Environmental Policy for Dam and Reservoir Projects*; OD 4.01, *Environmental Assessment*; and the following Operational Memoranda: *Environmental Assessments: Instructions to Staff on the Handling of the Borrower's Consultations with Affected Groups and Relevant Local NGOs*, 4/10/90; *Environmental Assessments: Instructions to Staff on the Release of Environmental Assessments to Executive Directors*, 11/21/90; and *Release of Environmental Assessments to Executive Directors*, 2/20/91. Additional information related to these statements is provided in the *Environmental Assessment Sourcebook* (Washington, D.C.: World Bank, 1991) and subsequent updates available from the Environment Sector Board, and in the *World Bank Group Environment, Health and Safety Guidelines (EHSGL)*.¹ Other Bank statements that relate to the environment include OP/BP 4.02, *Environmental Action Plans*; OP/BP 4.04, *Natural Habitats*; OP 4.07, *Water Resources Management*; OP 4.08, *Pest Management*; OP/BP 4.10, *Indigenous Peoples*; OP/BP 4.11, *Physical Cultural Resources*; OP/BP 4.12, *Involuntary Resettlement*; OP/BP 4.36, *Forests*; and OP/BP 10.04, *Economic Evaluation of Investment Operations*. These OP and BP cover all projects for which a PID is first issued after March 1, 1998. Questions may be addressed to the Safeguard Policies Helpdesk in OPCS (Safeguards@worldbank.org).

Revised April 2012

1. The Bank² requires environmental assessment (EA) of projects proposed for Bank financing to help ensure that they are environmentally sound and sustainable, and thus to improve decision making.

*The legal mandates aside,
Why be so formal?*

Don't we know enough about development that we will "get things right" without a formal, EIA-based environmental compliance process?
And why worry in the case of smaller-scale activities anyway?

GETTING THINGS RIGHT ISN'T SO EASY,
EVEN WHEN THE ISSUES ARE CLEAR



Open-air abattoir with a USAID-branded gate and
uncontrolled effluent & waste disposal

Getting things right is even harder when cause and effect are complicated



Photo: Stephen Lamm MD
, Harvard Arsenic Project



Photo: UNESCO-IHE

Ponds excavated for fill to build-up ground level in villages for flood protection

Ponds provided a source of organic carbon which settles to bottom of pond, seeps underground and is metabolized by microbes

Created conditions for mass arsenic poisoning when villages switched from surface water to "cleaner" tube wells.

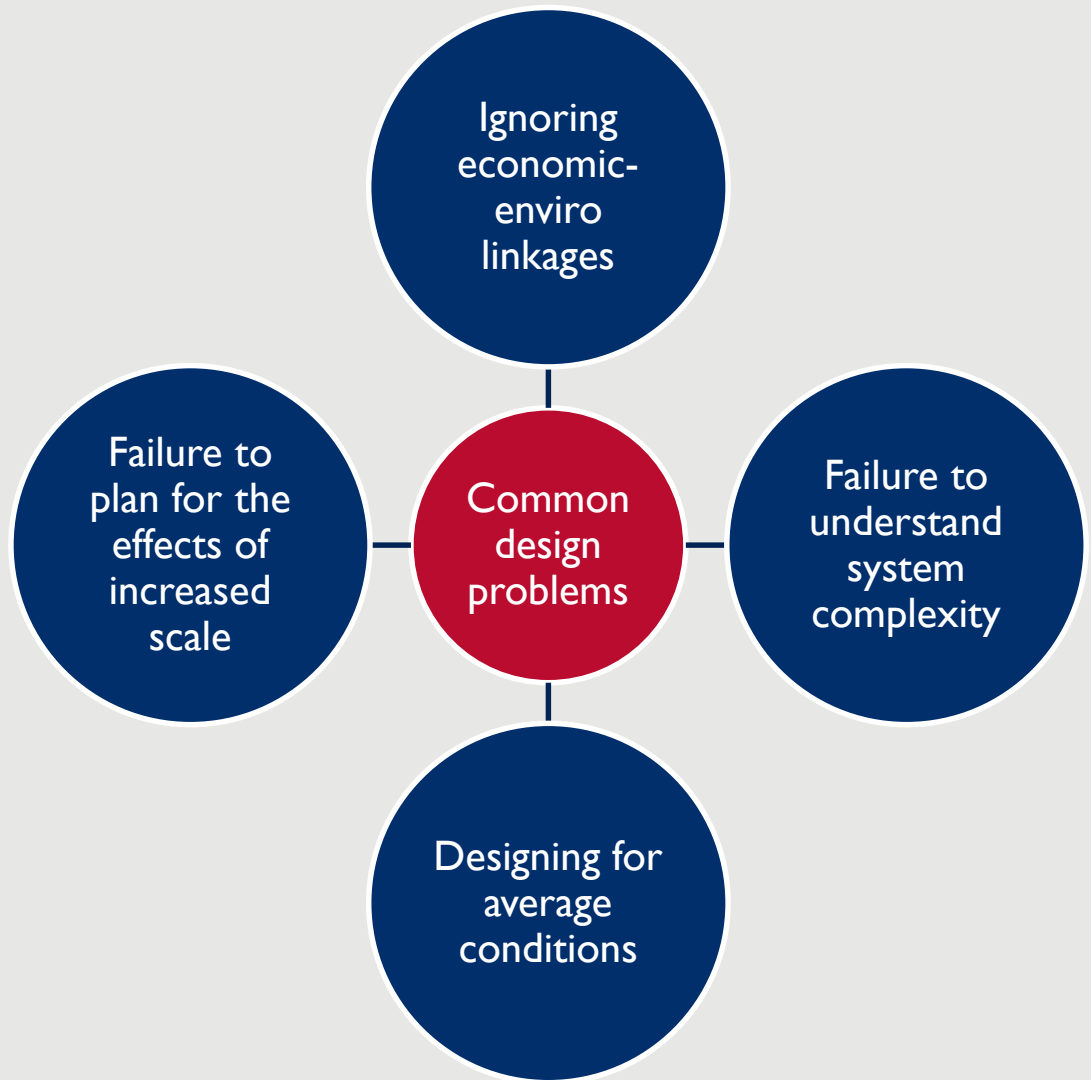
creates chemical conditions that cause naturally occurring arsenic to dissolve out of the sediments and soils and move into groundwater

Today ~3000 Bangladeshis die each year of **As**-induced cancer; 2 mn live with chronic **As** poisoning

GETTING IT WRONG: PATHWAYS TO ENVIRONMENTAL FAILURE

As the previous slides show, there are many ways to get things wrong

But most can be traced to common design problems



YES, WE DO NEED A FORMAL, SYSTEMATIC PROCESS!

Life-of-project environmental compliance is NOT just paperwork.

It IS a framework to assure:

- a systematic & systems approach
- prevention-orientation
- application of technical best practices

with respect to environmental and social impacts and risk presented by agency-funded/managed activity.

GOAL: Environmentally Sound Design and Management



ACTIVITIES AND ACTIONS

WE TRY TO USE “ACTIVITY” as ADS 201 does—i.e. what the rest of the world calls a project

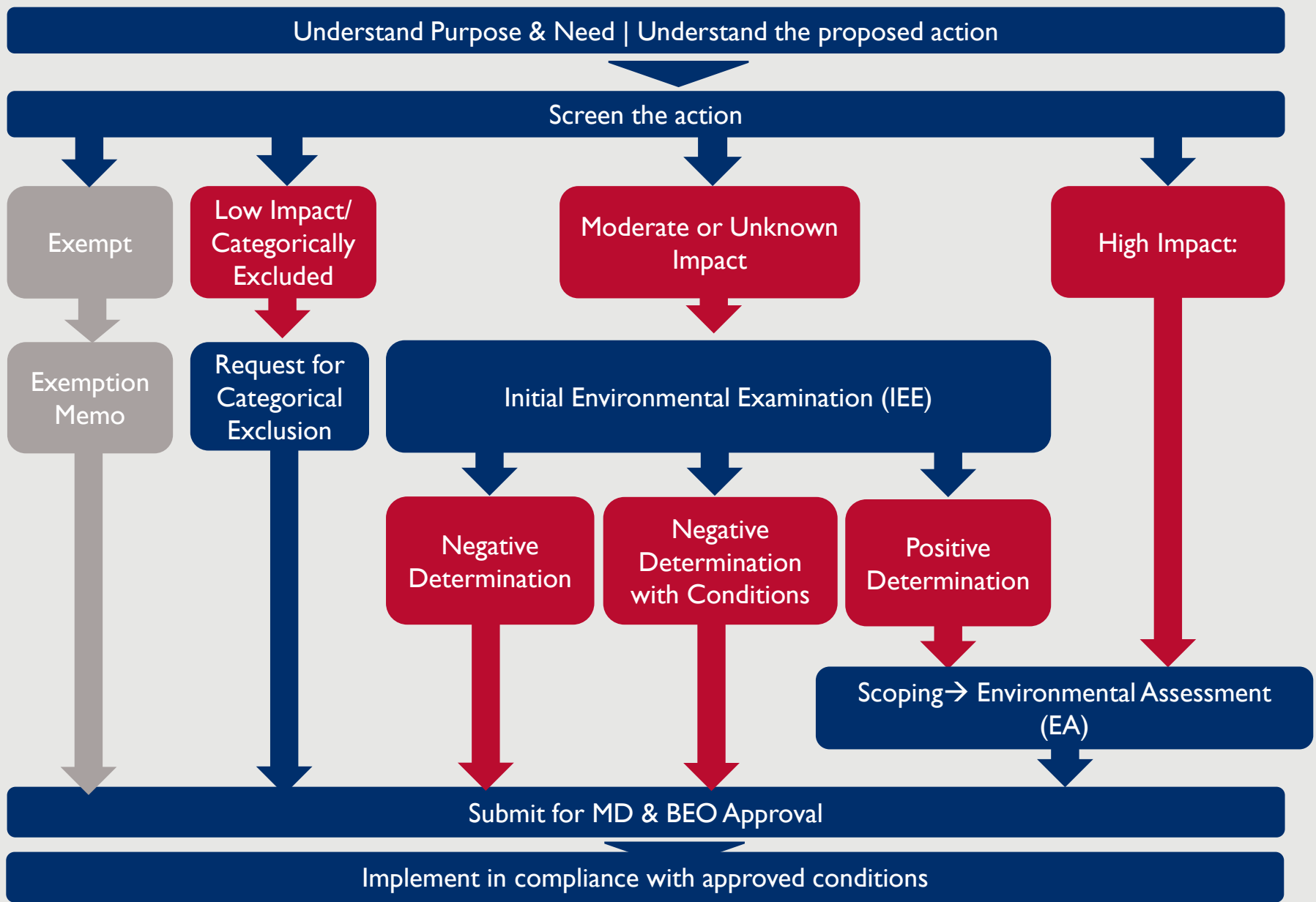
ACTIONS—the specific interventions implemented under an activity

a single action may have many components—e.g. the action of rural road rehabilitation entails survey, grading, materials sourcing. . .

22 CFR 216 threshold determinations are assigned at the action level.

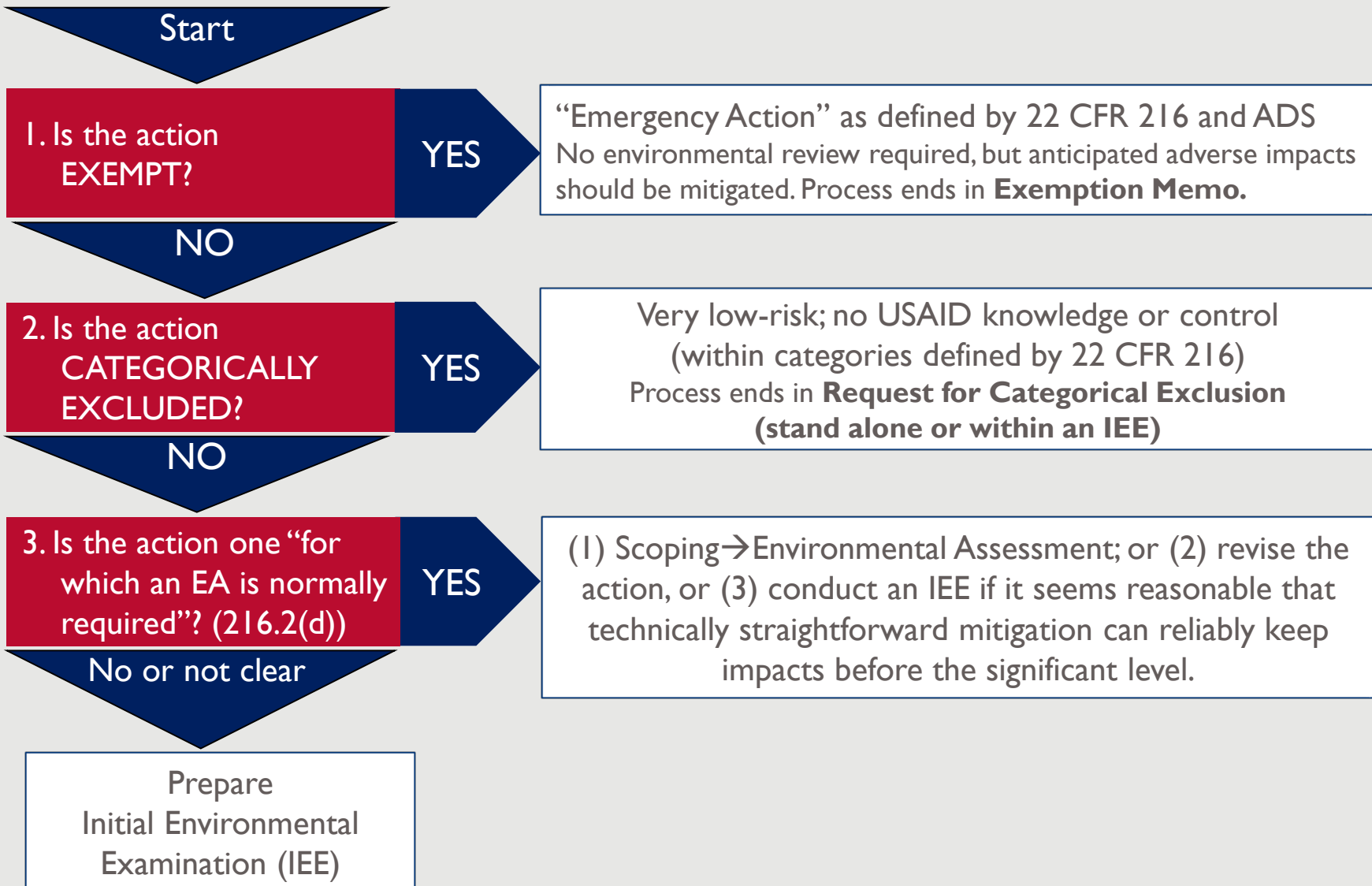


22 CFR 216 PROCESS – SIMPLIFIED OVERVIEW



SCREENING PROCESS UNDER REG 216

For each action being addressed...



CATEGORICAL EXCLUSIONS

2. Is the action
**CATEGORICALLY
EXCLUDED?**

YES

Request for
Categorical
Exclusion

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

- An action may “fit” into a categorically excluded class but if adverse impacts are reasonably foreseeable, the activity will NOT receive a categorical exclusion
- No categorical exclusions are possible when an activity involves support for procurement or use of pesticides (22 CFR 216.2(e))

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

ONLY actions 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

AN ACTION MAY “FIT” INTO A CATEGORICALLY EXCLUDED CLASS...

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

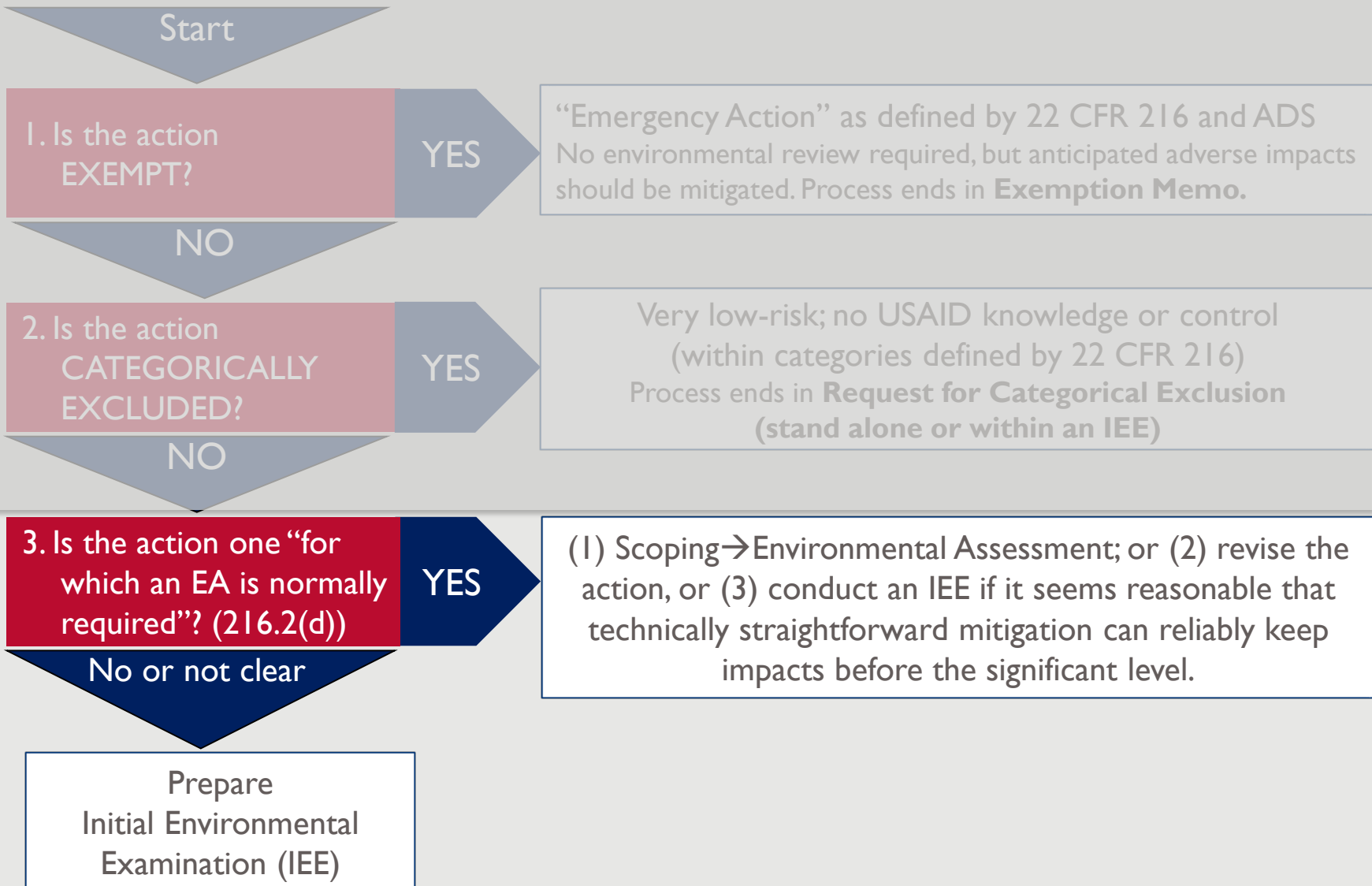
Why would categorical exclusions NOT apply if USAID funds...

- 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?



SCREENING PROCESS UNDER REG 216

For each action being addressed...



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

RECORD SCREENING RESULTS AS YOU GO...

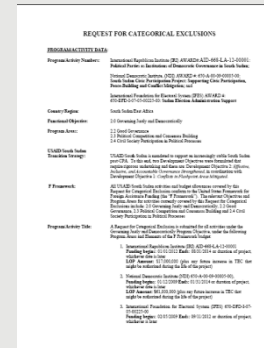
Activity*	Exempt	CatEx	IEE Req'd	EA Req'd
1. Small clinic rehabilitation			X	
2. Borehole Installations			X	
3. Training in patient record-keeping		X		
4. Construct provincial medical waste disposal facility				X

*Use a table like this. It helps.

THEN, 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	Exemption Memo
All activities categorically excluded	Categorical Exclusion Request w/ TDM*
All activities require an IEE	IEE covering all activities w/ TDM*
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 w/ TDM*
EA Required	<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

*threshold determination memo (aka approval facesheet)

INITIAL ENVIRONMENTAL EXAMINATION (IEE):

A simplified EIA study using relatively 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



Outline per standard template...

- 1. Project/Activity Description**
- 2. Baseline Environmental Information**
- 3. Analysis of Potential Environmental Risk**
- 4. Environmental Determinations***
- 5. Conditions and Mitigation Measures**
- 6. Limitations**
- 7. Revisions**

*includes CRM

IEEs AND THEIR DETERMINATIONS

For each action addressed, an 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 env. 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.

MORE ON THIS LATER

A **positive determination** triggers a full EIA

IMPACTS NEED NOT BE DIRECT.

SIGNIFICANT ADVERSE INDIRECT OR CUMULATIVE IMPACTS WILL TRIGGER A PD.



TIMING OF REG 216 DOCUMENTATION

- Threshold Determinations (CE, ND, NDw/C, PD as documented in RCE or IEE) should be in place for PAD approval IF sufficient information is available
- Otherwise must be in place for activity approval, UNLESS threshold decision is formally deferred
- EAs must be completed and approved prior to activity approval, except in the case of deferral
- Deferrals **MUST** be resolved before funds can be expended on the subject action



WHEN IEES AND/OR EAS ARE 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



REG. 216 AT THE SECTOR/PAD LEVEL

Reg. 216 written for the project/activity level

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

- To better consider environment in program design
- To reduce number of 22 CFR 216 documents/actions required

RISKS:

- failure to apply IEE at activity level;
- actions within individual 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 activity level.

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*

PURPOSE OF AN EA

Better-informed decision making via:

- Full-awareness of significant adverse environmental impacts—and beneficial ones
- Consideration of alternatives that achieve purpose and need

Specify mitigation and monitoring actions to reduce adverse impacts of the chosen alternative.



REG. 216 SPECIFIES 3 TYPES OF FULL EIA STUDUES

ENVIRONMENTAL ASSESSMENT

Used to assess the environmental effects of a specific project or action

EXAMPLE

An EA to evaluate a single irrigation or health clinic project

PROGRAMMATIC ENVIRONMENTAL ASSESSMENT*

Used to assess the environmental effects of a class of similar actions

EXAMPLE

A PEA to evaluate construction of multiple schools or sustainable forest management plans

*The term in Reg. 216 is "Program Assessment"

Environmental Impact Statement

For activities affecting the US environment or the global commons.

(Very Rare)

Reg 216 does not discuss the content of the PEA in detail, simply stating:

"To the extent practicable, the form and content of the PEA will be the same as for EAs."

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

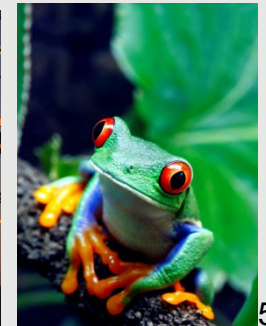
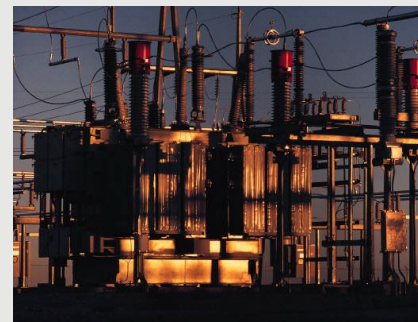
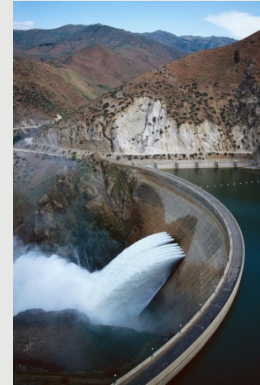
Implications:

- 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.

UNDER HOST COUNTRY PROCEDURES, EAs ARE TYPICALLY REQUIRED FOR...

- **Larger-scale infrastructure**, e.g. water treatment facilities, dams, power plants and transmission lines; pipelines, roads, landfills, etc.
- **Other large scale programs** with significant total biophysical impact, e.g., large agricultural programs; extensive use of pesticides in public health
- **Large water draws.** Activities resulting in significant withdrawals from fresh water bodies or aquifers
- **Sensitive areas.** Construction or land conversion in protected areas, wetlands, critical habitat.
- **Use of GMOs** (Genetically modified organisms, including crops.)



BEO REQUIREMENTS ADDRESS GAPS IN REG. 216 EA REQUIREMENTS

**MORE ON THIS
LATER**

- Reg. 216 does not
 - Require public consultation
 - Clearly require an EMMP



However, both are essential to make the EA effective—and usually required by host country procedures.

- USAID BEOs require these elements of good practice.



KEEP IN MIND...

NEED should be identified **NLT PAD** stage
& funds set aside

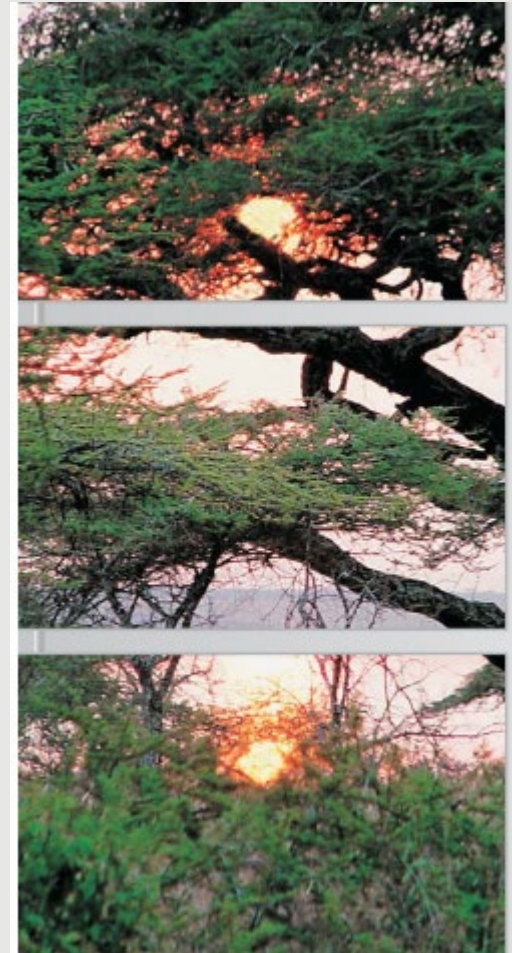
EAs can lead to redesign, not just adding mitigations

2-phase budgeting is required: the SOW for the EA is determined by the scoping process/statement

Activities to be covered by the EA cannot be implemented until EA is completed and approved.

As with IEEs, USAID takes full ownership of EAs once approved: **they are USAID documents, not the contractor's.**

For EAs also submitted to host countries authorities:
firm registration; fees; substantial involvement in EA by a local firm often required.



MITIGATION AND MONITORING

- **Mitigation** is the implementation of measures designed to eliminate, reduce, or offset the undesirable effects of project activities on the environment.
- **Monitoring** is observation and measurement of environmental activities to determine if your mitigation measures are:
 - Being implemented
 - Sufficient and effective
- **An Environmental Mitigation and Monitoring Plan (EMMP)** is a document that outlines mitigation measures and monitoring procedures for project activities



PLANNING AND SPECIFYING MITIGATION AND MONITORING: THE EMMP

- **TRANSLATES** IEE conditions into specific mitigation measures to implement IEE/EA conditions
- **SETS OUT** indicators/criteria for monitoring implementation & effectiveness of mitigation
- **ESTABLISHES** timing & responsible parties
- **PRESENTED** often in a table format. Formats are usually flexible but can be specified by the IEE.



Climate variability and change can undermine project progress and increase risk, therefore must be considered when developing an EMMP.

EMMP FORMATS

Standard template has been developed; AFR has not yet mandated its use. Regardless, EMMPs must include key elements below.

EMMP for Project XXX

Person Responsible for Overseeing EMMP:

[name, contact information]

Activity 1: [name of activity]

[briefly describe activity & summarize potential adverse environmental impacts—from IEE]

IEE or EA Condition (reproduced from the IEE or EA)	Mitigation Specific actions to be taken to comply with the condition. (if an IEE or EA condition is already specific to the project/ activity and implementation actions self-evident, this "translation step" can be omitted)	Monitoring How will the project verify that the mitigation action is being implemented and is both effective and sufficient?	Timing and Responsible Parties Who is responsible for mitigation, monitoring, reporting? Timing/frequency of these actions
A single IEE/EA condition may require multiple action to implement—add rows as necessary			

[add rows for additional conditions]

[repeat table for additional activities]

EMMP REVIEW AND APPROVAL

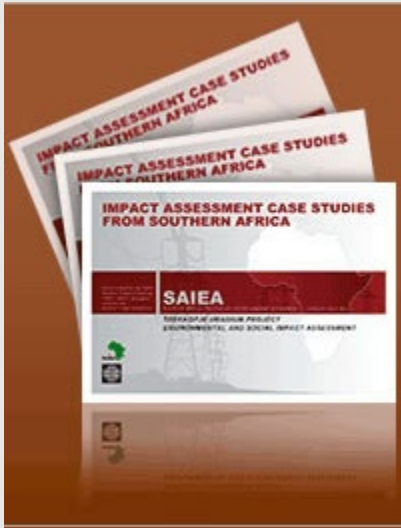
- EMMP is usually submitted and approved with the project work plan or PMP
- EMMP must be approved by the project COR or AOR

Must assure that EMMP is reflected in the workplan and budget

- Sometimes additional review or required clearance by the MEO, REA, or BEO per requirement of the IEE/Environmental Assessment or operating unit policy.



ENVIRONMENTAL COMPLIANCE RESOURCES



“Good News” EA Case Studies:
Illustrations of the Value of EA in Development

[www.saiea.com/
Case study book 09.htm](http://www.saiea.com/Case_study_book_09.htm)

- **Database of approved 22 CFR 216 documentation:**
<https://ecd.usaid.gov/>
- **ADS Chapters:** <https://www.usaid.gov/who-we-are/agency-policy>
- **FAA 118/119 and 22 CFR 216:**
<http://www.usaidgems.org/laws.htm>

- **All GEMS materials:** <http://www.usaidgems.org/>
- **Materials from this workshop** and training calendar:
<http://www.usaidgems.org/overviewCalendar.htm>
- **Sectoral Environmental Guidelines:**
<http://www.usaidgems.org/bestPractice.htm>
- **Visual Field Guides:**
<http://www.usaidgems.org/fieldGuides.htm>
- **Social Impacts Resources:**
<http://www.usaidgems.org/socialSectorAnalyses.htm>
- **EMMP Templates and Presentations:**
<http://www.usaidgems.org/mitMonRep.htm>