



**USAID**  
FROM THE AMERICAN PEOPLE

Basic Concepts for USAID  
Assessment of Environmental Impacts  
22 CFR 216

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# “The BIG 5”

- [NEPA](#) – National Environmental Policy Act
- [CAA](#) – Clean Air Act
- [CWA](#) – Clear Water Act
- [CERCLA](#) – The Environmental Response, Compensation and Liability Act (SUPERFUND)
- [RCRA](#) – Resource Conservation and Recovery Act

# **NEPA Implementing Regulation**

## **“Title 22 of the Code of Federal Regulations, Part 216”**

- 22 CFR 216: This regulation specifies USAID’s requirement and procedures to undertake environmental impact assessment of our programs**

# United States

## National Environmental Policy Act (NEPA)

- *Use all practicable means and measures, including financial and technical assistance, in a manner calculated to foster and promote the general welfare, to create and maintain conditions under which man and nature can exist in productive harmony, and fulfill the social, economic, and other requirements of present and future generations of Americans. NEPA Sec. 101(a) 1970*

# What is in 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*
  - **IT IS US FEDERAL REGULATION AND COMPLIANCE IS MANDATORY**

# What Does 22 CFR 216 Say?

- Every program, project, activity or amendment must undergo environmental impact assessment prior to obligation of funds
- Potential impacts must be considered and mitigating measures or design changes must be incorporated if needed
- This process is documented in writing and is open to the public

# What Else?

- Decisions are recommended by a Mission Director and approved by a Bureau Environmental Officer in AID/W
- Impact assessment is a two-step process – an initial assessment is undertaken at the beginning of design, and if needed a more detailed assessment may be required

# Starts with the baseline situation

In characterizing the baseline situation, many **environmental components** MAY be of interest

The components of interest are those that are likely to be affected by your activity—or upon which your activity depends for its success

**Water**      *Quantity, quality, reliability, accessibility*

**Soils**      *Erosion, crop productivity, fallow periods, salinity, nutrient concentrations*

**Fauna**      *Populations, habitat*

**Env Health**      *Disease vectors, pathogens*

**Flora**      *Composition and density of natural vegetation, productivity, key species*

**Special ecosystems**      *Key species*

# The baseline situation

For USAID the baseline situation is not simply a “snapshot.”

Describing the baseline situation requires describing both the **normal changes** in environmental components & **current trends** in these components.

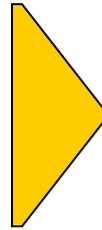


**This chart of groundwater levels shows both variability and a trend over time.**

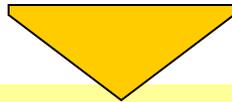
**Both are part of the groundwater baseline situation.**

# Types of impacts & their attributes

The EIA process is concerned with **all types of impacts** and may describe them in a number of ways



Direct & indirect impacts  
Short-term & long-term impacts  
Adverse & beneficial impacts  
Cumulative impacts



- \* Intensity
- \* Direction
- \* Spatial extent
- \* Duration
- \* Frequency
- \* Reversibility
- \* Probability

**But all impacts are NOT treated equally.**

# Specifically and importantly,



**It is ESSENTIAL in EIA to focus on the most significant impacts.**

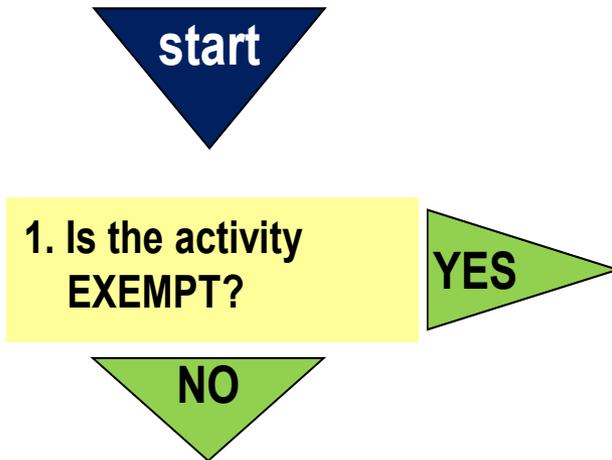
**Don't waste effort & time analyzing and discussing impacts that are less important.**

# USAID's Environmental Impact Starting Point

- The initial assessment is called either a request for **Categorical Exclusion (CE)** for certain non-controversial types of projects, or an **Initial Environmental Examination (IEE)** for projects that may have limited potential impacts
- Projects that are identified as having potentially substantive impacts progress to a Scoping Exercise (Scoping), the second step toward a full Environmental Impact Assessment.

# Screening under 22 CFR 216: Exemptions

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

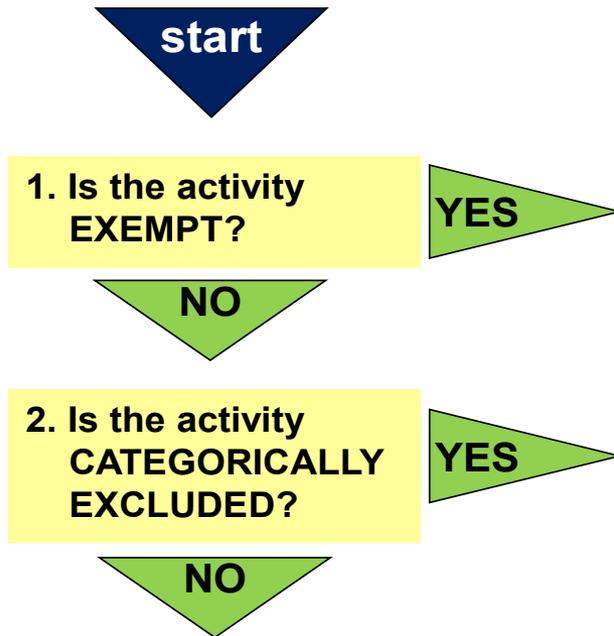


NOTE: “Exempt” activities often have significant adverse impacts. Mitigate these impacts where possible!”

## 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*

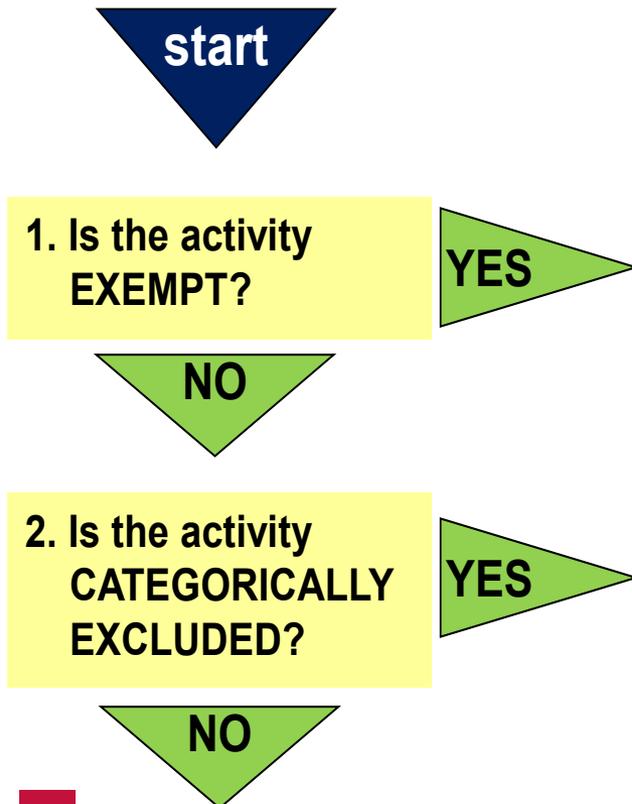
# Screening under 22 CFR 216: **Categorical Exclusions**



**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?

# 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.**

# 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)

# Documentation & Approval

## IMPORTANT

- No activities may be implemented without APPROVED Reg. 216 environmental documentation in hand.
- **APPROVED = Mission Director (or Washington equivalent) & Bureau Environmental Officer (BEO) in Washinton, D.C. signs**
- Bureau Environmental Officer concurrence is *not* automatic or guaranteed
- Dialogue is sometimes required

# Who Is Responsible?

- Every USAID officer who has any role with USAID funded projects
- Every implementing partner who seeks USAID funds
- USAID staff of environmental professionals who provide advice and hold program/technical/contract officers accountable
- General Counsel and Inspector General staff provide additional support to environmental officers

# Who signs?

- Clearances: Contract Officer Representative, Team Leader, Regional Director
- Mission Environmental Officer (for USAID Missions)
- Regional Environmental Advisor (depending on mission)
- Mission Director or Washington equivalent\*
- Concurrence - Bureau Environmental Officer\*
- Approval - General Counsel (rarely)

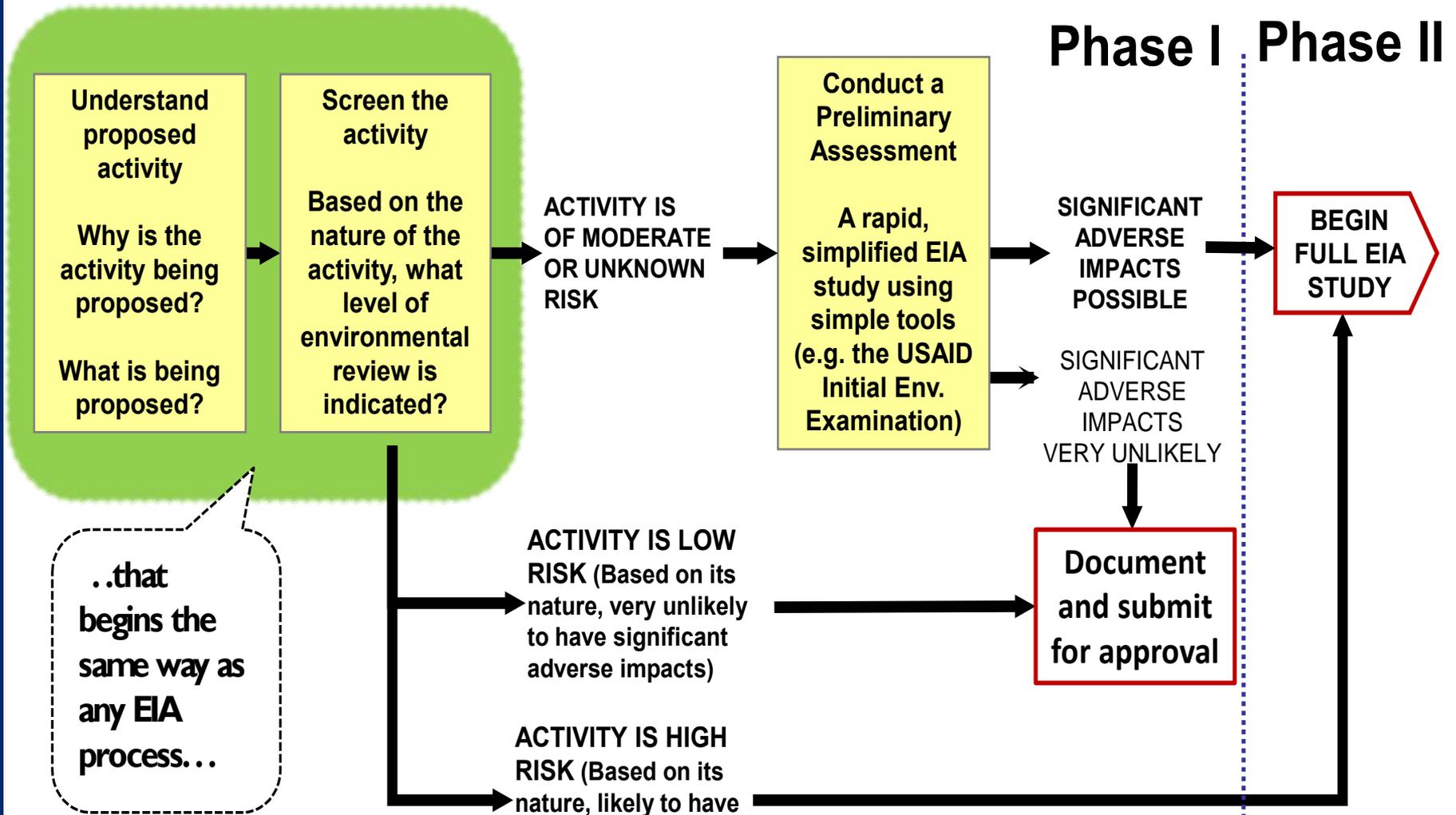
# More . . .

- **Public participation is an important element for a number of reasons:**
  - It ensures all issues are surfaced
  - It builds civil society, instills democratic values and engenders trust
  - It creates buy-in and public ownership for the project which optimizes results
  - It is required for Scopings and EAs, and is recommended for IEEs

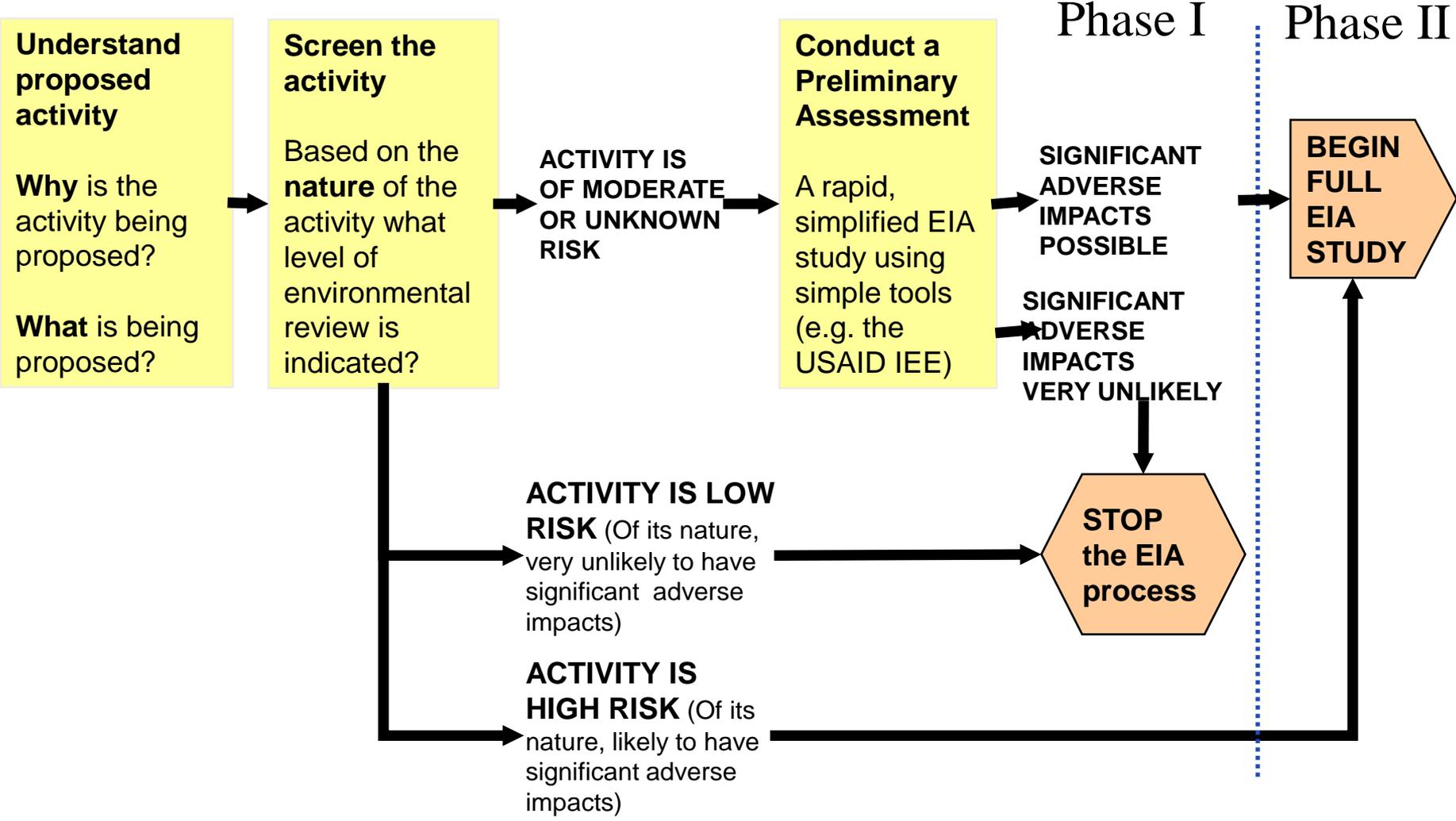
# Why bother?

- It is state-of-the-art development
- It produces optimal results
- It avoids harming people in host countries and U.S.
- It creates practical civil society and democracy
- It averts negative economic growth
- It avoids diplomatic problems
- It engenders public trust in USAID
- It allows USAID to exist
- **It is the law**

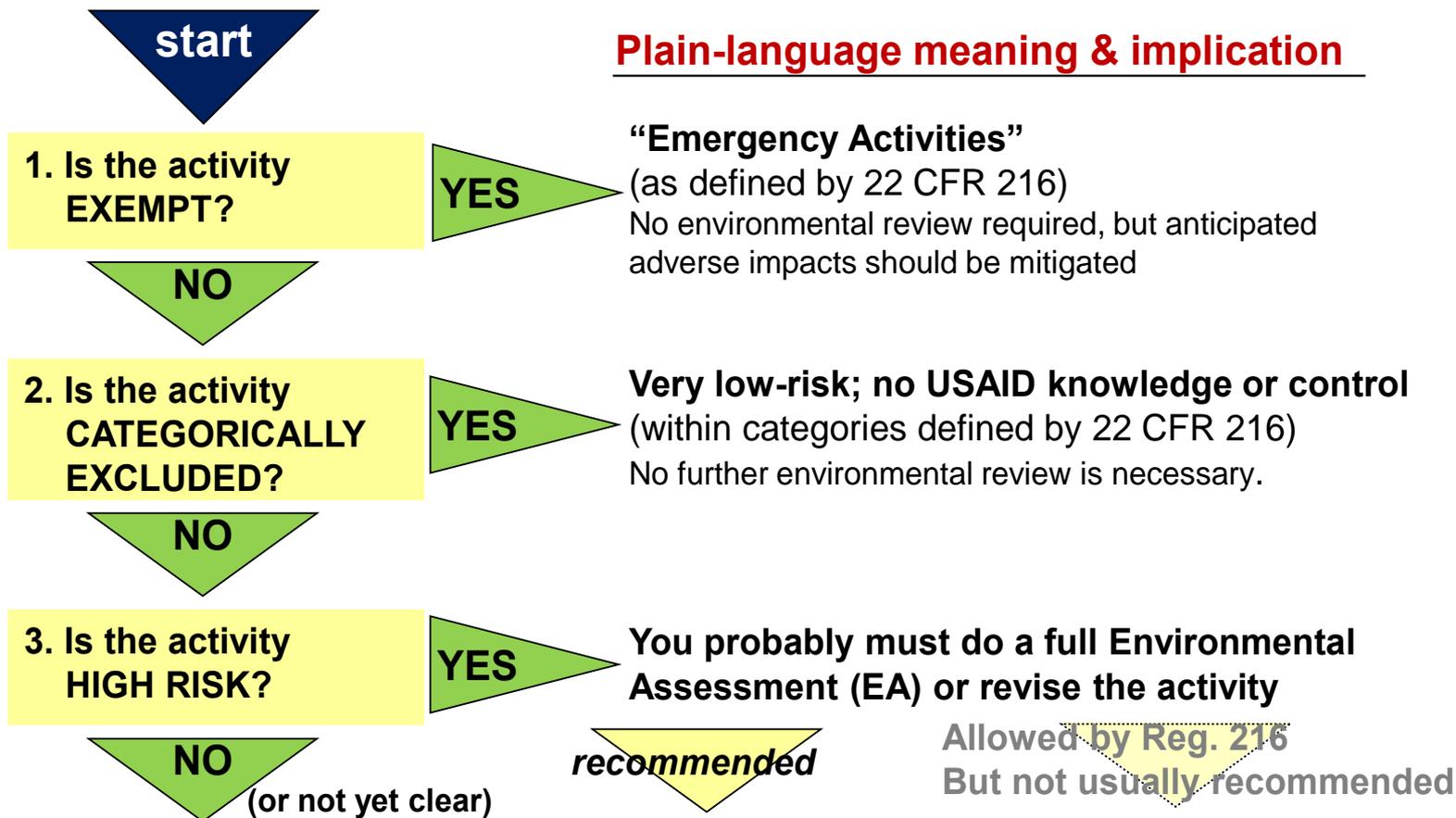
# Reg. 216: specific USAID implementation of general EIA process...



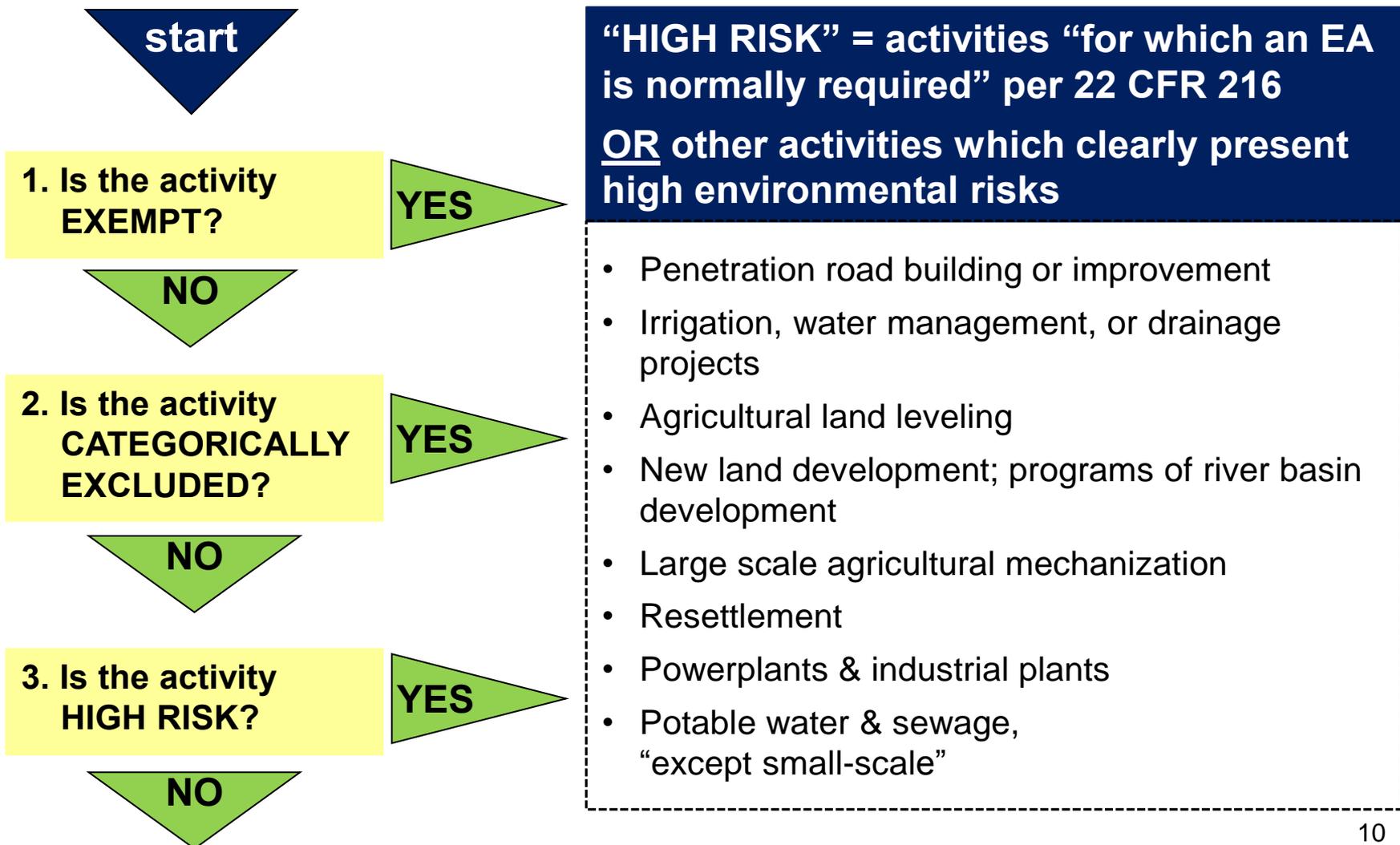
# Phase 1 for USAID's EIA Process



# What does it mean? Project screening under Reg. 216



# “High Risk” (EA Likely Required)



# What is clearly “high risk”?

<b>EA DEFINITELY REQUIRED</b>	<b>NOT CLEAR—proceed to IEE</b>
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

# 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.)*



# 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 covering all activities + FACESHEET</b>
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 <b>AND</b></li> <li>Justifies the categorical exclusions</li> </ul> <b>+ FACESHEET</b>
<b>High-risk activities</b>	<ul style="list-style-type: none"> <li>Initiate scoping and preparation of an EA</li> </ul>



## CATEGORICAL EXCLUSION REQUEST

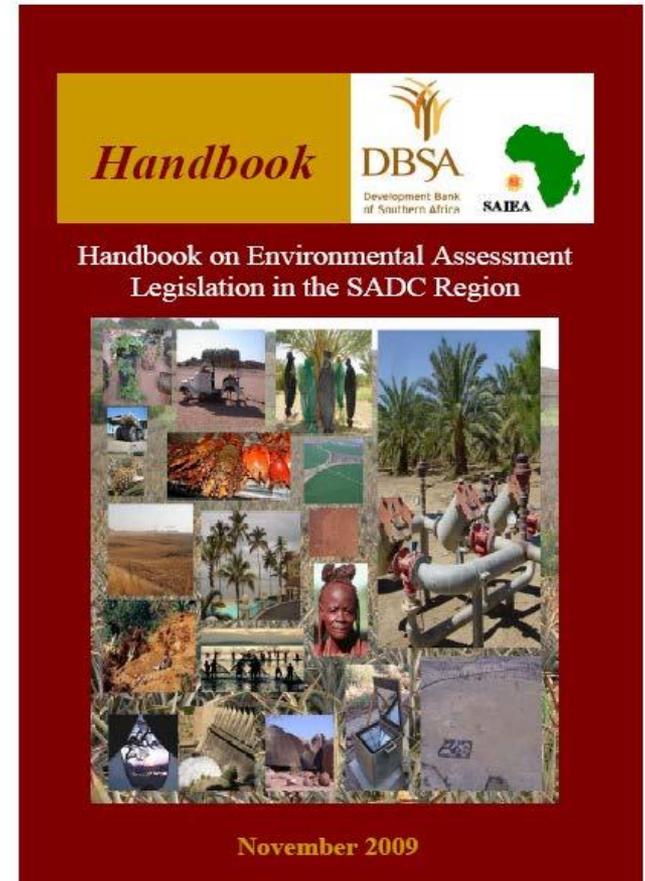
Very simple; 1-2 pages. Describes the activities. Cites 22 CFR 216 to justify the catex.



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

# 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.**



# So Where Do I Get A Copy Of 22 CFR 216?

- 22 CFR 216 is found in ADS Chapter 200
- It is on the USAID internal and external websites
- [http://www.usaid.gov/our\\_work/environment/compliance](http://www.usaid.gov/our_work/environment/compliance)
- A Spanish translation is on the websites

# Questions And Discussion

