



USAID
FROM THE AMERICAN PEOPLE

Overview of LOP Environmental Compliance for USAID Africa Region Staff

Environmental Compliance/ESDM Training Workshops
Lake Naivasha, Kenya ▪ January & February 2010



USAID'S ENVIRONMENTAL PROCEDURES: Origin & mandate

An “environmental failure”

1974

In 1974, USAID provided highly concentrated Malathion to poorly trained field workers on an agricultural project in Pakistan. Working without protective equipment in the heat, the workers sprayed each other. 5 died.

1975

Sued by US NGOs, USAID settled out of court, agreeing to develop environmental safeguard procedures.

First a court mandate

Then a mandate in law:

§117 of the FAA requires that USAID:

- utilize an **Environmental Impact Assessment (EIA) process** to evaluate the potential impact of USAID's activities on the environment prior to implementation
- “**fully take into account**” **environmental sustainability** in designing and carrying out its development programs.

Where are the procedures found?

USAID's Environmental Procedures are the response to these mandates. They consist of:

❖ **Federal regulations:**

22 CFR 216 ("**Reg. 216**") and

❖ **Mandatory Agency Policies** as set out in USAID's Automated Directives System (ADS), (especially--but not only--201.3.12.2.b and 204.)

Compliance with the procedures is mandatory.

They apply to every program, project, activity, and amendment supported with USAID funds.



What do the procedures require? (the big picture)

- 1 The procedures specify an EIA process that must be applied to all activities **before** implementation
- 2 This process frequently results in environmental management conditions (mitigative & monitoring measures).
- 3 These measures must be implemented and monitored over the life of the activity/project (LOP).



Objective: Assure Environmentally Sound Design and Management of USAID-funded/USAID-managed activities.

What do the procedures require? (a little more detail)

- 1. Environmental considerations must be taken into account in activity planning .**
- 2. No activities implemented without *approved Reg. 216 environmental documentation.***
- 3. Any resulting env. mitigation and monitoring conditions are:**
 - 1. written into contract instruments.**
 - 2. Implemented by the IP, and this implementation is monitored**

CEs, IEEs, EAs*. All are the result of the EIA process specified by 22 CFR 216

**Approval =
MD & BEO signatures**

USAID monitors via field inspections and review of routine project reports submitted by IPs

**Categorical Exclusions, Initial Environmental Examinations, and Environmental Assessments.*

What do the procedures require? (cont'd)

4. *Environmental compliance is assessed in Mission Annual Reports*
5. *Environmental compliance documentation is maintained by the Mission & each sector team*

As part of the program or activity record and used to manage program implementation

**More information:
*USAID Environmental Procedures Briefing for Mission Staff***

**(in Sourcebook;
e-copy on flashdrive)**

About Reg. 216 & Reg. 216 documentation

- ❖ Reg. 216 defines the **pre-implementation EIA process**
- ❖ The output of this process is **Reg. 216 documentation.**
- ❖ The documentation assigns a **determination** to each activity:

Reg. 216 documentation

Categorical exclusion request

(affirmation that the activities qualify for a CatEx (see below))

Initial Environmental Examination (IEE)

(USAID's version of the preliminary assessment)

Environmental Assessment (EA)

(full EIA study, professional team, public consultation)

Categorical exclusion

Specified classes of low-risk activities. **No attached environmental management conditions.**

Negative determination

IEE analysis shows that the activity presents low risk of significant adverse environmental impacts. **No attached environmental management conditions.**

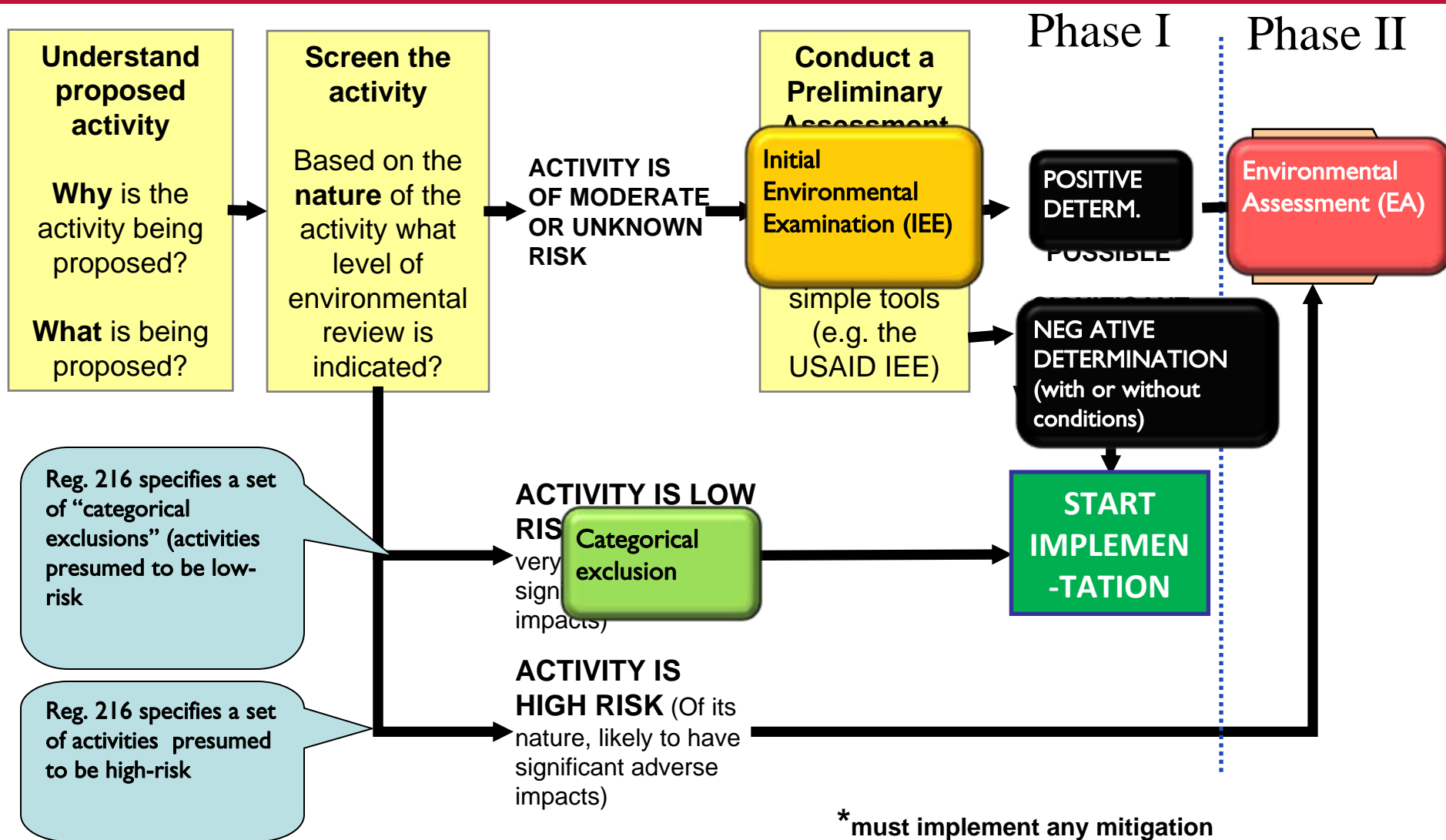
Negative Determination w/ Conditions

As above, IF specified mitigation and monitoring is implemented. **Activity proceeds on the condition and requirement that these measures are implemented.**

Positive Determination

IEE analysis shows the activity poses non-negligible risks of significant adverse impacts. **A full EIA study ("EA") must be developed and approved before the activity can proceed, and env management measures specified by the EA must be implemented.**

Reg. 216 implements the general EIA process



* must implement any mitigation specified by the preliminary assessment

What is the status of the USAID portfolio across SSA?

- ❖ **Upstream compliance: not bad.**
Reg. 216 documentation exists for most projects/activities
- ❖ **Downstream compliance: not so good.**
Many activities have received a **negative determination with conditions.**

**Implementation of conditions uneven;
USAID oversight inadequate**

Key practices/processes to assure downstream compliance often missing:

- + Env Mitigation and Monitoring Plans
- + IP Environmental Compliance Reporting
- + Staff and IP Awareness/Skills

All are key topics in this workshop.

Implemented via contract requirements or C/AOTR technical direction

Why is downstream compliance (implementing IEE/EA conditions) important?

- ❖ “Reg. 216” is the part of the procedures that most people are familiar with.
- ❖ However, Reg. 216 simply defines the **pre-implementation** environmental review process.
- ❖ Unless the environmental mitigation and monitoring conditions that result from this process (“IEE/EA conditions”) are actually implemented*:
 - *The activity is out of compliance.*
 - *The Reg. 216 process is meaningless.*
 - *Objectives of the environmental procedures (ESDM) are not achieved.*

For these reasons, the ADS requires C/AOTRs to (1) actively manage and monitor compliance and (2) modify or end activities that are not in compliance!

Who is responsible?

USAID

Assures Reg. 216 documentation in place. Establishes/approves environmental mitigation & monitoring conditions. Verifies compliance.

In the Mission

Fundamental responsibility & accountability:

- Sector Team Leader
- Activity Managers & COTR/AOTRs
- ultimately with the Mission Director

MEO: quality and completeness reviewer for Reg. 216 documentation; compliance advisor and coordinator; assists in compliance monitoring.

Implementing Partners

ALWAYS: Implement mitigation and monitoring conditions that apply to their project activities & report to USAID.

ALWAYS responsible for design of detailed environmental mitigation and monitoring plan (EMMP) in response to mitigation and monitoring conditions established by the Reg. 216 documentation.

SOMETIMES develop Reg. 216 documentation (IEEs, EAs)* for new project components; develop subproject env. review reports (for subgrants/subprojects).