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# USAID Environmental Compliance Procedures: 22 CFR 216

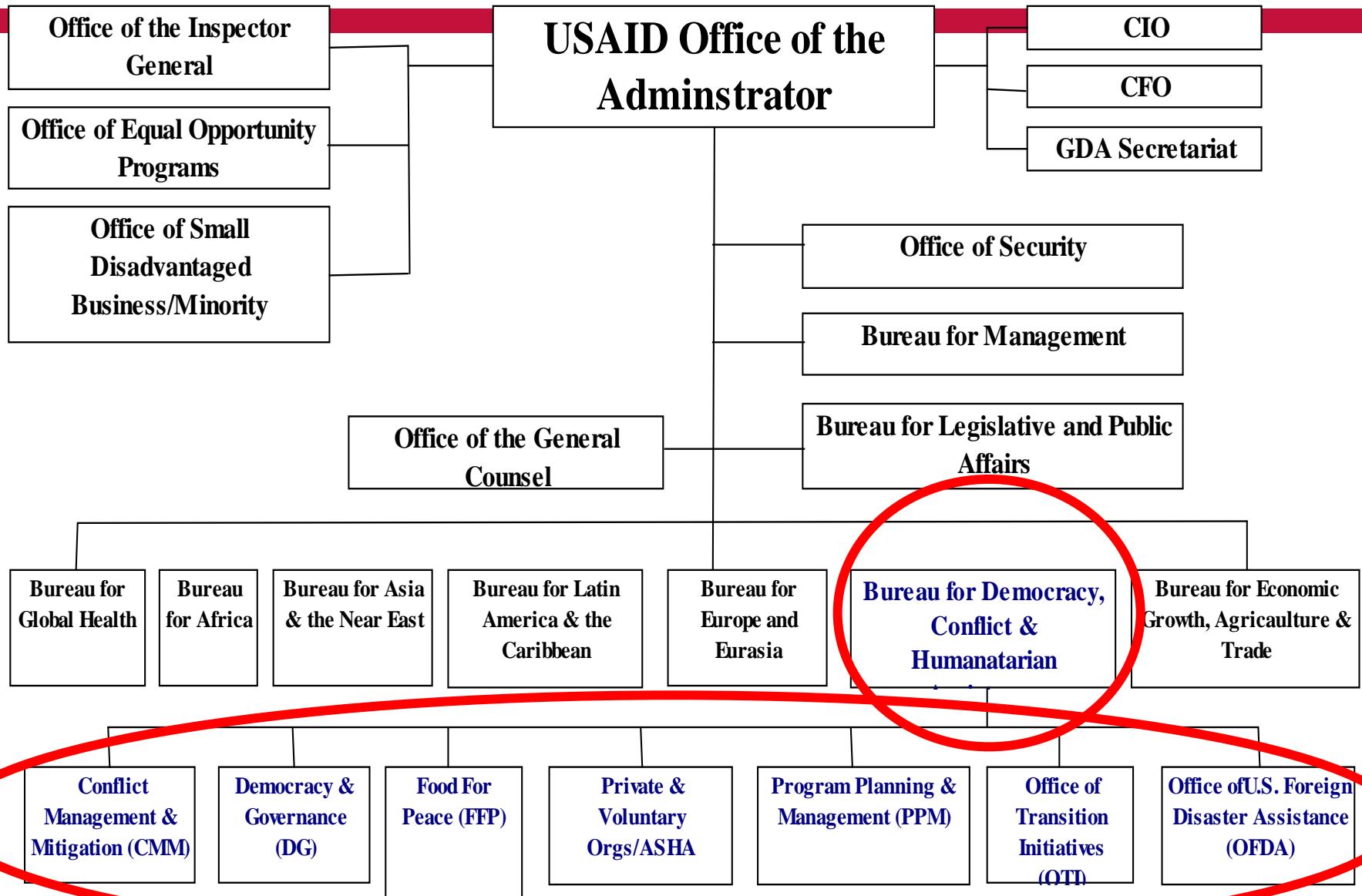
Erika Clesceri, Ph.D., Bureau Environmental Officer

USAID Bureau for Democracy, Conflict,  
Humanitarian Assistance, Washington, D.C.





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# USAID Environmental Procedures (22 CFR 216)



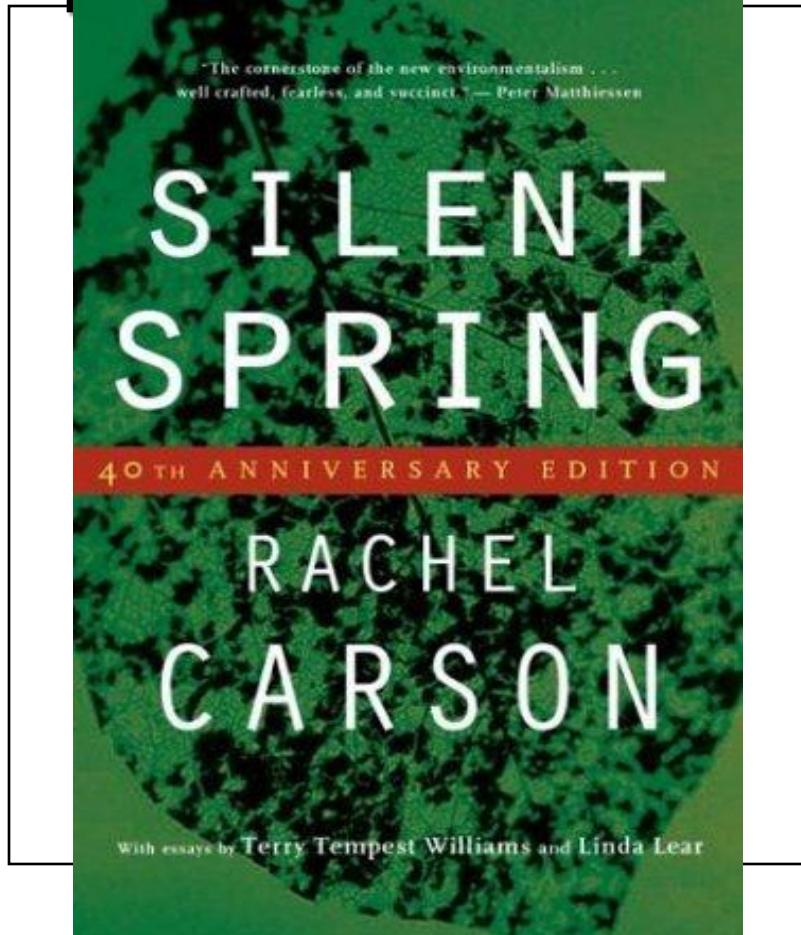
- **Environmental Impact Assessment (EIA) is part of sustainable development**
  - Optimizes economic and social development – good tool for integration
  - Avoids future costs and setbacks
  - Prevents foreign relations incidents
  - Engenders public confidence in USAID
- **EIA is a legal requirement under USG legislation**

**Competitiveness**



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## Background

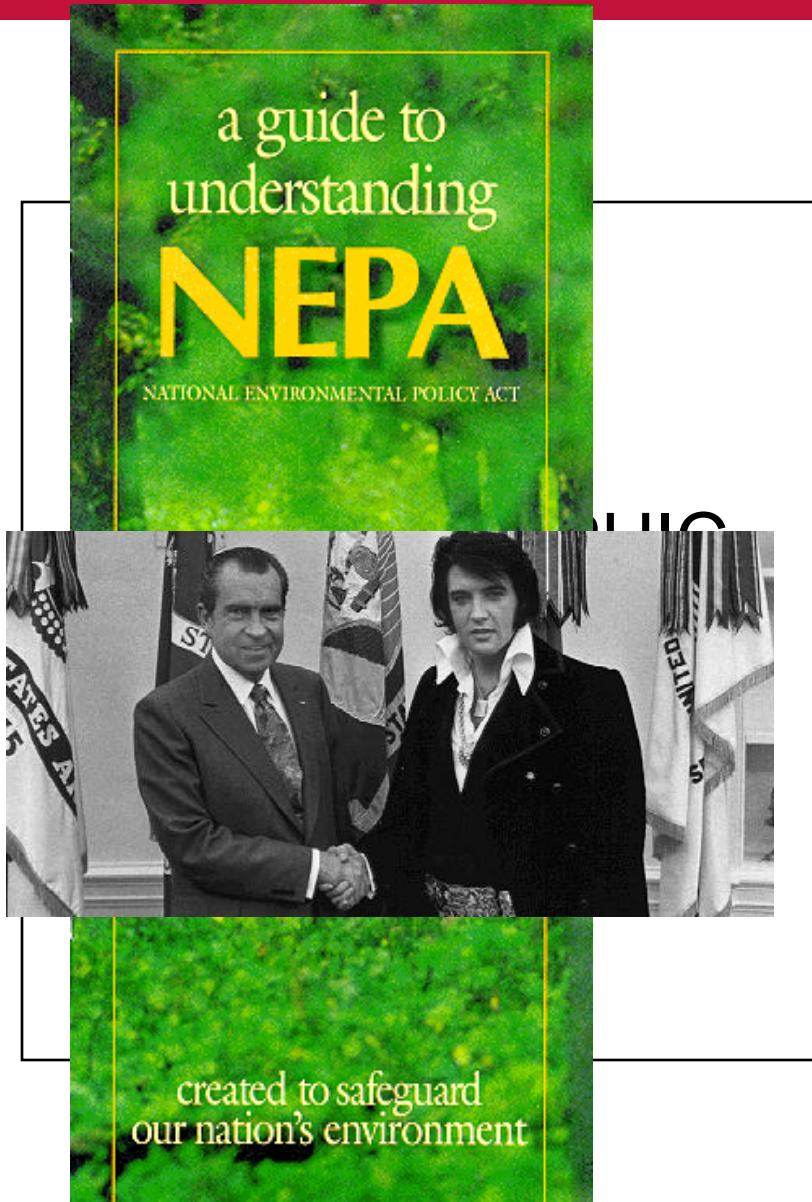


### 1960's:

- **Environmental movement takes off with Rachel Carson's 1962 book, "Silent Spring"**
- **All sectors of American society became alarmed**



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## **U.S. Congress passes environmental laws:**

- **Clean Air – 1962**
- **Water Pollution – 1965**
- **NEPA – 1970**
- **Pesticides – 1972**
- **Endangered Species – 1973**
- **Safe Drinking Water – 1974**

## **President Nixon signs the National Environmental Policy Act (NEPA) – key**



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## **Background: National Environmental Policy Act (NEPA) 1970**

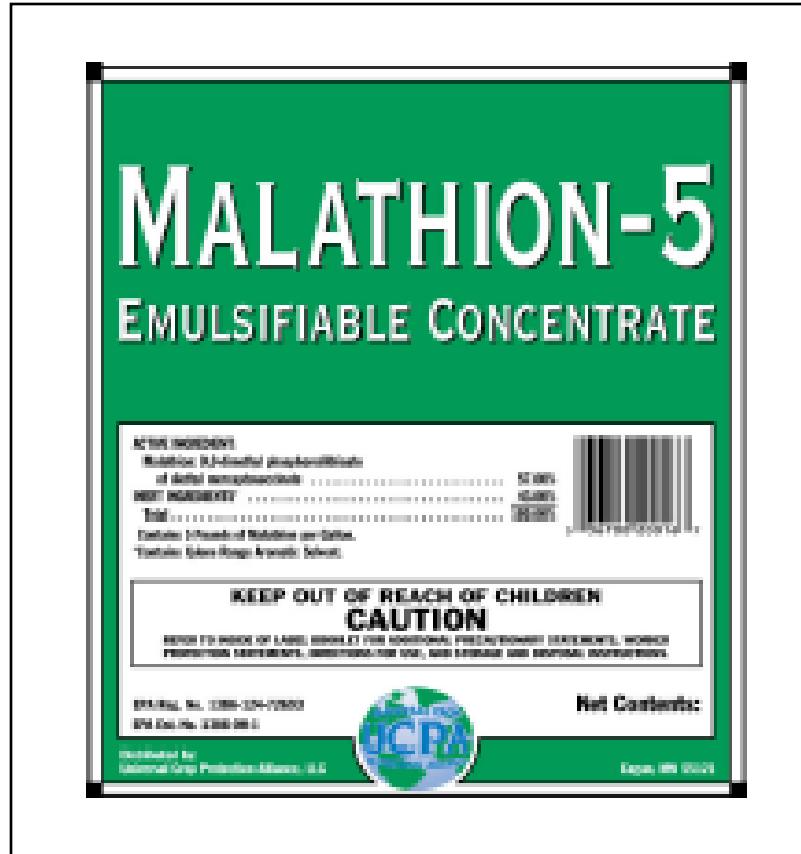
- **Federal agencies have to assess the potential environmental impacts of their actions**
- **White House Council on Environmental Quality (CEQ) in the Office of the President**
- **Many other countries have adapted NEPA approach**





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## Background: USAID Resists



- **USAID resisted implementation of NEPA**
- **In 1975, inappropriate use of the pesticide malathion by USAID/Pakistan project resulted in 5 deaths**
- **Consortium of U.S. NGOs sued USAID to force it to comply with NEPA.**



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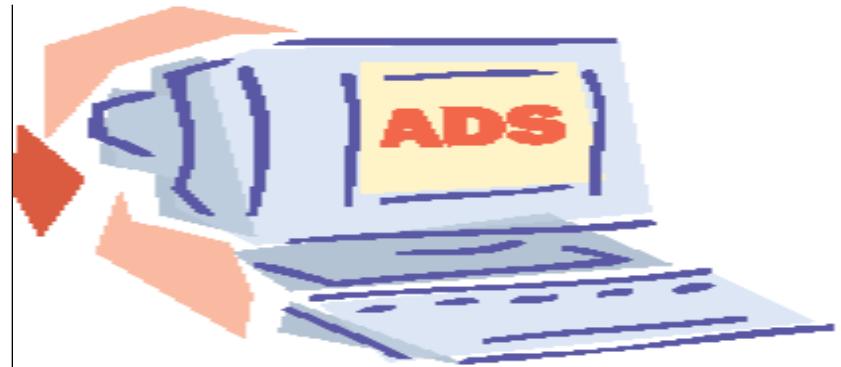
## Background: USAID Complies



- USAID settled out of court
- Developed NEPA compliance “Environmental Procedures” through 22 CFR 216
- 22 CFR 216 established system of **Bureau Environmental Officers** to approve environmental compliance decisions
- Emphasis on review of pesticide use

# Incorporated into USAID Policy

## Automated Directive System (ADS) 200 - 204



Series 100: Agency Organization and Legal Affairs

Series 200: Programming Policy

Series 300: Acquisition and Assistance

Series 400: Personnel

Series 500: Management Services

Series 600: Budget and Finance

USAID Handbook Series

ADS Glossary

- Official USAID policy handbook
- USAID integrates Regulation 216 and FAA 117, 118, 119 into its ADS
- Chapter 204 summarizes how Reg. 216 will be integrated into USAID's operations
- Environmental reviews are required for all actions prior to obligations



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# Background: Other Legislation



Jesse Buff

- **Executive Order 12114** requires all federal agencies that work internationally to develop NEPA procedures
- **Foreign Assistance Act (FAA)** sections 117, 118, 119 reinforced USAID's environmental procedures
- **Executive Order on Greening of Government**



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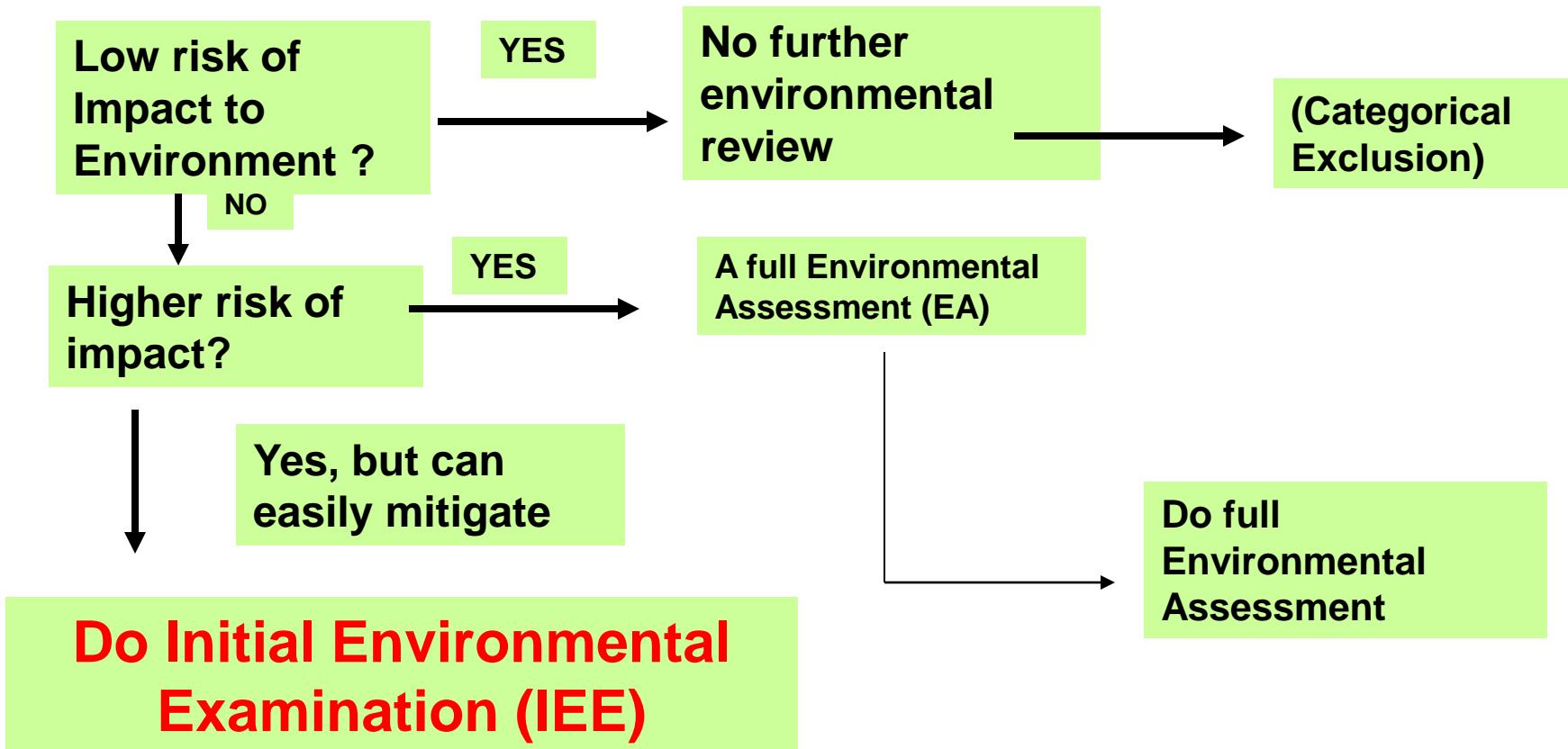
# Regulation 216: Determinations

- 1. Exemptions** (officially declared by Ambassador)
- 2. Deferrals**
- 3. Categorical Exclusion** (pre-declared classes of actions without impact on the environment)
- 4. Negative Determination** with conditions (no significant impact, but minor impacts addressed with established guidelines)
- 5. Positive Determination** (yes, significant Environmental Impact – EA required)





## The Environmental Screening Process



Note 22 CFR 216 allows proceeding directly to a full EA for certain high risk classes of activities -- those normally having a “significant adverse effect on the environment”



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# Reg. 216 Flow Chart

**Exemption**

IEE

Deferral

Categorical  
Exclusion

Negative  
Determination  
w/ conditions –  
includes  
mitigation and  
monitoring

Positive  
Determination  
– includes  
formal  
approved  
Environmental  
Assessment

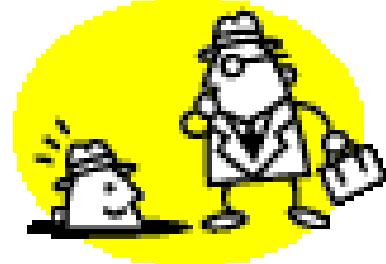
**USAID MEO, REA Reviews & Final Approval by BEO**



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# Regulation 216: IEEs and Requests for Categorical Exclusion apply to:

- All new or supplemental activities funded by USAID
- Changes in existing activities which imply:
  - New components
  - A significant expansion or additional financing
  - Costs not previously included
  - Environmental impacts not previously foreseen





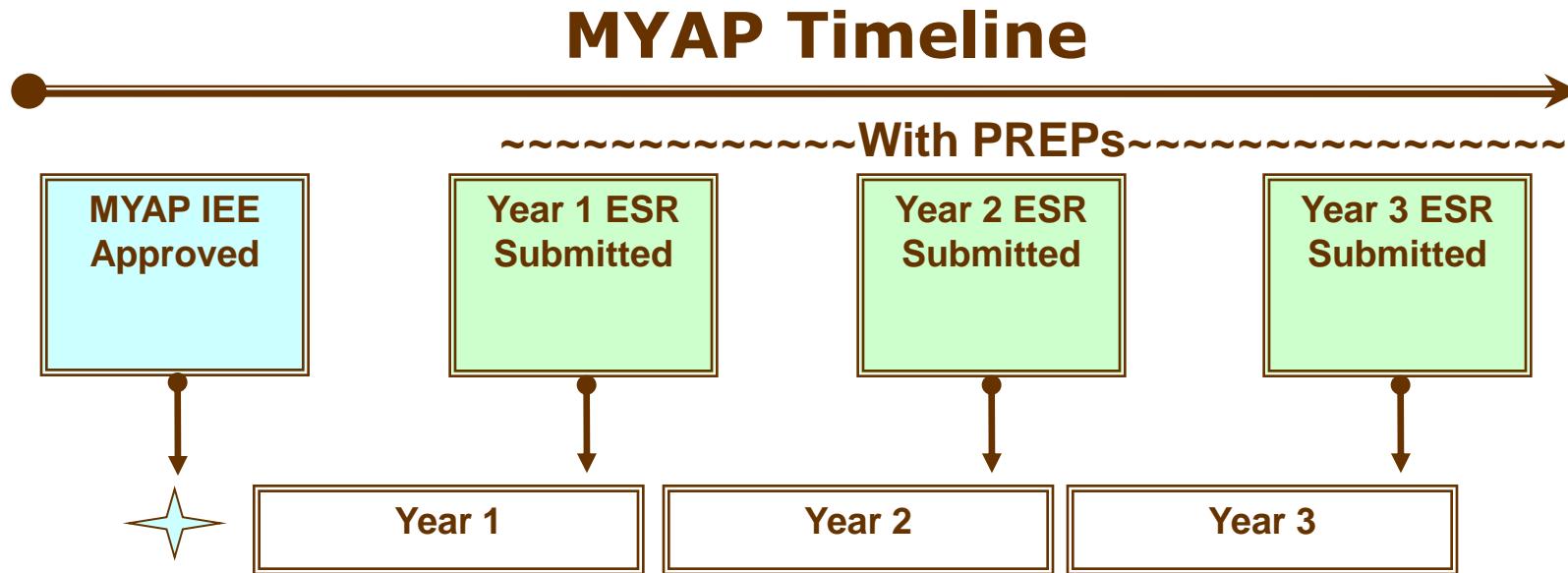
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# Is USAID Environmental Policy Different for FFP?? .....No & Yes.

- **MYAPs and Amendments**
  - IEE required, Each Program
  - Environmental Status Reports (ESRs)
  - PVOs write IEE & ESRs
- **SYAPs (Emergency)**
  - IEE required for emergencies protracted **beyond 1 year**



# Food for Peace



- IEE and ESRs are developed and cleared (BEO)
- Oversees and Manages Clearances
- Support of Environmental Workshops



## USAID Pesticides procedures



**If USAID funds are used for the purchase of pesticides, use of pesticides, or training on pesticides application, a pesticide analysis is necessary!**





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## At USAID, “pesticide use” is broadly interpreted:



- Procurement, transportation, storage, mixing, loading, and application
- Management
- The fuel needed to transport the pesticides
- Technical assistance in pesticides application

## So is “pesticide supply:”

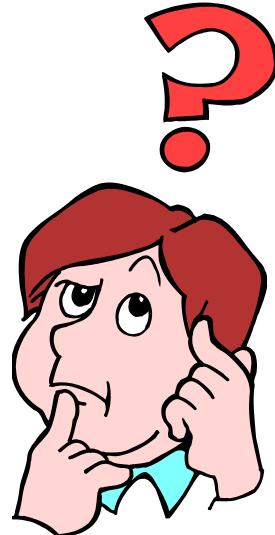
- Not only direct purchases but also...
- Special payments, donations, free samples, and other forms of subsidies
- Credit provisions to beneficiaries



# Regulation 216:

## Question:

- Who is responsible for writing IEEs and complying with Regulation 216 requirements?



## Answer:

- The CTOs\* and the USAID team
- NGOs, Contractors



\* The Mission Environmental Officer is not responsible for writing IEEs, but advises the process and approves documents



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## Regulation 216: Summary

- **Categorical Exclusion** (without impacts)
- **Negative Determination with Conditions** (without significant impacts, but with minor impacts)
- **Positive Determination** (with significant impacts, an Environmental Assessment is necessary)





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# And now -- The QUIZ!!



# Categorical Exclusion



# Negative Determination with Conditions



GOBIERNO DE LA REPUBLICA DE NICARAGUA



## PROYECTO: INFRAESTRUCTURA VIAL PARA LA PRODUCCION Y EL MERCADO

REPARACION DEL TRAMO VALLE COLON-NAMANJI 7 km.

Financiamiento: USAID/IICA, IDR – BID, CARE y Alcaldia – Comunidad

Población Beneficiada: 250 Familias

Generación de empleo: C\$ 77,407.00

Monto total de aportes: USAID/IICA

C\$ 845,109.00

ALCALDIA

C\$ 1,422.00

COMUNIDAD

C\$ 8,690.00

CARE

C\$ 95,036.00

TOTAL

C\$ 950,257.00

Fecha de finalización  
30 de junio 2004

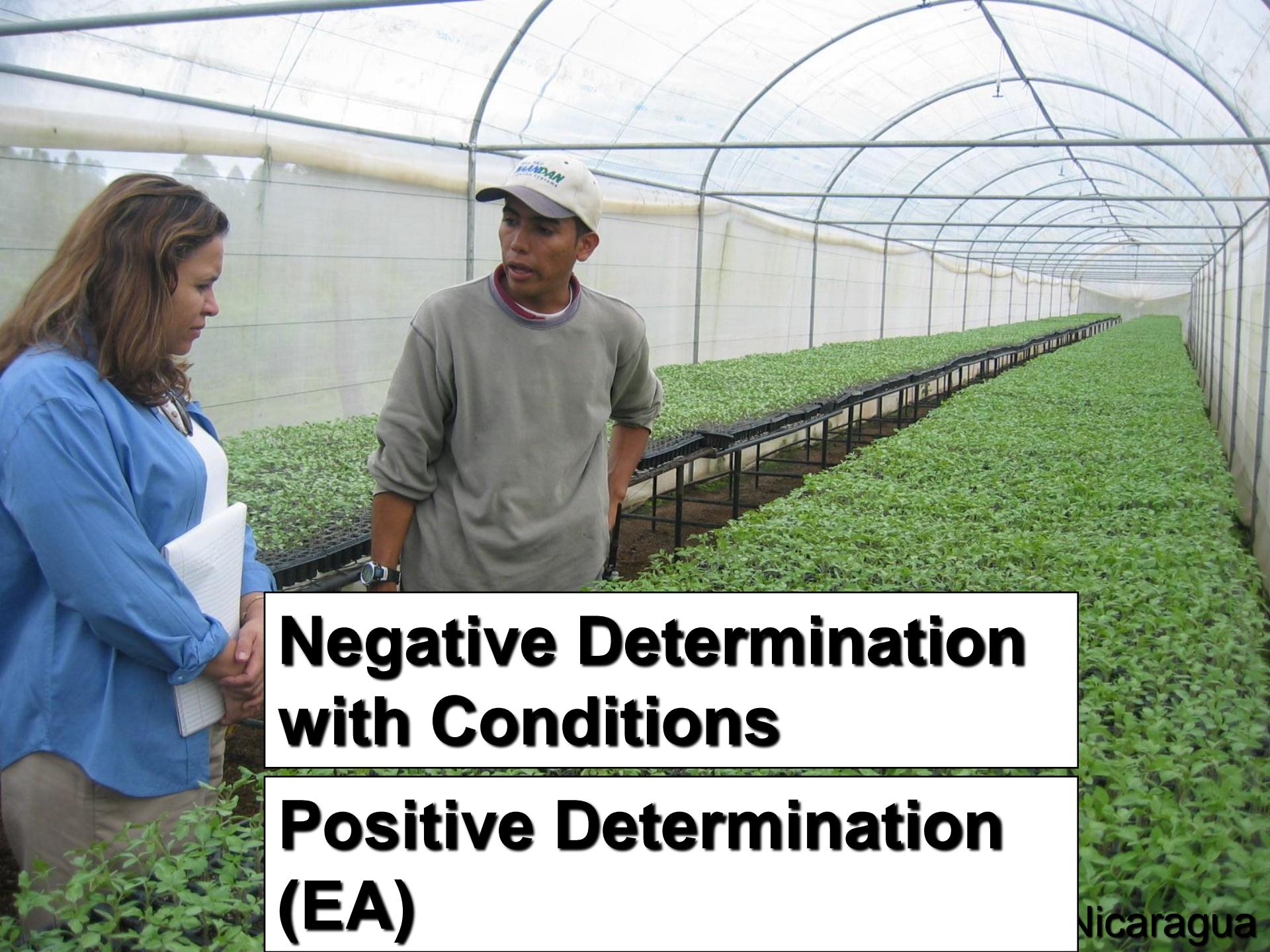
3H

Fecha de inicio  
23 de Abril 2004

ALCALDIA  
LA CONCORDIA

IDR





**Negative Determination  
with Conditions**

**Positive Determination  
(EA)**

Nicaragua



# Cacao Plantation Expansion near a Protected Area

**Positive Determination  
(EA)**

# Negative Determination with Conditions



# **Positive Determination (EA)**



**Guatemala**



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# Exemption with Disaster Declaration

**Positive  
Determination (EA) or  
Negative Det. with  
Conditions**



# Positive Determination (EA/PERSUAP) or Negative Det. with Conditions





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# Reg. 216 Flow Chart

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# Network of USAID Environmental Officers

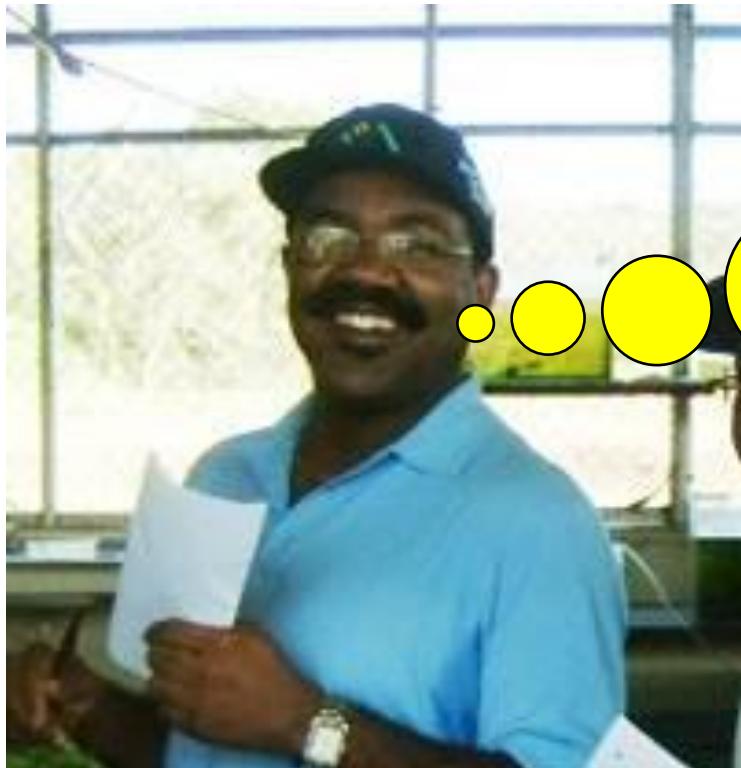
Washington Bureaus— DCHA: Erika Clesceri, AFR: Brian Hirsch, LAC: Victor Bullen, Asia/ME: John Wilson, E&E: Mohammed Latif, GH: Teresa Bernhart, EGAT: Joyce Jatko





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## Something to remember:



**All USAID-financed  
activities require an  
environmental review and  
approval prior to  
obligation of funds.**



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## References and Useful Information

- **USAID Environmental Compliance and related links**  
[http://www.usaid.gov/our\\_work/environment/compliance/index.html](http://www.usaid.gov/our_work/environment/compliance/index.html)
- **22 CFR 216 Environmental Compliance Procedures**  
[http://www.usaid.gov/our\\_work/environment/compliance/reg216.pdf](http://www.usaid.gov/our_work/environment/compliance/reg216.pdf)
- **Automated Directives System Series 200 (with link to Chapter 204)**  
<http://www.usaid.gov/policy/ads/200/>
- **IEE Assistant for help in preparing environmental documentation**  
<http://www.encapafrica.org/assistant.htm>
- **Environmental Guidelines for Small Scale Activities in Africa**  
<http://www.encapafrica.org/egssaa.htm>
- **Mission Environmental Officer (MEO) Resource Center**  
<http://www.encapafrica.org/meoEntry.htm>
- **Mission Environmental Officer (MEO) Handbook**  
[http://www.encapafrica.org/meo\\_resources/MEO\\_Handbook\\_Final\\_5-11ColorReduced.pdf](http://www.encapafrica.org/meo_resources/MEO_Handbook_Final_5-11ColorReduced.pdf)
- **Environmental Compliance Language for Use in Solicitations and Awards**  
<http://www.usaid.gov/policy/ads/200/204sac.pdf>