

## **Annex B: Official USAID Guidance and Regulation**

### ***B.1 Full text of Regulation 216***

(USAID Environmental Procedures: Text of 22 CFR 216)

### ***B.2 Guidance regarding Regulation 216 compliance requirements of Title II activities***

### ***B.3 ADS excerpts relevant to Regulation 216 compliance***



**USAID ENVIRONMENTAL PROCEDURES:  
TEXT OF TITLE 22, CODE OF FEDERAL REGULATIONS  
PART 216 (Reg. 216)**

**ENVIRONMENTAL PROCEDURES<sup>1</sup>**

These procedures have been revised based on experience with previous ones agreed to in settlement of a law suit brought against the Agency in 1975. The Procedures are Federal Regulations and therefore, it is imperative that they be followed in the development of Agency programs.

In preparing these Regulations, some interpretations and definitions have been drawn from Executive Order No. 12114 of 4 January 1979, on the application of the National Environmental Policy Act (NEPA) to extraterritorial situations. Some elements of the revised regulations on NEPA issued by the President's Council on Environmental Quality have also been adopted. Examples are: The definition of significant impact, the concept of scoping of issues to be examined in a formal analysis, and the elimination of certain USAID activities from the requirement for environmental review.

In addition, these procedures: 1) provide advance notice that certain types of projects will automatically require detailed environmental analysis thus eliminating one step in the former process and permitting early planning for this activity; 2) permit the use of specially prepared project design considerations or guidance to be

substituted for environmental analysis in selected situations; 3) advocate the use of indigenous specialists to examine pre-defined issues during the project design stage; 4) clarify the role of the Bureau's Environmental Officer in the review and approval process, and 5) permit in certain circumstances, projects to go forward prior to completion of environmental analysis.

Note that only minimal clarification changes have been made in those sections dealing with the evaluation and selection of pesticides to be supported by USAID in projects or of a non-project assistance activity.

<u>Sec.</u>	<u>Topic</u>
216. 1	Introduction
216. 2	Applicability of procedures
216. 3	Procedures
216. 4	Private applicants
216. 5	Endangered species
216. 6	Environmental assessments
216. 7	Environmental impact statements
216. 8	Public hearings
216. 9	Bilateral and multilateral studies and concise reviews of environmental issues
216.10	Records and reports

Authority: 42 U.S.C. 4332; 22 U.S.C. 2381.  
Source: 41 CFR 26913, June 30, 1976.

**§216.1 INTRODUCTION**

**(a) Purpose**

In accordance with sections 118(b) and 621 of the Foreign Assistance Act of 1961, as amended, (the FAA) the following general procedures shall be used by A.I.D. to ensure that environmental factors and values are integrated into the A.I.D. decision-making process. These procedures also assign responsibility within the Agency for assessing the environmental effects of A.I.D.'s actions. These procedures are consistent with Executive Order 12114, issued January 4, 1979, entitled Environmental Effects Abroad of Major Federal Actions, and the purposes of the National Environmental Policy Act of 1970, as amended (42

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1 Title 22 of the Federal Code of Federal Regulations, Part 216, with preamble, is presented here in its entirety. Spelling errors have been corrected from the original. This represents the most recent version, dated October 9, 1980.

Even with a "re-engineered" assistance process, USAID must fully comply with 22 CFR 216, except to the extent some of its terms are not used in the new operations assistance processes (i.e. PID, PP, etc.). In those cases the terms used in the Automated Directives System (ADS, which are intended to be as parallel as possible to the original terms) are used instead. However, 22 CFR 216 is controlling in the event of a conflict between ADS Chapter 204 on USAID's Environmental Procedures and 22 CFR 216. If there are questions, consult your BEO, the AEC, or Agency legal counsel.

U.S.C. 4371 *et seq.*)(NEPA). They are intended to implement the requirements of NEPA as they effect the A.I.D. program.

### ***(b) Environmental Policy***

In the conduct of its mandate to help upgrade the quality of life of the poor in developing countries, A.I.D. conducts a broad range of activities. These activities address such basic problems as hunger, malnutrition, overpopulation, disease, disaster, deterioration of the environment and the natural resource base, illiteracy as well as the lack of adequate housing and transportation. Pursuant to the FAA, A.I.D. provides development assistance in the form of technical advisory services, research, training, construction and commodity support. In addition, A.I.D. conducts programs under the Agricultural Trade Development and Assistance Act of 1954 (Pub. L. 480) that are designed to combat hunger, malnutrition and to facilitate economic development. Assistance programs are carried out under the foreign policy guidance of the Secretary of State and in cooperation with the governments of sovereign states. Within this framework, it is A.I.D. policy to:

- (1) Ensure that the environmental consequences of A.I.D.-financed activities are identified and considered by A.I.D. and the host country prior to a final decision to proceed and that appropriate environmental safeguards are adopted;
- (2) Assist developing countries to strengthen their capabilities to appreciate and effectively evaluate the potential environmental effects of proposed development strategies and projects, and to select, implement and manage effective environmental programs;
- (3) Identify impacts resulting from A.I.D.'s actions upon the environment, including those aspects of the biosphere which are the common and cultural heritage of all mankind; and
- (4) Define environmental limiting factors that constrain development and identify and carry out activities that assist in restoring the renewable resource base on which sustained development depends.

### ***(c) Definitions***

- (1) CEQ Regulations. Regulations promulgated by the President's Council on

Environmental Quality (CEQ) (Federal Register, Volume 43, Number 230, November 29, 1978) under the authority of NEPA and Executive Order 11514, entitled Protection and Enhancement of Environmental Quality (March 5, 1970) as amended by Executive Order 11991 (May 24, 1977).

- (2) Initial Environmental Examination. An Initial Environmental Examination is the first review of the reasonably foreseeable effects of a proposed action on the environment. Its function is to provide a brief statement of the factual basis for a Threshold Decision as to whether an Environmental Assessment or an Environmental Impact Statement will be required.

- (3) Threshold Decision. A formal Agency decision which determines, based on an Initial Environmental Examination, whether a proposed Agency action is a major action significantly affecting the environment.

- (4) Environmental Assessment. A detailed study of the reasonably foreseeable significant effects, both beneficial and adverse, of a proposed action on the environment of a foreign country or countries.

- (5) Environmental Impact Statement. A detailed study of the reasonably foreseeable environmental impacts, both positive and negative, of a proposed A.I.D. action and its reasonable alternatives on the United States, the global environment or areas outside the jurisdiction of any nation as described in '216.7 of these procedures. It is a specific document having a definite format and content, as provided in NEPA and the CEQ Regulations. The required form and content of an Environmental Impact Statement is further described in '216.7 infra.

- (6) Project Identification Document (PID). An internal A.I.D. document which initially identifies and describes a proposed project.

- (7) Program Assistance Initial Proposal (PAIP). An internal A.I.D. document used to initiate and identify proposed non-project assistance, including commodity import programs. It is analogous to the PID.

- (8) Project Paper (PP). An internal A.I.D. document which provides a definitive description and appraisal of the project and particularly the plan or implementation.

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(9) Program Assistance Approval Document (PAAD). An internal A.I.D. document approving non-project assistance. It is analogous to the PP.

(10) Environment. The term environment, as used in these procedures with respect to effects occurring outside the United States, means the natural and physical environment. With respect to effects occurring within the United States see '216.7(b).

(11) Significant Effect. With respect to effects on the environment outside the United States, a proposed action has a significant effect on the environment if it does significant harm to the environment.

(12) Minor Donor. For purposes of these procedures, A.I.D. is a minor donor to a multidonor project when A.I.D. does not control the planning or design of the multidonor project and either

(i) A.I.D.'s total contribution to the project is both less than \$1,000,000 and less than 25 percent of the estimated project cost, or

(ii) A.I.D.'s total contribution is more than \$1,000,000 but less than 25 percent of the estimated project cost and the environmental procedures of the donor in control of the planning of design of the project are followed, but only if the A.I.D. Environmental Coordinator determines that such procedures are adequate.

### §216.2 APPLICABILITY OF PROCEDURES

#### *(a) Scope*

Except as provided in '216.2(b), these procedures apply to all new projects, programs or activities authorized or approved by A.I.D. and to substantive amendments or extensions of ongoing projects, programs, or activities.

#### *(b) Exemptions*

(1) Projects, programs or activities involving the following are exempt from these procedures:

- (i) International disaster assistance;
- (ii) Other emergency circumstances; and

(iii) Circumstances involving exceptional foreign policy sensitivities.

(2) A formal written determination, including a statement of the justification therefore, is required for each project, program or activity for which an exemption is made under paragraphs (b)(1)(ii) and (iii) of this section, but is not required for projects, programs or activities under paragraph (b)(1)(i) of this section. The determination shall be made either by the Assistant Administrator having responsibility for the program, project or activity, or by the Administrator, where authority to approve financing has been reserved by the Administrator. The determination shall be made after consultation with CEQ regarding the environmental consequences of the proposed program, project or activity.

#### *(c) Categorical Exclusions*

(1) The following criteria have been applied in determining the classes of actions included in '216.2(c)(2) for which an Initial Environmental Examination, Environmental Assessment and Environmental Impact Statement generally are not required:

(i) The action does not have an effect on the natural or physical environment;

(ii) A.I.D. does not have knowledge of or control over, and the objective of A.I.D. in furnishing assistance does not require, either prior to approval of financing or prior to implementation of specific activities, knowledge of or control over, the details of the specific activities that have an effect on the physical and natural environment for which financing is provided by A.I.D.;

(iii) Research activities which may have an effect on the physical and natural environment but will not have a significant effect as a result of limited scope, carefully controlled nature and effective monitoring.

(2) The following classes of actions are not subject to the procedures set forth in '216.3, except to the extent provided herein;

(i) Education, technical assistance, or training programs except to the extent such programs include activities directly affecting

the environment (such as construction of facilities, etc.);

(ii) Controlled experimentation exclusively for the purpose of research and field evaluation which are confined to small areas and carefully monitored;

(iii) Analyses, studies, academic or research workshops and meetings;

(iv) Projects in which A.I.D. is a minor donor to a multidonor project and there is no potential significant effects upon the environment of the United States, areas outside any nation's jurisdiction or endangered or threatened species or their critical habitat;

(v) Document and information transfers;

(vi) Contributions to international, regional or national organizations by the United States which are not for the purpose of carrying out a specifically identifiable project or projects;

(vii) Institution building grants to research and educational institutions in the United States such as those provided for under section 122(d) and Title XII of Chapter 2 of Part I of the FAA (22 USCA ' ' 2151 p. (b) 2220a. (1979));

(viii) Programs involving nutrition, health care or population and family planning services except to the extent designed to include activities directly affecting the environment (such as construction of facilities, water supply systems, waste water treatment, etc.)

(ix) Assistance provided under a Commodity Import Program when, prior to approval, A.I.D. does not have knowledge of the specific commodities to be financed and when the objective in furnishing such assistance requires neither knowledge, at the time the assistance is authorized, nor control, during implementation, of the commodities or their use in the host country.

(x) Support for intermediate credit institutions when the objective is to assist in the capitalization of the institution or part thereof and when such support does not involve reservation of the right to review and approve individual loans made by the institution;

(xi) Programs of maternal or child feeding conducted under Title II of Pub. L. 480;

(xii) Food for development programs conducted by food recipient countries under Title III of Pub. L. 480, when achieving A.I.D.'s objectives in such programs does not require knowledge of or control over the details of the specific activities conducted by the foreign country under such program;

(xiii) Matching, general support and institutional support grants provided to private voluntary organizations (PVOs) to assist in financing programs where A.I.D.'s objective in providing such financing does not require knowledge of or control over the details of the specific activities conducted by the PVO;

(xiv) Studies, projects or programs intended to develop the capability of recipient countries to engage in development planning, except to the extent designed to result in activities directly affecting the environment (such as construction of facilities, etc.); and

(xv) Activities which involve the application of design criteria or standards developed and approved by A.I.D.

(3) The originator of a project, program or activity shall determine the extent to which it is within the classes of actions described in paragraph (c)(2) of this section. This determination shall be made in writing and be submitted with the PID, PAIP or comparable document. This determination, which must include a brief statement supporting application of the exclusion shall be reviewed by the Bureau Environmental Officer in the same manner as a Threshold Decision under §216.3(a)(2) of these procedures. Notwithstanding paragraph (c)(2) of this section, the procedures set forth in §216.3 shall apply to any project, program or activity included in the classes of actions listed in paragraph (c)(2) of this section, or any aspect or component thereof, if at any time in the design, review or approval of the activity it is determined that the project, program or activity, or aspect or component thereof, is subject to the control of A.I.D. and may have a significant effect on the environment.

***(d) Classes of Actions Normally Having a Significant Effect on the Environment***

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(1) The following classes of actions have been determined generally to have a significant effect on the environment and an Environmental Assessment or Environmental Impact Statement, as appropriate, will be required:

- (i) Programs of river basin development;
- (ii) Irrigation or water management projects, including dams and impoundments;
- (iii) Agricultural land leveling;
- (iv) Drainage projects;
- (v) Large scale agricultural mechanization;
- (vi) New lands development;
- (vii) Resettlement projects;
- (viii) Penetration road building or road improvement projects;
- (ix) Powerplants;
- (x) Industrial plants;
- (xi) Potable water and sewerage projects other than those that are small-scale.

(2) An Initial Environmental Examination normally will not be necessary for activities within the classes described in §216.2(d), except when the originator of the project believes that the project will not have a significant effect on the environment. In such cases, the activity may be subjected to the procedures set forth in §216.3

### ***(e) Pesticides.***

The exemptions of §216.2(b)(1) and the categorical exclusions of §216.2(c)(2) are not applicable to assistance for the procurement or use of pesticides.

## **§216.3 PROCEDURES**

### ***(a) General Procedures***

(1) Preparation of the Initial Environmental Examination. Except as otherwise provided, an Initial Environmental Examination is not required for activities identified in §216.2(b)(1), (c)(2), and (d). For all other A.I.D. activities described in §216.2(a) an Initial Environmental Examination will be prepared by the originator of an action. Except as indicated in this section, it should be prepared with

the PID or PAIP. For projects including the procurement or use of pesticides, the procedures set forth in §216.3(b) will be followed, in addition to the procedures in this paragraph. Activities which cannot be identified in sufficient detail to permit the completion of an Initial Environmental Examination with the PID or PAIP, shall be described by including with the PID or PAIP:

(i) an explanation indicating why the Initial Environmental Examination cannot be completed;

(ii) an estimate of the amount of time required to complete the Initial Environmental Examination; and

(iii) a recommendation that a Threshold Decision be deferred until the Initial Environmental Examination is completed. The responsible Assistant Administrator will act on the request for deferral concurrently with action on the PID or PAIP and will designate a time for completion of the Initial Environmental Examination. In all instances, except as provided in §216.3(a)(7), this completion date will be in sufficient time to allow for the completion of an Environmental Assessment or Environmental Impact Statement, if required, before a final decision is made to provide A.I.D. funding for the action.

### (2) Threshold Decision.

(i) The Initial Environmental Examination will include a Threshold Decision made by the officer in the originating office who signs the PID or PAIP. If the Initial Environmental Examination is completed prior to or at the same time as the PID or PAIP, the Threshold Decision will be reviewed by the Bureau Environmental Officer concurrently with approval of the PID or PAIP. The Bureau Environmental Officer will either concur in the Threshold Decision or request reconsideration by the officer who made the Threshold Decision, stating the reasons for the request. Differences of opinion between these officers shall be submitted for resolution to the Assistant Administrator at the same time that the PID is submitted for approval.

(ii) An Initial Environmental Examination, completed subsequent to approval of the PID

or PAIP, will be forwarded immediately together with the Threshold Determination to the Bureau Environmental Officer for action as described in this section.

(iii) A Positive Threshold Decision shall result from a finding that the proposed action will have a significant effect on the environment. An Environmental Impact Statement shall be prepared if required pursuant to §216.7. If an impact statement is not required, an Environmental Assessment will be prepared in accordance with §216.6. The cognizant Bureau or Office will record a Negative Determination if the proposed action will not have a significant effect on the environment.

(3) Negative Declaration. The Assistant Administrator, or the Administrator in actions for which the approval of the Administrator is required for the authorization of financing, may make a Negative Declaration, in writing, that the Agency will not develop an Environmental Assessment or an Environmental Impact Statement regarding an action found to have a significant effect on the environment when (i) a substantial number of Environmental Assessments or Environmental Impact Statements relating to similar activities have been prepared in the past, if relevant to the proposed action, (ii) the Agency has previously prepared a programmatic Statement or Assessment covering the activity in question which has been considered in the development of such activity, or (iii) the Agency has developed design criteria for such an action which, if applied in the design of the action, will avoid a significant effect on the environment.

(4) Scope of Environmental Assessment or Impact Statement

(i) Procedure and Content. After a Positive Threshold Decision has been made, or a determination is made under the pesticide procedures set forth in §216.3(b) that an Environmental Assessment or Environmental Impact Statement is required, the originator of the action shall commence the process of identifying the significant issues relating to the proposed action and of determining the scope of the issues to be addressed in the Environmental Assessment or Environmental Impact Statement. The originator of an action within the classes of actions described in §216.2(d) shall commence

this scoping process as soon as practicable. Persons having expertise relevant to the environmental aspects of the proposed action shall also participate in this scoping process. (Participants may include but are not limited to representatives of host governments, public and private institutions, the A.I.D. Mission staff and contractors.) This process shall result in a written statement which shall include the following matters:

(a) A determination of the scope and significance of issues to be analyzed in the Environmental Assessment or Impact Statement, including direct and indirect effects of the project on the environment.

(b) Identification and elimination from detailed study of the issues that are not significant or have been covered by earlier environmental review, or approved design considerations, narrowing the discussion of these issues to a brief presentation of why they will not have a significant effect on the environment.

(c) A description of

(1) the timing of the preparation of environmental analyses, including phasing if appropriate,

(2) variations required in the format of the Environmental Assessment, and

(3) the tentative planning and decision-making schedule; and

(d) A description of how the analysis will be conducted and the disciplines that will participate in the analysis.

(ii) These written statements shall be reviewed and approved by the Bureau Environmental Officer.

(iii) Circulation of Scoping Statement. To assist in the preparation of an Environmental Assessment, the Bureau Environmental Officer may circulate copies of the written statement, together with a request for written comments, within thirty days, to selected federal agencies if that Officer believes comments by such federal agencies will be useful in the preparation of an Environmental

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Assessment. Comments received from reviewing federal agencies will be considered in the preparation of the Environmental Assessment and in the formulation of the design and implementation of the project, and will, together with the scoping statement, be included in the project file.

(iv) Change in Threshold Decision. If it becomes evident that the action will not have a significant effect on the environment (i.e., will not cause significant harm to the environment), the Positive Threshold Decision may be withdrawn with the concurrence of the Bureau Environmental Officer. In the case of an action included in §216.2(d)(2), the request for withdrawal shall be made to the Bureau Environmental Officer.

(5) Preparation of Environmental Assessments and Environmental Impact Statement. If the PID or PAIP is approved, and the Threshold Decision is positive, or the action is included in §216.2(d), the originator of the action will be responsible for the preparation of an Environmental Assessment or Environmental Impact Statement as required. Draft Environmental Impact Statements will be circulated for review and comment as part of the review of Project Papers and as outlined further in §216.7 of those procedures. Except as provided in §216.3(a)(7), final approval of the PP or PAAD and the method of implementation will include consideration of the Environmental Assessment or final Environmental Impact Statement.

### (6) Processing and Review Within A.I.D.

(i) Initial Environmental Examinations, Environmental Assessments, and final Environmental Impact Statements will be processed pursuant to standard A.I.D. procedures for project approval documents. Except as provided in §216.3(a)(7), Environmental Assessments and final Environmental Impact Statements will be reviewed as an integral part of the Project Paper or equivalent document. In addition to these procedures, Environmental Assessments will be reviewed and cleared by the Bureau Environmental Officer. They may also be reviewed by the Agency's Environmental Coordinator who will monitor the Environmental Assessment process.

(ii) When project approval authority is delegated to field posts, Environmental Assessments shall be reviewed and cleared by the Bureau Environmental Officer prior to the approval of such actions.

(iii) Draft and final Environmental Impact Statements will be reviewed and cleared by the Environmental Coordinator and the Office of the General Counsel.

### (7) Environmental Review After Authorization of Financing.

(i) Environmental review may be performed after authorization of a project, program or activity only with respect to subprojects or significant aspects of the project, program or activity that are unidentified at the time of authorization. Environmental review shall be completed prior to authorization for all subprojects and aspects of a project, program or activity that are identified.

(ii) Environmental review should occur at the earliest time in design or implementation at which a meaningful review can be undertaken, but in no event later than when previously unidentified subprojects or aspects of projects, programs or activities are identified and planned. To the extent possible, adequate information to undertake deferred environmental review should be obtained before funds are obligated for unidentified subprojects or aspects of projects, programs or activities. (Funds may be obligated for the other aspects for which environmental review has been completed.) To avoid an irreversible commitment of resources prior to the conclusion of environmental review, the obligation of funds can be made incrementally as subprojects or aspects of projects, programs or activities are identified; or if necessary while planning continues, including environmental review, the agreement or other document obligating funds may contain appropriate covenants or conditions precedent to disbursement for unidentified subprojects or aspects of projects, programs or activities.

(iii) When environmental review must be deferred beyond the time some of the funds are to be disbursed (e.g., long lead times for the delivery of goods or services), the project

agreement or other document obligating funds shall contain a covenant or covenants requiring environmental review, including an Environmental Assessment or Environmental Impact Statement, when appropriate, to be completed and taken into account prior to implementation of those subprojects or aspects of the project, program or activity for which environmental review is deferred. Such covenants shall ensure that implementation plans will be modified in accordance with environmental review if the parties decide that modifications are necessary.

(iv) When environmental review will not be completed for an entire project, program or activity prior to authorization, the Initial Environmental Examination and Threshold Decision required under §216.3(a)(1) and (2) shall identify those aspects of the project, program or activity for which environmental review will be completed prior to the time financing is authorized. It shall also include those subprojects or aspects for which environmental review will be deferred, stating the reasons for deferral and the time when environmental review will be completed. Further, it shall state how an irreversible commitment of funds will be avoided until environmental review is completed. The A.I.D. officer responsible for making environmental decisions for such projects, programs or activities shall also be identified (the same officer who has decision-making authority for the other aspects of implementation). This deferral shall be reviewed and approved by the officer making the Threshold Decision and the officer who authorizes the project, program or activity. Such approval may be made only after consultation with the Office of General Counsel for the purpose of establishing the manner in which conditions precedent to disbursement or covenants in project and other agreements will avoid an irreversible commitment of resources before environmental review is completed.

(8) Monitoring. To the extent feasible and relevant, projects and programs for which Environmental Impact Statements or Environmental Assessments have been prepared should be designed to include measurement of any changes in environmental quality, positive or negative, during their implementation. This will require recording of baseline data at the start. To the extent that available

data permit, originating offices of A.I.D. will formulate systems in collaboration with recipient nations, to monitor such impacts during the life of A.I.D.'s involvement. Monitoring implementation of projects, programs and activities shall take into account environmental impacts to the same extent as other aspects of such projects, programs and activities. If during implementation of any project, program or activity, whether or not an Environmental Assessment or Environmental Impact Statement was originally required, it appears to the Mission Director, or officer responsible for the project, program or activity, that it is having or will have a significant effect on the environment that was not previously studied in an Environmental Assessment or Environmental Impact Statement, the procedures contained in this part shall be followed including, as appropriate, a Threshold Decision, Scoping and an Environmental Assessment or Environmental Impact Statement.

(9) Revisions. If, after a Threshold Decision is made resulting in a Negative Determination, a project is revised or new information becomes available which indicates that a proposed action might be "major" and its effects "significant", the Negative Determination will be reviewed and revised by the cognizant Bureau and an Environmental Assessment or Environmental Impact Statement will be prepared, if appropriate. Environmental Assessments and Environmental Impact Statements will be amended and processed appropriately if there are major changes in the project or program, or if significant new information becomes available which relates to the impact of the project, program or activity on the environment that was not considered at the time the Environmental Assessment or Environmental Impact Statement was approved. When ongoing programs are revised to incorporate a change in scope or nature, a determination will be made as to whether such change may have an environmental impact not previously assessed. If so, the procedures outlined in this part will be followed.

(10) Other Approval Documents. These procedures refer to certain A.I.D. documents such as PIDs, PAIPs, PPs and PAADs as the A.I.D. internal instruments for approval of projects, programs or activities. From time to time, certain special procedures, such as those in §216.4, may not require the use of the aforementioned documents. In these situations, these

environmental procedures shall apply to those special approval procedures, unless otherwise exempt, at approval times and levels comparable to projects, programs and activities in which the aforementioned documents are used.

### ***(b) Pesticide Procedures***

(1) Project Assistance. Except as provided in §216.3 (b)(2), all proposed projects involving assistance for the procurement or use, or both, of pesticides shall be subject to the procedures prescribed in §216.3(b)(1)(i) through (v). These procedures shall also apply, to the extent permitted by agreements entered into by A.I.D. before the effective date of these pesticide procedures, to such projects that have been authorized but for which pesticides have not been procured as of the effective date of these pesticide procedures.

(i) When a project includes assistance for procurement or use, or both, of pesticides registered for the same or similar uses by USEPA without restriction, the Initial Environmental Examination for the project shall include a separate section evaluating the economic, social and environmental risks and benefits of the planned pesticide use to determine whether the use may result in significant environmental impact. Factors to be considered in such an evaluation shall include, but not be limited to the following:

- (a) The USEPA registration status of the requested pesticide;
- (b) The basis for selection of the requested pesticide;
- (c) The extent to which the proposed pesticide use is part of an integrated pest management program;
- (d) The proposed method or methods of application, including availability of appropriate application and safety equipment;
- (e) Any acute and long-term toxicological hazards, either human or environmental, associated with the proposed use and measures available to minimize such hazards;
- (f) The effectiveness of the requested pesticide for the proposed use;

(g) Compatibility of the proposed pesticide with target and nontarget ecosystems;

(h) The conditions under which the pesticide is to be used, including climate, flora, fauna, geography, hydrology, and soils;

(i) The availability and effectiveness of other pesticides or nonchemical control methods;

(j) The requesting country's ability to regulate or control the distribution, storage, use and disposal of the requested pesticide;

(k) The provisions made for training of users and applicators; and

(l) The provisions made for monitoring the use and effectiveness of the pesticide.

In those cases where the evaluation of the proposed pesticide use in the Initial Environmental Examination indicates that the use will significantly affect the human environment, the Threshold Decision will include a recommendation for the preparation of an Environmental Assessment or Environmental Impact Statement, as appropriate. In the event a decision is made to approve the planned pesticide use, the Project Paper shall include to the extent practicable, provisions designed to mitigate potential adverse effects of the pesticide. When the pesticide evaluation section of the Initial Environmental Examination does not indicate a potentially unreasonable risk arising from the pesticide use, an Environmental Assessment or Environmental Impact Statement shall nevertheless be prepared if the environmental effects of the project otherwise require further assessment.

(ii) When a project includes assistance for the procurement or use, or both, of any pesticide registered for the same or similar uses in the United States but the proposed use is restricted by the USEPA on the basis of user hazard, the procedures set forth in §216.3(b)(1)(i) above will be followed. In addition, the Initial Environmental Examination will include an evaluation of the user hazards associated with the proposed

USEPA restricted uses to ensure that the implementation plan which is contained in the Project Paper incorporates provisions for making the recipient government aware of these risks and providing, if necessary, such technical assistance as may be required to mitigate these risks. If the proposed pesticide use is also restricted on a basis other than user hazard, the procedures in §216.3(b)(1)(iii) shall be followed in lieu of the procedures in this section.

(iii) If the project includes assistance for the procurement or use, or both of:

(a) Any pesticide other than one registered for the same or similar uses by USEPA without restriction or for restricted use on the basis of user hazard; or

(b) Any pesticide for which a notice of rebuttable presumption against reregistration [*since 1985, known as Special Review*], notice of intent to cancel, or notice of intent to suspend has been issued by USEPA, The Threshold Decision will provide for the preparation of an Environmental Assessment or Environmental Impact Statement, as appropriate (§216.6(a)). The EA or EIS shall include, but not be limited to, an analysis of the factors identified in §216.3(b)(1)(i) above.

(iv) Notwithstanding the provisions of §216.3(b)(1)(i) through (iii) above, if the project includes assistance for the procurement or use, or both, of a pesticide against which USEPA has initiated a regulatory action for cause, or for which it has issued a notice of rebuttable presumption against reregistration, the nature of the action or notice, including the relevant technical and scientific factors will be discussed with the requesting government and considered in the IEE and, if prepared, in the EA or EIS. If USEPA initiates any of the regulatory actions above against a pesticide subsequent to its evaluation in an IEE, EA or EIS, the nature of the action will be discussed with the recipient government and considered in an amended IEE or amended EA or EIS, as appropriate.

(v) If the project includes assistance for the procurement or use, or both of pesticides but the specific pesticides to be procured or used cannot be identified at the time the IEE is prepared, the

procedures outlined in §216.3(b)(i) through (iv) will be followed when the specific pesticides are identified and before procurement or use is authorized. Where identification of the pesticides to be procured or used does not occur until after Project Paper approval, neither the procurement nor the use of the pesticides shall be undertaken unless approved, in writing, by the Assistant Administrator (or in the case of projects authorized at the Mission level, the Mission Director) who approved the Project Paper.

(2) Exceptions to Pesticide Procedures. The procedures set forth in §216.3 (b)(i) shall not apply to the following projects including assistance for the procurement or use, or both, of pesticides.

(i) Projects under emergency conditions. Emergency conditions shall be deemed to exist when it is determined by the Administrator, A.I.D.. in writing that:

(a) A pest outbreak has occurred or is imminent; and

(b) Significant health problems (either human or animal) or significant economic problems will occur without the prompt use of the proposed pesticide; and

(c) Insufficient time is available before the pesticide must be used to evaluate the proposed use in accordance with the provisions of this regulation.

(ii) Projects where A.I.D. is a minor donor, as defined in §216.1(c)(12) above, to a multi-donor project.

(iii) Projects including assistance for procurement or use, or both, of pesticides for research or limited field evaluation purposes by or under the supervision of project personnel. In such instances, however, A.I.D. will ensure that the manufacturers of the pesticides provide toxicological and environmental data necessary to safeguard the health of research personnel and the quality of the local environment in which the pesticides will be used. Furthermore, treated crops will not be used for human or animal consumption unless appropriate tolerances have been established by EPA or recommended by FAO/WHO, and the rates and frequency of application, together with the prescribed

## ENVIRONMENTAL PROCEDURES TRAINING MANUAL (AFR)

preharvest intervals, do not result in residues exceeding such tolerances. This prohibition does not apply to the feeding of such crops to animals for research purposes.

(3) Non-Project Assistance. In a very few limited number of circumstances A.I.D. may provide non-project assistance for the procurement and use of pesticides. Assistance in such cases shall be provided if the A.I.D. Administrator determines in writing that

- (i) emergency conditions, as defined in §216.3(b)(2)(i) above exist; or
- (ii) that compelling circumstances exist such that failure to provide the proposed assistance would seriously impede the attainment of U.S. foreign policy objectives or the objectives of the foreign assistance program. In the latter case, a decision to provide the assistance will be based to the maximum extent practicable, upon a consideration of the factors set forth in §216.3(b)(1)(i) and, to the extent available, the history of efficacy and safety covering the past use of the pesticide the in recipient country.

### §216.4 PRIVATE APPLICANTS

Programs, projects or activities for which financing from A.I.D. is sought by private applicants, such as PVOs and educational and research institutions, are subject to these procedures. Except as provided in §216.2(b), (c) or (d), preliminary proposals for financing submitted by private applicants shall be accompanied by an Initial Environmental Examination or adequate information to permit preparation of an Initial Environmental Examination. The Threshold Decision shall be made by the Mission Director for the country to which the proposal relates, if the preliminary proposal is submitted to the A.I.D. Mission, or shall be made by the officer in A.I.D. who approves the preliminary proposal. In either case, the concurrence of the Bureau Environmental Officer is required in the same manner as in §216.3(a)(2), except for PVO projects approved in A.I.D. Missions with total life of project costs less than \$500,000. Thereafter, the same procedures set forth in §216.3 including as appropriate scoping and Environmental Assessments or Environmental Impact Statements, shall be applicable to programs, projects or activities submitted by private applicants. The final proposal submitted for financing shall be treated, for purposes

of these procedures, as a Project Paper. The Bureau Environmental Officer shall advise private applicants of studies or other information foreseeably required for action by A.I.D.

### §216.5 ENDANGERED SPECIES

It is A.I.D. policy to conduct its assistance programs in a manner that is sensitive to the protection of endangered or threatened species and their critical habitats. The Initial Environmental Examination for each project, program or activity having an effect on the environment shall specifically determine whether the project, program or activity will have an effect on an endangered or threatened species, or critical habitat. If the proposed project, program or activity will have the effect of jeopardizing an endangered or threatened species or of adversely modifying its critical habitat, the Threshold Decision shall be a Positive Determination and an Environmental Assessment or Environmental Impact Statement completed as appropriate, which shall discuss alternatives or modifications to avoid or mitigate such impact on the species or its habitat.

### §216.6 ENVIRONMENTAL ASSESSMENTS

#### *(a) General Purpose*

The purpose of the Environmental Assessment is to provide Agency and host country decision-makers with a full discussion of significant environmental effects of a proposed action. It includes alternatives which would avoid or minimize adverse effects or enhance the quality of the environment so that the expected benefits of development objectives can be weighed against any adverse impacts upon the human environment or any irreversible or irretrievable commitment of resources.

#### *(b) Collaboration with Affected Nation on Preparation*

Collaboration in obtaining data, conducting analyses and considering alternatives will help build an awareness of development associated environmental problems in less developed

countries as well as assist in building an indigenous institutional capability to deal nationally with such problems. Missions, Bureaus and Offices will collaborate with affected countries to the maximum extent possible, in the development of any Environmental Assessments and consideration of environmental consequences as set forth therein.

### ***(c) Content and Form***

The Environmental Assessment shall be based upon the scoping statement and shall address the following elements, as appropriate:

(1) Summary. The summary shall stress the major conclusions, areas of controversy, if any, and the issues to be resolved.

(2) Purpose. The Environmental Assessment shall briefly specify the underlying purpose and need to which the Agency is responding in proposing the alternatives including the proposed action.

(3) Alternatives Including the Proposed Action. This section should present the environmental impacts of the proposal and its alternatives in comparative form, thereby sharpening the issues and providing a clear basis for choice among options by the decision-maker. This section should explore and evaluate reasonable alternatives and briefly discuss the reasons for eliminating those alternatives which were not included in the detailed study; devote substantial treatment to each alternative considered in detail including the proposed action so that reviewers may evaluate their comparative merits; include the alternative of no action; identify the Agency's preferred alternative or alternatives, if one or more exists; include appropriate mitigation measures not already included in the proposed action or alternatives.

(4) Affected Environment. The Environmental Assessment shall succinctly describe the environment of the area(s) to be affected or created by the alternatives under consideration. The descriptions shall be no longer than is necessary to understand the effects of the alternatives. Data and analyses in the Environmental Assessment shall be commensurate with the significance of the impact with less important material summarized, consolidated or simply referenced.

(5) Environmental Consequences. This section forms the analytic basis for the comparisons under

paragraph (c)(3) of this section. It will include the environmental impacts of the alternatives including the proposed action; any adverse effects that cannot be avoided should the proposed action be implemented; the relationship between short-term uses of the environment and the maintenance and enhancement of long-term productivity; and any irreversible or irretrievable commitments of resources which would be involved in the proposal should it be implemented. It should not duplicate discussions in paragraph (c)(3) of this section. This section of the Environmental Assessment should include discussions of direct effects and their significance; indirect effects and their significance; possible conflicts between the proposed action and land use plans, policies and controls for the areas concerned; energy requirements and conservation potential of various alternatives and mitigation measures; natural or depletable resource requirements and conservation potential of various requirements and mitigation measures; urban quality; historic and cultural resources and the design of the built environment, including the reuse and conservation potential of various alternatives and mitigation measures; and means to mitigate adverse environmental impacts.

(6) List of Preparers. The Environmental Assessment shall list the names and qualifications (expertise, experience, professional discipline) of the persons primarily responsible for preparing the Environmental Assessment or significant background papers.

(7) Appendix. An appendix may be prepared.

### ***(d) Program Assessment***

Program Assessments may be appropriate in order to assess the environmental effects of a number of individual actions and their cumulative environmental impact in a given country or geographic area, or the environmental impacts that are generic or common to a class of agency actions, or other activities which are not country-specific. In these cases, a single, programmatic assessment will be prepared in A.I.D./Washington and circulated to appropriate overseas Missions, host governments, and to interested parties within the United States. To the extent practicable, the form and content of the programmatic Environmental Assessment will be the same as for project Assessments. Subsequent Environmental Assessments on major individual actions will only

be necessary where such follow-on or subsequent activities may have significant environmental impacts on specific countries where such impacts have not been adequately evaluated in the programmatic Environmental Assessment. Other programmatic evaluations of class of actions may be conducted in an effort to establish additional categorical exclusions or design standards or criteria for such classes that will eliminate or minimize adverse effects of such actions, enhance the environmental effect of such actions or reduce the amount of paperwork or time involved in these procedures. Programmatic evaluations conducted for the purpose of establishing additional categorical exclusions under §216.2(c) or design considerations that will eliminate significant effects for classes of actions shall be made available for public comment before the categorical exclusions or design standards or criteria are adopted by A.I.D. Notice of the availability of such documents shall be published in the Federal Register. Additional categorical exclusions shall be adopted by A.I.D. upon the approval of the Administrator, and design consideration in accordance with usual agency procedures.

### ***(e) Consultation and Review***

(1) When Environmental Assessments are prepared on activities carried out within or focused on specific developing countries, consultation will be held between A.I.D. staff and the host government both in the early stages of preparation and on the results and significance of the completed Assessment before the project is authorized.

(2) Missions will encourage the host government to make the Environmental Assessment available to the general public of the recipient country. If Environmental Assessments are prepared on activities which are not country specific, the Assessment will be circulated by the Environmental Coordinator to A.I.D.'s Overseas Missions and interested governments for information, guidance and comment and will be made available in the U.S. to interested parties.

### ***(f) Effect in Other Countries***

In a situation where an analysis indicates that potential effects may extend beyond the national boundaries of a recipient country and adjacent foreign nations may be affected, A.I.D. will urge the

recipient country to consult with such countries in advance of project approval and to negotiate mutually acceptable accommodations.

### ***(g) Classified Material***

Environmental Assessments will not normally include classified or administratively controlled material. However, there may be situations where environmental aspects cannot be adequately discussed without the inclusion of such material. The handling and disclosure of classified or administratively controlled material shall be governed by 22 CFR Part 9. Those portions of an Environmental Assessment which are not classified or administratively controlled will be made available to persons outside the Agency as provided for in 22 CFR Part 212.

## **§216.7 ENVIRONMENTAL IMPACT STATEMENTS**

### ***(a) Applicability***

An Environmental Impact Statement shall be prepared when agency actions significantly affect:

- (1) The global environment or areas outside the jurisdiction of any nation (e.g., the oceans);
- (2) The environment of the United States; or
- (3) Other aspects of the environment at the discretion of the Administrator.

### ***(b) Effects on the United States: Content and Form***

An Environmental Impact Statement relating to paragraph (a)(2) of this section shall comply with the CEQ Regulations. With respect to effects on the United States, the terms environment and significant effect wherever used in these procedures have the same meaning as in the CEQ Regulations rather than as defined in §216.1(c)(12) and (13) of these procedures.

### ***(c) Other Effects: Content and Form***

An Environmental Impact Statement relating to paragraphs (a)(1) and (a)(3) of this section will generally follow the CEQ Regulations, but will

take into account the special considerations and concerns of A.I.D. Circulation of such Environmental Impact Statements in draft form will precede approval of a Project Paper or equivalent and comments from such circulation will be considered before final project authorization as outlined in §216.3 of these procedures. The draft Environmental Impact Statement will also be circulated by the Missions to affected foreign governments for information and comment. Draft Environmental Impact Statements generally will be made available for comment to Federal agencies with jurisdiction by law or special expertise with respect to any environmental impact involved, and to public and private organizations and individuals for not less than forty-five (45) days. Notice of availability of the draft Environmental Impact Statements will be published in the Federal Register. Cognizant Bureaus and Offices will submit these drafts for circulation through the Environmental Coordinator who will have the responsibility for coordinating all such communications with persons outside A.I.D. Any comments received by the Environmental Coordinator will be forwarded to the originating Bureau or Office for consideration in final policy decisions and the preparation of a final Environmental Impact Statement. All such comments will be attached to the final Statement, and those relevant comments not adequately discussed in the draft Environmental Impact Statement will be appropriately dealt with in the final Environmental Impact Statement. Copies of the final Environmental Impact Statement, with comments attached, will be sent by the Environmental Coordinator to CEQ and to all other Federal, state, and local agencies and private organizations that made substantive comments on the draft, including affected foreign governments. Where emergency circumstances or considerations of foreign policy make it necessary to take an action without observing the provisions of §1506.10 of the CEQ Regulations, or when there are overriding considerations of expense to the United States or foreign governments, the originating Office will advise the Environmental Coordinator who will consult with Department of State and CEQ concerning appropriate modification of review procedures.

## **§216.8 PUBLIC HEARINGS**

(a) In most instances AID will be able to gain the benefit of public participation in the impact statement process through circulation of draft statements and notice of public availability in CEQ publications. However, in some cases the Administrator may wish to hold public hearings on draft Environmental Impact Statements. In deciding whether or not a public hearing is appropriate, Bureaus in conjunction with the Environmental Coordinator should consider:

(1) The magnitude of the proposal in terms of economic costs, the geographic area involved, and the uniqueness or size of commitment of the resources involved;

(2) The degree of interest in the proposal as evidenced by requests from the public and from Federal, state and local authorities, and private organizations and individuals, that a hearing be held;

(3) The complexity of the issue and likelihood that information will be presented at the hearing which will be of assistance to the Agency; and

(4) The extent to which public involvement already has been achieved through other means, such as earlier public hearings, meetings with citizen representatives, and/or written comments on the proposed action.

(b) If public hearings are held, draft Environmental Impact Statements to be discussed should be made available to the public at least fifteen (15) days prior to the time of the public hearings, and a notice will be placed in the Federal Register giving the subject, time and place of the proposed hearings.

## **§216.9 BILATERAL AND MULTILATERAL STUDIES AND CONCISE REVIEWS OF ENVIRONMENTAL ISSUES**

Notwithstanding anything to the contrary in these procedures, the Administrator may approve the use of either of the following documents as a substitute for an Environmental Assessment (but not a substitute for an Environmental Impact Statement) required under these procedures:

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(a) Bilateral or multilateral environmental studies, relevant or related to the proposed action, prepared by the United States and one or more foreign countries or by an international body or organization in which the United States is a member or participant; or

(b) Concise reviews of the environmental issues involved including summary environmental analyses or other appropriate documents.

### **§216.10 RECORDS AND REPORTS**

Each Agency Bureau will maintain a current list of activities for which Environmental Assessments and Environmental Impact Statements are being prepared and for which Negative Determinations and Declarations have been made. Copies of final Initial Environmental Examinations, scoping statements, Assessments and Impact Statements will be available to interested Federal agencies upon request. The cognizant Bureau will maintain a permanent file (which may be part of its normal project files) of Environmental Impact Statements, Environmental Assessments, final Initial Environmental Examinations, scoping statements, Determinations and Declarations which will be available to the public under the Freedom of Information Act. Interested persons can obtain information or status reports regarding Environmental Assessments and Environmental Impact Statements through the A.I.D. Environmental Coordinator.

(22 U.S.C. 2381; 42 U.S.C. 4332)

Dated October 9, 1980

Joseph C. Wheeler

Acting Administrator



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## ***B.2 Guidance regarding Reg 216 compliance requirements of Title II activities***

This section contains guidance issued by USAID regarding environmental compliance requirements for Title II – funded activities. (These are Food for Peace/Monetized Food Aid activities.)

Contents:

- 1. FY05 Title II DAP/CSR4 Review Guidance to Missions**  
(Excerpt; 16Jan04)
- 2. FFP Information Bulletin 04-04:  
USAID Environmental Procedures (22 CFR 216) Compliance and  
FFP Programs (12May2004)**
- 3. Attachment to FFPIB 04-04:  
Guidance Notes for implementation of Reg. 216 for PL 480 Title II  
Programs (24May2004)**

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### **1. EXCERPT: FY05 Title II DAP/CSR4 Review Guidance to Missions 16 January 2004**

Source: pg 12 & 13 Cable ID: STATE 011496 161751Z

<excerpt>

#### **Approval Documentation:**

22. Compliance with Regulation 216 is required of all Title II Development Activities. All Title II DAPS should include an initial environmental examination (IEE). IEEs or IEE Amendments must be cleared by the Mission Director or his/her designee, be sent to FFP for clearance, and from FFP to the DHCA or geographic bureau environmental officer for final concurrence. All CSR4s should include an Environmental Status Report (ESR) detailing the actions they have undertaken with regards to their previous approved IEE.

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## 2. FOOD FOR PEACE INFORMATION BULLETIN (FFPIB) 04-04

**Date:** 12 May 2004

### MEMORANDUM FOR ALL FOOD FOR PEACE OFFICERS

**TO:** USAID/W and Overseas Distribution Lists  
**FROM:** DCHA/FFP, Lauren R. Landis, Director  
**SUBJECT:** USAID Environmental Procedures (22 CFR 216)  
Compliance and FFP Programs

### FFPIB 04-04

#### Background:

Ensuring environmental quality is essential to accomplishing USAID's mission of reducing food insecurity and increasing resiliency in local populations. Over the years, FFP has demonstrated a high level of environmental responsibility in its strict adherence to and compliance with environmental regulations for programs funded with Title II resources. The purpose of this FFPIB is to clarify the requirements for application of USAID's Environmental Procedures (Title 22 of the Code of Federal Regulations, Part 216 (22 *CFR* 216, or "Reg. 216")) to FFP programs. Not only does the environmental stewardship resulting from Regulation 216 enhance the sustainability of our programs, but pursuant to Federal statute and Executive Order, it is our legal obligation to comply with 22 CFR 216.

**All FFP programs involving PVOs and grantees must submit an Initial Environmental Evaluation (IEE) for clearance by both the FFP Director and the DCHA Bureau Environmental Officer (BEO) before funds can be obligated.** Preparation of FFP program IEEs is the responsibility of the PVO requesting Title II resources.

Programs implemented by the World Food Program (WFP) are not subject to the USAID Environmental Procedures. WFP has outlined, in a Policy Issues Paper on WFP and the Environment (1998), their commitment to environmentally sustainable interventions in relief, recovery and development, and provided an outline of their plan for enforcement and adoption of sound environmental practices in their operations. Of course, this must also be coupled with due diligence on the part of the FFP Country Backstop Officer (CBO) and SO team to verify on a case by case basis that sound environmental standards are being upheld.

Almost all development and relief activities affect the environment in some way. The goal of USAID's environmental procedures is not to prevent all such impacts. Instead, the procedures are intended to assure that environmental issues receive adequate consideration in design and implementation ([The USAID Environmental Procedures Training Manual](#) (EPTM), (Africa Bureau, 2003)).

An IEE is the first review of the reasonably foreseeable effects of a proposed action on the environment. Its function is to provide a brief statement of the factual basis for a threshold decision as to whether an Environmental Assessment or Environmental Impact Statement will be required. The determination is based on the types of proposed activities, their respective potential for causing adverse effects on the environment or human health, and the applicable mitigation measures detailed in a proposal.

Even activities that could qualify as *categorical exclusions* require compliance paperwork clearly stating the nature of the intended activities, their potential impact on the environment, and justification for a categorical exclusion based on a meaningful environmental threshold determination.

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The primary *exemption* available is for international disaster assistance in which an immediate response is required and NO immediate alternatives are available (e.g., emergency relocation of flood victims, establishment of refugee camp for rural populations caught in civil strife, or emergency medical infrastructure for victims of war).

While in very few circumstances such an exemption would not require a formal written clearance, it is the policy of FFP that both Emergency and Non-Emergency programs will provide documentation of 22 CFR 216 compliance for their proposed program activities.

Any other exemptions available under 22 CFR 216 are extremely rare, and would require formal written approval from the Administrator or Assistant Administrator, and consultation with the White House Council on Environmental Quality. The EPTM clarifies the formal requirements for an exemption to apply.

There will be no special documentation required in the event that the transfer of up to 10% of in country stocks takes place between approved Title II DAP programs to meet emergency disaster requirements or to improve efficiency of operation (as described in Regulation 11, Section 211.5 (o)). There is of course, the inherent responsibility to utilize best practices and sound program design to ensure environmental stewardship.

### Responsibilities:

SO teams are responsible for ensuring full compliance with 22 CFR 216. This includes designing, monitoring and modifying all programs, results packages and activities to ensure that the environmental consequences of all actions taken by USAID are considered and that appropriate environmental safeguards are adopted. The SO team is also responsible for keeping its relevant BEO informed on upcoming 22 CFR 216 actions through informal contacts, and for ensuring that all of its 22 CFR 216 environmental reviews are accomplished in a timely fashion, so as not to unnecessarily delay the implementation of any activities. (*ADS 204, Environmental Procedures.*)

For further clarification or guidance on 22 CFR 216 and IEE requirements, refer to the following:

- [ADS 204, 22 CFR 216](#),
- Guidance Notes, supplementary to this document
- [The Environmental Documentation Manual for PL 480 Title II Cooperating Sponsors](#),
- [“A Cooperating Sponsor's Field Guide to USAID Environmental Compliance Procedures”](#) (PDF, 165K), developed by Catholic Relief Services and FAM ([Food Aid Management](#)),
- [The USAID Environmental Procedures Training Manual](#) (AFR Edition, May 2003)
- Contact Paul des Rosiers, DCHA BEO or Lisa Witte, FFP/PTD.

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### Attachment to FFPIB 04-04: Guidance Notes for implementation of Reg. 216 for PL 480 Title II Programs

Drafted by: Julie March and Walter Knausenberger  
May 24, 2004

The goal for Title II programs from an environmental perspective is to do no significant harm through the intended or unintended environmental consequences of P.L. 480 activities. Ultimately, the desired effect on the

environment will be benign to beneficial, resulting in enhanced sustainability for the land and ecosystems of the vulnerable target populations. Design considerations for Title II programs should be informed by the environmental considerations, and one process should inform the other. Design of programs and consideration of environmental impact should be done in conjunction with each other to the extent possible. The purpose of these Guidance Notes is to highlight what is necessary for applying Regulation 216 to P.L. 480 Title II programs, which should encourage the design of programs that have considered potential environmental consequences and possible mitigation measures at length.

**For Development Programs:**

As a result of the FFPIB, nothing will have changed with regard to current procedures or processes for applying Regulation 216, USAID’s Environmental Procedures to new and existing Development Programs.

**For Emergency & Developmental Relief Programs:**

As a result of the FFPIB, changes in programming may or may not be required. Specifically, if the emergency response qualifies as a “rapid onset” disaster and specifically falls under the categories that would lead to an “exemption” declaration, nothing changes. The number of proposals that would qualify for an “exemption” is small though, and in general, most new activities will require a screening process. To clarify, “exemptions” are essentially emergency situations and include International Disaster Assistance (IDA), i.e., situations in which an immediate response is required and no immediate alternatives are available. Examples include emergency relocation of flood victims, establishment of refugee camps for rural populations caught in civil strife, emergency medical infrastructure, materials and equipment for victims of war. See 22 CFR 216.2 (b) (2) for other applicable situations and procedures. For persistent, protracted, or complex emergencies lasting more than a year, then the regular Title II Environmental Status Reporting (ESR) process would be invoked.

**Resources to help prepare documentation:**

The guidance provided below draws heavily from existing documents, specifically [The Environmental Documentation Manual for PL 480 Title II Cooperating Sponsors](#) (USAID/FAM Environmental Working Group, February 1999), and the USAID [Environmental Procedures Training Manual AFR Edition](#), (EPTM) March 2002. The EPTM and several other valuable Regulation 216 training materials are available on the ENvironmental Assessment CAPacity Building Program ([ENCAP](#)) website.

Please use this short guidance as an introduction to the process. The real instruction for preparation of an IEE should come from one of the sources listed above, which will guide you through the step-by-step process to environmental compliance.

**Steps to preparation and compliance:**

What follows are highlights of the steps required to ensure Regulation 216 compliance of a Title II program.

***Determining who is responsible for documentation is the first step.***

- The IEE and accompanying documentation for Title II programs is the responsibility of the cooperating sponsors.
- Environmental documentation must be provided for nearly all Title II programs before an “irreversible commitment of resources” can take place.
- Partners should seek Mission review and clearance prior to official submission of the proposals to Washington. Partners should first submit the documentation to the USAID Mission Environmental Officer (MEO). The MEO reviews, and at his option, passes it on to the Regional Environmental Officer (REO), if one exists, for clearance. The signature of the Mission Director is required. Then the FFPO or MEO passes it to the DCHA Bureau Environmental Officer (BEO). For non-presence countries, the REO

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needs to clear. For Food for Peace Programs, the Mission Food For Peace Officer should also clear prior to submission the DCHA BEO.

- **To summarize:** *required* signatures at the Mission are the MEO and Mission Director. Signatures required at the DCHA level are the Food for Peace Office Director, and the DCHA BEO/W.

All other signatures on the Environmental Compliance Face Sheet are optional, and others can be added if the situation calls for it.

### ***What forms need to be filled out and in what order?***

#### *Initial Screening*

There are a series of steps to determine the appropriate response for the specific activities proposed. In short, the process begins with a screening step where all activities are elaborated and the risk analyzed for the life of the activity (LOA). Generally, all but the lowest risk activities require further analysis. The screening process will help identify activities which may be exempt, or categorically excluded due to the inherently low risk nature of the activity. For a complete listing of activities which usually qualify for categorical exclusion, see the EPTM (2-5). Some examples include training and direct feeding.

The initial screening will allow for complete listing of all actions intended by the Title II program, and the likely mitigation actions and threshold determinations.

#### *The Environmental Compliance Face Sheet*

The cover document necessary for compliance of Title II programs is the [Compliance Face Sheet](#). It summarizes the activities proposed and discusses the outcomes of an initial screening process. The Initial screening “examines the nature of activities and sorts them into risk categories.”

If ALL of the activities are **exempt**, no environmental documentation is required. This will be rare.

If ALL activities for the Life of the Activity are **categorically excluded**, only the Facesheet and Categorical Exclusion request forms must be completed. *The Categorical Exclusion Request* is required when screening indicates that ALL activities should be categorically excluded. This form will require a brief description of the activities and a justification for the exclusion request based on the relevant provision of the Regulation 216 legislature.

For all other cases, if there is an activity that is not exempt or categorically excluded, an Initial Environmental Evaluation must be completed (IEE). For complete definitions and clarification on exemptions, see the guides referenced.

*The IEE or IEE Amendment* is required unless screening shows that ALL activities are exempt or categorically excluded. An IEE is a review of the reasonably foreseeable effects on the environment of a proposed action. The basic outline will be covered here. For a detailed description of the parts of the IEE, as well as a step-by-step guide to completing your IEE, see the EPTM. It is important to remember that the IEE should reflect only pertinent information related to the proposed activities, not an entire ecological and environmental study of all of the ecosystems of a given country. They should be location and activity specific. It is preferred if the IEEs are kept to under 20 pages.

An outline of the major parts to be included in the IEE follows.

### **IEE Outline (EPTM 3-5):**

Compliance Face Sheet

#### **1. Background and Activity Description**

## Background

- 1.1 Description of Activities
- 1.2 Purpose and Scope of IEE

## **2. Country and Environmental Information (baseline)**

- 2.1 Locations Affected
- 2.2 National Environmental Policies and Procedures (of host country)

## **3. Evaluation of Environmental Impact Potential**

### **4. Recommended Mitigation Actions**

- 4.1 Recommended IEE determinations (includes justification of categorical exclusions identified during screening)
- 4.2 Mitigation, Monitoring and Evaluation

Once the IEE is completed and submitted, it is the responsibility of the Country Backstop Officers and SO teams to ensure that the clearance process proceeds and to oversee implementation of mitigation measures discussed in the IEE. This process is enhanced by yearly reporting in the form of an Environmental Status Report.

*The Environmental Status Report (ESR)* is submitted as part of the annual program report. It is required for all previously approved programs whether those were approved under a categorical exclusion, an IEE, EA or PEA. Before any renewal or extension of an existing emergency or developmental relief program is approved, an ESR should be submitted and approved as well.

### **Suggestions for Ease of Implementation:**

At the Mission level and within the PVOs, there already exists a wealth of experience for performing IEEs and preparing environmental documentation. This knowledge should be shared by those who have it and sought by those less familiar with the process proposed.

There are some excellent documents available that cover preparation of IEEs and terminology, including examples of completed paperwork. These should be consulted, as should the BEO and REO.

This process should not hold up the submission of a proposal or significantly delay any proposal review. By using IEE guidance such as the Environmental Documentation Training Manual, it should be possible to quickly produce a draft. Remember, the information provided should cover activities and potential impacts and mitigation measures for these activities, not address all environmental issues within a given country.

The clearance process for the IEE need not be a lengthy one, especially if it is well prepared. Ideally the IEE will accompany the Emergency and DRP package and must accompany the DAP package. But the IEE can/should be sent around also, separately, concurrently, to those on the IEE clearance track. Then when the IEE is cleared (and the DRP/DAP is making its rounds, perhaps having been revised itself), prior to final clearance, the revised/cleared IEE can be reconnected with the proposal. But in any case, the IEE needs to be cleared as a separate document. This approach allows us to maintain more flexibility, so the two clearance/review processes move on parallel tracks.

The concept of preparing multi-agency IEEs through an alliance of Title II PVOs in a given country has begun to be introduced as a valid potential approach to streamlining the documentation process. We recommend it be considered by willing parties.

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The idea of determining the potential environmental impacts of each activity may appear daunting yet much information already exists on this process. The first step would be to consult the PVO and mission environmental staff or MEO in country.

Additionally, there are several manuals available on the ENCAP website that detail typical activities and suggest some potential negative impacts. Some examples include “[Environmental Guidelines for Small Scale Activities in Africa](#)”, Bureau for Africa, September 2003 (draft), and “[Environmental Guidelines for Development Activities in Latin America and the Caribbean](#)”, EPIQ/ USAID, May 2002, draft. This would be a good place to start to begin to identify potential issues, which should be monitored. Best Practice guidelines for different types of activities should also be consulted. Some examples are found at the ENCAP [resources page](#) and the Latin America and Caribbean Bureau Environmental Compliance and [resources page](#), and include documentation on topics such as “[Low-Volume Roads Engineering: Best Management Practices Field Guide](#),” “[Inorganic Fertilizer Use in Africa Environmental and Economic Dimensions](#),” and [Environmental Guidelines for Micro-hydroelectric Projects](#), as well as other sector-specific guidance.

Finally, it is important to remember that the goal of using environmental regulations and procedures is to ensure that attention is given to potential negative impacts and possible mitigation measures or alternative programming possibilities. The goal is not to prevent every potential impact on the environment, but certainly “to do no significant harm.”

### Resources to Consult:

- [The Environmental Documentation Manual for PL 480 Title II Cooperating Sponsors](#),
- “[A Cooperating Sponsor's Field Guide to USAID Environmental Compliance Procedures](#)” (PDF, 165K), developed by Catholic Relief Services and FAM ([Food Aid Management](#)),
- [The USAID Environmental Procedures Training Manual](#) (AFR Edition, May 2003), also available at [www.afr-sd.org/Publications/EDM/EDM\\_FRNT.pdf](http://www.afr-sd.org/Publications/EDM/EDM_FRNT.pdf)



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### ***B.3 ADS excerpts relevant to Regulation 216 compliance***

This section contains USAID Automated Directives System (ADS) excerpts relevant to Regulation 216 compliance and other required environmental analysis and review.

To be assured of having the most recent ADS versions, access the ADS on-line at [www.usaid.gov/policy/ads/](http://www.usaid.gov/policy/ads/).

This section includes:

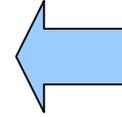
**ADS 201—Planning (excerpts)**

**ADS 202—Achieving (excerpts)**

**ADS 204—Environmental Procedures (complete)**



**ADS 201—Planning                      03/19/2004 Revision**  
**Excerpts pertaining to requirements for**  
**Environmental Review and Analysis**

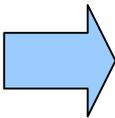


Note: key text is indicated by an arrow and is also underlined or bracketed

**201.3.7.1      Statement of Strategic Objective**  
**Effective Date: 01/31/2003**

**MANDATORY.** At the time of approval, a Strategic Objective must

- Represent a developmentally significant result that is expected to affect ultimate customers.
- Form the results standard by which the Operating Unit is willing to be judged in terms of its effectiveness in managing for results.
- Be achievable in a foreseeable and limited time period, using the resources provided directly to the Operating Unit and other resources that may be mobilized by development partners. In other words, the Strategic Objective level results should be within the manageable interest of the Operating Unit.
- Link to one principal Agency goal, one principal Agency objective, and one Agency Pillar as defined in the most current Agency Strategic Plan. A Strategic Objective may be linked to other Agency goals, objectives, and Pillars on a secondary basis, if appropriate. SOs, such as cross-cutting or PD&L, which by definition cannot be linked to one Agency goal, may be linked to multiple goals in consultation with the bureau's development program office and PPC/SPP.
- Present a defined geographic focus and direct the selection and design of the assistance activities to be implemented during the proposed Strategic Plan timeframe.
- Be expressed in terms of a result or impact that permits objective measurement and is clear, precise, and gender disaggregated as appropriate.
- Incorporate the findings of mandatory technical analyses (gender, environment and conflict mitigation, as appropriate) and incorporate actions that will overcome any identified, significant obstacles to achieving desired results under the SO.



**Distinct results.** In most cases, Strategic Objectives should be uni-dimensional, each representing a distinct result that is expected from USAID intervention in addressing a development problem. If multiple foci will be combined into one Strategic Objective, compelling rationale should be provided for how the approach will help achieve the result. For example, the Strategic Objective might be

- Implemented in an integrated manner, so that related results are achieved by the same activity that takes place in the same location.
- Achievable by a common set of Intermediate Results and causal linkages represented in the Results Framework.
- Inseparable and mutually reinforcing for component results. (Achievement of each facilitates the achievement of the other.) An example might be "Increased Use of Family Planning and Maternal and Child Health (MCH) Services," which combines family planning and MCH.
- The degree of precision of the end result of a Strategic Objective will vary according to

several factors, including

- Stability of country environment;
- Knowledge available to planners;
- Certainty of multi-year budget levels; and
- Extent to which USAID or local implementing partner(s) control outcomes, due to the many actors that affect a desired result.

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### **201.3.8.2 Environmental Analysis** **Effective Date: 01/31/2003**

**MANDATORY.** This analysis is required by Sections 118(e) and 119(d) of the Foreign Assistance Act of 1961, as amended, and may not be waived, modified, or eliminated by the responsible Bureau for country-level Operating Unit Strategic Plans.

- **Biodiversity:** All country-level Operating Unit Strategic Plans must include a summary of analyses of the following issues: (1) the actions necessary to conserve biological diversity, and (2) the extent to which the actions proposed meet the needs thus identified. For additional information, contact the Biodiversity Team based in the Bureau for Economic Growth, Agriculture, and Trade (EGAT).
- **Tropical Forestry:** For country-level Strategic Plans that cover countries that have any part of their territory within the tropics, each Strategic Plan must also include (1) a summary of their analyses of the actions necessary to achieve conservation and sustainable management of tropical forests and (2) the extent to which the actions proposed meet the identified needs. For additional information, see the additional help document, [PPC Summary Description of FAA sections 118\(e\) and 119\(d\) Requirements for Preparing Strategic Plans](#), and contact the Forestry Team, a part of the Bureau for Economic Growth, Agriculture and Trade (EGAT).

**Exemption.** This analysis is not mandatory for Pillar or Regional Strategic Plans that cover multiple countries (although in many cases the analysis may be desirable).

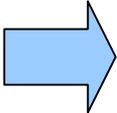
**Note:** The Environmental Analysis described above is not the same as the Environmental Review described in **201.3.12.2** section b. (The latter is a Federal requirement for the obligation of funds.) Given the interrelated character of environmental issues, Operating Units may wish to save time by conducting the Environmental Analysis and the Environmental Review during the development of the Strategic Plan. Given, however, that Environmental Reviews often require relatively detailed knowledge about planned activities, it may not always be possible to conduct the Environmental Review while developing the Strategic Plan.

**201.3.9 Additional Technical Analyses for Developing Strategic Plans** *Effective Date: 01/31/2003*

**201.3.9.1 Overview**  
Effective Date: 01/31/2003

Beyond the mandatory requirements above, Operating Units may be required or may choose to conduct additional analyses. Such additional analysis should be specified in the official planning parameters.

Often a careful review of the available literature on a topic of interest will reveal high quality, already-completed analyses. For example, World Bank macro-economic analysis and sector assessments are often readily available and may be used as references or in lieu of new USAID-funded analysis. In addition, many donors post their country development strategies on the Internet, thus providing a valuable resource during donor coordination planning.



Analyses are often interdependent. For example, an agricultural sector analysis may also include gender as well as environmental analysis, thus approaching the sector from a more holistic point of view. It is, therefore, helpful for planners to determine at the outset what kind of information is needed and in what detail, keeping in mind costs and the time required to review the information.

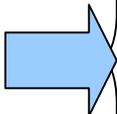
Additional technical analysis may be needed for the purpose of designing and approving specific activities. To the maximum extent practicable, technical analysis conducted as part of developing a Strategic Plan and/or planning a new Strategic Objective should also provide the analytical basis for subsequent approval of activities by the Operating Units.

The Operating Unit and relevant Bureaus are responsible for verifying that sufficient technical analysis has been completed and is referenced in the Strategic Plan. As described in 201.3.10.3, the issuance of a Management Agreement confirms that the proposed Strategic Plan and Strategic Objectives meet the analytical requirements.

**201.3.12.2 Pre-Obligation Requirements**  
Effective Date: 01/31/2003

**MANDATORY.** Operating Units must ensure that all pre-obligation requirements labeled as “mandatory” in this ADS section have been met before USAID-appropriated funds are obligated and activities approved. The completion of these requirements must be adequately documented.

<excerpted>



**b. Environmental Review.** An Initial Environmental Examination (IEE), Request for Categorical Exclusion (CE), Environmental Assessment (EA), or other appropriate action under the USAID Environmental Procedure must be completed for the program, activity, or substantive amendment and approved by the relevant Bureau Environmental Officer before the obligation of funds as mandated by Federal Law. (see the mandatory references [22 CFR 216](#) and [ADS 204](#).)

Adequate review of environmental considerations normally requires a relatively detailed description and analysis of planned interventions; recommended, mitigative measures; and

local public participation in the review process.

If Operating Units do not allocate resources and define such details at the pre-obligation planning stage, they must, at minimum, request and receive from their Bureau Environmental Officer a written approval of their request to defer review and incorporate appropriate conditions precedent to disbursement. This approval will ensure proper environmental review before disbursement. Operating Units must be prepared to modify and fund revisions to the SO and its activities, if necessary, in accordance with the USAID Environmental Procedure.

- **Biosafety.** If an activity will potentially involve the use of genetically modified organisms in research, field trials, or dissemination, the activity must be reviewed and approved for compliance with applicable U.S. requirements by the Agency Biosafety Committee in Washington before the obligation of funds and before the transfer, testing, or release of biotechnology products into the environment.
  - The biosafety review that is reviewed and approved is limited to the safety aspects of the proposed activity and often involves external peer review or demonstration of comparable safety oversight by other expert U.S. federal agencies. This biosafety determination is separate from, and should precede and inform, the [22 CFR 216](#) environmental impact assessment process. Since it precedes the 22 CFR 216 process, Operating Units should budget adequate time and funding in the design process for this review. It is difficult to predict the amount of time needed, since reviews are highly dependent on the amount of analysis and information provided, whether other expert Federal Agency biosafety reviews have been completed, whether additional information will be required, and whether external peer reviews will be undertaken. Therefore, it is important for an Operating Unit to contact USAID/Washington as early in a design process as possible to ensure timely handling.
  - Biosafety review cannot be waived or delegated to the field. Additional ADS guidance on compliance with this requirement is in development and will be incorporated into the ADS as it becomes available. Please consult directly with Agency biosafety staff, such as the Agency Environmental Coordinator, who is based in the Bureau for Economic Growth, Agriculture and Trade and the Bureau for Global Health if there is a potential for the use of genetically modified organisms.
- **Global Climate Change.** If an Operating Unit will potentially undertake global climate change activities, the Global Climate Change team based in the Bureau for Economic Growth, Agriculture and Trade (EGAT) must review and approve the activity for compliance with the Knollenberg Amendment, as described in the mandatory reference, [Guidance on Complying with the Knollenberg Amendment for Climate Change-Related Programs](#).

**201.3.12.5 Activity Planning Step 1:  
Develop an Operationally Useful Results Framework**  
Effective Date: 01/31/2003

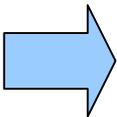
Operating Units should adapt the high-level Results Framework approved in the Strategic Plan by adding additional detail that further demonstrates the causal linkages between planned activities (at the operational level) and the approved results (at the Strategic Objective level). An Operating Unit can develop a more detailed Results Framework by thinking through what other results (at the Intermediate Results level or below) are needed to achieve the approved Strategic Objective, and also identifying the categories of ultimate customers to be affected by each result. (see **201.3.7**) An illustrative Results Framework is shown in Figure 201D.

**201.3.12.6 Activity Planning Step 2:  
Conduct Activity-level Analyses as Needed**  
Effective Date: 01/31/2003

Much of the analytical work needed to plan activities is normally conducted as part of preparing the Strategic Plan. Operating Units should review past Agency and development partner experience, including Agency policy documents, alternative development approaches, best practices, evaluations, and other development literature in designing activities. See comprehensive list of resources in [ADS 200.4](#) and **201.3.9.8**, or consult the Development Experience Clearinghouse (see [ADS 203.3.12](#)) for Agency experience.

\*Additional analysis may be needed before the approval of individual activities. Operating Units should conduct those analyses that they conclude are needed to plan detailed and rigorous activities to achieve the intended results. Topics of analysis may include economic, financial, environmental, gender, the utilization of faith-based and community organizations, other technical, sector, institutional, and/or cost-benefit analyses. Operating Units should determine the type and level of analysis needed. Further description of these potential analyses follows:

- **Economic Analysis.** Economic analysis helps determine whether a particular development program or activity is a worthwhile investment for the country. (see the additional help document, [Economic Analysis of Assistance Activities](#))
- **Financial Analysis.** Financial analysis helps determine the adequacy of the funds and helps ascertain whether monetary benefits are larger than activity costs. This analysis can be used to judge whether activity results will be produced at the lowest practicable costs, and whether potential activities are financially sustainable. Financial Analysis determines if there are adequate funds to achieve results at the lowest practical costs. (see the additional help document, [Guidelines for Financial Analysis of Activities](#))
- **Environmental Analysis.** Drawing upon the previous environmental analysis during strategic planning (201.3.8.2) and the information from the pre-obligation requirement for environmental impact (201.3.12.2 section b), Operating Units should incorporate the environmental recommendations into activity planning. Often additional environmental analyses may be useful to activity design and should be undertaken at this time.

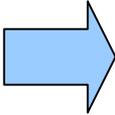


**201.3.12.13 Activity Planning Step 9:  
Additional Planning Considerations**  
Effective Date: 01/31/2003

Operating Units should identify and conduct any additional steps and analyses that were not performed during Strategic Plan or SOAG development. There are numerous additional implementation details that are normally considered and documented at the activity planning stage. While most of these issues must be addressed as practical and legal matters before implementing activities, the Agency does not rigidly require that all these considerations be documented at the activity planning stage. Accordingly, internal documentation methods may vary significantly among Operating Units, depending on the nature of the activities and the “comfort-level” of decision-making officials.

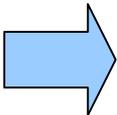
At this point in the process, additional planning considerations include

- Identification of authorized signatories who have the authority to represent the parties on implementation letters.
- Assurance that procedures are in place for obtaining specific clearances required for activities in host countries that are not covered by country-level reporting. (see [ADS 203.3.9](#) on Activity Information Sheets)
- Completion of any remaining environmental review requirements described in [201.3.12.2](#) section b. For example, if an Operating Unit received permission from its Bureau Environmental Officer to defer environmental review at the pre-obligation stage, the Operating Unit must complete the appropriate environmental review – either an Initial Environmental Examination (IEE), Request for Categorical Exclusion (CE), Environmental Assessment (EA), or other appropriate action under the USAID Environmental Procedure – before approving an activity or disbursing funds. (see the mandatory references, [22 CFR 216](#) and [ADS 204](#))



**201.3.12.14 Activity Planning Step 10:  
Determine and Meet Remaining Pre-Obligation Requirements**  
Effective Date: 01/31/2003

This step applies only when funds have not already been obligated at the Strategic Objective Level. (see [201.3.12.2](#)) By completing steps one through nine above, Operating Units will have met many of the pre-obligation requirements related to adequate planning. At this point, remaining pre-obligation requirements should be reviewed in detail based on knowledge that is now available on the scope and nature of planned activities, the entities involved, and their proposed relationship with USAID. This review will make it possible to meet the requirements related to environmental reviews, statutory reviews, gender analysis, and Congressional notification. If the obligating official is different from the approving official, it may be helpful to use the additional help document, [Model Checklist for Pre-Obligation Requirements](#). For more information about country prohibitions and restrictions, see [201.3.3.4](#).



If an activity will be implemented in one or more host countries but will not be managed by country-based USDH staff and captured in country-level reporting, a standard one-page Activity Information Sheet must be prepared by the Activity Manager, as described in [ADS 203.3.9](#).

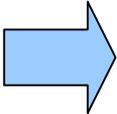
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**201.3.12.15 Activity Planning Step 11:  
Prepare Activity Approval Document (AAD)**  
Effective Date: 01/31/2003

**MANDATORY.** Operating Units must document all program-funded activities in writing through an acceptable Activity Approval Document. The Activity Approval Document certifies that appropriate planning for the activity has been completed. Program-funded activities may cover a range of outputs and encompass multiple A&A instruments.

There is no required standard format for Activity Approval Documents. Different types of documentation may be used in different situations, and are generally referred to as “Activity Approval Documents.” Approving officials, obligating officials, SO Teams, and others who may be involved in the Operating Unit’s activity design and approval process are responsible for exercising proper judgment in determining when planning is adequate and sufficiently documented to support activity approval. Any existing Mission Orders may also be consulted to determine the most appropriate documentation for a given Operating Unit. At a minimum, Activity Approval Documents must

- Describe briefly the activity or activities including planned inputs and outputs and the Intermediate Results and Strategic Objective to be achieved with the activity(ies).
- Demonstrate that all pre-obligation requirements have been met. If funds have not yet been obligated, clearly state that no obligation will be incurred before the Congress is properly notified and funds are made available.
- Record approval of any applicable waivers of policy or regulations.
- Clarify who is responsible for management of the activity inside and outside USAID.
- Summarize how the environmental review requirements set forth in 201.3.12.2 section b have been met.
- Outline the most significant gender issues that need to be considered during activity implementation, and describe what outcomes are expected by considering these issues or, if the Operating Unit determines that there are no significant gender issues, provide a brief rationale to that effect.
- Describe the methods of implementation and financing selected as described in ADS 202.3.8.1.



Documentation may be completed for individual activities or for groups of activities. Examples include

- An Action Memo encompassing one or more activities and including descriptive documentation that meets the minimum requirements above.
- A Modified Acquisition and Assistance Request Document (MAARD) signed by an authorized official with supporting Appendices that meet minimum documentation requirements. Appendices could include an offeror’s proposal, waivers, and additional documentation prepared by the Operating Unit.
- A cable authorized by the approving official that provides approval for specific activities with the minimum documentation specifically referenced in the cable.

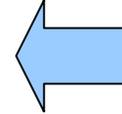
## ENVIRONMENTAL PROCEDURES TRAINING MANUAL

- A bilateral obligation instrument such as a SOAG when the USAID obligating official is the same as the approving official and adequate documentation describing the activities is explicitly referenced in the agreement. If not explicitly referenced, a separate action memo should be used.
- An Implementation Letter under a bilateral obligating agreement (SOAG). Minimum documentation should be annexed or explicitly referenced, and the letter should be signed by a USAID official authorized to approve the activity.

Since the AAD is a document internal to the Operating Unit, the Operating Unit has the authority to amend it as needed. Often one approval document can cover multiple activities to avoid repetitive approvals while also leaving clear audit documentation.

**ADS 202—Achieving 03/19/2004 Revision**  
**Excerpts pertaining to requirements for**  
**Environmental Review and Analysis**

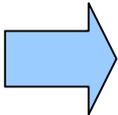
Note: key text is indicated by an arrow and is also underlined or bracketed



**202.3.4.6 Maintaining Official SO Team Files**

Effective Date 01/31/2003

**\*MANDATORY.** SO Teams must ensure that they have adequate official documentation on agreements used to implement USAID-funded activities, resources expended, issues identified, and corrective actions taken. Operating Units and their SO Teams must maintain the following list of standard documentation for the duration specified by Agency rules on document retention, as stipulated in [502](#) (USAID Records Management Program) and associated Mandatory References, [Records Disposition Schedule—Agency Wide \(USAID/W and Missions\)](#); and [Strategic Objective Document Disposition Schedule](#).



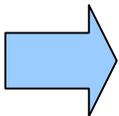
- .. <excerpts>.
- Environmental reviews (including 22 CFR 216 documentation)
- .. <excerpts>

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**202.3.6 Monitoring Quality and Timeliness of Key Outputs**

\* EFFECTIVE DATE: 01/31/2003

Monitoring the quality and timeliness of outputs produced by implementing partners is a major task of CTOs and SO Teams. Outputs are specifically described in contract Statements of Work, and grant agreement program descriptions. Outputs are critical to achieving results. Delays in completing outputs, or problems in output quality, provide an early warning that results may not be achieved as planned. Timeliness of key outputs may affect the achievement of performance targets that the SO Team presents in the Annual Report. Early action in response to problems is essential in managing for results.



Monitoring compliance with 22 CFR 216 environmental determinations is part of this task. Environmental reviews should be actively managed throughout the life of the SO to ensure environmental soundness of activities, as provided in [204.3](#), [204.5.4](#), and Mandatory Reference [22 CFR 216](#).



**ADS 204 - Environmental Procedures  
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**03/19/2004 version**

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E204.5.8	Decision-Making Authority
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## ADS 204 - Environmental Procedures

\* This chapter provides policy and essential procedures about how to apply 22 CFR 216 to the new USAID assistance process in order to ensure that assessments of the environmental consequences of all programs, activities, and substantive amendments thereto, are in full accordance with the requirements of Title 22 of the Code of Federal Regulations, Part 216. **(See Mandatory Reference [22 CFR 216](#))**

### 204.1 Authority

1. [Section 117 of the Foreign Assistance Act of 1961](#), as amended.
2. National Environmental Policy Act, [42 USC 4371](#), et seq.
3. [Executive Order 12114](#) dated January 4, 1979, regarding environmental review of Federal agency actions outside the United States.
4. [Title 22 of the Code of Federal Regulations, Part 216 dated October 9, 1980](#), codifies USAID's environmental procedures (cited as 22 CFR 216).

### 204.2 Objective

Environmental sustainability is integral to USAID's overall goal. To meet this goal environmental considerations shall be incorporated into results planning, achieving, and monitoring. This Chapter defines what USAID and its operating units will do to integrate environmental issues into its programs to meet USG environmental requirements.

### 204.3 Responsibility

#### \* 1. Operational Bureaus

Operational Bureaus are responsible for overseeing and supporting their Operating Units to ensure that environmental review in accordance with 22 CFR 216 is fully integrated into the decision-making process, including planning and approval of all programs and activities needed to implement the Bureau and its Operating Units' Strategic Plan. **(See Mandatory Reference [22 CFR 216](#))**

#### 2. Operating Units

Operating Units are responsible for allocating adequate staff and financial resources to their Teams to effectively implement the Agency's environmental procedures. Operating Units also hold their Strategic Objective Teams accountable for meeting these requirements and continuously monitoring their results.

#### 3. Strategic Objective, Strategic Support Objective, or Special Objective Teams (SO Teams)

SO Teams are responsible for ensuring full compliance with 22 CFR 216, the Agency's environmental procedures. This includes designing, monitoring, and modifying all programs, results packages, and activities to ensure that the environmental consequences of all actions taken by USAID are considered and that appropriate environmental safeguards are adopted. The SO Team is also responsible for keeping their relevant Bureau Environmental Officer informed on upcoming 22 CFR 216 actions through informal contacts and the R4; and for ensuring that all of its 22 CFR 216 environmental reviews are accomplished in a timely fashion so as not to unnecessarily delay implementation of any activities.

4. Mission Environmental Officer and Regional Environmental Officer (MEO and REO)

MEOs and REOs are responsible for advising SO Teams on how best to comply with 22 CFR 216 requirements, how SO Teams can effectively monitor implementation of approved mitigative measures, and how SO Teams can obtain additional environmental expertise to assist them. MEOs and REOs also liaise with their relevant Bureau Environmental Officers on 22 CFR 216 issues affecting SO Teams in their Operating Units.

5. Bureau Environmental Officer (BEO)

BEOs are responsible for overseeing the effective implementation of 22 CFR 216 throughout all Operating Units in their Bureau through timely decision making and adherence to consistent and strong environmental principles that lead to environmentally sound development.

6. Agency Environmental Coordinator (AEC)

The AEC is responsible for overseeing the effective implementation of 22 CFR 216 throughout the Agency. This includes monitoring its implementation, resolving disputes, advising in selection of BEOs, and liaising with the President's Council on Environmental Quality and the public.

**204.4 Definitions (See [ADS GLOSSARY](#))**

ACTIVITY  
 CEQ REGULATIONS  
 ENVIRONMENT  
 ENVIRONMENTAL ASSESSMENT  
 ENVIRONMENTAL IMPACT STATEMENT  
 ESSENTIAL PROCEDURE  
 INITIAL ENVIRONMENTAL EXAMINATION  
 MINOR DONOR  
 OPERATING UNIT  
 PROGRAM ASSISTANCE APPROVAL DOCUMENT (PAAD)  
 PROGRAM ASSISTANCE INITIAL PROPOSAL (PAIP)  
 PROJECT IDENTIFICATION DOCUMENT (PID)  
 PROJECT PAPER (PP)  
 RESULTS PACKAGE  
 RESULTS REVIEW AND RESOURCES REQUEST (R4)  
 SIGNIFICANT EFFECT  
 SPECIAL OBJECTIVE  
 STRATEGIC OBJECTIVE  
 STRATEGIC OBJECTIVE TEAM  
 STRATEGIC PLAN  
 STRATEGIC SUPPORT OBJECTIVE  
 THRESHOLD DECISION

Acronyms used in this chapter are:

22 CFR 216 - Title 22 of the Code of Federal Regulations, Part 216. These are USAID's

environmental procedures and are sometimes referred to colloquially as Reg 16.  
 AEC - Agency Environmental Coordinator  
 BEO - Bureau Environmental Officer  
 EA - Environmental Assessment  
 EIS - Environmental Impact Statement  
 IEE - Initial Environmental Examination  
 MEO - Mission Environmental Officer  
 REO - Regional Environmental Officer  
 SO - Strategic Objective/Strategic Support Objective/Special Objective  
 SO Team - The team managing an SO. See the ADS glossary for further detail.

**204.5 POLICY**

The following are the official Agency policies and corresponding essential procedures:

**204.5.1 MANDATORY COMPLIANCE WITH 22 CFR 216**

- The environmental procedures are codified in a Federal regulation. USAID must and shall fully comply with 22 CFR 216, except to the extent some of its terms are not used in the new operations assistance processes (i.e. PID, PP, etc.). In those cases the terms used in this chapter of the ADS (which are intended to be as parallel as possible to the original terms) are used instead. However, 22 CFR 216 is controlling in the event of a conflict between this chapter and 22 CFR 216. If there are questions, consult your BEO, the AEC, or Agency legal counsel. **(See Mandatory Reference 22 CFR 216)**

**E204.5.1 Mandatory Compliance with 22 CFR 216 - N/A**

**204.5.2 OPERATIONAL BUREAUS**

Incorporated into their normal Results Review and Resources Request (R4) process each operational Bureau shall review and approve, with the guidance of their Bureau Environmental Officer, the R4 environmental section described below in 204.5.3 Bureaus shall provide each Operating Unit the resources necessary to complete environmental reviews for programs and activities in the Strategic Plan or any modification of it.

**E204.5.2 Operational Bureaus - N/A**

**204.5.3 OPERATING UNIT**

Each USAID Operating Unit shall prepare and submit an environmental section as an integral part of their R4. This section will consist of two parts:

- the first part will include a discussion of any issues that the Operating Unit may wish to raise with respect to implementation of mitigation measures, monitoring provisions or other implementation requirements agreed to pursuant to 22 CFR 216 during activity design; and,
- \* - the second part will be an illustrative schedule of upcoming activities that may require 22 CFR 216 review. While this schedule will necessarily be notional due to the desired flexibility in allowing teams to revise and develop new activities, it will allow the BEO to better plan for work loads in order to have shorter turn around times on reviews and approvals of 22 CFR 216 documents. The schedule will also serve the operating unit

as a planning document for budgeting its time and money resources to ensure that all 22 CFR 216 requirements are met in a timely way and will not become an impediment to speedy action. **(See Mandatory Reference 22 CFR 216)**

Operating Units shall take necessary steps to ensure that each SO Team integrates timely and effective environmental review in the decision-making process for programs and activities and that sufficient money and staff are allocated to the SO Teams to accomplish the work.

Operating Units shall also take necessary steps to ensure that no irreversible commitments of resources for programs or activities are made by any of its Teams before environmental review is completed and its findings considered for the program or activity.

Operating Units shall undertake the required environmental planning analyses for its strategic plan as outlined in chapter 201.5.10g.

**E204.5.3 Operating Unit - N/A**

**204.5.4 STRATEGIC OBJECTIVE, STRATEGIC SUPPORT OBJECTIVE AND SPECIAL OBJECTIVE TEAMS (SO TEAMS)**

\* Each SO Team shall actively plan how it will comply with 22 CFR 216 requirements for each activity it undertakes, actively monitor ongoing activities for compliance with approved IEE, EA, or EIS recommendations or mitigative measures; and modify or end activities that are not in compliance. When an SO Team chooses to create Results Package (RP) Teams, it may delegate the implementation of these responsibilities to them. In these cases the SO Team is responsible for ensuring that the RP Teams have adequate time, staff, authority, and money to implement these responsibilities. **(See Mandatory Reference 22 CFR 216)**

**E204.5.4 Strategic Objective, Strategic Support Objective and Special Objective Teams (SO TEAMS)**

Operating Unit and SO Team Procedures

Each Operating Unit and SO Team shall develop effective essential procedures to:

- \* - ensure that adequate time and resources are available to complete all environmental work required under 22 CFR 216 before funds are obligated (this environmental work includes IEEs, Categorical Exclusions, requests for deferrals or exemptions of environmental reviews and if appropriate, Scoping Statements and their related EAs or EISs) **(See Mandatory Reference 22 CFR 216)**. More specifically these environmental reviews include;
- completing an IEE or justification for a Categorical Exclusion or Exemption, in accordance 22 CFR 216, for each program or activity at the earliest time in the planning and design process when sufficient information is known about the program or activity to permit a meaningful environmental threshold determination; it is essential that this review be done as early as possible in the design process in order to allow adequate time for more detailed subsequent environmental review and concurrence, as well as integrating environmental mitigations into the design process, should this be required;

- completing Scoping Statements and EAs or EISs (if required) at the earliest time in the design process when sufficient information is known or being developed to undertake these analyses;
- forwarding each environmental document to the BEO for review and concurrence, allowing a reasonable amount of time for this process;
- providing reasonable notification to the affected public and, as feasible, encouraging public participation, review and comment on Scoping Statements and their related EAs or EISs. Public is defined for EAs to include directly affected people in the host country, host country governments. It is USAID's policy that interested U.S. parties should also be involved when they show an interest. For EISs including the U.S. public is a regulatory requirement.
- considering the content and findings of environmental documents in the design and approval of each program and activity before an irreversible commitment of resources is made for the program or activity;
- incorporating environmental features and mitigative measures identified in IEEs, EAs, and EISs, as appropriate, in the final design and implementation of programs or activities.
- Actively monitor and evaluate whether the environmental features designed for the activity resulting from the 22 CFR 216 process are being implemented effectively and whether there are new or unforeseen environmental consequences arising during implementation that were not identified and reviewed in accordance with 22 CFR 216.
- Based on the above described monitoring and evaluation initiate, modify or end activities as appropriate.
- Provide the Operating Unit with any issues on environmental compliance and a schedule for any activities which must be reviewed under 22 CFR 216 to facilitate advance planning and provide information for the environment section of the R4.

#### **204.5.5 MISSION ENVIRONMENTAL OFFICER (MEO) AND REGIONAL ENVIRONMENTAL OFFICER (REO)**

\*

Each Mission Director shall appoint a Mission Environmental Officer. These officers normally serve as a core member of each SO Team in the Operating Unit in order to advise the Teams on specific needs and approaches to meet 22 CFR 216 requirements. The MEOs frequently take the lead in overseeing 22 CFR 216 document preparation on new activities and monitoring compliance on ongoing activities. However, the ultimate responsibility and accountability for successfully meeting 22 CFR 216 requirements belongs to every member on the Team and in particular to the team leader. **(See Mandatory Reference 22 CFR 216)**

In some cases a regional support mission may exist and have a Regional Environmental Officer who is available to the cluster of Operating Units it supports. In these cases the Regional Environmental Officer provides technical support and regional coordination to Mission Environmental Officers.

**E204.5.5 Mission Environmental Officer (MEO) and Regional Environmental Officer (REO) - N/A****204.5.6 BUREAU ENVIRONMENTAL OFFICER (BEO)**

- \* After consultation with the AEC, the Assistant Administrator (AA) for each operational Bureau in Washington shall appoint a qualified BEO based in Washington. This includes all regional Bureaus plus all operational Central Bureaus (i.e. G and BHR). The BEO reviews and provides guidance on the environmental section of the R4; monitors overall 22 CFR 216 compliance of all Operating Units in the Bureau; approves all 22 CFR 216 documents, and performs the other specific functions described in 22 CFR 216. When staffing patterns permit, each AA shall also appoint a qualified Deputy BEO who can act on official 22 CFR 216 actions when the BEO is absent. **(See Mandatory Reference 22 CFR 216)**

**E204.5.6 Bureau Environmental Officer (BEO) N/A****204.5.7 AGENCY ENVIRONMENTAL COORDINATOR (AEC)**

- \* The AEC shall oversee Agency-wide implementation of 22 CFR 216 to support the process in achieving its intended results. The AEC shall advise the Administrator, AAs, and other senior Agency management about issues that arise under 22 CFR 216, and with advice from the Office of the General Counsel, interprets how 22 CFR 216 should be applied to new or unusual situations. Specific additional responsibilities are described in 22 CFR 216. **(See Mandatory Reference 22 CFR 216)**

**E204.5.7 Agency Environmental Coordinator (AEC) - N/A****204.5.8 DECISION-MAKING AUTHORITY**

Within the operating unit the officer who has the authority to obligate funds for a program or activity signs the request for IEE, Categorical Exclusion or Exemption of the program or activity; and, if appropriate the Scoping Statement and EA or EIS (note: all of these 22 CFR 216 terms are defined in within 22 CFR 216). This officer submits these documents to the BEO for review and written concurrence. In certain cases outlined in 22 CFR 216 additional reviews and approvals in Washington may be required (e.g. requests for Exemptions, Deferrals, and EISs). After receiving the BEO's written concurrence the Operating Unit's decision-making officer must consider the environmental findings and recommendations made in the approved IEE, EA, or EIS when designing and approving funding for a program or activity. Additional decision procedures are described in 22 CFR 216. **(See Mandatory Reference 22 CFR 216)**

**E204.5.8 Decision-Making Authority - N/A****\*204.6 Supplementary Reference - N/A**

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