354 may consider the concept of tiering in the preparation of environmental assessments and EISs. Tiering refers to the coverage of general matters in broader environmental impact statements, such as one done for a national program or regulation, with subsequent narrower statements or environmental analyses incorporating by reference the broader matters and concentrating on the issues specific to the action under consideration. Tiering can be used when the sequence of analysis is from the program level to site-specific actions taken under that program or from an initial EIS to a supplement which discusses the issues requiring supplementation.

§1940.328 State Environmental Policy Acts.

(a) Numerous States have enacted environmental policy acts or regulations similar to NEPA, hereafter referred to as State NEPA's. It is important that FmHA or its successor agency under Public Law 103–354 staff have an understanding of which States have such requirements and how they apply to applicant's proposals. It will be the responsibility of each State Director to determine the applicable State requirements and to establish a working relationship with the State personnel responsible for their implementation.

(b) In processing projects located within States having State NEPA's, the preparer of the FmHA or its successor agency under Public Law 103–354 assessment will determine as early as possible in the assessment process whether the project falls under the requirements of the State NEPA. If it does, one of the following cases will exist and the appropriate actions specified will be taken.

(1) The applicant has complied with the State's NEPA, and it was determined under the State's requirements that the proposed project would not result in sufficient potential impacts to warrant the preparation of an impact statement or other detailed environmental report required by the State NEPA. This finding or conclusion by the State will be considered in the FmHA or its successor agency under Public Law 103–354's review, and any supporting information used by the State will be requested. However, the State's finding can never be the total basis for FmHA or its successor agency under Public Law 103–354's environmental impact determination. An independent and thorough review in accordance with the requirements of this subpart must be conducted by the preparer.

(2) The applicant has complied with the State NEPA, and it was determined under its implementing guidelines that a significant impact will result. This fact will be given great weight in the Agency's environmental determination. However, the State's definition of significant environmental impact may encompass a much lower threshold of impacts compared to FmHA or its successor agency under Public Law 103–354's. In such a case, if the preparer does not believe that a significant impact will result under Agency guidelines for determining significant impacts, the environmental assessment will be prepared and include a detailed discussion with supporting information as to why the environmental reviewer's recommendation differs from that of the State's. However, the assessment cannot be completed until the State's impact statement requirements have been fulfilled by the applicant and the resulting impact statement has been reviewed by the preparer. An environmental impact determination will then be executed based upon the assessment and the statement.

(c) It should be emphasized that at no time does the completion of an impact statement under the requirements of a State NEPA obviate the requirement for FmHA or its successor agency under Public Law 103–354 to prepare an impact statement. Consequently, as soon as it is clear to the preparer that the Agency will have to prepare a statement, every attempt should be made to accomplish the statement simultaneously with the State's. Coordination with State personnel is necessary so that data and expertise can be shared. In this manner, duplication of effort and the review periods for the separate statements can be minimized. This process clearly requires a close working relationship with the appropriate State personnel.