

§ 1940.309

7 CFR Ch. XVIII (1-1-08 Edition)

as well as the environmental information needs and responsibilities that FmHA or its successor agency under Public Law 103-354 applicants are expected to address. (See §1940.309 of this subpart.)

§ 1940.309 Responsibilities of the prospective applicant.

(a) FmHA or its successor agency under Public Law 103-354 expects applicants and transferees (*and in the case of the loan guarantee programs, borrowers and transferees*) to consider the potential environmental impacts of their requests at the earliest planning stages and to develop proposals that minimize the potential to adversely impact the environment. Prospective applicants should contact County Supervisors or District Directors, as appropriate, to determine FmHA or its successor agency under Public Law 103-354's environmental requirements as soon as possible after they decide to pursue FmHA or its successor agency under Public Law 103-354 financial assistance.

(b) As specified in paragraph (c) of this section, applicants for FmHA or its successor agency under Public Law 103-354 assistance will be required to provide information necessary to FmHA or its successor agency under Public Law 103-354 to evaluate their proposal's potential environmental impacts and alternatives to them. For example, the applicant will be required to provide a complete description of the project elements and the proposed site(s) to include location maps, topographic maps, and photographs when needed. The applicant will also be required to provide data on any expected gaseous, liquid and solid wastes to be produced, including hazardous wastes as defined by the Resource Conservation and Recovery Act or State law, and all permits and/or correspondence issued by the appropriate local, State, and Federal agencies which regulate treatment and disposal practices.

(c) Form FmHA or its successor agency under Public Law 103-354 1940-20, "Request for Environmental Information," will be used for obtaining environmental information from applicants whose proposals require an environmental assessment under the requirements of this subpart. These same

applicants must notify the appropriate State Historic Preservation Officer of the filing of the application and provide a detailed project description as specified in Item 2 of Form FmHA or its successor agency under Public Law 103-354 1940-20 and the FMI. If the applicant's proposal meets the definition of a Class II action as defined in §1940.312 of this subpart, all of Form FmHA or its successor agency under Public Law 103-354 1940-20 must be completed. If the applicant's proposal meets the definition of a Class I action as defined in §1940.311 of this subpart, the entire form need not be completed, but just the face of the form and categories (1), (2), (13), (15), (16), and (17) of Item 1b of the FMI. As an exception to the foregoing statement, an applicant for an action that is normally categorically excluded but requires a Class I assessment for any of the reasons stated in §1940.317(e) of this subpart is not required to complete Form FmHA or its successor agency under Public Law 103-354 1940-20. Additionally, for Class I actions within the Farm Programs, a site visit by the FmHA or its successor agency under Public Law 103-354 official completing the environmental assessment obviates the need for the applicant to complete any of the form, and the adoption by FmHA or its successor agency under Public Law 103-354 of a Soil Conservation Service (SCS) environmental assessment or evaluation for the action obviates the need to complete the form for either a Class I or Class II action.

(d) Applicants will ensure that all required materials are current, sufficiently detailed and complete, and are submitted directly to the FmHA or its successor agency under Public Law 103-354 office processing the application. Incomplete materials or delayed submittals may seriously jeopardize consideration or postponement of a proposed action by FmHA or its successor agency under Public Law 103-354.

(e) During the period of application review and processing, applicants will not take any actions with respect to their proposed undertakings which are the subject of the application and which would have an adverse impact on the environment or limit the range of alternatives. This requirement does

not preclude development by applicants of preliminary plans or designs or performance of other work necessary to support an application for Federal, State, or local permits or assistance. However, the development of detailed plans and specifications is discouraged when the costs involved inhibit the realistic consideration of alternative proposals.

(f) Applicants are required to provide public notification and to fully cooperate in holding public information meetings as described in §§1940.318(e), 1940.320 (c) and (g), and 1940.331 (b) and (c) of this subpart.

(g) Any applicant that is directly and adversely affected by an administrative decision made by FmHA or its successor agency under Public Law 103-354 under this subpart may appeal that decision under the provisions of subpart B of part 1900 of this chapter.

§ 1940.310 Categorical exclusions from National Environmental Policy Act (NEPA) reviews.

(a) *General guidelines.* The following actions have been determined not to have a significant impact on the quality of the human environment, either individually or cumulatively. They will not be subject to environmental assessments or impact statements. It must be emphasized that even though these actions are excluded from further environmental reviews under NEPA, they are not excluded from either the policy considerations contained in §§1940.303 through 1940.305 of this subpart or from compliance with other applicable local, State, or Federal environmental laws. Also, the actions preceded by an asterisk (*) are not excluded from further review depending upon whether in some cases they would be located within, or in other cases, potentially affect:

- (1) A floodplain,
- (2) A wetland,
- (3) Important farmlands, or prime forestlands or rangelands,
- (4) A listed species or critical habitat for an endangered species,
- (5) A property that is listed on or may be eligible for listing on the National Register of Historic Places,
- (6) An area within an approved State coastal zone management program,

(7) A coastal barrier or a portion of a barrier within the Coastal Barrier Resources System,

(8) A river or portion of a river included in, or designated for, potential addition to the Wild and Scenic Rivers System,

(9) A sole source aquifer recharge area, or

(10) A State water quality standard (including designated and/or existing beneficial uses and antidegradation requirements).

(i) Whether location within one of the preceding resource areas is sufficient to require a further review or a potential impact to one of them must also be identified to require a review is determined by FmHA or its successor agency under Public Law 103-354's completion of Form FmHA or its successor agency under Public Law 103-354 1940-22 in accordance with the FMI and §1940.317 of this subpart.

(ii) When the categorical exclusion classification is lost, as specified in §1940.317 of this subpart, the action must be reviewed under the requirements of paragraph (g) of that section. This requirement serves to implement §1508.4 of the CEQ regulations which requires Federal agencies to detect extraordinary circumstances in which a normally excluded action may have a significant environmental effect.

(iii) Further guidance on the use of these exclusions is contained in §1940.317 of this subpart.

(b) *Housing assistance.* *(1) The provision of financial assistance for the purchase of a single family dwelling or a multi-family project serving no more than four families, *i.e.*, units;

(2) The approval of an individual building lot that is located on a scattered site and either not part of a subdivision or within a subdivision not requiring FmHA or its successor agency under Public Law 103-354's approval;

*(3) Rehabilitation, replacement, or renovation of any existing housing units, with no expansion in the number of units;

(4) Self-Help Technical Assistance Grants;

*(5) The approval of a subdivision that consists of four or fewer lots and is not part of, or associated with, building lots or subdivisions;