

§ 1940.313

(9) Financial assistance for a livestock-holding facility or feedlot located in a sparsely populated farming area having a capacity as large or larger than one of the following capacities; 1,000 slaughter steers and heifers; 700 mature dairy cattle (whether milkers or dry cows); 2,500 swine; 10,000 sheep; 55,000 turkeys; 100,000 laying hens or broilers when facility has unlimited continuous flow watering systems; 30,000 laying hens or broilers when facility has liquid manure handling system; 500 horses; and 1,000 animal units from a combination of slaughter steers and heifers, mature dairy cattle, swine, and sheep; (The term *animal unit* means a unit of measurement for any animal feeding operation calculated by adding the following numbers: the number of slaughter and feeder cattle multiplied by 1.0, plus the number of mature dairy cattle multiplied by 1.4, plus the number of swine weighing over 25 kilograms (approximately 55 pounds) multiplied by 0.4, plus the number of sheep multiplied by 0.1, plus the number of horses multiplied by 2.0) and

(10) Financial assistance for a livestock-holding facility or feedlot which either could potentially violate a State water quality standard or is located near a town or collection of rural homes which could be impacted by the facility, particularly with respect to noise, odor, visual, or transportation impacts and having a capacity of at least one-half of those listed in paragraph (c)(9) of this section.

(d) *General.* (1) Any action which meets the numerical criteria or other restriction for a Class I action contained in §1940.311 of this subpart, but is controversial for environmental reasons. If the action is the subject of isolated environmental complaints or any questions or concerns that focus on a single impact, air quality, for example, the analysis of such a complaint or questions can be handled under the assessment format for a Class I action, Form FmHA or its successor agency under Public Law 103-354 1940-21, as explained in §1940.319 of this subpart. When several potential impacts are questioned, however, the assessment format (exhibit H of this subpart) for a Class II action must be used to address these questions;

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(2) Loan-closing and servicing activities, transfers, assumptions, subordinations, construction management activities and amendments and revisions to all approved actions listed either in this section or equivalent in size or type to such actions and that alter the purpose, operation, location, or design of the project as originally approved;

(3) The approval of plans and State Investment Strategies for Energy Impacted Areas, designated under section 601 Energy Impacted Area Development Assistance Program, as well as the applications for financial assistance (excluding the award of planning funds) for Energy Impact Areas;

(4) Proposals for legislation as defined in CEQ's regulations, §1508.17;

(5) The issuance of regulations and instructions, as well as amendments to these, that described either the entities, proposals and activities eligible for FmHA or its successor agency under Public Law 103-354 financial assistance, or the manner in which such proposals and activities must be located, constructed, or implemented; and

(6) The lease or disposal of any real property by FmHA or its successor agency under Public Law 103-354 which either does not meet the criteria for a categorical exclusion as stated in §1940.310(e)(6) of this subpart or a Class I action as stated in §1940.311(d)(3) of this subpart.

§ 1940.313 Actions that normally require the preparation of an Environmental Impact Statement (EIS).

The environmental assessment process will be used, as defined in this subpart, to identify on a case-by-case basis those actions for which the preparation of an EIS is necessary. Given the variability of the types and locations of actions taken by FmHA or its successor agency under Public Law 103-354, no groups or set of actions can be identified which in almost every case would require the preparation of an EIS.

§ 1940.314 Criteria for determining a significant environmental impact.

(a) EISs will be done for those Class I and Class II actions that are determined to have a significant impact on the quality of the human environment.

The criteria for determining significant impacts are contained in §1508.27 of the CEQ regulations.

(b) In utilizing the criteria for a significant impact, the cumulative impacts of other FmHA or its successor agency under Public Law 103-354 actions planned or recently approved in the proposal's area of environmental impact, other related or similarly located Federal actions, and non-federal related actions must be given consideration. This is particularly relevant for frequently recurring FmHA or its successor agency under Public Law 103-354 actions that on an individual basis may have relatively few environmental impacts but create a potential for significantly impacts on a cumulative basis. Housing assistance is one such example. Consequently, in reviewing proposals for subdivisions and multi-family housing sites, consideration must be given to the cumulative impacts of other federally assisted housing in the area, including FmHA or its successor agency under Public Law 103-354's. The boundaries of the area to be considered should be based upon such factors as common utility or public service districts, common watersheds, and common commuting patterns to central employment or commercial areas. Additionally, the criteria for significant impacts utilized by the other involved housing agency(s), (VA and HUD, for example) must be reviewed when there is a potential for cumulative impacts. FmHA or its successor agency under Public Law 103-354 will consult with HUD for determining a significant impact whenever the total of HUD and FmHA or its successor agency under Public Law 103-354 housing units being planned within a common area of environmental impact exceeds the HUD thresholds listed in its NEPA regulations. (See 24 CFR part 50.)

(c) Because the environmental values and functions of floodplains and wetlands are of critical importance to man, and because these areas are often extremely sensitive to man-induced disturbances, actions which affect wetlands and floodplains will be considered to have a significant environmental impact whenever one or more of the following criteria are met:

(1) The public health and safety are identifiably affected, that is, whenever the proposed action may affect any standards promulgated under the Safe Drinking Water Act (42 U.S.C. 300f *et seq.*), the Clean Water Act (33 U.S.C. 1251 *et seq.*) or similar State authorities.

(2) The preservation of natural systems is identifiably affected, that is, whenever the proposed action or related activities may potentially create or induce changes in the existing habitat that may affect species diversity and stability (both flora and fauna and over the short and long term) or affect ecosystem productivity over the long term.

(3) The proposal, if located or carried out within a floodplain, poses a greater than normal risk for flood-caused loss of life or property. Examples of such actions include facilities which produce, use, or store highly volatile, toxic, or water-reactive materials or facilities which contain occupants who may not be sufficiently mobile to avoid the loss of life or injury during flood and storm events (*i.e.*, hospitals, nursing homes, schools).

§ 1940.315 Timing of the environmental review process.

(a) The FmHA or its successor agency under Public Law 103-354 office to which a potential applicant would go to seek program information and request application materials will notify the applicant of the major environmental requirements applicable to the type of assistance being sought. Emphasis should be placed on describing FmHA or its successor agency under Public Law 103-354's natural resource management policies, the nature and purpose of the environmental impact assessment process, and the permissible actions of the applicant during this process.

(b) When a preapplication is either filed by the applicant or required by FmHA or its successor agency under Public Law 103-354 for a project not categorically excluded, the prospective applicant will be requested to complete Form FmHA or its successor agency under Public Law 103-354 1940-20 at the time of the issuance of Form AD-622,