

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;

§ 1940.310

7 CFR Ch. XVIII (1-1-09 Edition)

(6) Technical Supervisory Assistance Loans and Grants;

(7) Weatherization of any existing housing unit(s), unless the property is listed in the National Register of Historic Places or may be eligible for listing, or is located either within the Coastal Barrier Resources System or in a listed or potentially eligible historic district, in which case the application will require a Class I assessment as specified in §1940.317(g) of this subpart;

(8) The financing of housing construction or the approval of lots in a previously approved FmHA or its successor agency under Public Law 103-354 subdivision provided that

(i) The action is consistent with all previously adopted stipulations for the multi-family housing project or subdivision, and

(ii) The FmHA or its successor agency under Public Law 103-354 environmental impact review that was previously completed for the original application is still current with respect to applicable environmental requirements and conditions present at the site, and it assessed the lots or expansion for which approval is being requested;

(9) The purchase of any existing, non-FmHA or its successor agency under Public Law 103-354 owned housing unit(s), unless the property is listed in the National Register of Historic Places or may be eligible for listing, or is located either within a 100-year floodplain, the Coastal Barrier Resources System, or in a listed or potentially eligible historic district, in which case the application will require a Class I assessment as specified in §1940.317(g) of this subpart; and

(10) Appraisals of nonfarm tracts and small farms for rural housing loans.

(c) *Community and business programs and nonprofit national corporations loan and grant program.* *(1) Financial assistance directed to existing businesses, facilities, and/or structures that does not involve new construction or large increases in employment; does not involve a facility that presently or previously produced or stored hazardous waste or disposed of hazardous waste on the facility's property; and does not result in the increased production of gaseous, liquid, or solid wastes, or a

change in the type or content of such wastes as long as waste production, handling, treatment and disposal practices presently comply with applicable Federal, State and local regulations and there is no history of violations. If any of these waste production, handling, treatment, disposal or compliance criteria cannot be met, a Class I assessment must be initiated to include a narrative discussion of the types and quantities of wastes produced and the adequacy of the treatment, storage, and disposal practices, if the involved wastes meet the criteria for a Class I assessment contained in §1940.311(b)(3)(iii) of this subpart. If not, a Class II assessment must be completed.

*(2) Projects that solely involve the acquisition, construction, reconstruction, renovation, or installation of facilities, structures or businesses, for replacement or restoration purposes, with minimal change in use, size, capacity, purpose or location from the original facility (e.g., replacement in-kind of utilities such as water or sewer lines and appurtenances, reconstruction of curbs and sidewalks, street repaving, and building modifications, renovations, and improvements);

(3) Project management actions relating to invitation for bids, contract award, and the actual physical commencement of construction activities;

(4) Financial assistance for a technical assistance grant under the nonprofit national corporation loan and grant program;

(5) Projects that solely involve the purchase and installation of office equipment, public safety equipment, or motor vehicles; and

(6) Amendments to approved projects meeting the criteria of paragraph (e)(2) of this section.

(d) *Farm programs.* (1) Financial assistance for the purchase of an existing farm, or an enlargement to one, provided no shifts in land use are proposed beyond the limits stated in paragraphs (d) (10) and (11) of this section;

(2) Financial assistance for the purchase of livestock and essential farm equipment, including crop storing and drying equipment, provided such equipment is not to be used to accommodate shifts in land use beyond the limits

RHS, RBS, RUS, FSA, USDA**§ 1940.310**

stated in paragraphs (d) (10) and (11) of this section;

(3) Financial assistance for:

(i) The payment of annual operating expenses, which does not cover activities specifically addressed in this section or §1940.311 or §1940.312 of this subpart;

(ii) Family living expenses, and

(iii) Refinancing debts;

* (4) Financial assistance for the construction of essential farm dwellings and service buildings of modest design and cost, as well as repairs and improvements to them;

(5) Financial assistance for onsite water supply facilities to serve a farm dwelling, farm buildings, and livestock needs;

(6) Financial assistance for the installation or enlargement of irrigation facilities, including storage reservoirs, diversion dams, wells, pumping plants, canals, pipelines, and sprinklers designed to irrigate less than 80 acres, provided that neither a State water quality standard, a property listed or potentially eligible for listing on the National Register of Historic Places, a river or portion of a river included in, or designated for, potential addition to the Wild and Scenic Rivers System, nor a wetland is affected. If a wetland is affected, the application will fall under Class II as defined in §1940.312 of this subpart. Potential effects to a water quality standard, an historic property or the Wild and Scenic Rivers System require that a review be initiated under a Class I assessment as specified in §1940.317(g) of this subpart.

(7) Financial assistance that solely involves the replacement or restoration of irrigation facilities, to include those facilities described in paragraph (d)(6) of this section, with minimal change in use, size, capacity, or location from the original facility(s) provided that neither a State water quality standard, a property listed or potentially eligible for listing on the National Register of Historic Places, a river or portion of a river included in or designated for potential addition to the Wild and Scenic Rivers System, nor a wetland is affected. If a wetland is affected, the application will fall under Class II as defined in §1940.312 of this subpart. Potential effects to a water

quality standard, an historic property, or the Wild and Scenic Rivers System require that a Class I assessment be completed as specified in §1940.317(g) of this subpart. Also, to qualify for this exclusion, the facilities to be replaced or restored must have been used for similar irrigation purposes at least two out of the last three consecutive growing seasons. Otherwise, the action will be viewed as an installation of irrigation facilities.

(8) Financial assistance for the development of farm ponds or lakes of no more than 5 acres in size, provided that, neither a State water quality standard, a property listed or potentially eligible for listing on the National Register of Historic Places, a river or portion of a river included in or designated for potential addition to the Wild and Scenic Rivers System, nor a wetland is affected. If a wetland is affected, the application will fall under Class II as defined in §1940.312 of this subpart. Potential effects to a water quality standard, an historic property, or the Wild and Scenic Rivers System require that a review be initiated under a Class I assessment as specified in §1940.317(g) of this subpart;

* (9) Financial assistance for the conversion of:

(i) Land in agricultural production to pastures or forests, or

(ii) Pastures to forests;

* (10) Financial assistance for land-clearing operations of no more than 15 acres, provided no wetlands are affected, and financial assistance for any amount of land involved in tree harvesting conducted on a sustained yield basis and according to a Federal, State or other governmental unit approved forestry management and marketing plan; and

(11) Financial assistance for the conversion of no more than 160 acres of pasture to agricultural production, provided that in a conversion to agricultural production no State water quality standard or wetlands are affected. If a wetland is affected, the application will fall under Class II as defined in §1940.312 of this subpart. If a water quality standard would be impaired or antidegradation requirement

§ 1940.311

7 CFR Ch. XVIII (1–1–09 Edition)

not met, a Class I assessment is required as specified in §1940.317(g) of this subpart.

(e) *General exclusions.* (1) The award of financial assistance for planning purposes, management and feasibility studies, or environmental impact analyses;

(2) For actions other than those covered by exhibit M of this subpart, loan-closing and servicing activities, transfers, assumptions, subordinations, construction management activities and amendments and revisions to approved projects, including the provision of additional financial assistance that do not alter the purpose, operation, location, or design of the project as originally approved;

(3) The issuance of regulations and instructions, as well as amendments to them, describing administrative and financial procedures for processing, approving, and implementing the Agency's financial assistance programs;

(4) Procurement activities for goods and services, routine facility operations, personnel actions, and other such management activities related to the operation of the Agency;

(5) Reduction in force or employee transfers resulting from workload adjustments, reduced personnel or funding levels, skill imbalances, or other similar circumstances; and

* (6) The lease or disposal of real property by FmHA or its successor agency under Public Law 103-354 whenever the transaction is either not controversial for environmental reasons or will not result in a change in use of the real property within the reasonably foreseeable future.

§ 1940.311 Environmental assessments for Class I actions.

The Agency's proposals and projects that are not identified in §1940.310 of this subpart as categorical exclusions require the preparation of an environmental assessment in order to determine if the proposal will have a significant impact on the environment. For purposes of implementing NEPA, the actions listed in this section are presumed to be major Federal actions. If an action has a potential to create a significant environmental impact, an EIS must be prepared. (In situations

when there is clearly a potential for a significant impact, the EIS may be initiated directly without the preparation of an assessment.) It is recognized that many of the applications funded annually by FmHA or its successor agency under Public Law 103-354 involve small-scale projects having limited environmental impacts. However, because on occasion they have the potential to create a significant impact, each must be assessed to determine the degree of impact. The scope and level of detail of an assessment for a small-scale action, though, need only be sufficient to determine whether the potential impacts are substantial and further analysis is necessary. Therefore, for the purpose of implementing NEPA, FmHA or its successor agency under Public Law 103-354 has classified its smaller scale approval actions as Class I actions. The format which will be used for accomplishing the environmental assessment of a Class I action is provided in Form FmHA or its successor agency under Public Law 103-354 1940-21. An important aspect of this classification method is that it allows FmHA or its successor agency under Public Law 103-354's environmental review staff to concentrate most of its time and efforts on those actions having the potential for more serious or complex environmental impacts. Additional guidance on the application of NEPA to Class I actions is provided in §1940.319 of this subpart.

(a) *Housing assistance.* If either of the following actions is an expansion of a previously approved FmHA or its successor agency under Public Law 103-354 housing project, see §1940.310(b)(8) of this subpart to determine if it meets the requirements for a categorical exclusion. In the case of an expansion for which an environmental assessment was not done for the original FmHA or its successor agency under Public Law 103-354 project, the size of the proposal for assessment purposes is determined by adding the number of units in the original project(s) to those presently being requested.

(1) Financial assistance for a multi-family housing project, including labor housing which comprises at least 5 units, but no more than 25 units; and