

§ 1940.316

“Notice of Preapplication Review Action,” or other notice inviting an application. Form AD-622 will clearly inform the applicant that during the period of application review, the applicant is to take no actions or incur any obligations which would either limit the range of alternatives to be considered or which would have an adverse effect on the environment, and that satisfactory completion of the environmental review process must occur prior to the issuance of the letter of conditions for Community Programs and prior to loan approval for all other programs where a preapplication is used. FmHA or its successor agency under Public Law 103-354 must make its environmental reviews simultaneously with other loan processing actions so that they are an integral part of the loan process. Whenever the potential for a major adverse environmental impact is recognized, such as issues pertaining to floodplains, wetlands, endangered species, or the need for an EIS, priority consideration will be given to resolving this issue by appropriate FmHA or its successor agency under Public Law 103-354 staff. Loan processing need not cease during this resolution period, but loan processing actions will not be taken that might limit alternatives to be considered or whose outcome may be affected by the environmental review. The environmental impact review (whether a categorical exclusion, environmental assessment or EIS) must be completed prior to the issuance of the letter of conditions for Community Programs, prior to issuance of a conditional commitment for the Business and Industry and Farmer Program Guaranteed Loan Programs, and either prior to loan approval or obligation of funds, whichever occurs first, for all other programs where a preapplication is used. As an exception, however, whenever an application must be submitted to the National Office for concurrence or approval, the environmental review must be completed prior to and included in the submission to the National Office. The environmental impact review is not completed by FmHA or its successor agency under Public Law 103-354 until all applicable public notices and associated review periods have been

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completed and FmHA or its successor agency under Public Law 103-354 has taken any necessary action(s) to address comments received. The exception to the provisions of this paragraph is contained in §1940.332 of this subpart.

(c) When a preapplication is not filed, the prospective applicant will be required to complete Form FmHA or its successor agency under Public Law 103-354 1940-20 at the earliest possible time after FmHA or its successor agency under Public Law 103-354 is contacted for assistance but no later than when the application is filed with the appropriate FmHA or its successor agency under Public Law 103-354 office. (For the exception to this statement as regards Farm Programs' Class I actions, see §1940.309(c) of this subpart.) FmHA or its successor agency under Public Law 103-354 will not consider the application to be complete, until FmHA or its successor agency under Public Law 103-354 staff have completed the environmental impact review, whether an assessment or EIS.

(d) For those applications that meet the requirements of a categorical exclusion, Form FmHA or its successor agency under Public Law 103-354 1940-22 will be completed by FmHA or its successor agency under Public Law 103-354 as early as possible after receipt of the application. The application will not be considered complete until either the checklist is successfully completed or the need for any further environmental review is identified and completed.

§ 1940.316 Responsible officials for the environmental review process.

(a) *Approving official.* With the exception of paragraph (b)(2) of this section, the FmHA or its successor agency under Public Law 103-354 official responsible for executing the environmental impact determination and environmental findings for a Class I or Class II action will be the official having approval authority for the action as specified in subpart A of part 1901 of this chapter (available in any the Agency or its successor agency under Public Law 103-354 office).

(b) *State Office level.* (1) When the approval official is at the State Office level, the responsible Program Chief

will have the responsibility for preparing the appropriate environmental review document. Whenever the Chief delegates this responsibility in accordance with §1940.302(i) of this subpart, the Chief is responsible for reviewing the environmental document to ensure that it is adequate, that any deficiencies are corrected, and that it is signed by the preparer. When the document is satisfactory to the Chief, the Chief will sign it as the concurring official. When no delegation occurs, the Chief will sign as the preparer. If the environmental review document is either a Class I or Class II assessment, it must be provided to the SEC for review prior to being submitted to the approval official for final determinations. The SEC will review the assessment and provide recommendations to the approval official.

(2) Whenever the preparer and the SEC do not concur on either the adequacy of the assessment or the recommendations reached, the State Director, whether or not the approving official, will make the final decision on the matter or matters in disagreement. The State Director will also make the final decision whenever a State Office approving official disagrees with the joint recommendations of the preparer and the SEC. In either case, should the State Director desire, the matter will be forwarded to the National Office for resolution. The Program Support Staff will coordinate its resolution with the appropriate Assistant Administrator. Failure of these parties to resolve the matter will require a final decision by the Administrator. The State Director should also request the assistance of the National Office on actions that are too difficult to analyze at the State Office level.

(c) *District or County Office level.* The approval official for the action under review will be responsible for preparing the appropriate environmental review document and completing the environmental findings and impact determinations for Class I and Class II assessments, except in the circumstances outlined in paragraph (d) of this section. Whenever the approval official delegates the preparation of the environmental review in accordance with §1940.302(i) of this subpart, the ap-

proval official must, after exercising the same responsibilities assigned to the Program Chief as indicated in paragraph (b)(1) of this section, sign the environmental review document as the concurring official. Both District Directors and County Supervisors will contact, as needed, the SEC for technical assistance in preparing specific environmental review documents.

(d) *Multi-level review.* When the approval official is at the County Office or District Office level but the action must be forwarded to the State Office for concurrence, the responsible Program Chief will perform the responsibilities of the concurring official with respect to the environmental review document and the SEC will review it, if a Class I or Class II assessment, in a similar manner as indicated in paragraph (b) of this section. Responsibilities similar to those of the Program Chief will exist for the District Director when the County Supervisor forwards an action to the District Office for concurrence.

(e) *Reservation of authority.* The Administrator reserves the right to request a State Director to forward to the National Office for review and approval any action which is highly controversial for environmental reasons, involves the potential for unique or extremely complex environmental impacts or is of national, regional, or great local significance. State Directors have a similar right with respect to District and County Offices.

§ 1940.317 Methods for ensuring proper implementation of categorical exclusions.

(a) The use of categorical exclusions exempts properly defined actions or proposals from the review requirements of NEPA. It does not exempt proposals from the requirements of other environmental laws, regulations or Executive orders. Each proposal must be reviewed to determine the applicability of other environmental requirements. Extraordinary circumstances may cause an application to lose its categorical exclusion and require a Class I environmental assessment, as further specified in paragraph (e) of this section. Section 1508.4 of