

## § 1940.302

are timely and relevant to the action in question, rather than amassing needless detail. Such documents and their preparation and review will be coordinated with other Federal or State agencies jointly participating in proposed actions or related actions, in order to avoid duplication of effort, and to achieve a coordinated and timely response.

(f) Public involvement is desirable, and to facilitate public involvement, environmental documents will be available to interested citizens as early in the decisionmaking process as possible and before decisions are made. Provisions are included for citizens or interested parties to express their views and any concerns.

(g) The FmHA or its successor agency under Public Law 103-354 officials responsible for the environmental review process are identified.

(h) The FmHA or its successor agency under Public Law 103-354 actions covered by this subpart include:

(1) Financial assistance to include grants, loans, and guarantees,

(2) Subdivision approvals,

(3) The management, leasing and sale of inventory property, and

(4) Other major federal actions such as proposals for legislation and the issuance of regulations.

### § 1940.302 Definitions.

Following is a list of definitions that apply to the implementation of this subpart. Please note that §1940.301(b) of this subpart refers to the Council on Environmental Quality's Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act, 40 CFR parts 1500-1508. Consequently, the definitions contained in part 1508 of the Council's regulations apply to this subpart, as well as those listed below.

(a) *Emergency circumstance.* One involving an immediate or imminent danger to public health or safety.

(b) *Environmental review documents.* The documents required by this subpart for the purpose of documenting FmHA or its successor agency under Public Law 103-354's compliance with the environmental laws and regulations applicable to the FmHA or its successor agency under Public Law 103-

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

354 actions covered in this subpart. These documents include:

(1) Form FmHA or its successor agency under Public Law 103-354 1940-22, "Environmental Checklist for Categorical Exclusions,"

(2) Form FmHA or its successor agency under Public Law 103-354 1940-21, "Environmental Assessment of Class I Action,"

(3) Environmental Assessment for Class II Actions (exhibit H of this subpart), and

(4) Environmental Impact Statements (EIS).

(c) *Flood or flooding.* A general and temporary condition of partial or complete inundation of land areas, from the overflow of inland and/or tidal waters, and/or the rapid accumulation or runoff of surface waters from any source. Two important classifications of floods are as follows.

(1) A one-percent chance flood or based flood—A flood of a magnitude that occurs once every 100 years on the average. Within any one-year period there is one chance in 100 of the occurrence of such a flood. Most importantly, however, the cumulative risk of flooding increases with time. Statistically, there is about one chance in five that a flood of this magnitude will occur within a 20-year period, the length of time commonly defined as the useful life of a facility. Over a 30-year period, the life of a typical mortgage, the probability of such a flood occurring increases to greater than one chance in four.

(2) A 0.2-percent chance flood—A flood of a magnitude that occurs once every 500 years on the average. (Within any one-year period there is one chance in 500 of the occurrence of such a flood.) As with the one-percent chance flood, the cumulative risk of this flood occurring also increases with time.

(d) *Floodplains.* Lowland and relatively flat areas adjoining inland and coastal waters, including flood-prone areas of offshore islands. At a minimum, floodplains consist of those areas subject to a one percent or greater chance of flooding in any given year. The term *floodplain* will be taken to mean the base floodplain, unless the action involves a critical action, in

which case the critical action floodplain is the minimum floodplain of concern.

(1) Base floodplain (or 100-year floodplain)—The area subject to inundation from a flood of a magnitude that occurs once every 100 years on the average (the flood having a one-percent chance of being equalled or exceeded in any given year).

(2) Critical action floodplain (or 500-year floodplain)—The area subject to inundation from a flood of a magnitude that occurs once every 500 years on the average (the flood having 0.2-percent chance of being equalled or exceeded in any given year).

(e) *Indirect impacts.* Those reasonably foreseeable environmental impacts that result from the additional public facility, residential, commercial, or industrial development or growth that a federally financed project may cause, induce or accommodate. Consequently, indirect impacts often occur later in time than the construction of the Federal project and can be removed in distance from the construction site. For example, a water transmission line may be designed to serve additional residential development. The environmental impacts of that residential development represent an indirect impact of the federally funded water line. Those indirect impacts which deserve the greatest consideration include changes in the patterns of land use, population density or growth rate, and the corresponding changes to air and water quality and other natural systems.

(f) *Mitigation measure.* A measure(s) included in a project or application for the purpose of avoiding, minimizing, reducing or rectifying identified, adverse environmental impacts. Examples of such measures include:

(1) The deletion, relocation, redesign or other modifications of the project's elements;

(2) The dedication to open space of environmentally sensitive areas of the project site, which would otherwise be adversely affected by the action or its indirect impacts;

(3) Soil erosion and sedimentation plans to control runoff during land-disturbing activities;

(4) The establishment of vegetative buffer zones between project sites and adjacent land uses;

(5) Protective measures recommended by environmental and conservation agencies having jurisdiction or special expertise regarding the project's impacts;

(6) Storm water management plans to control potential downstream flooding effects that would result from a project;

(7) Zoning; and

(8) Reuse of existing facilities as opposed to new construction.

(g) *No-action alternative.* The alternative of not approving an application for financial assistance, a subdivision feasibility analysis, or an Agency proposal.

(h) *Practicable alternative.* An alternative that is capable of attainment within the confines of relevant constraints. The test of practicability, therefore, depends upon the particulars of the situation under consideration and those constraints imposed by environmental, economic, legal, social and technological parameters. This test, however, is not limited by the temporary unavailability of sufficient financial resources to implement an alternative. That is, alternatives cannot be rejected solely on the basis of moderately increased costs. The range of alternatives that must be analyzed to determine if a practicable alternative exists includes the following three categories of alternatives:

(1) Alternative project sites or designs,

(2) Alternative projects with similar benefits as the proposed actions, and

(3) The no-action alternative.

(i) *Preparer of Environmental Review Documents.* The FmHA or its successor agency under Public Law 103-354 official who is responsible for reviewing the potential environmental impacts of the proposed action and for completing the appropriate environmental review document. Under the circumstances indicated, the following Agency positions and divisions will act as the preparer of the environmental review documents covered by this subpart.

(1) *County Office.* When the approval official for the action under review is located at the County Office level, that

**§ 1940.303**

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

official will prepare, as required, Environmental Checklist for Categorical Exclusions and Class I and Class II assessments.

(2) *District Office.* When the approval official for the action under review is located at the District Office level, that official will prepare, as required, Environmental Checklist for Categorical Exclusions and Class I and Class II assessments or may delegate this responsibility to either:

(i) The District Office staff member having primary responsibility for assembling the associated pre-application, application or other case materials, analyzing the materials and developing recommendations for the approval official, or

(ii) A County Office staff member having the same responsibilities as the District Office member, if the action is initiated at the County Office level.

(3) *State Program Chief.* For actions approved within the State Office, the Chief will prepare, as required, Environmental Checklist for Categorical Exclusions and Class I and II assessments or may delegate this responsibility to either:

(i) The appropriate State Office Loan Specialist, if not the State Environmental Coordinator (SEC),

(ii) An architect or engineer on the Chief's staff who is not the SEC, or

(iii) A District or County Office staff member located within the office in which the action is initiated and having the responsibilities outlined in paragraph (i)(2)(i) of this section.

(4) *State Environmental Coordinator.* EIS's for actions within the approval authority of County Supervisors, District Directors, and State Office officials.

(5) *Assistant Administrators for Programs.* Checklists, assessments, and EIS's for all actions initiated within their program office.

(6) *Program Support Staff.* Checklists, assessments, and EIS's that the Deputy Administrator for Program Operations requests be done.

(j) *Water resource project.* Includes any type of construction which would result in either impacts on water quality and the beneficial uses that water quality criteria are designed to protect or any change in the free-flowing charac-

teristics of a particular river or stream to include physical, chemical, and biological characteristics of the waterway. This definition encompasses construction projects within and along the banks of rivers or streams, as well as projects involving withdrawals from, and discharges into such rivers or streams. Projects which require Corps of Engineers dredge and fill permits are also water resource projects.

**§ 1940.303 General policy.**

(a) FmHA or its successor agency under Public Law 103-354 will consider environmental quality as equal with economic, social, and other relevant factors in program development and decision-making processes.

(b) In assessing the potential environmental impacts of its actions, FmHA or its successor agency under Public Law 103-354 will consult early with appropriate Federal, State, and local agencies and other organizations to provide decision-makers with both the technical and human aspects of environmental planning.

(c) When adverse environmental impacts are identified, either direct or indirect, an examination will be made of alternative courses of action, including their potential environmental impacts. The objective of the environmental review will be to develop a feasible alternative with the least adverse environmental impact. The alternative of not proceeding with the proposal will also be considered particularly with respect to the need for the proposal.

(d) If no feasible alternative exists, including the no-action alternative, measures to mitigate the identified adverse environmental impacts will be included in the proposal.

(e) The performance of environmental reviews and the consideration of alternatives will be initiated as early as possible in the FmHA or its successor agency under Public Law 103-354 application review process so that the Agency will be in the most flexible and objective position to deal with these considerations.

**§ 1940.304 Special policy.**

(a) *Land use.* (1) FmHA or its successor agency under Public Law 103-354 recognizes that its specific mission of