

July 7, 2004

**TO:** State Directors  
Rural Development

**ATTN:** Rural Housing Program Directors, Rural Development Managers,  
Community Development Managers and  
State Environmental Coordinators

**FROM:** James C. Alsop (Signed by James C. Alsop)  
Acting Administrator  
Rural Housing Service

**SUBJECT:** Environmental Compliance for the  
Guaranteed Single Family Housing Program

**PURPOSE/INTENDED OUTCOME:**

The purpose of this Administrative Notice (AN) is to answer frequently asked questions regarding application of environmental requirements to the guaranteed rural housing program and to clarify applicable sections of RD Instruction 1940-G, "Environmental Program," and RD Instruction 1980-D, "Rural Housing Loans."

**COMPARISON WITH PREVIOUS AN:**

This AN is a reissue, with revision and clarification, of RD AN No. 3728 (1980-D) that expired March 31, 2003.

**IMPLEMENTATION RESPONSIBILITIES:**

The guaranteed rural housing program is subject to the environmental policies and procedures outlined in RD Instruction 1940-G. This requirement can be found in RD Instruction 1940-G at section 1940.301 (h) (1) and in RD Instruction 1980-D at section 1980.316. Guaranteed rural housing proposals will normally qualify as categorical exclusions; however, these exclusions are not automatic.

EXPIRATION DATE: July 31, 2005

FILING INSTRUCTIONS:  
Preceding RD Instructions 1940-G and 1980-D

A proposal to purchase or construct a single-family house is listed in RD Instruction 1940-G, section 1940.310, as a categorical exclusion. However, this does not mean that such a proposal will always be categorically excluded, nor does it mean that the Agency has no environmental review to perform. For categorical exclusions, the National Environmental Policy Act (NEPA) requires the Agency to provide a mechanism for identifying when extraordinary circumstances exist; that is, the Agency needs to be able to identify when a proposal, listed as a categorical exclusion, does have a potential for environmental impact. Form RD 1940-22, "Environmental Checklist for Categorical Exclusions," is used to document whether protected resources are found within the project area. If a protected environmental resource is found within the project area, a modified Class I Assessment must be prepared to address the affected resource(s). The instructions on preparation of a modified Class I Assessment can be found in RD Instruction 1940-G at section 1940.317(g). Preparation of a modified Class I Assessment does not require public notice, completion of Form 1940-20 "Request for Environmental Information" by the applicant is not needed, and the modified Class I Assessment can address more than one affected land resource. If you need assistance with preparing a modified Class I assessment, you should contact your State Environmental Coordinator (SEC) for assistance and training.

Responsibility for compliance with NEPA, as outlined in RD Instruction 1940-G, rests with the Federal agency, not the guaranteed lender. The Agency must complete the appropriate level of environmental review and must use adequate and reliable information in so doing. Guaranteed lenders have the responsibility to become familiar with Federal environmental requirements and to cooperate with the Agency in the collection of environmental data and in the resolution of potential environmental problems.

NEPA and many other Federal environmental laws, Executive Orders, and departmental regulations apply only to Federal agencies and to the activities of Federal agencies; therefore, few guaranteed lenders can be expected to be completely familiar with the Agency's requirements in this area. Rural Housing Program Directors should ensure that guaranteed lenders are familiar with Agency environmental policies. The SEC should be a part of regularly scheduled training for guaranteed lenders.

Information necessary to complete the environmental review may be obtained by the Agency in a variety of ways. Every office should have an environmental library containing, at a minimum, a copy of the State's Natural Resources Management Guide, access to paper or online floodplain maps and soil surveys for the office jurisdiction. Any office that does not have these documents or is unfamiliar with how to use and interpret them should contact their SEC for assistance. Additional information may be acquired from technical experts in other Federal and State agencies, as well as from the lender, the lender's client, the site appraiser, or through a site visit made by the Agency. A great deal of information on resource protection is available on the Internet and information on access to this information should be available through your SEC. It is important to recognize that under NEPA, the Agency must independently evaluate environmental information submitted by or on behalf of the applicant (the lender), assure itself of the accuracy of the information, and make an independent decision based thereon. It is not the intent of NEPA that acceptable work be redone, but that it be verified by the Agency.

NEPA requires that environmental information be available to public officials before decisions are made and actions taken. NEPA's primary objectives are to ensure that public officials (the Agency) make informed decisions that are based on an understanding of the environmental consequences of a proposed action, and that public officials formulate actions which protect, restore and enhance environmental quality. The environmental review document is a management tool that the Agency's loan approval official is expected to use to make such informed decisions and to formulate appropriate actions. Therefore, the environmental review must be completed in a timely manner, prior to the Agency's decision on participation in the proposal. In the case of guaranteed loans, the environmental review must be completed prior to the issuance of a conditional commitment for guarantee by the Agency. Refer to RD Instruction 1940-G, sections 1940.301(d) and 1940.315(b) and to RD Instruction 1980-D, section 1980.354.

RD Instruction 1980-D, section 1980.354, states that the Agency "will notify the lender of the approval status of the application or the reason the request cannot be processed within 48 hours of receipt." This does not mean that a decision to approve or not to approve must be made within 48 hours. It does establish a goal for processing requests and it does mean that the Agency is expected to notify the lender of any reasons why a decision must be delayed beyond the 48 hours. Normally, preparation of a categorical exclusion for purchase or construction of a single family house can be completed within the 48 hour time period. However, if a proposal will lose its classification as a categorical exclusion the Agency may need to obtain further environmental information and may not be able to complete the environmental review within 48 hours. Section 1980.354 recognizes this fact and states that the Agency should inform the lender of the circumstances of the delay. If necessary, the Agency should request the lender's assistance in resolving the problem. A preparer who is actively attempting to resolve an environmental issue and needs more than 48 hours to do so should not be penalized for failing to meet the 48 hour goal; likewise, environmental requirements should not be used as an excuse for failing to act promptly on application requests.

You are encouraged to work closely with your SEC and with your guaranteed lenders to ensure that environmental compliance is integrated effectively and efficiently with the loan processing and servicing activities of the guaranteed rural housing program. Should you have additional questions on this AN or on other environmental issues, please call Baxter J. Hill at (202) 720-1499 or Donna Meyer at (202) 720-1827, Program Support Staff, Rural Housing Service.