TPA ENVIRONMENTAL SEMINAR

FSA Environmental Requirements for Guaranteed Loans
Top Ten Misconceptions about FSA guaranteed loans for CAFOs

10. Loan approval and closing can be done within a week
9. You can get a head start if you clear land and start moving dirt while awaiting loan approval.
8. TDEC doesn’t require a CNMP for a CAFO, FSA won’t either.
7. It isn’t necessary to discuss plans with my neighbors
6. The CAFO permit is the only permit to be submitted with a loan application
5. Farm Experience and Credit History have no bearing on a loan application.
4. The terms and conditions of poultry contracts have no impact on loan approval.
3. All poultry loans have the same terms
2. It doesn’t matter where poultry barns are to be built
1. The number of poultry barns to be built doesn’t affect a loan application
FSA TENNESSEE OFFICE LOCATIONS
WITH FARM LOAN STAFF AND THE TERRITORIES EACH COVERS
WHERE TO PICK UP FSA LOAN INFORMATION

FSA Loan Applications and other forms may be obtained from:
1. Any FSA office (including those without a farm loan presence).
2. Guaranteed loan applications may be picked up from any participating guaranteed lender.
3. Online at:
FSA expects applicants, borrowers, guaranteed lenders, program participants and producers to:

- Consider the potential environmental impacts of their actions at the earliest planning stages.
- Develop actions that minimize the potential to adversely impact the environment.
- Ensure that all required project planning materials are current, sufficiently detailed and complete, and are submitted directly to the FSA office processing their application.
REQUEST FOR LOAN GUARANTEE APPLICATION

Lender’s make loans for poultry facilities, FSA provides loan guarantees against loss to the lender. The loan application begins environmental screening by asking the following questions:

<table>
<thead>
<tr>
<th>PART F - ENVIRONMENTAL INFORMATION</th>
</tr>
</thead>
<tbody>
<tr>
<td>YES</td>
</tr>
<tr>
<td>47. Floodplains: If the loan will be secured by real estate, does the property contain any existing structures <em>(i.e. farm dwellings or service buildings)</em> or does the proposal involve development <em>(i.e. construction, channeling, or other alteration)</em> located within the 100-year floodplain as defined by FEMA floodplain maps, NRCS soil surveys, or other documentation?</td>
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<tr>
<td>48. State Water Quality Standards: Did the investigation indicate the operation may violate State Water Quality Standards?</td>
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<tr>
<td>49. Historical and Archaeological Sites: Does the property contain structures over 50 years old, structures with significant architectural features, or does the property have any historical significance which may make it eligible for the National Register of Historic Places?</td>
</tr>
<tr>
<td>50. Wetlands and Highly Erodible Land: Will loan funds be used for any purpose that may contribute to the erosion of Highly Erodible Land or the Conversion of Wetlands; OR will loan funds be used to drain, dredge, fill, or otherwise manipulate any land or reduce the flow, circulation, or reach of water?</td>
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<tr>
<td>51. Hazardous Substances: If the loan will be secured by real estate, did the &quot;due diligence&quot; investigation in respect to underground storage tanks and contamination from hazardous substances indicate contamination?</td>
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- The loan applicant answers the questions on the application.
- FSA investigates the site to assure environmental resources are protected.
- The lender investigates the site assuring it is suitable loan security (not contaminated with hazardous materials, waste, etc.)
TWO Parts to FSA

Environmental Compliance

- National Environmental Policy Act (NEPA) Compliance.

- Environmental Due Diligence
THE NATIONAL ENVIRONMENTAL POLICY ACT (NEPA) OF 11/29/1978

- Endangered Species Act
- Clean Water Act
- Clean Air Act
- Historic Preservation
- Floodplains Protection
- Wetlands Protection
- Pollution Prevention Act
- NAGPRA
NEPA REQUIREMENTS

National Environmental Policy Act (NEPA) requires:

- before implementing activities with potential to impact the human environment, Federal agencies must consider all potential environmental impacts of the proposed actions by incorporating an analysis of impacts into their decision-making processes and consider reasonable alternatives to those activities.

- Agencies to consult with and obtain comments from Federal agencies that manage or have expertise about resources that are potentially affected.

- opportunity for public comment before large scale projects are approved and after the Agency has made a decision about environmental impact.
ENVIRONMENTAL DUE DILIGENCE

Due Diligence – the process of evaluating real estate, in the context of a real estate transaction, for the presence of contamination from the release of hazardous waste, petroleum products, or other environmental hazards, and determining the effect, if any the contamination has on the regulatory status or security value of the property.
DUE DILIGENCE

The lender is responsible for conducting a due diligence investigation (for Hazardous Substances) on the property. The lender is expected to conduct a site visit with the applicant.

The Bank’s dress code didn’t address Hazmat site visits.
Loan Applicant Responsibilities

The FSA Loan officer or the lender will request the applicant provide project information such as:

• activity design specifications
• activity location maps
• appropriate FSA program participation forms
• notification of all parties potentially affected by or interested in the proposed action when it involves AFO or CAFO
• applications and/or permits for all Federal, regional, State, and local approvals
• CNMP or nutrient management plan
• provide public notification, including associated costs, and attend and fully cooperate in holding public information meetings, as required.
Unpacking the requirements

The lender makes a visit to the loan applicant’s property site looking for obvious potential environmental issues and discussing them with the applicant.
Consideration of environmental issues for guaranteed loans.

Location, Location, Location – did it really make sense to build here? Potential impacts?
Consideration of environmental issues for guaranteed loans.

How will it impact the neighbors?
Consideration of environmental issues for guaranteed loans.

How will it impact the community?
Consideration of environmental issues for guaranteed loans.

Will it impact historical landmarks?
National Historic Preservation Act
National Historic Preservation Act
Requirements

The project site is reviewed to determine if there are any **structures** or **archaeological sites** which are listed or may be eligible for listing in the National Register of Historic Places.

Historic properties include structures over 50 years old, sites of any age with significant historic or archaeological value, and burial grounds.

Lenders may consult the Agency for guidance on which situations will need further review in accordance with the National Historical Preservation Act.
National Historic Preservation Act Requirements

Historic? Eligible for listing on National Register? Depends on who is buried there and the significance of the site as determined by the SHPO. What is the proposed loan for? A crop loan may have no effect as long as site is not disturbed.
NHPA Requirements

FSA expects lenders to:
- consult with the FSA official for guidance on what situations will need historic property review and consultation.
- examine the farm property and question the owner about the property and building history.
- if there is a question about a building or site on the property, have the owner consult with the State Historic Preservation Officer (SHPO).
- check other sources of information, local historical societies or universities.
- indicate on the application for guarantee and describe, include a picture if available if the property has structures or sites that may be eligible for listing.
Consideration of environmental issues for guaranteed loans.

Will it impact endangered species?
State

Water Quality Standards

The lender will assist the borrower in securing any applicable permits. FSA will also assist. Lender retains copies of permits in the file.

TDEC Permits
-Storm Water Run-off Prevention Permit
-CAFO Individual or General Permit

FSA must have proof of permits (approved NOI from TDEC or copy of permit) before completing Environmental Review – Permit Status can be verified online at http://environment-online.state.tn.us:8080/pls/enf_reports/f?p=9034:34001:685425166771401
Water Quality Standards

Comprehensive Nutrient Management Plans (CNMP’s)

FSA regulations require CAFO’s meeting the definition of CAFO to have a CNMP.

CAFO – as defined by EPA, are AFO’s having a minimum threshold for numbers of animals by size, category, and type, and meet 1 of the following criteria:
- Discharge to or contact with surface waters
- Are designated by the permitting authority.
Consideration of environmental issues for guaranteed loans.

Other Protected Resources to be considered:
- Wilderness areas and national forests
- Natural and State Landmarks
- Federal and State Wild and Scenic Rivers
- Water quality
- Flood hazard zones
- Prime Farmland/soil conservation
- Air quality
- Highly Erodible Land/Wetlands
- Environmental Justice/Socioeconomics
- Environmental due diligence
Levels of Environmental Review

The level of environmental review is a “tiered” process, determined by the complexity of the project and the animal capacity of the facility.

- Categorical Exclusion
- Class I EA
- Class II EA
- EIS
Levels of Environmental Review

The level of environmental for new or expanding farms is partially determined by animal numbers.

<table>
<thead>
<tr>
<th>Animal Type</th>
<th>In Excess of These Numbers</th>
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<tr>
<td></td>
<td>RD 1940-21</td>
<td>Class II EA</td>
<td></td>
<td></td>
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<tr>
<td>Animal Type</td>
<td>Head</td>
<td>AU's</td>
<td>Head</td>
<td>AU's</td>
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<tr>
<td>Slaughter steers and heifers</td>
<td>300 - 900*</td>
<td>300</td>
<td>1,000+</td>
<td>1,000</td>
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<tr>
<td>Mature dairy cows (milkers or dry cows)</td>
<td>200 - 699*</td>
<td>280</td>
<td>700+</td>
<td>980</td>
</tr>
<tr>
<td>Swine (each weighing 55lbs or more)</td>
<td>750 - 2,499*</td>
<td>300</td>
<td>2,500+</td>
<td>1,000</td>
</tr>
<tr>
<td>Swine (each weighing 55lbs or less)</td>
<td>3,000 - 9,999*</td>
<td>120</td>
<td>10,000+</td>
<td>400</td>
</tr>
<tr>
<td>Sheep</td>
<td>3,000 - 9,999</td>
<td>300</td>
<td>10,000+</td>
<td>1,000</td>
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<tr>
<td>Broilers, regardless of manure handling or watering system used</td>
<td>37,500-99,999</td>
<td></td>
<td>100,000+</td>
<td></td>
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<tr>
<td>Layer hens, regardless of the type of manure handling or watering system used</td>
<td>25,000-81,999</td>
<td></td>
<td>82,000+</td>
<td></td>
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<tr>
<td>Turkeys</td>
<td>16,500-54,999</td>
<td></td>
<td>55,000+</td>
<td></td>
</tr>
<tr>
<td>Horses</td>
<td>150 - 499</td>
<td>150</td>
<td>500+</td>
<td>500</td>
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<tr>
<td>Combination of slaughter steers/heifers, dairy cattle, swine, sheep, or horses</td>
<td>500</td>
<td></td>
<td>1000+</td>
<td></td>
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<tr>
<td>Ducks (liquid waste)</td>
<td>1,500 - 4,999</td>
<td></td>
<td>5,000+</td>
<td></td>
</tr>
<tr>
<td>Ducks (dry waste)</td>
<td>10,000-29,999</td>
<td></td>
<td>30,000+</td>
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</table>
REMEMBER: **No action** (clearing, grading, filling, construction, etc.), can start until the environmental review is concluded. If publishing is required, it is 15 days from the last date of publication (assuming there are no issues resulting from publication).
FSA Notice of Action (NOA) and Finding of No Significant Impact (FONSI)

Large scale projects as determined by FSA will require a preliminary NOA and a FONSI to be published in the local newspaper.

When a FONSI is published it will list both lender and FSA as contacts for comments on the project.
Any negative written comments received by the lender or FSA resulting from publishing the NOA or FONSI should be kept in the file with the document.

Your project will make my property value go down!
FSA Finding of No Significant Impact (FONSI)

Lenders and loan applicants receive a copy of the FSA FONSI, documentation of Environmental Review and the conclusion reached. The FONSI is signed by the loan approval official after any required advertising of the project is complete. It is the green light to proceed.
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