Food and Drug Administration, HHS

§ 25.31 Human drugs and biologics.

The classes of actions listed in this section are categorically excluded and, therefore, ordinarily do not require the preparation of an EA or an EIS:

(a) Action on an NDA, abbreviated application, application for marketing approval of a biologic product, or a supplement to such applications, or action on an OTC monograph, if the action does not increase the use of the active moiety.

(b) Action on an NDA, abbreviated application, or a supplement to such applications, or action on an OTC monograph, if the action increases the use of the active moiety, but the estimated concentration of the substance at the point of entry into the aquatic environment will be below 1 part per billion.

(c) Action on an NDA, abbreviated application, application for marketing approval of a biologic product, or a supplement to such applications, or action on an OTC monograph, for substances that occur naturally in the environment when the action does not alter significantly the concentration or distribution of the substance, its metabolites, or degradation products in the environment.

(d) Withdrawal of approval of an NDA, an abbreviated application, or an OTC monograph.
(e) Action on an IND.
(f) Testing and release by the Food and Drug Administration of lots or batches of a licensed biologic product.
(g) Establishment of bioequivalence requirements for a human drug or a comparability determination for a biologic product subject to licensing.
(h) Issuance, revocation, or amendment of a standard for a biologic product.
(i) Revocation of a license for a biologic product.
(j) Action on an application for marketing approval for marketing of a biologic product for transfusible human blood or blood components and plasma.


§ 25.32 Foods, food additives, and color additives.

The classes of actions listed in this section are categorically excluded and, therefore, ordinarily do not require the preparation of an EA or an EIS:

(a) Issuance, amendment, or repeal of a food standard.
(b) Action on a request for exemption for investigational use of a food additive if the food additive to be shipped under the request is intended to be used for clinical studies or research.
(c) Approval of a color additive petition to change a provisionally listed color additive to permanent listing for use in food, drugs, devices, or cosmetics.
(d) Testing and certification of batches of a color additive.
(e) Issuance of an interim food additive regulation.
(f) Affirmation of a food substance as GRAS for humans or animals on FDA’s initiative or in response to a petition, under parts 182, 184, 186, or 582 of this chapter, and establishment or amendment of a regulation for a prior-sanctioned food ingredient, as defined in §§170.3(l) and 181.5(a) of this chapter, if the substance or food ingredient is already marketed in the United States for the proposed use.
(g) Issuance and enforcement of regulations relating to the control of communicable diseases or to interstate conveyance sanitation under parts 1240 and 1250 of this chapter.

(h) Approval of a request for diversion of adulterated or misbranded food for humans or animals to use as animal feeds.
(i) Approval of a food additive petition or GRAS affirmation petition, the granting of a request for exemption from regulation as a food additive under §170.39 of this chapter, or allowing a notification submitted under 21 U.S.C. 348(h) to become effective, when the substance is present in finished food-packaging material at not greater than 5 percent-by-weight and is expected to remain with finished food-packaging material through use by consumers or when the substance is a component of a coating of a finished food-packaging material.
(j) Approval of a food additive petition or GRAS affirmation petition, the granting of a request for exemption from regulation as a food additive under §170.39 of this chapter, or allowing a notification submitted under 21 U.S.C. 348(h) to become effective, when the substance is to be used as a component of a food-contact surface of permanent or semipermanent equipment or of another food-contact article intended for repeated use.
(k) Approval of a food additive petition, color additive petition, or GRAS affirmation petition, or allowing a notification submitted under 21 U.S.C. 348(h) to become effective, for substances added directly to food that are intended to remain in food through ingestion by consumers and that are not intended to replace macronutrients in food.
(l) Approval of a petition for color additives used in contact lenses, sutures, filaments used as supporting haptics in intraocular lenses, bone cement, and in other FDA-regulated products having similarly low levels of use.
(m) Action to prohibit or otherwise restrict or reduce the use of a substance in food, food packaging, or cosmetics.
(n) Issuance, amendment, or revocation of a regulation pertaining to infant formulas.
(o) Approval of a food additive petition for the intended expression product(s) present in food derived from new plant varieties.