

Farm Service Agency, USDA

§ 799.31

proposed actions where FSA determines at an early stage that there is a need to prepare an EA or EIS.

Subpart D—Categorical Exclusions

§ 799.30 Purpose of categorical exclusion process.

(a) FSA has determined that the categories of proposed actions listed in §§ 799.31 and 799.32 do not normally individually or cumulatively have a significant effect on the human environment and do not threaten a violation of applicable statutory, regulatory, or permit requirements for environment, safety, and health, including requirements of Executive Orders and other USDA regulations in this chapter. Based on FSA's previous experience implementing these actions and similar actions through the completion of EAs, these proposed actions are categorically excluded.

(b) If a proposed action falls within one of the categories of proposed actions listed in § 1b.3 of this title, § 799.31, or § 799.32, and there are no extraordinary circumstances present as specified in § 799.33, then the proposed action is categorically excluded from the requirements to prepare an EA or an EIS.

(c) Those proposed actions in categories in § 799.31 or § 799.32 will be considered categorical exclusions unless it is determined there are extraordinary circumstances, as specified in § 799.33.

§ 799.31 Categorical exclusions to be recorded on an ESW.

(a) Proposed actions listed in this section involve no new ground disturbance below the existing plow zone (does not exceed the depth of previous tillage or disturbance) and therefore only need to be recorded on the ESW; no further review will be required. Unless otherwise noted, the proposed actions in this section also do not have the potential to cause effects to historic properties, and will therefore not be reviewed for compliance with section 106 of NHPA (54 U.S.C. 306108) or its implementing regulations, 36 CFR part 800. However, some proposed actions may require other Federal consultation to determine if there are extraordinary circumstances as specified in § 799.33.

(b) The following proposed actions are categorically excluded. These proposed actions are grouped into broader categories of similar types of proposed actions. Those proposed actions that are similar in scope (purpose, intent, and breadth) and the potential significance of impacts to those listed in this section, but not specifically listed in § 799.31 or § 799.32, will be considered categorical exclusions in this category, unless it is determined that extraordinary circumstances exist, as specified in § 799.33:

(1) *Loan actions.* The following list includes categorical exclusions for proposed actions related to FSA loans:

- (i) Closing cost payments;
- (ii) Commodity loans;
- (iii) Debt set asides;
- (iv) Deferral of loan payments;
- (v) Youth loans;
- (vi) Loan consolidation;
- (vii) Loans for annual operating expenses, except livestock;
- (viii) Loans for equipment;
- (ix) Loans for family living expenses;
- (x) Loan subordination, with no or minimal construction below the depth of previous tillage or ground disturbance, and no change in operations, including, but not limited to, an increase in animal numbers to exceed the current CAFO designation (as defined by the U.S. Environmental Protection Agency in 40 CFR 122.23);
- (xi) Loans to pay for labor costs;
- (xii) Loan (debt) transfers and assumptions with no new ground disturbance;
- (xiii) Partial or complete release of loan collateral;
- (xiv) Re-amortization of loans;
- (xv) Refinancing of debt;
- (xvi) Rescheduling loans;
- (xvii) Restructuring of loans; and
- (xviii) Writing down of debt;

(2) *Repair, improvement, or minor modification actions.* The following list includes categorical exclusions for repair, improvement, or minor modification proposed actions:

- (i) Existing fence repair;
- (ii) Improvement or repair of farm-related structures under 50 years of age; and

(iii) Minor amendments or revisions to previously approved projects, provided such proposed actions do not substantively alter the purpose, operation, location, impacts, or design of the project as originally approved;

(3) *Administrative actions.* The following list includes categorically excluded administrative proposed actions:

(i) Issuing minor technical corrections to regulations, handbooks, and internal guidance, as well as amendments to them;

(ii) Personnel actions, reduction-in-force, or employee transfers; and

(iii) Procurement actions for goods and services conducted in accordance with Executive Orders;

(4) *Planting actions.* The following list includes categorical exclusions for planting proposed actions:

(i) Bareland planting or planting without site preparation;

(ii) Bedding site establishment for wildlife;

(iii) Chiseling and subsoiling;

(iv) Clean tilling firebreaks;

(v) Conservation crop rotation;

(vi) Contour farming;

(vii) Contour grass strip establishment;

(viii) Cover crop and green manure crop planting;

(ix) Critical area planting;

(x) Firebreak installation;

(xi) Grass, forbs, or legume planting;

(xii) Heavy use area protection;

(xiii) Installation and maintenance of field borders or field strips;

(xiv) Pasture, range, and hayland planting;

(xv) Seeding of shrubs;

(xvi) Seedling shrub planting;

(xvii) Site preparation;

(xviii) Strip cropping;

(xix) Wildlife food plot planting; and

(xx) Windbreak and shelterbelt establishment;

(5) *Management actions.* The following list includes categorical exclusions of land and resource management proposed actions:

(i) Forage harvest management;

(ii) Integrated crop management;

(iii) Mulching, including plastic mulch;

(iv) Netting for hard woods;

(v) Obstruction removal;

(vi) Pest management (consistent with all labelling and use requirements);

(vii) Plant grafting;

(viii) Plugging artesian wells;

(ix) Residue management including seasonal management;

(x) Roof runoff management;

(xi) Thinning and pruning of plants;

(xii) Toxic salt reduction; and

(xiii) Water spreading; and

(6) *Other FSA actions.* The following list includes categorical exclusions for other FSA proposed actions:

(i) Conservation easement purchases with no construction planned;

(ii) Emergency program proposed actions (including Emergency Conservation Program and Emergency Forest Restoration Program) that have a total cost share of less than \$5,000;

(iii) Financial assistance to supplement income, manage the supply of agricultural commodities, or influence the cost and supply of such commodities or programs of a similar nature or intent (that is, price support programs);

(iv) Individual farm participation in FSA programs where no ground disturbance or change in land use occurs as a result of the proposed action or participation;

(v) Inventory property disposal or lease with protective easements or covenants;

(vi) Safety net programs administered by FSA;

(vii) Site characterization, environmental testing, and monitoring where no significant alteration of existing ambient conditions would occur, including air, surface water, groundwater, wind, soil, or rock core sampling; installation of monitoring wells; installation of small scale air, water, or weather monitoring equipment;

(viii) Stand analysis for forest management planning;

(ix) Tree protection including plastic tubes; and

(x) Proposed actions involving another agency that are fully covered by one or more of that agency's categorical exclusions (on the ESW, to record the categorical exclusion, FSA will name the other agency and list the specific categorical exclusion(s) that applies).