

Forest Service NEPA Regulations (36 CFR 220)
Comparison between Existing Regulations (2008), Proposed Rule (2019), and Final Rule (2020)
November 18, 2020

Topic	Existing Regulations	Proposed Rule	Final Rule
Scoping	<p>Required for all proposed actions.</p> <p>No single technique required.</p> <p>Must be more than posting to Schedule of Proposed Actions (SOPA).</p>	<p>Limited to environmental impact statements (EISs).</p>	<p>No change from existing regulations.</p>
Public Engagement	<p>FS Objection regulations (36 CFR 218) require comment period for EAs/EISs.</p> <p>FS NEPA regulations (36 CFR 220) generally silent.</p> <p>CEQ regulations (40 CFR 1500-1508) require comment period for EISs.</p>	<p>Requires consistency with FS pre-decisional administrative review regulations and CEQ regulations.</p> <p>All proposed actions with documented decision must be published to SOPA.</p> <p>Additional public engagement for CEs/EAs at the discretion of the responsible official.</p>	<p>No change from existing regulations.</p>
Condition-Based Management	N/A	<p>Defined independent of existing definition of adaptive management.</p> <p>Articulated general requirements.</p>	<p>No change from existing regulations. Condition-based management approaches are still valid, consistent with existing regulations.</p>
Determination of NEPA Adequacy (DNA)	N/A	<p>Included elements that must be satisfied to proceed with a DNA.</p> <p>Referenced notice, comment, and administrative review.</p>	<p>Clarifies required elements from proposed rule.</p> <p>Clarifies that DNAs require inclusion on the SOPA, are subject to scoping, administrative review processes (including public notice and comment periods) that were applicable to the prior decision, and include issuance of a new decision document.</p>

Topic	Existing Regulations	Proposed Rule	Final Rule
Classes of Actions that Normally Require an EIS	<p>Class 1: Proposals to carry out or to approve aerial application of chemical pesticides on an operational basis.</p> <p>Class 2: Proposals that would substantially alter the undeveloped character of an inventoried roadless area or a potential wilderness area.</p>	<p>Retained Class 1 and removed Class 2.</p> <p>Added classes for:</p> <ul style="list-style-type: none"> • Development of a new land management plan or land management plan revision; and • Mining operations that involve surface disturbance on greater than 640 acres over the life of the proposed action. 	No change from existing regulations.
Categorical Exclusion (CE) Procedures: Extraordinary Circumstances Standard	Must evaluate degree of effect from proposed action on list of resource conditions to determine if extraordinary circumstances exist (making a CE inappropriate).	<p>Clarified that extraordinary circumstances exist when there is a likelihood of substantial adverse effects.</p> <p>Added that the responsible official may consider whether long-term beneficial effects outweigh short-term adverse effects in making this determination.</p>	No change from existing regulations.
CE Procedures: Resource Conditions for Extraordinary Circumstances	List appears at 36 CFR 220.6(b)(1)	<p>Eliminated Forest Service sensitive species.</p> <p>Clarified that inventoried roadless areas refers to those designated under 36 CFR Part 294.</p> <p>Adds wild and scenic rivers to the list of congressionally designated areas.</p> <p>Limits potential wilderness areas to those designated by Congress.</p>	No change from existing regulations.

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Restoration CE	N/A	<p>Allowed 7,300 acres of activities; 4,200 of which may be commercial/non-commercial timber harvest.</p> <p>If timber harvest occurs, project must add on at least one restoration activity.</p> <p>Silent on salvage harvest.</p>	<p>Allows 2,800 acres of activities (which may include commercial/non-commercial timber harvest).</p> <p>Primary purpose of all activities must be achievement of restoration objectives.</p> <p>Salvage harvest is not allowed under this category.</p> <p>Requires project development via a collaborative process.</p>
Roads CE	N/A	Allowed construction or realignment of up to 5 miles of NFS roads, reconstruction of up to 10 miles of NFS roads.	<p>Split into 2 CEs:</p> <p>Road management activities on up to 8 miles of NFS roads.</p> <p>Construction and realignment of up to 2 miles of NFS roads.</p>
Unauthorized road/trail conversion CEs	N/A	Allowed converting an unauthorized road or trail to an NFS road or trail.	Dropped from the final rule.
Special Use Authorizations CEs	<p>2 CEs for renewal of existing special use authorizations (one requiring documentation, one not)</p> <p>CE for 5-acre special use authorizations.</p>	<p>Combined 2 renewal CEs into one not requiring documentation.</p> <p>Expanded 5-acre CE to 20 acres.</p>	<p>Retains the combined CE from proposed rule with minor modification.</p> <p>Expanded 5-acre CE to 20 acres and updates the list of examples.</p>

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Recreation Site and Administrative Site CEs	N/A	<p>Allowed construction, reconstruction, decommissioning, relocation, or disposal of buildings, infrastructure, or other improvements at recreation sites.</p> <p>Parallel CE for administrative sites.</p>	Retains these 2 CEs with minor modification from proposed rule.
Use of Other Federal Agency's CE	N/A	Allowed use of another Federal agency's CE for a proposed action that will be implemented jointly.	Not included in final rule.