



**Supplementing 36 CFR Part 220:
Addition of New Categorical Exclusions
For Soil and Water Restoration**

SUPPORTING STATEMENTS

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Acronyms

B.A.	Bachelor of Arts
B.S.	Bachelor of Science
CE	Categorical Exclusion
CERCLA	Comprehensive Environmental Response, Compensation, and Liability Act
CFR	Code of Federal Regulations
DN	Decision Notice
EA	Environmental Assessment
EIS	Environmental Impact Statement
FONSI	Finding of No Significant Impact
FSH	Forest Service Handbook
FSM	Forest Service Manual
MAO	Memorandum of Understanding
Med	Master of Education
MLIS	Master of Library Science
M.S.	Master of Science
NEPA	National Environmental Policy Act
NF	National Forest
NFS	National Forest System
NMSA	National Maritime Sanctuary Act
NOA	Notice of Availability
OPA	Oil Pollution Act
PALS	Project Appeals & Litigation System
Ph.D.	Doctor of Philosophy
RD	Ranger District
R&D	Research & Development
SOPA	Schedule of Proposed Actions
TAP	Travel Analysis Process
U.S.C.	United State Code

Agency Acronyms and Names

BLM	Bureau of Land Management
CEQ	Council on Environmental Quality
DOE	Department of Energy
DOI	Department of the Interior
DOT	Department of Transportation
DHS	Department of Homeland Security
FAA	Federal Aviation Administration
FEMA	Federal Emergency Management Agency
NMFS	National Marine Fisheries Service
NOAA	National Oceanic and Atmospheric Administration
NRCS	Natural Resources Conservation Service
USCG	U.S. Coast Guard
USDA	U.S. Department of Agriculture
USFS	U.S. Forest Service

Introduction

In 2009, U.S. Department of Agriculture (USDA) Secretary Vilsack¹ called for restoring forestlands to protect water resources. The USDA recognizes the need to restore more acres more rapidly if we are to prevent catastrophic fires, insect and disease outbreaks, and other threats. Landscape restoration opportunities may be missed when governments, tribes, and the public collaboratively identify problems and solutions, only to find that the action is slowed by complex National Environmental Policy Act (NEPA) processes and documentation requirements that are unnecessary because the environmental effects are minimal or not significant. There are opportunities to reduce unnecessary process and documentation and focus more on solving specific environmental problems collaboratively.

For decades the USDA Forest Service (USFS) has implemented terrestrial and aquatic restoration projects. Some of these projects encompassed actions that promoted restoration or conservation activities related to past natural or human-caused damage or alteration of floodplains, wetlands, and watersheds. The USFS has found that in certain circumstances the environmental effects of some restoration activities have not been individually or cumulatively significant. The USFS's vast experience predicting and evaluating the environmental effects of the category of activities outlined in this supporting statement has led the agency to propose supplementing its NEPA regulations with new categorical exclusions to achieve soil and water restoration objectives.

The USFS is publishing for public comment a draft rule supplementing its NEPA regulations (36 Code of Federal Regulations (CFR), Part 220—National Environmental Policy Act Compliance) with three proposed categorical exclusions (CEs). The Council on Environmental Quality (CEQ) regulations at 40 CFR § 1507.3 provide that agencies, after notice and comment, may adopt categories of actions that do not have significant impacts on the human environment² and, consequently, do not require preparation of an environmental assessment (EA) or an environmental impact statement (EIS). Current USFS procedures for complying with and implementing the NEPA are set out in 36 CFR Part 220. The list of categories of actions (categorical exclusions) that do not require preparation of an EA or an EIS by the USFS are found at 36 CFR § 220.6.

The use of categorical exclusions allows the USFS to protect the environment more efficiently by (a) reducing the resources spent analyzing proposals which generally do not have potentially

¹ Seattle speech on Forest Service mission, August 14, 2009

² The USFS applies the comprehensive interpretation of "human environment" as defined in the CEQ NEPA regulations (40 CFR § 1508.14) "to include the natural and physical environment and the relationship of people with that environment."

significant environmental impacts, and (b) focusing resources on proposals that may have significant environmental impacts.

The USFS's proposed categorically excluded actions promote hydrologic, aquatic, and landscape restoration and recovery activities. All three CEs are intended to maintain or restore ecological functions and better align the agency's regulations, particularly its categorical exclusions, with the agency's current activities and experiences related to restoration. Briefly, these CEs will allow the agency to more efficiently analyze the potential environmental effects of soil and water restoration projects that are intended to:

- Restore the flow of waters into natural channels and floodplains by removing water control structures such as dikes, ditches, culverts and pipes;
- Restore lands and habitat to pre-disturbance conditions, to the extent practicable, by removing debris, sediment, and hazardous conditions following natural or human caused events;
- Restore lands occupied by unneeded non-system roads and trails to natural conditions.

Two of the three proposed categorical exclusions are comparable in nature and scope to categorical exclusions established by other federal agencies. The third CE has similarities to CEs established by other federal agencies but is more specific to the USFS. The USFS believes the new categorical exclusions routinely do not individually or cumulatively have a significant effect on the human environment. These categorical exclusions will not apply where there are extraordinary circumstances³, such as significant effects on threatened and endangered species or their designated critical habitat, wilderness areas, inventoried roadless areas, floodplains and wetlands, and archeological or historic sites.

USDA-Forest Service Restoration Focus

The USDA *Strategic Plan for FY 2010- 2015* focuses on the restoration of watershed and forest health as a core management objective of the national forests and grasslands. To accomplish its restoration objectives the USDA *Strategic Plan* directs the USFS to develop projects that are designed to restore degraded land and protect lands that are healthy. Specifically, to meet this goal the USFS seeks to restore degraded watersheds, reduce erosion, reclaim and restore abandoned mine lands, and reduce the impact of road systems on watershed health by strategically focusing investments in watershed improvement projects and conservation practices at the landscape and watershed scales.

The Forest Service *Strategic Plan FY 2007 – 2012* aims to restore, sustain, and enhance the nation's forests and grasslands. The USFS established a strategy to maintain resilient land and water conditions at the watershed level and restore deteriorated lands and watersheds. The establishment of these three soil and water categorical exclusions enable the agency to better

³ Extraordinary Circumstances are defined in the agency's NEPA regulations at 36 CFR 220.6 (b)

meet its objective of restoring and maintaining healthy watersheds and diverse habitats.

The USFS has a foundational policy for using ecological restoration to manage National Forest System lands in a sustainable manner (Forest Service Manual (FSM) 2020). The aim is to reestablish and retain ecological resilience of National Forest System lands and associated resources to achieve sustainable management and provide a broad range of ecosystem services. Healthy, resilient landscapes will have greater capacity to survive natural disturbances and large scale threats to sustainability, especially under changing and uncertain future environmental conditions such as those driven by climate change and increasing human uses (FSM 2020.2).

In addition, the USFS watershed condition policy goal is “to protect National Forest System watersheds by implementing practices designed to maintain or improve watershed condition, which is the foundation for sustaining ecosystem and the production of renewable natural resources, values, and benefits” (FSM 2520). The USFS’s proposed categorical exclusions are designed to promote hydrologic, aquatic, and landscape restoration and recovery activities that meet the goals and objectives detailed in the USDA and the USFS strategic plans.

Direction Specific to Restoring Lands Occupied by Roads and Trails

In implementing Subpart A of the Forest Service’s Travel Management Rule (36 CFR Part 212, Subpart A) the agency expects to identify an appropriately sized and environmentally sustainable road system that is responsive to ecological, economic, and social concerns. The national forest road system of the future must provide needed access for recreation and resource management and support watershed restoration and resource protection to sustain healthy ecosystems and ecological connectivity.

The agency uses travel analysis to identify the minimum road system, including unneeded roads. Travel analysis is a dynamic, interdisciplinary, science-based process that examines ecological, social, cultural and economic concerns. Travel analysis does not involve decision-making or allocation of National Forest System lands. Responsible officials are directed to engage the public to the degree practicable in identification of the minimum road system at an appropriate scale. This public engagement process is in advance to and above that which is required for access decisions or restoration projects subjected to the USFS’s NEPA regulations.

Non-system roads and trails, sometimes referred to as “wildcat,” “user-created” or “unauthorized” routes, are by definition not part of the forest transportation system (36 CFR 212.1). Accordingly, travel analysis is not required for decommissioning, obliterating, or restoration of the lands occupied by these unauthorized roads and trails (FSM 7712.3). In addition, motor vehicle use on these routes is prohibited unless they are included in the forest transportation system and designed for motor vehicle use (36 CFR 212.51(a) and 261.3). Responsible officials are encouraged to consider restoration and decommissioning unauthorized routes (FSM 7715.78(2)).

Purpose of Supporting Statement

The purpose of this supporting statement is to summarize the rationale for the addition of new categorical exclusions to the agency's existing list of categorical exclusions found at 36 CFR § 220.6.

The USFS establishes categorical exclusions for defined classes of actions that the agency determines are supported by a record showing that they normally will not have significant environment impacts, individually or cumulatively. The USFS establishes categorical exclusions based on, in part, its experience implementing similar actions, the experience of other agencies, and information provided by the public.

For all three proposed categorical exclusions discussed in this supporting statement, USFS personnel will continue to use an interdisciplinary environmental analysis process to evaluate proposed activities using the extraordinary circumstances listed at 36 § CFR 220.6. The agency is proposing these actions be categorical exclusions requiring documentation for which a project or case file and decision memo are required (36 CFR § 220.6(e)). When the responsible official determines that uncertainty over the significance of the potential extraordinary circumstances exist, the responsible official will not categorically exclude the action, and will instead prepare the appropriate documentation for compliance with NEPA (36 CFR§ 220.6(b)).

CEQ Regulatory Basis for Categorical Exclusion Development

The National Environmental Policy Act, 42 U.S.C 4321 *et seq*, requires that federal agencies consider the environmental effects or impacts of proposed federal actions. NEPA requirements apply to any federally-funded or undertaken project, decision, or action, including grants. NEPA also established the CEQ, which issued regulations at 40 CFR §§ 1500 - 1508 implementing the procedural provisions of NEPA.

The CEQ regulations at 40 CFR §§ 1500 - 1508 are applicable to all federal agencies for implementing the procedural provisions of NEPA, except where compliance would be inconsistent with other statutory requirements (40 CFR § 1500.3). The CEQ regulations require federal agencies to adopt their own implementing procedures to supplement the Council's regulations, and to establish and use "categorical exclusions" to define categories of actions that do not individually or cumulatively have a significant effect on the human environment and therefore do not require preparation of an EA or EIS. (40 CFR § 1507.3(b) (2)(ii) and 40 CFR § 1508.4).

Forest Service Implementation of Categorical Exclusions

In compliance with the CEQ regulations at 40 CFR § 1508.4, the USFS defines “categorical exclusion” to mean “a category of actions that does not individually or cumulatively have a significant effect on the human environment...”

In determining whether a particular proposed activity satisfies NEPA obligations with a categorical exclusion, the USFS responsible official must determine that the proposed activity meets two criteria. First, the proposed action must fit within the description of a category of actions that is identified as a categorical exclusion and found in the agency’s NEPA regulations (36 CFR 220.6).

If a proposed action is within a categorical exclusion identified in Forest Service procedures, the responsible official must determine that there are no extraordinary circumstances in which a normally excluded action may have a significant environmental effect. The responsible official relies on many sources of information in making a determination concerning extraordinary circumstances, including public comment, specialist reports, and consultation with other agencies (see 36 CFR § 220.6(b)).

“Extraordinary circumstances” include a list of resource conditions that “should” be considered. “Should” is used instead of “shall” to underscore that the list is not intended to be exhaustive. The list of resource conditions is intended as a starting place and does not preclude consideration of other factors or conditions by the responsible official with the potential for significant environmental effects.

The USFS evaluates each individual action it proposes under NEPA using an interdisciplinary process, including those actions which it ultimately determines meet their NEPA obligations with a categorical exclusion. In determining whether a particular proposed activity satisfies NEPA obligations with a categorical exclusion, the USFS responsible official must determine that the proposed activity meets the two criteria identified above.

Although the CEQ regulations require scoping only for environmental impact statements, the USFS has broadened the concept to require scoping to *all* proposed actions, including those that would appear to be categorically excluded from further analysis and documentation in an EA or EIS. Scoping is one method the USFS uses to determine whether extraordinary circumstances exist.

As part of internal and external scoping for each activity the agency proposes under NEPA, the responsible official reviews the CEQ significance criteria (40 CFR § 1508.27). In reviewing these criteria, the responsible official considers the context and intensity in which the proposal is

being implemented. For a given project the context can be the affected region, landscape, interests, or locality. Intensity refers to the severity of the project's impact. If during this review the responsible official determines that the degree of potential effect to extraordinary circumstances (Forest Service Handbook (FSH) 1909.15, 31.2) raises uncertainty over its significance, a categorical exclusion may not be used for the proposed action.

If the presence of one or more of the resource conditions included in the extraordinary circumstances listed at 36 CFR § 220.6(b)⁴ does exist, the interdisciplinary team then must determine the degree to which any cause-effect relationship exists between the proposed action and the potential effect on the resource. The mere presence of any resource conditions included in the extraordinary circumstance does not preclude the use of a category. It is the degree of the potential effect of a proposed action on the resource conditions that determines whether extraordinary circumstances exist that require environmental review in an EA or EIS.

All three of the proposed categorical exclusions will require documentation in accordance with USFS NEPA regulations (36 CFR § 220.6). The new categories require documentation in a project or case file and a decision memo (36 CFR § 220.6(e), including, in part, a determination that the proposal fits into a defined category of actions and a finding that no extraordinary circumstances exist.

The use of a categorical exclusion for a proposed action does not waive USFS compliance with any applicable statutory requirement (e.g. Clean Water Act, Clean Air Act) nor does it relinquish the responsibility of the agency to comply with mandatory consultations such as those associated with the National Historic Preservation Act (NHPA) and implementing regulations, and the Endangered Species Act (ESA) and implementing regulations. The NHPA and ESA and their regulations provide clear analytical processes for exempting practices or classes of actions and apply independently of NEPA to an action. In addition, all necessary state and federal permits (e.g. Clean Water Act 404d permits) would be required.

If the proposed action does fit a category found in the agency's NEPA regulations and does not have the presence of any extraordinary circumstances that give rise to the potential for significant impacts, it may be categorically excluded and documented in a decision memo.

⁴ Resource conditions that should be considered in determining whether "extraordinary circumstances" related to a proposed action warrant further analysis and documentation in an EA or an EIS are: (i) Federally listed threatened or endangered species or designated critical habitat, species proposed for Federal listing or proposed critical habitat, or Forest Service sensitive species; (ii) Flood plains, wetlands, or municipal watersheds; (iii) Congressionally designated areas, such as wilderness, wilderness study areas, or national recreation areas; (iv) Inventoried roadless area or potential wilderness area; (v) Research natural areas; (vi) American Indians and Alaska Native religious or cultural sites; and (vii) Archaeological sites, or historic properties or areas.

It is important to note that listing a category of actions as categorically excluded in the USFS's NEPA regulations does not constitute a conclusive determination regarding the appropriate level of NEPA review for a specific individual proposed action. Rather, the listing creates an initial presumption that the defined level of review (a categorical exclusion rather than an EA or an EIS) is typically appropriate for the listed actions. As indicated in 26 CFR § 220.6 this presumption is rebutted when there are extraordinary circumstances related to the proposed action that indicate the potential for significant environmental effects.

In addition to using scoping to inform the public of the proposed action and the expected NEPA review, the USFS uses a quarterly Schedule of Proposed Actions (SOPA) to notify the public about its activities subject to NEPA. The SOPA is a USFS document, released quarterly, that informs the public about those proposed and ongoing USFS actions for which a record of decision, decision notice, or decision memo will be or has been prepared pursuant to NEPA. The SOPA also identifies a contact for additional information on any proposed actions (36 CFR § 220.3). For all proposed actions subject to NEPA which are anticipated to be categorically excluded from documentation in an EIS or an EA and for which a decision memo would be required, "the responsible official shall ensure the SOPA is updated and notify the public of the availability of the SOPA" (36 CFR § 220.4 (d))⁵. It is important to note that the SOPA is not used as the sole scoping mechanism for a proposed action (36 CFR § 220.4 (e)(3)).

CEQ Guidance on Supplementing Categorical Exclusions

On November 23, 2010, the CEQ released its guidance memo on "Establishing, Applying, and Revising Categorical Exclusions under the National Environmental Policy Act." This memo provided federal departments and agencies guidance on how to establish new categorical exclusions in accordance with section 102 of the National Environmental Policy Act (42 U.S.C. § 4332) and the CEQ Regulations (40 CFR §§ 1500-1508).

The November 2010 CEQ guidance memo provides federal departments and agencies methods for gathering information to substantiate a CE. CEQ highlights the need to gather sufficient information to support establishing a new CE based on the anticipated environmental effects associated with the category of activities proposed to be categorically excluded. An agency can substantiate a CE using sources of information gathered by the following methods described in the CEQ guidance. Using one method may be considered sufficient, or a combination of methods can be used.

⁵ The SOPA can be accessed at <http://www.fs.fed.us/sopa/>.

1. Previously Implemented Actions

An agency's assessment of the environmental effects of previously implemented actions can be a key source of information to support the development of new CEs. CEQ states that agencies can obtain useful substantiating information by monitoring and/or otherwise evaluating the effects of previously implemented actions, e.g. previous actions analyzed in EAs that consistently support Findings of No Significant Impact (FONSI).

2. Impact Demonstration Projects

When federal agencies lack experience with a particular category of actions that is being considered for a proposed CE, the agency may undertake demonstration projects to assess the environmental effects of those actions.

3. Information from Professional Staff, Experts, and Scientific Analysis

A federal agency may rely on the expertise, experience, and judgment of its professional staff as well as outside experts to assess the potential environmental effects of applying the proposed categorical exclusions, provided the experts have knowledge, training, and experience relevant to the implementation and environmental effects of the actions described in the proposed CE.

Scientific analyses are additional sources of information which can be used to substantiate a new CE.

4. Benchmarking Other Agencies' Experiences

The CEQ memo states that a federal agency cannot rely solely on the existence of another agency's CE to support a decision not to prepare an EA or an EIS for its own action. The agency may, however, support establishment of a CE of its own based on another agency's experience with a comparable CE and the supporting statements developed when the other agency's CE was established and a showing of comparability with the benchmarked CEs. Comparability is demonstrated based on: (1) characteristics of the actions; (2) methods of implementing the actions; (3) frequency of the actions; (4) applicable standard operating procedures or implementing guidance (including extraordinary circumstances); and (5) timing and context, including the environmental setting in which the actions take place.

The USFS has used a combination of (1) previously implemented actions; (3) information from professional staffs, expert opinions, and scientific analysis; and (4) benchmarking other agencies' experiences to support the development of its three proposed soil and water restoration CEs. The USFS believes it has sufficient experience implementing these categories of actions and that developing and implementing impact demonstration projects would not provide additional or new information needed to support these CEs.

Process and Supporting Information for Developing Proposed Categorical Exclusions

In this section, the USFS explains how the agency determined that the actions listed below should be categorically excluded under NEPA. In accordance with the November 2010 CEQ Guidance Memo, USFS provides an individual justification containing:

- a combination of environmental analysis, decision documents, monitoring, and supplemental information from previously implemented actions prepared by USFS field units which includes descriptions of the conditions and environmental impacts where these actions were implemented;
- scientific research and analyses, where available, which corresponds to previously implemented actions;
- a listing of USFS and external technical experts who have the expertise, experience, and judgment that supports the justification for developing the three new categorical conclusions for these categories of actions;
- references to existing categorical exclusions currently contained within other federal agency regulations implementing NEPA which are the same as, or comparable to, USFS CE actions being proposed;
- a comparability analysis of the benchmarked categorical exclusions used to support the establishment of the three new categorical exclusions, including a review of extraordinary circumstances used by the federal agencies.

For all three categories of actions proposed as categorical exclusions, the USFS conducted interdisciplinary meetings and discussions with agency experts to review past agency actions and scientific analysis. These discussions, experiences, environmental reviews, and expertise were used to determine that the categories of actions detailed herein should be established as new categorical exclusions. Key agency experts who participated in these meetings and in the development of this statement are listed in the appendices under the corresponding proposed CE.

The three CEs that the USFS is proposing do not include specific quantifiable limitations (e.g., road lengths, acre limitations, quantity of soil disturbed, etc.). Each CE's specific language provides a narrative description of the resource conditions and environmental parameters appropriate for its use. The USFS has determined these narrative parameters will be more effective than specific numeric limiting criteria for assessing application of these categories.

For example, in considering whether the restoration of given road lengths are appropriate for documentation in a decision memo, the context and intensity of the action of where the road exists must be weighed by the responsible official and interdisciplinary team. The context and intensity of 10 miles of road across relatively level terrain and stable soils is quite different than

a road which follows a steep canyon grade. Similarly, removal of a small water diversion structure in an area previously impacted from mineral activity will have different context and intensity considerations than restoring a wetland ecosystem removed from inundation of seasonal flows by road drainage patterns. For these reasons, quantifiable limitations are not included in the categorical exclusion.

As described above, an interdisciplinary environmental review is conducted that determines whether (1) the project falls within an existing categorical exclusion; and (2) extraordinary circumstances exist.

Together with an interdisciplinary team engaged in the development of this supporting statement, the USFS also collated environmental review information from field units that have undertaken these proposed actions over the past decade. The information provided in the appendices provides a representative sample of approximately a ten-year (2001-2011) summary of environmental documentation from USFS field units. These sample projects were selected from this timeframe because they are representative of the agency's most recent focus on terrestrial and aquatic restoration. The USFS believes, through the listing of previously implemented actions, professional and scientific staff, Agency expertise, and benchmarking of other federal agencies, that each proposed categorical exclusion has supporting information.

Data and scientific research were requested directly from field units implementing restoration activities to ensure and maximize the quality, objectivity, utility, and integrity of the information. Additional project documentation was queried from the USFS's Project, Appeals and Litigation System (PALS). Project documentation obtained through PALS was then verified through direct contact with the corresponding field unit(s). Many projects verified effects findings through post implementation monitoring. The data, information, and research represent on-the-ground knowledge, experience, and judgment of the interdisciplinary specialists, responsible officials, and researchers who provided it. These steps conform with the Office of Management and Budget and Departmental guidelines for quality information (http://www.whitehouse.gov/omb/fedreg_reproducible).

Individual Justification of Each Proposed CE

Proposed Categorical Exclusion #1

(1) Restoring wetlands, streams, and riparian areas by removing, replacing, or modifying water control structures such as, but not limited to, dams, levees, dikes, ditches, culverts, pipes, valves, gates, and fencing, to allow waters to flow into natural channels and floodplains and restore natural flow regimes to the extent practicable. Examples include but are not limited to⁶:

(i) Removing, replacing, or repairing existing water control structures which are no longer functioning properly where only minimal dredging, excavation, or placement of fill is required;

(ii) Installing a newly designed culvert that replaces an existing inadequate culvert to improve aquatic organism passage or prevent resource or property damage where the road or trail maintenance level does not change; and

(iii) Removing a culvert and installing a bridge to improve aquatic and/or terrestrial organism passage or prevent resource or property damage where the road or trail maintenance level does not change.

Previously Implemented Actions

The USFS has many years of on-the-ground experience with restoring the natural hydrology of floodplains by removing, replacing, or modifying dikes and other small control structures, removing or replacing culverts and other water diversion structures, plugging and filling drainage ditches, and restoring natural topography.

A review of recent past actions implementing activities associated with this proposed CE was conducted. Appendix A lists randomly selected representative examples of past actions and their corresponding documentation used in this review. The environmental analyses detailed in Appendix A represents projects where actions are entirely covered under this CE, or a portion thereof where the scope of activities are broader but still contain individual actions encompassed under this CE.

⁶ The USFS uses the phrases “including, but not limited to,” “including,” and “such as” to introduce lists of examples, and considers the phrases to be synonymous. The USFS’s lists of examples are not intended to be exhaustive of all possible actions that fit within a category of actions. The USFS generally uses “including, but not limited to,” the first time that examples are introduced in a provision and “such as” for any needed clarification of the examples.

None of the environmental analysis for the 18 projects reviewed for this categorical exclusion predicted significant environmental effects on the human environment before the project was implemented. Based on a review of past actions, information from professional staffs, experts, scientific analysis, a review of categorical exclusions implemented by other federal agencies, and the USFS's extensive experience with implementing projects that restore the flow of water into natural channels and floodplains, the USFS has concluded that this category of actions does not have individual or cumulative significant effects and therefore should be categorically excluded from documentation in an EA or EIS.

This category would appear in 36 CFR § 220.6 (18), Categories of Actions for Which a Project or Case File and Decision Memo are Required, and would provide a specific, narrow categorical exclusion for restoring the flow of water into natural channels and floodplains. The scope of the proposed new category is consistent with the scope of the 18 projects examined in this review, each of which had no significant environmental effects. Consequently, the level of effects associated with the proposed new category would also be expected to be below the threshold for significant environmental effects.

There are no foreseeable events that indicate that the activities proposed under this categorical exclusion will substantially differ in the future. The agency has therefore concluded that the environmental impacts attendant to these activities will not differ significantly from that of the information and data associated with the previously implemented actions. That is, based upon the data and information, the agency does not expect that activities undertaken under this categorical exclusion will have either individually or cumulatively significant environmental effects (as defined under NEPA).

In the USFS's experience, the potential for projects that restore wetlands, streams, and riparian areas to have significant impacts on the human environment is generally avoided when the action takes place within a previously disturbed or developed area; i.e, land that has been changed such that the former state of the area and its functioning ecological processes have been substantially altered.

Information from Professional Staffs, Experts, and Scientific Analysis:

The USFS has a strong cadre of professional staff and scientists with extensive experience implementing hydrologic flow restoration activities identified under this category of actions as well as conducting scientific research on these activities. In addition to this cadre of agency employees, the USFS identified other non-agency staff who have professional experience with these activities.

A listing of professional staff and experts with knowledge of activities identified under this category of actions can be found in Appendix B. It is this group of interdisciplinary staff and

experts that reviewed the agency's past actions and used their extensive expertise to develop this proposed categorical exclusion.

These staff, researchers, and experts in the field of soil, water, and hydrologic restoration provide extensive experience implementing and monitoring these types of activities. Their experience ranges from conducting and leading interdisciplinary teams through environmental analysis on project proposals, resource specialists involved in on-the-ground implementation of these restoration activities, program managers guiding the development and execution of restoration programs, and researchers who study the techniques, effects, and outcomes associated with soil and water restoration activities. The regional experience of these professional staff covers nearly every region across the continental United States, and Alaska. Their experience includes forested, grassland, and arid ecosystems.

Peer-reviewed scientific analysis and research conducted on activities identified under this category of actions is listed in Appendix C. Stream and wetland restoration is a strong focus in the cited research with a particular emphasis on detrimental effects of interrupted flows on stream connectivity, aquatic organisms, and fish passage. A particular focus of research is the environmental impacts of removing culverts and reestablishing surface water connections. Select research has a focus on the design, appearance, and functionality of methods for restoring wetlands and streams that benefit endangered species, improve wildlife and fish habitat, and reduce flooding.

Based on professional staff and expert opinion, scientific analyses, and agency experience, the USFS has determined that the environmental impacts of actions identified under this category of actions are not significant.

Benchmarking Other Agencies' Experiences:

A review of other federal agencies' current list of categorical exclusions was completed by an interdisciplinary team. Cited below are CEs from other federal agencies that have actions similar to those proposed by the USFS under this category. Based on this review, the USFS's interdisciplinary team found that it would be conducting activities similar in size and scope under similar resource conditions and with similar environmental impacts to the CEs of other federal agencies. Accordingly, the USFS concluded that its activities under this CE would not result in significant environmental impacts to the human environment either individually or cumulatively and, therefore, justify this CE.

Natural Resources Conservation Service

The Natural Resource Conservation Service (NRCS) CEs highlighted below include removal, repair, and replacement of water control structures that have a direct comparison to those

activities proposed by the USFS under CE#1. Based on the expertise of agency resource professionals who have experience implementing these actions across the country, the USFS believes that methods of implementing these actions are the same or similar to NRCS. They contrast to USFS implementation in that NRCS implementation takes place primarily on non-federal lands, where USFS actions are primarily focused on National Forest and Grasslands.

The NRCS NEPA guidance does include several extraordinary circumstances which correspond to those of the USFS. They include the presence of threatened and endangered species and wetlands. Several NRCS extraordinary circumstances closely correlate with CEQ's significance criteria (40 CFR 1508.27). Refer to Appendix J and K for a comparison of Agency extraordinary circumstances.

Natural Resources Conservation Service (7 CFR Part 650.6 (d)(2))

(2) Removing dikes and associated appurtenances (such as culverts, pipes, valves, gates, and fencing) to allow waters to access floodplains to the extent that had existed prior to the installation of such dikes and associated appurtenances (such as culverts, pipes, valves, gates, and fencing).

(9) Repairing or maintenance of existing small structures or improvements (including structures and improvements utilized to restore disturbed or altered wetland, riparian, in stream, or native habitat conditions). Examples of such activities include the repair or stabilization of existing stream crossings for livestock or human passage, levees, culverts, berms, dikes, and associated appurtenances;

National Marine Fisheries Service

This National Marine Fisheries Service (NMFS) CE is identified as a benchmarked category for proposed CE #1 because it includes similar objectives and activities that could be implemented by the USFS when restoring wetlands, streams, and riparian areas through the removal of water control structures. The NMFS CE includes the following actions that are also included in proposed USFS CE#1: restoration, rehabilitation, or repair of fish passageways, enlargement, replacement, or repair of existing culverts, and use geo-textiles stabilizing materials. Similarly, both agencies place limits on the use of their CEs by, for example, limiting the amount of dredging and excavation.

The NMFS has one extraordinary circumstance similar to that of the USFS, impacts to threatened and endangered species. Similar to NRCS, the NMFS extraordinary circumstances

correlate closely with CEQ's significance factors. Refer to Appendix J and K for a comparison of Agency extraordinary circumstances.

National Marine Fisheries Service (DOC/NOAA-NAO 216-6.03(b)(2-3))

6.03(b)(2)-Categorical Exclusions for Restoration Actions. The Damage Assessment and Restoration Program policy states that restoration actions pursuant to CERCLA, OPA, and NMSA constitute major Federal actions that may pose significant impacts on the quality of the human environment, and are not per se entitled to a CE. Restoration actions that do not individually or cumulatively have significant impacts on the human environment (e.g., actions with limited degree, geographic extent, and duration) may be eligible for categorical exclusion (40 CFR 1508.4), provided such actions meet all of the following criteria:

- (a) are intended to restore an ecosystem, habitat, biotic community, or population of living resources to a determinable pre-impact condition;
- (b) use for transplant only organisms currently or formerly present at the site or in its immediate vicinity;
- (c) do not require substantial dredging, excavation, or placement of fill; and
- (d) do not involve a significant added risk of human or environmental exposure to toxic or hazardous substances.

6.03(b)(3)Examples of Restoration Actions Eligible for a CE. Restoration actions likely to meet all of the above criteria and therefore be eligible for CE include the following. NAO- 216-6.03(b)(3)(b) and (c) Actions to restore historic habitat hydrology, where increased risk of flood or adverse fishery impacts are not significant. Examples of such actions include:

- (1) restoration, rehabilitation, or repair of fish passageways or spawning areas;
- (2) restoration of tidal or non-tidal wetland inundation (e.g., through enlargement, replacement, or repair of existing culverts, or through modification of existing tide gates);
- (c) Actions to enhance the natural recovery processes of living resources or systems affected by anthropogenic impacts. Such actions include: (1) use of exclusion methods (e.g., fencing) to protect stream corridors, riparian areas, or other sensitive habitats; (2) actions to stabilize dunes, marsh-edges, or other mobile shoreline features (e.g., fencing dunes, use of oyster reefs or geo-textiles to stabilize mars-edges).

Bureau of Land Management

The Bureau of Land Management (BLM) CE identified below includes actions that are proposed to be included in USFS CE #1. They include the replacement or repair of existing culverts and the removal of materials from waterways which may be impeding natural flows. The BLM implements its land management actions on many of the same forested and grassland ecosystems that often are directly adjacent to or interspersed with National Forest or National Grasslands.

The BLM's extraordinary circumstances include four that correlate directly with the USFS: threatened and endangered species, American Indian sacred and religious sites, sites on the National Register of Historic places, and cumulative effects. Other BLM extraordinary circumstances correspond to CEQ's significance criteria. Refer to Appendix J and K for a comparison of Agency extraordinary circumstances.

Bureau of Land Management (DOI/BLM: 516 Chapter 11- 11.9. I.)

Emergency Stabilization. Planned actions in response to wildfires, floods, weather events, earthquakes, or landslips that threaten public health or safety, property, and/or natural and cultural resources, and that are necessary to repair or improve lands unlikely to recover to a management-approved condition as a result of the event. Such activities shall be limited to: repair and installation of essential erosion control structures; replacement or repair of existing culverts, roads, trails, fences, and minor facilities; construction of protection fences; planting, seeding, and mulching; and removal of hazard trees, rocks, soil, and other mobile debris from, on, or along roads, trails, campgrounds, and watercourses. These activities:

- (1) Shall be completed within one year following the event;
- (2) Shall not include the use of herbicides or pesticides;
- (3) Shall not include the construction of new roads or other new permanent infrastructure;
- (4) Shall not exceed 4,200 acres; and
- (5) May include temporary roads which are defined as roads authorized by contract, permit, lease, other written authorization, or emergency operation not intended to be part of the BLM transportation system and not necessary for long-term resource management. Temporary roads shall be designed to standards appropriate for the intended uses, considering safety, cost of transportation, and impacts on land and resources; and
- (6) Shall require the treatment of temporary roads constructed or used so as to permit the reestablishment by artificial or natural means, or vegetative cover on the roadway and areas where the vegetative cover was disturbed by the construction or use of the road, as necessary to minimize erosion from the disturbed area. Such treatment shall be designed to reestablish vegetative cover as soon as practicable, but at least within 10 years after the termination of the contract.

United States Coast Guard

The United States Coast Guard (USCG) CE is included here because it includes activities which cross over and impact waterways to a greater extent than proposed to the USFS. It benchmarks some of the outer bounds of activities which are currently allowed to be implemented under a CE.

The USCG extraordinary circumstances does include, as does the USFS list of extraordinary circumstances, the presence of threatened and endangered species, cumulative impacts, and the presence of archeological and National Historic Register sites. The USGC also includes many of the CEQ significance criteria, as does the NRCS, BLM and NMFS. Refer to Appendix J and K for a comparison of Agency extraordinary circumstances.

United States Coast Guard (Federal Register, Vol. 67, No. 141, Tuesday July 23, 2002, page 48243 (32))

Bridge Administration Program actions which can be described as one of the following:

- (a) Modification or replacement of an existing bridge on essentially the same alignment or location. Excluded are bridges with historic significance or bridges providing access to undeveloped barrier islands and beaches.
- (d) Temporary replacement of a bridge immediately after a natural disaster or a catastrophic failure for reasons of public safety, health, or welfare.

Proposed Categorical Exclusion #2

(2) Removing debris and sediment following natural or human-caused disturbance events (such as floods, hurricanes, tornados, mechanical/ engineering failures, etc.) to restore uplands, wetlands, or riparian systems to pre-disturbance conditions, to the extent practicable, such that site conditions will not impede or negatively alter natural processes. Examples include but are not limited to:

(i) Removing deposited debris and sediment resulting from natural or human-caused disturbance events from impacted sites following a natural or human-caused disturbance event using manual or mechanized equipment where minimal excavation is required;

(ii) Restoring sites that have been degraded by activities such as dispersed recreation or heavily use of developed campsites by implementing erosion control measures, restoring vegetation, and mechanically loosening compacted soils and restoring natural contours and slopes;

(iii) Clean-up and removal of infrastructure debris, such as, benches, tables, outhouses, concrete, culverts, and asphalt following a flood event from a stream reach and/or adjacent wetland area;

(iv) Removal of downed or damaged trees that limit or reduce needed public access, result in potential risks to public safety, or where removal is needed to restore wildlife habitat, or protect infrastructure; and

(v) Stabilizing stream banks and associated stabilization structures to reduce erosion through bioengineering techniques following a natural or human-caused event, including the utilization of living and nonliving plant materials in combination with natural and synthetic support materials, such as rocks, riprap, geo-textiles, for slope stabilization, erosion reduction, and vegetative establishment and establishment of appropriate plant communities (bank shaping and planting, brush mattresses, log, root wad, and boulder stabilization methods).

Previously Implemented Actions

The USFS has on-the-ground experience with restoring uplands, wetlands, and riparian systems following natural or human-caused disturbance events. This includes removing unwanted debris from stream channels following storm events to restore channel capacity and natural floodplain hydrology, and restoring lands impacted by natural and human caused events. This proposed categorical exclusion is not intended for activities that would alter or interfere with natural ecological processes which routinely modify channel morphology or create habitat diversity.

A review of recent past actions implementing activities associated with this proposed CE was conducted. This review did not examine past actions documented in an EA or EIS that were implemented under the emergency or alternative arrangements provisions provided under the CEQ NEPA implementing regulations (40 CFR § 1506.11). Representative, randomly selected examples of past actions and their corresponding documentation used in this review are listed in Appendix D. The environmental analyses detailed in Appendix D represents both projects where actions are entirely covered under this CE, or a portion there of where the scope of activities are broader but still contain individual actions encompassed under this CE.

None of the environmental analysis for the 10 projects reviewed for this categorical exclusion predicted significant environmental effects on the human environment before the project was implemented. Based on this review of past actions, information from professional staff, experts, scientific analyses, a review of categorical exclusions implemented by other federal agencies, and the USFS's extensive experience with implementing restoration projects that restore land to pre-disturbance conditions, the USFS has concluded that this category of actions does not have

individual or cumulative significant effects and therefore should be categorically excluded from documentation in an EA or EIS.

In the USFS's experience, the potential for actions that restore areas impacted by natural or human-caused events to have significant impacts on the human environment is generally avoided when the action takes place within a previously disturbed or developed area; i.e, land that has been changed such that the former state of the area and its functioning ecological processes have been altered.

This category would appear in 36 CFR § 220.6 (19), Categories of Actions for Which a Project or Case File and Decision Memo are Required, and would provide a specific, narrow categorical exclusion for restoring lands to pre-disturbance conditions. The scope of the proposed new category is consistent with the scope of the 10 projects examined in this review, each of which had no significant environmental effects. Consequently, the level of effects associated with the proposed new category would also be expected to be below the threshold for significant environmental effects.

Information from Professional Staff, Experts, and Scientific Analysis:

The USFS has a strong cadre of professional staff and scientists with extensive experience implementing restoration activities specifically identified under this category of actions as well as conducting scientific research on these activities. In addition to this cadre of agency employees, the USFS identified other non-agency staff who have professional experience with these activities.

A listing of professional staffs and experts, with knowledge of activities identified under this category of actions, can be found in Appendix E. It is this group of interdisciplinary staff and experts that reviewed the agency's past actions and used their extensive expertise to develop this proposed categorical exclusion.

These staff, researchers, and experts in the restoration field provide extensive experience implementing and monitoring these types of activities. Their experience ranges from conducting and leading interdisciplinary teams through environmental analysis on project proposals, resource specialists involved in field assessments and on-the-ground implementation of restoration activities following natural or human caused events, program managers guiding the development and execution of these activities, and researchers who study the techniques, effects, and outcomes associated with restoration activities of this type. The regional experience of these professional staff covers many of the regions across the continental United States, and Alaska. Their biological, biophysical, and engineering experience includes forested, grassland, and arid ecosystems.

Peer reviewed scientific analyses and research conducted on activities identified under this category of actions is listed in Appendix F. A particular focus of research cited in Appendix F is the alteration of fisheries habitat following disturbance events. Analysis also discussed when conditions, fish populations, and stream habitat can quickly respond to short-lived, localized events versus when chronic disturbances, such as land use changes, can increase the frequency and severity of such events and decrease the ability of fish and habitat to respond to them.

Based on professional staff and expert opinion, scientific analyses, and agency experience, the USFS has determined that the environmental impacts of actions identified under this category of actions are not significant.

Benchmarking Other Agencies' Experiences

A review of other federal agencies' current list of categorical exclusions was completed by an interdisciplinary team. Cited below are CEs from other federal agencies that have actions similar to those proposed by the USFS under this category. Based on this review, the USFS's interdisciplinary team found that it would be conducting activities similar in size and scope under similar resource conditions and with similar environmental impacts to the CEs of other federal agencies. Accordingly, the USFS concluded that its activities under this CE would not result in significant environmental impacts to the human environment either individually or cumulatively and, therefore, justify this CE.

Though some benchmarked activities listed below are categorically excluded actions undertaken in emergency situations, these actions fall either partially or entirely within the scope to the non-emergency actions proposed by the USFS under this CE.

Natural Resources Conservation Service

These four Natural Resource Conservation Service (NRCS) CEs highlighted below include activities which restore ecosystems and repair or replace infrastructure either directly following natural disturbance events or following human activities. The activities listed in the NRCS CEs are activities which restore uplands, wetlands, and riparian systems and have a direct comparison to those activities proposed by the USFS under CE#2. Based on the expertise of agency resource professionals who have experience implementing these actions across the country, the USFS believes that methods of implementing these actions are the same or similar to NRCS. They contrast to USFS implementation in that NRCS implementation takes place primarily on non-federal lands, where USFS actions are primarily focused on National Forest and Grasslands.

The NRCS NEPA guidance does include several extraordinary circumstances which correspond to those of the USFS. They include the presence of threatened and endangered species and wetlands. Several NRCS extraordinary circumstances closely correlate with CEQ's significance

criteria (40 CFR 1508.27). Refer to Appendix J and K for a comparison of Agency extraordinary circumstances.

Natural Resources Conservation Service (7 CFR Part 650.6 (d)(4, 7, 8 & 11))

(4) Replacing and repairing existing culverts, grade stabilization, and water structures that were damaged by natural disasters where there is no new depth required and only minimal dredging, excavation, or placement of fill is required;

(7) Removing storm debris and sediment following a natural disaster where there is a continuing and eminent threat to public health or safety, property, and natural and cultural resources and removal is necessary to restore lands to pre-disaster conditions to the extent practicable. Excavation will not exceed the pre-disaster condition;

(8) Stabilizing stream banks and associated structures to reduce erosion through bioengineering techniques following a natural disaster to restore pre-disaster conditions to the extent practicable, e.g., utilization of living and nonliving plant materials in combination with natural and synthetic support materials, such as rocks, riprap, geo-textiles, for slope stabilization, erosion reduction, and vegetative establishment and establishment of appropriate plant communities (bank shaping and planting, brush mattresses, log, root wad, and boulder stabilization methods);

(11) Restoring an ecosystem, fish and wildlife habitat, biotic community, or population of living resources to a determinable pre-impact condition;

Bureau of Land Management

The two Bureau of Land Management (BLM) CEs identified below include actions that are proposed to be included in USFS CE #2. They include the planned responses natural events such as floods, earthquakes, landslides, and other weather related events. Included is the BLM CE which restores to their natural or original condition lands impacted by human activities or that include other infrastructure debris. The BLM implements its land management actions on many of the same forested and grassland ecosystems that often are directly adjacent to or interspersed with National Forest or National Grasslands.

The BLM's extraordinary circumstances include four that correlate directly with the USFS: threatened and endangered species, American Indian sacred and religious sites, sites on the National Register of Historic places, and cumulative effects. Other BLM extraordinary

circumstances correspond to CEQ's significance criteria. Refer to Appendix J and K for a comparison of Agency extraordinary circumstances.

Bureau of Land Management (DOI/BLM: 516 Chapter 11- 11.9. I. & J.)

I. Emergency Stabilization.

Planned actions in response to wildfires, floods, weather events, earthquakes, or landslips that threaten public health or safety, property, and/or natural and cultural resources, and that are necessary to repair or improve lands unlikely to recover to a management-approved condition as a result of the event. Such activities shall be limited to: repair and installation of essential erosion control structures; replacement or repair of existing culverts, roads, trails, fences, and minor facilities; construction of protection fences; planting, seeding, and mulching; and removal of hazard trees, rocks, soil, and other mobile debris from, on, or along roads, trails, campgrounds, and watercourses. These activities:

- (1) Shall be completed within one year following the event;
- (2) Shall not include the use of herbicides or pesticides;
- (3) Shall not include the construction of new roads or other new permanent infrastructure;
- (4) Shall not exceed 4,200 acres; and
- (5) May include temporary roads which are defined as roads authorized by contract, permit, lease, other written authorization, or emergency operation not intended to be part of the BLM transportation system and not necessary for long-term resource management. Temporary roads shall be designed to standards appropriate for the intended uses, considering safety, cost of transportation, and impacts on land and resources; and
- (6) Shall require the treatment of temporary roads constructed or used so as to permit the reestablishment by artificial or natural means, or vegetative cover on the roadway and areas where the vegetative cover was disturbed by the construction or use of the road, as necessary to minimize erosion from the disturbed area. Such treatment shall be designed to reestablish vegetative cover as soon as practicable, but at least within 10 years after the termination of the contract

J. Other

- (4) Use of small sites for temporary field work camps where the sites will be restored to their natural or original condition within the same work season.
- 10) Removal of structures and materials of no historical value, such as abandoned automobiles, fences, and buildings, including those built in trespass and reclamation of the site when little or no surface disturbance is involved.

Federal Emergency Management Agency

The two Federal Emergency Management Agency (FEMA) CEs are included in this comparability analysis as they include activities that remove structures and debris from sites. The USFS proposed CE #2 includes the removal of natural and infrastructure debris following natural or human caused events. These two FEMA CEs have activities comparable to those proposed by the USFS.

The FEMA's extraordinary circumstances include five that correlate directly with the USFS: threatened and endangered species, flood plains and wetlands, special status sites, archeological, American Indian sacred and religious sites, sites on the National Register of Historic places, and cumulative effects. Other FEMA extraordinary circumstances correspond to CEQ's significance criteria: unproven technology and impacts to the environment. Refer to Appendix J and K for a comparison of Agency extraordinary circumstances.

Federal Emergency Management Agency (44 Part 10.8 (d)(2)(xiii))

Physical relocation of structures where FEMA has no involvement in the relocation site selection or development.

Federal Emergency Management Agency (44 Part 10.8 (d)(2)(xviii)(C))

(xviii) The following planning and administrative activities in support of emergency and disaster response and recovery:

(c) Debris Removal

United States Coast Guard

The United States Coast Guard (USCG) CE is included here because it includes activities which follow natural disasters and provide context to compare the activities of other federal agencies compared to those proposed by the USFS under Proposed CE #2. The USCG CE benchmarks the outer bounds of activities which are currently allowed to be implemented under a CE.

The USCG extraordinary circumstances does include, as does the USFS list of extraordinary circumstances, the presence of threatened and endangered species, cumulative impacts, and the presence of archeological and National Historic Register sites. The USGC also includes many of the CEQ significance criteria, as does the NRCS, BLM and NMFS. Refer to Appendix J and K for a comparison of Agency extraordinary circumstances.

United States Coast Guard (Federal Register, Vol. 67, No. 141, Tuesday July 23, 2002, page 48243 (32))

Bridge Administration Program actions which can be described as one of the following:

(a) Modification or replacement of an existing bridge on essentially the same alignment or location. Excluded are bridges with historic significance or bridges providing access to undeveloped barrier islands and beaches.

(d) Temporary replacement of a bridge immediately after a natural disaster or a catastrophic failure for reasons of public safety, health, or welfare.

Department of Homeland Security

This Department of Homeland Security (DHS) CE is included in the comparability analysis as it includes the activities of dredging within waterways, floodplains, and wetlands, and associated debris removal. These restoration activities are included in the USFS Proposed CE #2.

A review of DHS extraordinary circumstances include three that correlate directly with the USFS: the presence of threatened and endangered species, presence of sites listed or eligible for the National Historic Register, and cumulative impacts. The DHS also includes many of the CEQ significance criteria, as does the NRCS, USCG, BLM and NMFS. Refer to Appendix J and K for a comparison of Agency extraordinary circumstances.

Department of Homeland Security (DHS; Management Directive 5100.1, Environmental Planning Program D5)

Maintenance dredging activities within waterways, floodplains, and wetlands where no new depths are required, applicable permits are secured, and associated debris disposal is done at an approved disposal site.

Proposed Categorical Exclusion #3

(3) Activities that restore, rehabilitate, or stabilize lands occupied by non-National Forest System roads and trails to a more natural condition that may include removing, replacing, or modifying drainage structures and ditches, reestablishing vegetation, reshaping natural contours and slopes, reestablishing drainage-ways, or other activities that would restore site productivity and reduce environmental impacts. Examples include but are not limited to:

(i) Decommissioning of a non-system roads to a more natural state by restoring natural contours and removing construction fills, revegetating the roadbed and removing ditches and culverts;

(ii) Restoring a non-system trail by reestablishing natural drainage patterns, stabilizing slopes, reestablishing vegetation, and installing water bars;

(iii) Completely eliminating the roadbed of unauthorized roads by loosening compacted soils, removing culverts, reestablishing natural drainage patterns, restoring natural contours, and restoring vegetation; and

(iv) Installing boulders, logs, and berms on a non-system trail segment to promote naturally regenerated grass, shrub, and tree growth.

Previously Implemented Actions

The USFS has extensive on-the-ground experience with decommissioning, obliterating, and restoring lands occupied by roads and trails. The goal of these activities is to initiate restoration of ecological processes interrupted or adversely impacted by the unneeded road or trail, including:

1. Reducing erosion from road surfaces and slopes and related sedimentation of streams;
2. Reducing risk of mass failures and subsequent impact to streams;
3. Restoring natural surface and subsurface drainage patterns;
4. Restoring vegetation and site productivity;
5. Restoring stream channels at road crossings and where roads run adjacent to channels.

Regardless of whether the activity undertaken is the restoration of lands occupied by a National Forest System or unauthorized road or trail, the actions and environmental impacts are generally the same. The USFS routinely restores the road to resource production through a combination of physical or natural methods, including one or more of the following treatments:

1. Reestablishing former drainage patterns, stabilizing slopes, and restoring vegetation;
2. Blocking the entrance to a road / trail or installing water bars;
3. Removing culverts, reestablishing drainages, removing unstable fills, pulling back road shoulders, and scattering slash on the roadbed;
4. Completely eliminating the roadbed by restoring natural contours and slopes; and
5. Other methods designed to meet the specific conditions associated with the unneeded road or trail.

A review of recent randomly selected past actions implementing activities associated with this proposed CE was conducted. Representative examples of past actions and their corresponding

documentation used in this review are listed in Appendix G. The environmental analyses detailed in Appendix G represents both projects where actions are entirely covered under this CE, or a portion there of where the scope of activities are broader but still contain individual actions encompassed under this CE.

None of the environmental analysis for the 54 projects reviewed for this categorical exclusion predicted significant environmental effects on the human environment before the project was implemented. Based on this review of past actions, information from professional staff, experts, scientific analysis, a review of categorical exclusions implemented by other federal agencies, and the USFS's extensive experience with implementing restoration activities to restore lands occupied by roads and trails, the USFS has concluded that this category of actions does not have individual or cumulative significant effects and therefore should be categorically excluded from documentation in an EA or EIS.

In the USFS's experience, the potential for certain types of actions that restore lands occupied by roads and trails to have significant impacts on the human environment is generally avoided when the action takes place within a previously disturbed or developed area; i.e, land that has been changed such that the former state of the area and its functioning ecological processes have been altered.

This category would appear in 36 CFR § 220.6(20), Categories of Actions for Which a Project or Case File and Decision Memo are Required, and would provide a specific, narrow categorical exclusion for restoration activities to restore lands occupied by roads and trails. The scope of the proposed new category is consistent with the scope of the 54 projects examined in this review, each of which had no significant environmental effects. Consequently, the level of effects associated with the proposed new category would also be expected to be below the threshold for significant environmental effects.

Information from Professional Staff, Experts, and Scientific Analysis

The USFS has a strong cadre of professional staff and scientists with extensive experience implementing activities, identified under this category of actions as well as conducting scientific research on these activities. In addition to this cadre of agency employees, the USFS identified other non-agency staff with professional experience with these activities.

A listing of professional staffs and experts with knowledge of activities identified under this category of actions can be found in Appendix H. It is this group of interdisciplinary staff and experts that reviewed the agency's past actions and used their extensive expertise to develop this proposed categorical exclusion.

These staff, researchers, and experts in the management of and restoration of lands occupied by roads and trails have extensive experience implementing and monitoring these types of activities. Their experience ranges from conducting and leading interdisciplinary teams through environmental analysis on project proposals, resource specialists involved in field assessments and on-the-ground implementation of restoration activities, program managers guiding the development and execution of these activities, and researchers who study the techniques, effects, and outcomes associated with restoration activities of this type. The regional experience of these professional staff covers nearly every region across the continental United States, and Alaska. Their biological, biophysical, and engineering experience includes forested, grassland, and arid ecosystems.

Peer reviewed scientific analyses, research, and monitoring conducted on activities identified under this category of actions is listed in Appendix I. A large body of the research and monitoring listed in Appendix I focused on the effectiveness of restoring lands occupied by roads through activities such as road upgrades, road storage, and decommissioning with the objectives of reducing hydrologic and geomorphic impacts of roads on watersheds and streams. Several of the monitoring reports have the intent of quantifying the ecological benefits of restoration treatments and using the results to adjust subsequent treatments. Overall the focus of the research and monitoring presented here is on validating that road and trail restoration treatments are effective in significantly reducing sediment yields from roads and trails.

Based on environmental reviews of past actions, professional staff and expert opinion, scientific analyses, and agency experience, the USFS has determined that the environmental impacts of actions identified under this category of actions are not significant.

Benchmarking Other Agencies' Experiences

A review of other federal agencies' current list of categorical exclusions was completed by an interdisciplinary team. No other federal agency categorical exclusions were found that directly correspond to this category of actions proposed by the USFS. There are, however, several categorical exclusions from other federal agencies that include specific activities that align directly with activities that are often undertaken during the restoration of lands occupied by roads and trails. Cited below are CEs from other federal agencies that have actions similar in size and scope to those proposed by the USFS under this category. Based on this comparative review, the USFS's interdisciplinary team found that it would be conducting the same or similar activities under similar circumstances with similar environmental impacts. Accordingly, the USFS has concluded that its activities under this CE would not result in significant environmental impacts to the human environment either individually or cumulatively and, therefore, justify this CE.

Bureau of Land Management

The two Bureau of Land Management (BLM) CEs identified below include actions that are proposed to be included in USFS CE #3. They include road treatments to permit or advance recovery by artificial or natural means, reestablishment of vegetative cover, minimize erosive potential from disturbed areas, installation of small infrastructure components such as signing, ditches, gates and waterbars, as well as closure of roads and trails. The BLM implements its land management actions on many of the same forested and grassland ecosystems that often are directly adjacent to or interspersed with National Forest or National Grasslands.

The BLM's extraordinary circumstances include four that correlate directly with the USFS: threatened and endangered species, American Indian sacred and religious sites, sites on the National Register of Historic places, and cumulative effects. Other BLM extraordinary circumstances correspond to CEQ's significance criteria. Refer to Appendix J and K for a comparison of Agency extraordinary circumstances.

Bureau of Land Management (DOI/BLM: 516 Chapter 11.9)

C. Forestry.

(d) Shall require the treatment of temporary roads constructed or used so as to permit the reestablishment by artificial or natural means, or vegetative cover on the roadway and areas where the vegetative cover was disturbed by the construction or use of the road, as necessary to minimize erosion from the disturbed area. Such treatment shall be designed to reestablish vegetative cover as soon as practicable, but at least within 10 years after the termination of the contract.

G. Transportation.

- (1) Incorporation of eligible roads and trails in any transportation plan when no new construction or upgrading is needed.
- (2) Installation of routine signs, markers, culverts, ditches, waterbars, gates, or cattleguards on/or adjacent to roads and trails identified in any land use or transportation plan, or eligible for incorporation in such plan.
- (3) Temporary closure of roads and trails.

Federal Aviation Administration

This Federal Aviation Administration (FAA) CE is included in the comparability analysis as it includes the removal of a road surface. These restoration activities are similar to activities proposed included in the USFS Proposed CE #3. The comparison between FAA use of their CE

and the Proposed USFS CE #3 differ in that the FAA CE is generally used in highly developed locations when compared to USFS roads in more remote environmental settings.

A review of FAA extraordinary circumstances indicate several in common with the USFS: the presence of endangered species, floodplains, wetlands and wild and scenic rivers, presence of historic or cultural properties, and cumulative impacts. The DHS also includes extraordinary circumstances to specific land uses such as farmlands, traffic, impacts of noise, and hazardous materials. Refer to Appendix J and K for a comparison of Agency extraordinary circumstances.

Federal Aviation Administration (Order 1050.1E)

3111. Removal of a displaced runway threshold on an existing runway.

Department of Transportation – Maritime Administration

This Department of Transportation – Maritime Administration (DOT) CE is included in the comparability analysis as it includes activities that are the same, similar, or comparable in their environmental impacts to those proposed for inclusion in the USFS Proposed CE #3. These include removal and fill of excavated materials, backfilling a restored surface, protecting excavated and fill materials from erosion, and implementation of erosion control measures. The comparison between DOT use of their CE and the Proposed USFS CE #3 differ in that the FAA-Maritime Administration CE is generally used in maritime locations when compared to USFS roads in more remote environmental settings.

A review of DOT extraordinary circumstances indicate three in common with the USFS: the presence of threatened and endangered species, presence of National Register of Historic Places, and cumulative impacts. The DHS also includes many extraordinary circumstances that correspond to CEQ's significance criteria. Refer to Appendix J and K for a comparison of Agency extraordinary circumstances.

Department of Transportation – Maritime Administration (MAO 600-1)

Appendix 1, Page 2, 9. Demolition and removal of buildings and other structures; water, sewage, electrical, gas, or other utility extensions of temporary duration; new gardening or landscaping, or the maintenance of existing landscape; filling of earth into previously excavated land with material compatible with the natural features of the site; minor trenching and backfilling where the surface is restored and excavated material is protected against wash and runoffs; grading on land with a slope of less than 10 percent; removal of obstructions on Maritime Administration property; and erosion control actions with no off-Maritime Administration property impact.

Conclusion

The USFS finds that the categories of actions defined above do not individually or cumulatively have significant environmental effects on the human environment. The agency's finding is predicated on data represented by implementation of past actions; expert judgment of responsible officials; determinations from the 82 projects reviewed for this supporting statement; information from professional staff, experts, and scientific analyses; a review of categorical exclusions implemented by other federal agencies; a responsible official's review of CEQ significant criteria (40 CFR § 1508.27) and the extraordinary circumstances listed in 36 CFR 220.6(b); and the USFS's extensive and rich experience with implementing and subsequent monitoring of soil and water restoration activities.