



**Supplementing 36 CFR Part 220:  
Proposed Categorical Exclusions  
For Certain Infrastructure Projects**

**SUPPORTING STATEMENTS**

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## Contents

Introduction.....	4
USDA Forest Service Infrastructure Overview .....	4
USDA Forest Service Environmental Analysis and Decision Making Focus.....	5
USDA Forest Service Infrastructure and Restoration Focus .....	5
Administrative and Recreational Facilities.....	6
Direction Specific to Facilities Planning .....	6
Infrastructure Improvements for NFS Trails .....	7
Direction Specific to Restoring Lands Occupied by NFS Roads and NFS Trails.....	7
Best Management Practices .....	<b>Error! Bookmark not defined.</b>
Purpose of Supporting Statement.....	8
CEQ Regulatory Basis for CEs.....	8
Forest Service Implementation of CEs .....	8
CEQ Guidance on Supplementing Categorical Exclusions .....	10
Process and Supporting Information for Development of Proposed CEs.....	11
Existing USFS CEs for Infrastructure Activities .....	12
Existing CEs for Administrative Sites .....	12
Existing CEs for Recreation Sites and NFS Trail Management .....	13
Existing CEs for NFS Road Management .....	13
Justification for Each Proposed CE .....	14
Proposed CE #1: Administrative Sites.....	14
Definition of an Administrative Site.....	14
Implemented Actions .....	15
Information from Professional Staffs, Experts, and Scientific Analysis .....	16
Benchmarking Other Agencies' Experiences .....	16
Farm Service Agency.....	17
National Park Service .....	17
Bureau of Land Management.....	18
U.S. Army Corps of Engineers .....	18
Federal Transit Administration .....	19
U.S. Navy.....	19
U.S. Department of Energy.....	20
Proposed CE #2: Recreation Sites .....	22
Proposed CE #3: Trail Conversion .....	22
Implemented Actions .....	22
Information from Professional Staffs, Experts, and Scientific Analysis .....	25
Benchmarking Other Agencies' Experiences .....	25

National Park Service .....	25
Bureau of Land Management.....	27
U.S. Army Corps of Engineers .....	27
Department of Energy.....	28
Federal Transit Administration .....	29
U.S. Navy.....	30
Proposed CE #4: Roads and Bridges .....	30
Proposed CE #5: Road Conversion .....	31
Implemented Actions .....	31
Information from Professional Staffs, Experts, and Scientific Analysis .....	34
Benchmarking Other Agencies’ Experiences .....	34
USDA Farm Service Agency.....	34
National Park Service .....	35
Bureau of Land Management.....	36
Bureau of Indian Affairs .....	36
Federal Transit Administration .....	37
Federal Highway Administration.....	37
Department of Energy.....	39
Proposed CE #6: Revision to 36 CFR 220.5(e)(20) .....	39
History of Proposed CE #20 .....	40
Implemented Actions .....	40
Information from Professional Staffs, Experts, and Scientific Analysis .....	41
Benchmarking Other Agencies’ Experiences .....	42
Bureau of Land Management.....	42
Federal Aviation Administration .....	43
U.S. Department of Transportation – Maritime Administration.....	43
Natural Resources Conservation Service.....	44
Conclusions.....	44

## Introduction

The USDA Forest Service (USFS) is proposing to add five new categorical exclusions (CEs) and expand one existing CE related to infrastructure to its regulations for implementing the National Environmental Policy Act (NEPA), which address common activities to manage 1) infrastructure, 2) special use permits, and 3) restoration. CEs identify actions that do not individually or cumulatively have a significant effect on the human environment and, therefore, do not require preparation of an environmental assessment (EA) or an environmental impact statement (EIS).

On January 3, 2018, the USFS published in the *Federal Register* an Advance Notice of Proposed Rulemaking (83 FR 302) associated with the Agency's Environmental Analysis and Decision Making (EADM) change effort. The USFS is publishing the proposed rule to update the Agency's NEPA procedures, including development of the new Infrastructure CEs.

The Council on Environmental Quality (CEQ) regulations in Title 40, Code of Federal Regulations, Part 1507.3 (40 CFR 1507.3) provide that agencies, after notice and comment, may adopt categories of actions that do not have significant effects on the human environment and, consequently, do not require preparation of an EA or an EIS. Current USFS procedures for complying with and implementing NEPA are in 36 CFR 220. The list of categories of actions (CEs) that do not require preparation of an EA or an EIS by the USFS are in 36 CFR 220.5. All references to parts of 36 CFR 220 correspond with the rule text provided in the proposed rule (for example, CEs were formerly in section 220.6 of the regulation; in the proposed rule they are in section 220.5).

The use of CEs allows the USFS to protect the environment more efficiently by (a) reducing the resources spent analyzing proposals that generally do not have significant environmental impacts and (b) focusing resources on proposals that may have significant environmental impacts.

The USFS's categorically excluded actions are guided by land management plans on each of the national forests and grasslands. The land management plans identify where and under what conditions management activities could occur to meet plan objectives, provide for ecological sustainability, and contribute to social and economic sustainability. The proposed Infrastructure CEs are intended to maintain or restore ecological functions and improve the Agency's ability to manage facilities, roads, and trails. Briefly, these CEs will allow the Agency to more efficiently implement projects that support the management and operation of agency infrastructure, including administrative sites and facilities, recreation sites and facilities, and trails, roads, and bridges.

## USDA Forest Service Infrastructure Overview

The USFS infrastructure includes over 370,000 miles of roads, 18,000 miles of powerlines, 2,000 dams and reservoirs, 6,600 miles of oil and gas pipelines, 1,500 communication sites, 13,000 road and trail bridges, 158,000 miles of trails, and 40,000 facilities such as visitor centers, recreation sites, and fire-fighting and emergency facilities. This infrastructure includes federally owned assets that are operated by the USFS or by a concessioner under a special use permit issued by the USFS.

This infrastructure spans 193 million acres and helps the USFS provide a wide range of goods and services to the public. The USFS's infrastructure provides vital contributions to public benefits and services, fosters public health and safety, and strengthens communities. Infrastructure on the National Forest System (NFS) supports wildland fire management, emergency response, vegetation management, natural resource conservation, heritage assets, communication and transportation links, flood control, clean drinking water, and recreation activities. The Agency's ability to maintain, rehabilitate, and enhance this infrastructure is vital to continuing to provide these goods and services to the public and to ensure public health and safety. Recreation on national forests and grasslands is also a major economic generator, contributing to 143,000 jobs annually in the recreation and tourism industry and contributing over \$9 billion in annual visitor spending.

### **USDA Forest Service Environmental Analysis and Decision Making Focus**

The USFS is establishing these Infrastructure CEs as part of the broader effort to improve how the Agency conducts environmental analysis and decision making (EADM). The USFS is not fully meeting agency expectations and those of their publics, partners, and stakeholders to improve the health and resiliency of forests and rangelands, create jobs, and provide economic and recreational benefits.

As part of this effort, the USFS is updating its NEPA policies and procedures to make them more efficient, while fully honoring its environmental stewardship responsibilities. The reforms will improve or eliminate inefficient or redundant processes, while maintaining a commitment to high-quality environmental analysis based on the best available science. The proposed Infrastructure CEs will increase the pace and scale of work accomplished on the ground, an intended result of improving the Agency's NEPA policies and procedures, and will promote the diversity, health, resilience, and productivity of America's national forests and grasslands and help provide improved and enhanced access for the public.

### **USDA Forest Service Infrastructure and Restoration Focus**

The USFS's *Strategic Plan for FY 2015-2020*<sup>1</sup> includes an emphasis on developing forest and grassland ecosystems that are resilient and adaptive in a changing environment. To meet this goal, the USFS seeks to maintain resilient land and water conditions at the watershed level and restore deteriorated lands and waters (such as abandoned mine lands and areas of unmanaged recreation use that need rehabilitation).

One of the objectives of the *Strategic Plan* is to connect people to the outdoors. This includes an emphasis on making more facilities and recreation sites accessible and maintaining recreational settings, hiking trails, and other sustainable recreational opportunities. The *Strategic Plan* also recognizes that the USFS's ability to fulfill its mission depends on having an optimal organizational capacity. The *Strategic Plan* states that the USFS will manage administrative facilities for safety, accessibility, efficiency, and cost-effectiveness, while striving to reduce the Agency's environmental footprint by using wood and other sustainable materials and improving energy efficiency in construction and reconstruction practices.

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<sup>1</sup> USDA Forest Service Strategic Plan for FY 2015-2020: [https://www.fs.fed.us/sites/default/files/strategic-plan%5B2%5D-6\\_17\\_15\\_revised.pdf](https://www.fs.fed.us/sites/default/files/strategic-plan%5B2%5D-6_17_15_revised.pdf)

USDA has seven strategic goals for 2018-2022<sup>2</sup> that also emphasize infrastructure management. Strategic Goal #1 is to ensure USDA programs are delivered efficiently, effectively, and with integrity and with a focus on customer service. One of the objectives of this goal is to modernize information technology infrastructure, facilities, and support services to improve the customer's experience. Strategic Goal #4 is to facilitate rural prosperity and economic development. This goal includes an objective to expand rural business opportunity and rural quality of life with access to capital; improve infrastructure, broadband access, and connectivity; and support workforce availability. Strategic Goal #6 is to foster productive and sustainable use of NFS lands. This goal includes an objective to contribute to the economic health of rural communities through use and access opportunities and to ensure lands and watersheds are sustainable, healthy, and productive.

The USFS uses ecological restoration to manage NFS lands in a sustainable manner (Forest Service Manual (FSM) 2020). The aim is to reestablish and retain ecological resilience of NFS lands and associated resources to achieve sustainable management and provide a broad range of ecosystem services. Healthy, resilient landscapes will have greater capacity to recover from disturbances and large-scale threats to sustainability, especially under changing and uncertain environmental conditions such as those driven by climate change and increasing human use (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 CEs are designed to enhance access to national forests and grasslands, improve administrative facilities, and, through decommissioning activities, promote hydrologic, aquatic, and landscape restoration and recovery that meet the goals and objectives detailed in the USFS Strategic Plan and USDA's Strategic Goals.

### **Administrative and Recreational Facilities**

More than half of all administrative facilities need improvement, with roughly 41 percent needing major repairs or renovation.<sup>3</sup> Due to decreases in facilities funding, the Agency has had to scale down or defer most decommissioning and disposal projects and has accumulated more deferred maintenance. Deferred maintenance is maintenance that was not performed when it should have been or when it was scheduled and has been put off for the future. When allowed to accumulate without limits or consideration of useful life, deferred maintenance leads to deterioration of performance, increased repair costs, and a decrease in asset value. Deferred maintenance can also pose health and safety concerns.<sup>4</sup>

### **Direction Specific to Facilities Planning**

Specific facility planning requirements are outlined in Forest Service Handbook (FSH) 7309.11, chapter 20, including facility master planning and the preliminary analysis that are completed prior to identifying the level of environmental analysis needed for a project. A facilities master plan is created

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<sup>2</sup> USDA Strategic Goals: <https://www.usda.gov/our-agency/about-usda/strategic-goals>

<sup>3</sup> USDA FS, *The Rising Cost of Wildfire Operations: Effects on the Forest Service's Non-Fire Work* (Aug. 2015).

<sup>4</sup> USDA, Office of the Inspector General, *Forest Service Deferred Maintenance: Audit Report 08601-0004-31* (May 2017).

first, which clarifies existing forest plan direction and guides the acquisition, continued use, and disposal of facilities. All sites administered by the USFS should also have a site development plan, which is mandatory prior to further development. These plans depict present site conditions, improvements, and the latest planning proposals for development of the site. These planning processes inform development of future projects and may contribute to the identification of proposed actions.

### **Infrastructure Improvements for NFS Trails**

In October 2017, the USFS released the “National Strategy for a Sustainable Trail System,” which established a set of core values to guide the behaviors of the Agency and its partners and commits the USFS to take action in six different areas to achieve a sustainable trail system. A few of the core values focus on safety, sustainability, and access. Some of the specific action items include providing additional guidance for discretion in decision-making, providing efficient management tools, and applying cross-program integration.

The National Trails System Act’s 50<sup>th</sup> anniversary is in 2018. The Act established America’s system of National, Scenic, Historic, and Recreation Trails. In February 2018, the Secretary of Agriculture announced the selection of 15 priority areas to address the more than \$300-million trail maintenance backlog on national forests and grasslands.

Focused trail work in these areas will address infrastructure needs so that trails managed by the Agency can be accessed and safely enjoyed by a wide variety of trails enthusiasts. About 25 percent of agency trails meet those standards, while the condition of other trails is below standard. The priority areas focus on trails that meet the requirements of the National Forest System Trails Stewardship Act of 2016, which requires designation of up to 15 high priority areas where a lack of maintenance has led to reduced access to Federal lands, increased risk of harm to natural resources, public safety hazards, impassable trails, or increased future trail maintenance costs. Inclusion of the proposed CE addressing NFS trails aligns with the Secretary of Agriculture’s emphasis on accomplishing trail infrastructure improvements.

### **Direction Specific to Restoring Lands Occupied by NFS Roads and NFS Trails**

In implementing Subpart A of the Forest Service’s Travel Management Rule (36 CFR 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 future system of NFS roads 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 NFS 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 NFS 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 prior to and beyond what is required for access decisions or restoration projects under the USFS’s NEPA regulations.

## Purpose of Supporting Statement

This supporting statement summarizes the administrative record and rationale for the addition of new Forest Service CEs in 36 CFR 220. In the proposed rule, the section on CEs is moved from section 220.6 to 220.5; references to 36 CFR 220 included below apply to the order in the proposed rule.

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

## CEQ Regulatory Basis for CEs

NEPA 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 implementing NEPA at 40 CFR 1500-1508.

The CEQ regulations apply to all Federal agencies, 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 CEQ's regulations and to establish and use CEs for categories of actions that do not normally 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 1508.4).

## Forest Service Implementation of CEs

In compliance with the CEQ regulations, a CE is defined as “a category of actions that do not individually or cumulatively have a significant effect on the human environment” (40 CFR 1508.4). A proposed action may be categorically excluded from analysis and documentation in an EA or EIS when there are no extraordinary circumstances related to the proposed action and the proposed action is within one or more of the categories listed at 7 CFR part 1b.3 or 36 CFR 220.5(d) or (e) (36 CFR 220.5(a)).

For all five proposed new CEs and the proposed revision to an existing CE discussed in this supporting statement, USFS personnel will continue to use an interdisciplinary approach in developing proposed actions, [identifying design features to limit adverse environmental effects](#), and conducting the extraordinary circumstances review of proposed actions described at 36 CFR 220.5 of the proposed rule. When the responsible official determines that 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 220.5(b)).

The responsible official relies on many sources of information in making a determination concerning extraordinary circumstances, including input from the public, input from the interdisciplinary team process, and consultation with other agencies.

The USFS will continue to inform the public of the proposed action by posting on the Schedule of Proposed Actions (SOPA) and conduct additional public engagement at the discretion of the responsible official. The SOPA is a USFS document available on the internet<sup>5</sup> that provides public notice about those proposed USFS actions for which a record of decision, decision notice (DN), or decision memo would be or has been prepared pursuant to NEPA. The SOPA also identifies a contact for additional information on a proposed action (36 CFR 220.3). For all proposed actions subject to NEPA that are anticipated to be covered by a CE that requires a decision memo, “the local responsible official shall ensure the SOPA is updated and notify the public of the availability of the SOPA” (36 CFR 220.4(d)).

In determining whether a proposed action is covered by a CE, the responsible official reviews the CEQ significance criteria (40 CFR 1508.27) and considers the context and intensity in which the proposed action would be implemented. The context of a proposed action could be the affected region, landscape, interests, or locality. Intensity refers to the severity of the proposed action’s impact. If during this review the responsible official determines that there is a likelihood of substantial adverse effects, a CE may not be used for the proposed action.

If one or more of the resource conditions included in the extraordinary circumstances at 36 CFR 220.5(b)<sup>6</sup> exists, the interdisciplinary team must determine the degree to which any cause-and-effect relationship exists between the proposed action and the potential effect on the resource. The mere presence of any one or more resource conditions does not preclude the use of a CE. Extraordinary circumstances exist when there is a cause-and-effect relationship between a proposed action and listed resource conditions and the responsible official determines that there is a likelihood of substantial adverse effects.<sup>7</sup>

The use of a CE for a proposed action does not absolve the USFS from complying with any applicable statutory requirement (e.g., the Clean Water and Clean Air Acts) or mandatory consultation such as those associated with the National Historic Preservation Act (NHPA) and the Endangered Species Act (ESA). The NHPA and ESA and their implementing regulations have their own standards for exempting classes of actions from their requirements and apply independently of NEPA to proposed actions. In addition, State and Federal permit requirements (e.g., under the Clean Water Act, section 404(d)) must still be met when a CE is used.

Listing a category of actions as a CE in the USFS’s NEPA regulations does not constitute a conclusive determination regarding the appropriate level of NEPA review for a specific proposed action. Rather, the listing creates an initial presumption that a CE rather than an EA or an EIS is typically appropriate

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<sup>5</sup> <http://www.fs.fed.us/sopa/>.

<sup>6</sup> Under the proposed revisions to 36 CFR 220.5(b), resource conditions that should be considered in determining whether extraordinary circumstances related to a proposed action warrant documentation in an EA or an EIS are: (i) Federally listed threatened or endangered species or designated critical habitat; (ii) Flood plains, wetlands, or municipal watersheds; (iii) Congressionally designated areas, such as wilderness, wilderness study areas, potential wilderness areas, wild and scenic rivers, or national recreation areas; (iv) A roadless area designated under 36 CFR Part 294; (v) Research natural areas; (vi) American Indians and Alaska Native religious or cultural sites; and (vii) Archaeological sites, or historic properties or areas.

<sup>7</sup> This sentence reflects proposed revisions to 36 CFR 220.5(b)(2) to clarify the USFS’s extraordinary circumstances review.

for the listed category of actions. As indicated in 26 CFR 220.5, this presumption is rebutted when there are extraordinary circumstances related to the proposed action that indicate the potential for significant environmental effects.

## **CEQ Guidance on Supplementing Categorical Exclusions**

On November 23, 2010, the CEQ released its guidance memo “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 CEs in accordance with section 102 of NEPA (42 U.S.C. 4332) and CEQ’s implementing regulations (40 CFR 1500-1508).

The November 2010 CEQ memo provides guidance on methods for gathering information to substantiate a CE. CEQ highlights the need to gather sufficient information to support establishing a CE based on the anticipated environmental effects associated with the category of proposed actions to be included in the CE. An agency can substantiate a CE using sources of information gathered by one or more of the following methods:

### **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 (FONSIIs).

### **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 a proposed CE, 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 that can be used to substantiate a proposed 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 its proposed infrastructure CEs. The USFS believes it has sufficient experience implementing these categories of proposed actions and that developing and implementing impact demonstration projects would not provide additional information to support these CEs.

### **Process and Supporting Information for Development of Proposed CEs**

This section explains how the USFS determined that the categories of proposed actions listed below should be categorically excluded from documentation in an EA or EIS under NEPA. In accordance with the November 2010 CEQ Guidance Memo, the USFS provides a justification for each proposed CE containing:

- a combination of environmental analysis, decision documents, monitoring, and supplemental information from previously implemented actions prepared by USFS field units that includes descriptions of the conditions and environmental impacts where these categories of proposed actions were implemented;
- scientific research and analyses, where available, corresponding to the types of proposed actions in these CEs;
- a listing of USFS and external technical experts who have the expertise, experience, and judgment to develop the three new CEs, including their justification statements;
- references to existing CEs used by other Federal agencies that are the same as or comparable to the USFS's proposed CEs; and
- a comparability analysis of the benchmarked CEs used to support the USFS proposed CEs, including a review of extraordinary circumstances applied by the Federal agencies.

For all of the categories of actions proposed as CEs, the USFS conducted interdisciplinary meetings and discussions with agency experts to review past agency actions. These discussions, experiences, environmental reviews, and expertise were used to determine that the categories of proposed actions should be included in new CEs. 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 USFS also collated environmental review information, data, and scientific research from field units that have undertaken projects in these categories of proposed actions over the past five years to maximize the quality, objectivity, utility, and integrity of the information provided. Additional project documentation was queried from the USFS's Project, Appeals, and Litigation System. For several projects, effects findings were verified through monitoring. The data and information represent on-the-ground knowledge, experience, and judgment of the interdisciplinary specialists, responsible officials, and researchers who provided it. These steps conform to the Office of Management and Budget and Departmental guidelines for quality information

(<https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/assets/OMB/fedreg/reproducible2.pdf>).

For some of the proposed infrastructure CEs such as road construction, specific quantifiable limitations (e.g., road lengths) are included to limit the amount of proposed disturbance covered by the CE. For other proposed CEs, such as site and facility construction and reconstruction, narrative or qualitative factors, such as limiting the proposed action to the confines of the site or facility, are included because they are more effective than quantitative criteria. As described above, in implementing each of these proposed CEs, an interdisciplinary environmental review would be conducted to determine whether (1) the project falls within a CE; and (2) whether extraordinary circumstances exist.

### **Best Management Practices**

The USFS developed the National Best Management Practices (BMPs) Program<sup>8</sup> to improve management of water quality consistent with the Clean Water Act and State water quality programs. In April 2012, the USFS released the National Core BMP Technical Guide. This Guide includes National Core BMPs for a wide range of activities. Specific to the proposed CEs included in this supporting statement, the Guide includes National Core BMPs for Facilities and Non-Recreation Special Uses Management Activities, Recreation Management Activities, and Road Management Activities. The specific BMPs related to the proposed CEs are included in the individual justifications of the proposed CEs below.

### **Existing USFS CEs for Infrastructure Activities**

The USFS has several CEs, documented at 36 CFR 220.5(d) and (e), that cover categories of proposed actions that are related to the categories of proposed actions covered by the proposed infrastructure CEs. These existing CEs are described below for each of the categories of proposed actions – administrative sites, recreation sites and NFS trails, and NFS roads – covered by the proposed infrastructure CEs.

References to current and proposed CEs are cited at section 220.5, as reflected in the proposed rule, which moves section 220.6 to 220.5.

### **Existing CEs for Administrative Sites**

The USFS has a CE, documented at 36 CFR 220.5(d)(3), that covers proposed actions relating to administrative sites. The existing CE includes repair and maintenance of administrative sites. The existing CE does not require documentation in a decision memo and is generally used for minor repair and maintenance of administrative sites. This CE typically covers routine activities for keeping fixed assets in an acceptable condition. Much of the USFS's extensive deferred maintenance backlog goes beyond routine repair and maintenance. The proposed CE would allow the USFS to address the backlog more effectively by allowing the Agency more efficiently to construct, reconstruct, and dispose of administrative sites. The proposed CE would require documentation in a decision memo and would be limited to existing administrative sites.

The design for the proposed CEs was based largely on the review of implemented actions and

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<sup>8</sup> <https://www.fs.fed.us/biology/watershed/BMP.html>

field feedback, which identified that the USFS commonly included a range of activities to address administrative site management needs in EAs. The analysis of the types of administrative site management activities covered by the proposed CEs determined that they would not result in potentially significant effects, as documented in their associated FONSI.

### **Existing CEs for Recreation Sites and NFS Trail Management**

The USFS has several CEs, documented at 36 CFR 220.5(d)(4) and (d)(5), that cover categories of proposed actions that are related to the categories of proposed actions covered by the proposed recreation sites and NFS trails CEs. These existing CEs include repair and maintenance of roads, trails, and landline boundaries ((d)(4)) and repair and maintenance of recreation sites and facilities ((d)(5)). These two CEs do not require a decision memo. Additionally, documented at 36 CFR 220.5(e)(1) and (e)(20), respectively, are construction and reconstruction of trails and restoration, rehabilitation, and stabilization of lands occupied by roads and trails; these CEs require documentation in a project or case file and a decision memo (36 CFR 220.5(e)).

The proposed CEs vary from the existing CEs in that the proposed CEs would cover a broader range of management activities at existing recreation sites. The proposed CE for NFS trails would cover the conversion of unauthorized trails to NFS trails allowing the Agency to more effectively and efficiently manage the forest transportation system. The proposed revision to existing 36 CFR 220.5(e)(20) would apply the CE to NFS trails; the current CE excludes NFS roads and trails. The design for the proposed CEs was based largely on the review of implemented actions and field feedback. The analysis of the types of management activities covered by the proposed CEs determined that they would not result in potentially significant effects as documented in their associated FONSI. The proposed CEs would require documentation in a project or case file and a decision memo.

### **Existing CEs for NFS Road Management**

The USFS has CEs, documented at 36 CFR 220.5(d)(4) and (e)(20), that cover categories of proposed actions related to the categories of proposed actions covered by the proposed CE for roads and bridges. The existing CEs include repair and maintenance of roads, trails, and landline boundaries ((d)(4)) and restoration, rehabilitation, and stabilization of lands occupied by roads and trails ((e)(20)). Existing CE (d)(4) does not require a decision memo or other documentation while (e)(20) does require a decision memo.

The existing CEs cover routine maintenance of NFS roads, while proposed CEs would cover broader NFS road management activities, as well as conversion of unauthorized roads to NFS roads. The proposed CEs also include mileage limits for certain activities to limit the amount of proposed disturbance covered by the CE. The proposed CEs are intended to add categories of proposed actions covered by a CE rather than replace or modify the existing CE (d)(4). The proposed revision to the existing CE at 36 CFR 220.5(e)(20) would broaden it to include NFS roads; the current CE excludes NFS roads and trails. The design for the proposed CEs was based largely on the review of implemented actions and field feedback. The proposed CEs would require documentation in a project or case file and a decision memo.

## Justification for Each Proposed CE

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### Proposed CE #1: Administrative Sites

36 CFR 220.5(e)(21). Construction, reconstruction, decommissioning, relocation, or disposal of buildings, infrastructure, or other improvements at an existing administrative site, as that term is defined in section 502(1) of Public Law No. 109-54 (119 Stat. 559; 16 U.S.C. 580d note).

Examples include but are not limited to:<sup>9</sup>

- (i) Relocating an administrative facility to another existing administrative site;
- (ii) Construction, reconstruction, or expansion of a an office, a warehouse, a lab, a greenhouse, or a fire-fighting facility;
- (iii) Surface or underground installation or decommissioning of water or waste disposal system;
- (iv) Disposal of an administrative building; and
- (v) Construction or reconstruction of communications infrastructure.

### Definition of an Administrative Site

An administrative site is defined in section 502(1) of Public Law No. 109-54 (119 Stat. 559; 16 U.S.C. 580d note), as follows:

- (1) ADMINISTRATIVE SITE.—The term “administrative site” means—
  - (A) any facility or improvement, including curtilage, that was acquired or is used specifically for purposes of administration of the National Forest System;
  - (B) any Federal land associated with a facility or improvement described in subparagraph (A) that was acquired or is used specifically for purposes of administration of Forest Service activities and underlies or abuts the facility or improvement; or
  - (C) not more than 10 isolated, undeveloped parcels per fiscal year of not more than 40 acres each that were acquired or used for purposes of administration of Forest Service activities, but are not being so utilized, such as vacant lots outside of the proclaimed boundary of a unit of the National Forest System.
- (2) FACILITY OR IMPROVEMENT.—The term “facility or improvement” includes—
  - (A) a forest headquarters;
  - (B) a ranger station;
  - (C) a research station or laboratory;
  - (D) a dwelling;
  - (E) a warehouse;
  - (F) a scaling station;
  - (G) a fire-retardant mixing station;
  - (H) a fire-lookout station;

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<sup>9</sup> 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’ 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 examples are introduced in a provision and “such as” for any needed clarification in the examples.

- (I) a guard station;
- (J) a storage facility;
- (K) a telecommunication facility; and
- (L) other administrative installations for conducting Forest Service activities.

### **Implemented Actions**

The USFS has been managing facilities, including administrative sites and associated infrastructure, for many decades. Between fiscal years 2012-2016, 270 projects were entered into the USFS's Project, Appeals, and Litigation System with a "facility management" project purpose and that issued a project decision within that timeframe. Administrative sites and facilities are associated with the management of national forests and grasslands and typically include office space, work centers, emergency support facilities, and other sites and facilities that help agency employees fulfill their professional responsibilities. Many USFS administrative facilities are in need of reconstruction or major repair or could be decommissioned or disposed of, reducing the Agency's footprint.

A review of recently implemented actions related to this proposed CE was conducted. Twenty-one projects completed under an EA and associated DN and FONSI were reviewed to look at the types of project activities occurring on the ground related to management of administrative sites and are documented in Appendix A as representative examples of proposed actions that would be partially or entirely covered by the proposed CE.

To obtain information related to implementation and monitoring of these types of projects, USFS personnel across the U.S., who were familiar with the projects, were surveyed to verify that observed effects of these implemented projects were consistent with the NEPA analysis, and if not, to determine how they differed. For 12 of the projects listed in Appendix A that received survey responses, respondents indicated that the effects were not more intense or substantial than predicted in the EA, DN, and FONSI. The respondents also described how effects were observed or documented following project implementation. None of the environmental analysis for the projects reviewed for this proposed CE predicted significant effects on the human environment.

Based on a review of past actions, a review of CEs implemented by other Federal agencies, and the USFS's extensive experience with implementing projects that allow for the use and management of administrative sites; the USFS has concluded that this category of proposed actions does not have individual or cumulative significant effects and, therefore, should be categorically excluded from documentation in an EA or EIS.

This CE would appear in 36 CFR 220.5(e)(21), would require a project or case file and a decision memo, and would cover certain administrative facility management activities. The scope of the proposed CE is consistent with the scope of the 21 projects examined in this review, including the 12 projects that received survey responses, each of which had no significant environmental effects. Consequently, the level of effects associated with proposed actions covered by the proposed CE is expected to be below the threshold for significant environmental effects.

There are no foreseeable events that indicate that the activities proposed under this CE would substantially differ in the future. The Agency has, therefore, concluded that the environmental impacts attendant to these activities would not differ significantly from those associated with the implemented actions. That is, based upon the data and information regarding the implemented actions, the Agency does not expect that activities undertaken under this CE would individually or cumulatively have significant environmental effects. Additionally, project activities would be implemented consistent with the applicable forest plan and BMPs and with any appropriate mitigation measures.

### BMPs

The USFS developed the core Facilities and Non-Recreation Special Uses Management Activities (Fac) BMPs to avoid, minimize, or mitigate adverse effects on soil, water quality, and riparian resources that may result from development, use, maintenance, and reclamation of facilities on NFS lands. Following are some of the National Fac BMPs that would likely be considered by interdisciplinary teams when planning and implementing projects using CE #1:

<b>Fac BMP</b>	<b>Objective</b>
Fac-1 Facilities and Non-Recreation Special Uses Planning	Use the applicable administrative facilities planning processes to develop measures to avoid, minimize, or mitigate adverse effects to soil, water quality, and riparian resources during construction and operation of facilities.
Fac-2 Facility Construction and Stormwater Control	Avoid, minimize, or mitigate adverse effects to soil, water quality, and riparian resources by controlling erosion and managing stormwater discharge originating from ground disturbance during construction of developed sites.
Fac-10 Facility Site Reclamation	Reclaim facilities and surrounding disturbed areas to as near to the pre-disturbed condition as is reasonable practicable following closure or completion of operations, or as necessary for mitigation purposes, to avoid, minimize, or mitigate long-term adverse effects to soil, water quality, and riparian resources.

### Information from Professional Staffs, Experts, and Scientific Analysis

The USFS has a strong cadre of professional staff and scientists with extensive experience in facilities management on NFS lands. Appendix B has a list of professional staff with knowledge of activities identified under this category of proposed actions. This group of experts provided input and review of the proposed CE based on their expertise.

### Benchmarking Other Agencies' Experiences

An interdisciplinary team reviewed lists of other Federal agencies' CEs. Cited below are CEs from other Federal agencies that cover proposed actions similar to those covered by the proposed USFS

CE. 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 individually or cumulatively result in significant effects on the human environment and, therefore, should not require documentation in an EA or EIS.

### USDA Farm Service Agency

The Farm Service Agency's (FSA's) CEs highlighted below include construction or ground disturbance activities, such as minor management, construction, and repair actions, that are similar to the proposed actions covered by the USFS's CE #1. The FSA differs from the USFS in that the FSA's focus is to deliver effective, efficient agricultural programs and serve farmers, ranchers, and agricultural partners. USFS actions are primarily focused on national forests and grasslands.

The CEs described below for FSA require an Environmental Screening Worksheet, which is similar to the USFS's approach of requiring documentation for the proposed category. FSA regulations include several extraordinary circumstances (7 CFR 799.33) that align with those of the USFS, including uncertain impacts on protected resources, including listed species, wetlands, federally designated lands, and special water sources. Many of FSA's extraordinary circumstances are closely linked to CEQ's significance criteria. See Appendix G for a comparison of agency extraordinary circumstances.

#### **Farm Service Agency 7 CFR 799.32**

(d) The following proposed actions are grouped into broader categories of similar types of proposed actions with ground disturbance, each of the listed proposed actions has the potential for extraordinary circumstances because they include construction or ground disturbance. Therefore, additional environmental review and consultation will be necessary in most cases. The 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 this section, will be considered categorical exclusions in this category, unless it is determined that extraordinary circumstances exist, as specified in 799.33:

(2) *Construction or ground disturbance actions.* The following list includes categorical exclusions for construction or ground disturbance proposed actions:

- (iii) Construction of a new farm storage facilities;
- (ix) Excavation;
- (xv) Line waterways or outlets;
- (xx) Pipeline for watering facility;
- (xxxvi) Underground outlets;
- (xxxvii) Watering tank or trough installation

### National Park Service

The National Park Service's (NPS) CE list includes two sections on Actions Related to Development and Actions Related to Resource Management and Protection (516 DM 12.5(C) and (D)). The activities highlighted below are similar to the proposed actions covered by the USFS's proposed CE. Similar to the USFS's proposed CE, NPS's CE is primarily limited to locations that have already been developed or disturbed.

The U.S. Department of Interior (DOI) has a set of extraordinary circumstances that apply to all DOI agencies. Similar to the USFS's list, this set of extraordinary circumstances includes impacts on cultural resources, designated areas, floodplains, wetlands, listed species, and historic properties. NPS's list of extraordinary circumstances aligns closely with CEQ's significance factors. See Appendix G for a comparison of agency extraordinary circumstances.

**NPS, 516 DM 12.5**

- (C) (8) Replacement in kind of minor structures and facilities with little or no change in location, capacity, or appearance.
- (13) Upgrading or adding new overhead utility facilities to existing poles, or replacement of poles which do not change existing pole line configurations.
- (16) Installation of underground utilities in previously disturbed areas having stable soils, or in an existing utility right-of-way.
- (17) Construction of minor structures, including small improved parking lots, in previously disturbed or developed areas.
- (18) Construction or rehabilitation in previously disturbed or developed areas, required to meet health or safety regulations, or to meet requirements for making facilities accessible to the handicapped.
- (D)(8) Removal of non-historic materials and structures in order to restore natural conditions.

**Bureau of Land Management**

The Bureau of Land Management's (BLM) CE identified below includes a category of proposed actions that is similar to the categories of proposed actions covered by the USFS's CE #1 for disposal of buildings, infrastructure, or other improvements. BLM's extraordinary circumstances include four that are directly related to the USFS's list: threatened and endangered species, American Indian sacred and religious sites, sites listed in the National Register of Historic places, and cumulative effects. Other BLM extraordinary circumstances correspond to CEQ's significance criteria. See Appendix G for a comparison of agency extraordinary circumstances.

**BLM, 516 DM 11.9(J)**

- (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.

**U.S. Army Corps of Engineers**

The U.S. Army Corps of Engineers' (USACE) CEs highlighted below allow for activities such as rehabilitation of existing structures and facilities; installation of new buildings utilities, and disposal of existing buildings and improvements. The USACE does not have a specific list of extraordinary circumstances, but states that district commanders should be alert for extraordinary circumstances that may dictate the need to prepare an EA or an EIS. See Appendix G for a comparison of agency extraordinary circumstances.

**USACE, 33 CFR 230.9**

(b) Activities completed at Corps projects which carry out authorized project purposes. Examples include routine operation and maintenance actions, general administration, equipment purposes, custodial actions, erosion control, painting, repair, rehabilitation of existing structures and facilities such as buildings, roads, levels, groins and utilities, and installation of new buildings utilities, or roadways in developed areas.

(p) Disposal of existing buildings and improvements for off-site removal.

**Federal Transit Administration**

The Federal Transit Administration (FTA) has a few facilities-related CEs, highlighted below, that are similar in intent to the USFS' proposed CE #1. These include activities for maintenance, rehabilitation, and reconstruction of facilities; development of facilities for transit and non-transit purposes; and facility modernization. Some of the activities listed below are limited to the same geographic footprint or by not substantially enlarging a facility. The USFS proposed CE #1 has a limiting factor of activities occurring on an existing administrative site. The FTA has a list of "unusual circumstances" that is fairly simple, including significant environmental impacts, substantial controversy on environmental grounds; significant impact on historic properties; and inconsistencies with other laws. See Appendix G for a comparison of extraordinary circumstances.

To use the CEs at 23 CFR 771.118, the FTA regulations state these actions may be designated as CEs only after FTA approval. The applicant "shall submit documentation which demonstrates that the specific conditions or criteria for these CEs are satisfied and that significant environmental effects will not result." This is akin to the Forest Service's requirement for CEs that require documentation in a decision memo.

**FTA, 23 CFR 771.118**

(c)(8) Maintenance, rehabilitation, and reconstruction of facilities that occupy substantially the same geographic footprint and do not result in a change in functional use, such as: improvements to bridges, tunnels, storage yard, buildings, stations, and terminals; construction of platform extensions, passing track, and retaining walls; and improvements to tracks and railbeds.

(10) Development of facilities for transit and non-transit purposes, located on, above, or adjacent to existing transit facilities that are not part of a larger transportation project and do not substantially enlarge such facilities, such as: police facilities, daycare facilities, public services facilities, amenities, and commercial, retail, and residential development.

(d)(6) Facility modernization through construction or replacement of existing components.

**U.S. Navy**

The U.S. Navy's (Navy's) CEs shown below document activities related to new construction similar to existing land use, disposal or improvements of buildings and structures, installation of associated infrastructure, and closure of facilities, similar to the activities highlighted in CE #2. While not specifically called "extraordinary circumstances," the Navy includes a list of items that cannot be included as part of a proposed action in the CE. A few of these align with the USFS's extraordinary

circumstances, including adverse effects on listed species, federally designated areas, wetlands, archaeological resources or resources listed in the National Register of Historic Places.

**Navy, 32 CFR 775.6(f)**

(34) New construction that is similar to existing land use, and when completed, the use or operation of which complies with existing regulatory requirements (e.g., a building within a cantonment area with associated discharges/runoff within existing handling capacities).

(35) Demolition, disposal, or improvements involving buildings or structures when done in accordance with applicable regulations including those regulations applying to removal of asbestos, PCBs, and other hazardous materials;

(36) Acquisition, installation, and operation of utility (e.g., water, sewer, electrical) and communication systems (e.g., data processing cable and similar electronic equipment) which use existing rights of way, easements, distribution systems, and/or facilities.

(37) Decisions to close facilities, decommission equipment, and/or temporarily discontinue use of facilities or equipment, where the facility or equipment is not used to prevent/control environmental impacts.

**U.S. Department of Energy**

The U.S. Department of Energy's (DOE) CEs highlighted below cover activities related to facility management, including associated infrastructure, and disposal or relocation of buildings. DOE's extraordinary circumstances are broader than the USFS's and include scientific controversy about the environmental effects of the proposal, uncertain effects or effects involving unique or unknown risks, and unresolved conflicts concerning alternative uses of available resources. Additionally, projects cannot be segmented to meet the definition of a CE. The CEs listed below must be documented, similar to the USFS requirement that the proposed CE must be documented. The majority of the cited activities are limited to already disturbed areas, similar to the proposed CE where activities would occur on existing administrative sites.

**DOE, 10 CFR 1021.410**

**Appendix B to Subpart D of Part 1021—Categorical Exclusions Applicable to Specific Agency Actions**

**B1. Categorical Exclusions Applicable to Facility Operation**

B1.15 Siting, construction or modification, and operation of support buildings and support structures (including, but not limited to, trailers and prefabricated and modular buildings) within or contiguous to an already developed area (where active utilities and currently used roads are readily accessible). Covered support buildings and structures include, but are not limited to, those for office purposes; parking; cafeteria services; education and training; visitor reception; computer and data processing services; health services or recreation activities; routine maintenance activities; storage of supplies and equipment for administrative services and routine maintenance activities; security (such as security posts); fire protection; small-scale fabrication (such as machine shop activities), assembly, and testing of non-nuclear equipment or components; and similar support purposes, but exclude facilities for nuclear weapons activities and waste storage activities, such as activities covered in B1.10, B1.29, B1.35, B2.6, B6.2, B6.4, B6.5, B6.6, and B6.10 of this appendix.

B1.22 Relocation of buildings (including, but not limited to, trailers and prefabricated buildings) to an already developed area (where active utilities and currently used roads are readily accessible).

B1.23 Demolition and subsequent disposal of buildings, equipment, and support structures (including, but not limited to, smoke stacks and parking lot surfaces), provided that there would be no potential for release of substances at a level, or in a form, that could pose a threat to public health or the environment.

**B2. Categorical Exclusions Applicable to Safety and Health**

B2.1. Modifications within or contiguous to an existing structure, in a previously disturbed or developed area, to enhance workplace habitability (including, but not limited to, installation or improvements to lighting, radiation shielding, or heating/ventilating/air conditioning and its instrumentation, and noise reduction).

B2.5 Safety and environmental improvements of a facility (including, but not limited to, replacement and upgrade of facility components) that do not result in a significant change in the expected useful life, design capacity, or function of the facility and during which operations may be suspended and then resumed. Improvements include, but are not limited to, replacement/upgrade of control valves, in-core monitoring devices, facility air filtration systems, or substation transformers or capacitors; addition of structural bracing to meet earthquake standards and/or sustain high wind loading; and replacement of aboveground or belowground tanks and related piping, provided that there is no evidence of leakage, based on testing in accordance with applicable requirements (such as 40 CFR part 265, “Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities” and 40 CFR part 280, “Technical Standards and Corrective Action Requirements for Owners and Operators of Underground Storage Tanks”). These actions do not include rebuilding or modifying substantial portions of a facility (such as replacing a reactor vessel).

**B3. Categorical Exclusions Applicable to Site Characterization, Monitoring, and General Research.**

B3.14 Siting, construction, modification, operation, and decommissioning of small-scale educational facilities (including, but not limited to, conventional teaching laboratories, libraries, classroom facilities, auditoriums, museums, visitor centers, exhibits, and associated offices) within or contiguous to a previously disturbed or developed area (where active utilities and currently used roads are readily accessible). Operation may include, but is not limited to, purchase, installation, and operation of equipment (such as audio/visual and laboratory equipment) commensurate with the educational purpose of the facility.

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## **Proposed CE #2: Recreation Sites**

36 CFR 220.5(e)(22). Construction, reconstruction, decommissioning, or disposal of buildings, infrastructure, or improvements at an existing recreation site either managed by the Forest Service or managed under special use authorities, including infrastructure or improvements that are adjacent or connected to an existing recreation site and provide access or utilities for that site. Recreation sites include, but are not limited to, campgrounds and camping areas, picnic areas, day use areas, fishing sites, interpretive sites, visitor centers, trailheads, ski areas, and observation sites. Examples include but are not limited to:

- (i) Constructing, reconstructing, or expanding a toilet or shower facility;
- (ii) Constructing or reconstructing a fishing pier, wildlife viewing platform, dock, or other constructed feature at a recreation site;
- (iii) Installing or reconstructing a water or waste disposal system;
- (iv) Constructing or reconstructing campsites;
- (v) Disposal of facilities at a recreation site;
- (vi) Constructing or reconstructing a boat landing;
- (vii) Replacing a chair lift at a ski area;
- (viii) Constructing or reconstructing a parking area or trailhead; and
- (ix) Reconstructing or expanding a recreation rental cabin.

## **Proposed CE #3: Trail Conversion**

36 CFR 220.5(e)(23). Converting an unauthorized or non-NFS trail or trail segment to an NFS trail when determined by the responsible official and consistent with applicable land management plan direction, travel management decisions, trail-specific decisions, and other related direction. Examples include but are not limited to:

- (i) Converting an unauthorized trail that crosses land acquired by the Forest Service to an NFS trail; and
- (ii) Converting an unauthorized trail to an NFS trail, including associated repair and reconstruction activities, to enhance access and recreation opportunities.

Development of the language for proposed CE #2 and CE #3 was an integrated effort and therefore discussion of supporting information for these CEs is combined below.

## **Implemented Actions**

The USFS has many years of managing recreation sites and facilities. Recreation management covers management of recreation sites and NFS trails, including maintenance, enhancement, and improvement of these facilities and trails that occur in areas designated for those uses.

Recreational use and need for access on National Forests continues to increase. Poor facility maintenance and deterioration of recreation sites and associated infrastructure can increase the risk of public safety hazards and contribute to erosion and slope failure. Unauthorized trails on NFS lands that have been created over time by users do not meet technical or environmental protection standards. These unauthorized trails may present environmental and public safety

threats.

This proposed CE was developed to increase efficiency and management of recreation sites and NFS trails. We conducted a review of recent past actions implementing activities associated with this proposed CE. Projects that have a “recreation management” project purpose are common on NFS lands. Between fiscal years 2012-2016, 1,699 decisions (supported by an EIS, EA, or CE) were issued for activities with a “recreation management” project purpose. A total of 369 of these projects were completed using an EA and associated DN and FONSI. Of these recreation management EAs, an interdisciplinary team reviewed a randomly selected sample of 65 projects. Following further review by the interdisciplinary team to identify projects more closely aligned with the activities proposed in the CEs, 50 projects are included in Appendix C as a representative sample of past actions and their corresponding documentation used in this review. Some or all of these projects would be covered by the proposed CE. A smaller set of 25 projects was included as part of a survey sent out to USFS personnel across the U.S. who were familiar with the projects to verify that observed effects of these implemented projects were consistent with the NEPA analysis, and if not, to determine how they differed. Responses were received for 19 projects; however, two projects were reported as not yet implemented.

For the 17 projects that were implemented and have associated survey responses, the respondents indicated that the effects were not more intense or substantial than predicted in the EA, DN, and FONSI. The respondents also described how effects were observed or documented following project implementation. None of the environmental analysis for the projects reviewed for this proposed CE predicted significant effects on the human environment. Based on a review of past actions, a review of CEs implemented by other Federal agencies, and the USFS’s extensive experience with implementing projects that allow for the use and management of recreation sites, the USFS has concluded that this category of actions would not individually or cumulatively have significant effects and, therefore, should be categorically excluded from documentation in an EA or EIS.

These categories would appear in 36 CFR 220.5(e)(22) and (e)(23), would require a project or case file and decision memo, and would include certain recreation site and NFS trail management activities. The scope of the proposed category is consistent with the scope of the projects examined in this review, each of which had no significant environmental effects related to the activities being evaluated in the proposed CEs. Consequently, the level of effects associated with proposed actions covered by the proposed CE is expected to be below the threshold for significant environmental effects.

There are no foreseeable events that indicate that the proposed actions covered by this proposed CE would substantially differ in the future. The Agency has, therefore, concluded that the environmental impacts attendant to these proposed actions would not differ significantly from those associated with the implemented actions. That is, based upon the data and information regarding those proposed actions, the Agency does not expect that proposed actions undertaken under this CE would individually or cumulatively have significant environmental effects. Additionally, proposed actions would be implemented consistent with the applicable forest plan

and BMPs and with any appropriate mitigation measures.

Development of proposed CE #2 and CE #3 was an integrated effort and, therefore, discussion of supporting information for both CEs is combined below.

### BMPs

The USFS developed the core Recreation Management Activities (Rec) BMPs to avoid, minimize, or mitigate adverse effects to soil, water quality, and riparian resources that may result from recreational activities. Following are some of the National Rec BMPs that would likely be considered by interdisciplinary teams when planning and implementing projects using CE #2 or CE #3:

<b>Fac BMP</b>	<b>Objective</b>
Rec-1 Recreation Planning	Use the applicable recreation planning processes to develop measures to avoid, minimize, or mitigate adverse effects to soil, water quality, and riparian resources during recreation activities.
Rec-2 Developed Recreation Sites	Avoid, minimize, or mitigate adverse effects to soil, water quality, and riparian resources at developed recreation sites by maintaining desired levels of ground cover, limiting soil compaction, and minimizing pollutants entering water bodies.
Rec-3 Dispersed Use Recreation	Avoid, minimize, or mitigate adverse effects to soil, water quality, and riparian resources by managed dispersed activities and undeveloped sites to maintain ground cover, maintain soil quality, control runoff, and provide needed sanitary facilities to minimize the discharge of nonpoint source pollutants and maintain streambank and riparian area integrity.
Rec-4 Motorized and Nonmotorized Trails	Avoid, minimize, or mitigate adverse effects to soil, water quality, and riparian resources by controlling soil erosion, erosion of trail and surface materials, and water quality problems originating from construction, maintenance, and use of motorized and nonmotorized trails.
Rec-5 Motorized Vehicle Use Areas	Avoid, minimize, or mitigate adverse effects to soil, water quality, and riparian resources by managing activities to maintain ground cover, maintain soil quality, and control runoff to minimize discharge of nonpoint source pollutants and maintain streambank and riparian area integrity.
Rec-8 Watercraft Launches	Avoid, minimize, or mitigate adverse effects to soil, water quality, and riparian resources from facilities at locations used to launch and retrieve watercraft.
Rec-9 Recreation Special Use Authorizations	Avoid, minimize, or mitigate adverse effects to soil, water quality, and riparian resources from physical, chemical, and biological pollutants resulting from activities under recreation special use authorizations.
Rec-10 Ski Runs and Lifts	Avoid, minimize, or mitigate adverse effects to soil, water

	quality, and riparian resources during the construction, operation, and maintenance of ski runs and lifts.
Rec-12 Ski Area Facilities	Avoid, minimize, or mitigate adverse effects to soil, water quality, and riparian resources originating from design, construction, operation, and maintenance of ski area facilities.

### Information from Professional Staffs, Experts, and Scientific Analysis

The USFS has a strong cadre of professional staff and scientists with extensive experience in facilities management on NFS lands. Appendix B has a list of professional staff with knowledge of activities identified under this category of proposed actions. This group of experts provided input and review of the proposed CE based on their expertise.

### Benchmarking Other Agencies' Experiences

Many other agencies have CEs that cover actions similar to those proposed in CE #2 and CE #3. An interdisciplinary team reviewed other Federal agencies' current list of CEs. Cited below are CEs from other Federal agencies that cover proposed actions that are similar to those covered by the USFS's proposed CEs. Based on this review, the USFS's interdisciplinary team found that the proposed CEs would cover proposed actions that would be similar in size and scope, would be conducted under similar resource conditions, and would have similar environmental impacts to the proposed actions covered by CEs of other Federal agencies. Accordingly, the USFS concluded that the proposed actions covered by these CEs would not individually or cumulatively result in significant impacts on the human environment and should not require documentation in an EA or EIS.

### National Park Service

NPS's CE list includes a section on Actions Related to Development (516 DM 12.5(C)), Actions Related to Visitor Use (516 DM 12.5(D)), and Actions Related to Resource Management and Protection (516 DM 12.5(E)). These CEs are related to both CE #2 and CE #3 for improving access and opportunity on recreation sites and in trail management. DOI has a set of extraordinary circumstances that apply to all DOI agencies. This set of extraordinary circumstances includes items that are similar to those in the USFS's list, including impacts on cultural resources, designated areas, floodplains, wetlands, listed species, and historic properties. NPS's list of extraordinary circumstances align closely with CEQ's significance factors. See Appendix G for a comparison of agency extraordinary circumstances. NPS requires documentation for use of these CEs, similar to the USFS's proposal to require documentation for its proposed CE.

**NPS, 516 DM 12.5**

**(C) Actions Related to Development.**

(3) Routine maintenance and repairs to non-historic structures, facilities, utilities, grounds, and trails.

(8) Replacement in kind of minor structures and facilities with little or no change in location, capacity, or appearance.

NPS Guidance: Examples of minor structures and facilities include comfort stations, pit toilets, fences, kiosks, signs, sheds, foot logs, small trail bridges, and campfire circles.

(11) Installation of wells, comfort stations, and pit toilets in areas of existing use and in developed areas.

NPS Guidance: Other examples include pump houses and vault toilets.

(12) Minor trail relocation, development of compatible trail networks on logging roads or other established routes, and trail maintenance and repair.

(17) Construction of minor structures, including small improved parking lots, in previously disturbed or developed areas.

NPS Guidance: Some examples of minor structures include adding a small support building such as a pump house or small equipment cache in an existing maintenance yard, bus shop (transportation) or picnic shelters, comfort stations, or similar small-scale structures; walkways, ramps, signs, or other small features incidental to the use of a developed area or to improve accessibility; small-scale development of new parking spaces adjacent to existing parking areas; addition or relocation of a small number of camping spaces in an existing campground or picnic sites in an existing picnic area and small, compatible additions to existing buildings (such as making an ‘L’ into a ‘T’).

(18) Construction or rehabilitation in previously disturbed or developed areas, required to meet health or safety regulations, or to meet requirements for making facilities accessible to the handicapped.

**D. Actions Related to Visitor Use**

(2) Minor changes in amounts or types of visitor use for the purpose of ensuring visitor safety or resource protection in accordance with existing regulations.

**E. Actions Related to Resource Management and Protection**

(8) Removal of non-historic materials and structures in order to restore natural conditions.

NPS also provided the USFS with data on the frequency with which some of these CEs (C3, C8, C11, C12, C17, C18, D2 – as numbered in 516 DM 12.5) have been used between April 30, 2016, through April 16, 2018. The following table highlights their use over the past 2 years:

<b>NPS CE</b>	<b>Documented Use from 2016-2018</b>
C(3)	5,130
C(8)	1,686
C(11)	391
C(12)	912
C(17)	1869
C(18)	1212
D(2)	158

In addition to data on use of these CEs, NPS also provided the USFS with a summary of 30 CEs that cover categories of proposed actions covered by the USFS’s CEs.

NPS also provided the USFS with examples of FONSI for EAs completed related to actions the USFS is proposing under CE #2, including FONSI for activities related to construction of boat landings; construction or modification of constructed site features (piers and boat docks); construction of educational and recreational facilities; replacement of wastewater systems; modification or reconstruction of a recreation rental cabins; relocation, reconstruction, or improvement of trailheads and parking areas; construction, modification, and expansion of shower and toilet facilities; and expansion of group use or single use campsites.

### **Bureau of Land Management**

BLM's CE language highlighted below correlate to the activities in proposed CE #2 and CE #3. While the language for incorporating trails into a transportation plan is different, the activity described in CE #3 generally is consistent with BLM's CE. However, BLM limits the CE to situations where no new construction or upgrading is needed. BLM's activities also include removal of structures, similar to one of the activities covered in CE #2.

DOI has a set of extraordinary circumstances that apply to all DOI agencies. This set of extraordinary circumstances includes items that are similar to those in the USFS's list, including impacts on cultural resources, designated areas, floodplains, wetlands, listed species, and historic properties. BLM's extraordinary circumstances include four that are directly related to those in the USFS's list: threatened and endangered species, American Indian sacred and religious sites, sites listed in the National Register of Historic places, and cumulative effects. Other BLM extraordinary circumstances correspond to CEQ's significance criteria. See Appendix G for a comparison of agency extraordinary circumstances.

#### **BLM, 516 DM 11.9**

##### **(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.

##### **(J) Other**

- (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.

### **U.S. Army Corps of Engineers**

U.S. Army Corps of Engineers' (USACE's) CEs highlighted below allow for activities such as rehabilitation of existing structures and facilities; installation of new building utilities, and disposal of existing buildings and improvements. The USACE does not have a specific list of extraordinary circumstances, but states that district commanders should be alert for extraordinary circumstances that may dictate the need to prepare an EA or an EIS. See Appendix G for a comparison of agency extraordinary circumstances.

**USACE, 33 CFR 230.9**

(b) Activities completed at Corps projects which carry out authorized project purposes. Examples include routine operation and maintenance actions, general administration, equipment purposes, custodial actions, erosion control, painting, repair, rehabilitation of existing structures and facilities such as buildings, roads, levees, groins and utilities, and installation of new buildings utilities, or roadways in developed areas.

(p) Disposal of existing buildings and improvements for off-site removal.

**Department of Energy**

DOE's CEs highlighted below cover activities related to facility management, including associated infrastructure, as well as construction, acquisition, and reconstruction of pedestrian walkways and trails. DOE's extraordinary circumstances are broader than the USFS's and include scientific controversy about the environmental effects of the proposal; uncertain effects or effects involving unique or unknown risks; and unresolved conflicts concerning alternative uses of available resources. Additionally, projects cannot be segmented to meet the definition of a CE. The CEs listed below must be documented, similar to the USFS requirement that the proposed CE must be documented.

**DOE, 10 CFR 1021.410**

**Appendix B to Subpart D of Part 1021—Categorical Exclusions Applicable to Specific Agency Actions**

**B1. Categorical Exclusions Applicable to Facility Operation**

B1.13 Construction, acquisition, and relocation, consistent with applicable right-of-way conditions and approved land use or transportation improvement plans, of pedestrian walkways and trails, bicycle paths, small outdoor fitness areas, and short access roads and rail lines (such as branch and spur lines).

B1.15 Siting, construction or modification, and operation of support buildings and support structures (including, but not limited to, trailers and prefabricated and modular buildings) within or contiguous to an already developed area (where active utilities and currently used roads are readily accessible). Covered support buildings and structures include, but are not limited to, those for office purposes; parking; cafeteria services; education and training; visitor reception; computer and data processing services; health services or recreation activities; routine maintenance activities; storage of supplies and equipment for administrative services and routine maintenance activities; security (such as security posts); fire protection; small-scale fabrication (such as machine shop activities), assembly, and testing of non-nuclear equipment or components; and similar support purposes, but exclude facilities for nuclear weapons activities and waste storage activities, such as activities covered in B1.10, B1.29, B1.35, B2.6, B6.2, B6.4, B6.5, B6.6, and B6.10 of this appendix.

B1.22 Relocation of buildings (including, but not limited to, trailers and prefabricated buildings) to an already developed area (where active utilities and currently used roads are readily accessible).

B1.23 Demolition and subsequent disposal of buildings, equipment, and support structures (including, but not limited to, smoke stacks and parking lot surfaces), provided that there would be no potential for release of substances at a level, or in a form, that could pose a threat to public health or the environment.

**B3. Categorical Exclusions Applicable to Site Characterization, Monitoring, and General Research.**

B3.14 Siting, construction, modification, operation, and decommissioning of small-scale educational facilities (including, but not limited to, conventional teaching laboratories, libraries, classroom facilities, auditoriums, museums, visitor centers, exhibits, and associated offices) within or contiguous to a previously disturbed or developed area (where active utilities and currently used roads are readily accessible). Operation may include, but is not limited to, purchase, installation, and operation of equipment (such as audio/visual and laboratory equipment) commensurate with the educational purpose of the facility.

**Federal Transit Administration**

FTA has two CEs, listed below, that relate to recreational facility and trail management covered under USFS proposed CE #2 and CE #3. The FTA has a list of “unusual circumstances” that is fairly simple, including significant environmental impacts, substantial controversy on environmental grounds, significant impact on historic properties, and inconsistencies with other laws. See Appendix G for a comparison of extraordinary circumstances.

FTA regulations state that the CEs at 23 CFR 771.118 may be used only with FTA approval. The applicant “shall submit documentation which demonstrates that the specific conditions or criteria for these CEs are satisfied and that significant environmental effects will not result.” This is akin to the USFS’s requirement that the proposed CEs be documented in a project or case file and a decision

memo.

**FTA, 23 CFR 771.118**

(c)(1) Acquisition, construction, maintenance, rehabilitation and improvement or limited expansion of stand-alone recreation, pedestrian, or bicycle facilities, such as: a multiuse pathway, lane, trail, or pedestrian bridge; and transit plaza amenities.

(d)(6) Facility modernization through construction or replacement of existing components.

**Navy**

Navy's CEs shown below document activities related to new construction similar to existing land use, disposal or improvements of buildings and structures, installation of associated infrastructure, and closure of facilities, similar to the activities highlighted in the USFS's proposed CE #2. While not specifically called "extraordinary circumstances," Navy includes a list of items that cannot be included as part of a proposed action in the CE. A few of these align with the USFS's extraordinary circumstances, including adverse effects on listed species, federally designated areas, wetlands, archaeological resources, or resources listed in the National Register of Historic Places.

**Navy, 32 CFR 775.6(f)**

(34) New construction that is similar to existing land use, and when completed, the use or operation of which complies with existing regulatory requirements (e.g., a building within a cantonment area with associated discharges/runoff within existing handling capacities).

(35) Demolition, disposal, or improvements involving buildings or structures when done in accordance with applicable regulations including those regulations applying to removal of asbestos, PCBs, and other hazardous materials;

(36) Acquisition, installation, and operation of utility (e.g., water, sewer, electrical) and communication systems (e.g., data processing cable and similar electronic equipment) which use existing rights of way, easements, distribution systems, and/or facilities.

(37) Decisions to close facilities, decommission equipment, and/or temporarily discontinue use of facilities or equipment, where the facility or equipment is not used to prevent/control environmental impacts.

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**Proposed CE #4: Roads and Bridges**

36 CFR 220.5(e)(24). Construction or realignment of up to 5 miles of NFS roads, reconstruction of up to 10 miles of NFS roads and associated parking areas, opening or closing an NFS road, and culvert or bridge rehabilitation or replacement along NFS roads. Examples include but are not limited to:

- (i) Reconstructing an NFS road or parking area to address deferred maintenance;
- (ii) Constructing an NFS road to improve access to a trailhead or parking area;
- (iii) Modifying the surface of an NFS road;
- (iv) Rerouting an NFS road to minimize resource impacts;
- (v) Closing an NFS road to address resource impacts; and
- (vi) Shoulder widening or other safety improvements within the right-of-way for an NFS road.

### **Proposed CE #5: Road Conversion**

36 CFR 220.5(e)(25). Converting an unauthorized or non-NFS road to an NFS road. Examples include but are not limited to:

- (i) Converting a non-NFS road that crosses land acquired by the Forest Service to an NFS road; and
- (ii) Converting a non-NFS road to an NFS road to enhance access and recreation opportunities.

Development of the language for proposed CE #4 and CE #5 was an integrated effort, and, therefore, discussion of supporting information for those CEs is combined below.

### **Implemented Actions**

The USFS has many years of on-the-ground experience managing roads and associated infrastructure (such as bridges and culverts) on NFS lands. The system of NFS roads provides access for resource protection, commercial activities, and public uses, such as timber harvesting, outfitting and guiding, mining, and roads also provide access to recreational activities on NFS lands, including hunting, fishing, skiing, bird watching, camping, hiking, and driving for pleasure.

Recreational use and need for access to NFS lands on NFS roads continue to increase. Improperly constructed roads, poor road maintenance, and deterioration of roads can increase the risk of erosion, landslides, and slope failure, which can adversely affect critical habitat for fish and wildlife. Unauthorized roads on NFS lands that have been created over time by users do not meet technical and environmental protection standards and may present environmental and public safety threats.

This proposed CE was developed to increase efficiency and management of NFS roads. We conducted a review of recent past actions implementing activities associated with this proposed CE. Projects that have a “road management” project purpose are quite common on NFS lands. Between fiscal years 2012 and 2016, 784 decisions (supported by an EIS, EA, or CE) were issued for activities with “road management” listed as the project purpose. A total of 311 of these projects were completed using an EA, DN, and FONSI. Of these road management EAs, the interdisciplinary team reviewed a representative sample of 62 projects. Fifty-five of these projects and their corresponding documentation are included in Appendix D. Some or all of

these projects would be covered by the proposed CEs. A smaller set of 30 projects was included as part of a survey sent out to USFS personnel across the U.S. who were familiar with the projects. The intent of this survey was to verify that observed effects of these implemented projects were consistent with the NEPA analysis, and if not, to determine how they differed. The team received responses for 22 projects; however, two projects were reported as not yet implemented.

Of the 20 projects that received survey responses, respondents indicated that for 17 of the projects, the effects were not more intense or substantial than predicted in the EA, DN, and FONSI. The respondents also described how effects were observed or documented following project implementation. Of the three projects that had potential for more intense effects, only one had the potential for significant effects.

- One project includes activities for replacement and rehabilitation of bridges, including culverts. The more intense effects are directly associated with the timing of the project versus the project activities. The effects have been more intense because the project has taken longer to accomplish than anticipated and as such, it is taking longer to maintain timeline-oriented best management practices that would minimize impacts to species.
- The second project is a vegetation management project that includes road construction, reconstruction, and decommissioning activities. The description of more intense effects appears directly related to the vegetation management activities rather than the road management activities. The effects are described as temporary effects to visuals with diminishing effects 5-year post-treatment, especially where the application of design criteria reduces visual quality impacts. These effects are not tied directly to the road management activities in this project, and the activities related to the effects were completed to address safety concerns.
- The third project that indicated there were more intense effects than anticipated was a project that included bridge replacement and associated road realignment. Runoff from the road is causing erosion around the bridge and the sediment ponds are inadequate to control sediment flows into the river. Some erosion is occurring under the footer of the bridge. The respondent indicated that the issues likely stem from the road itself versus the bridge that was replaced as part of the project. The road is very old and within mountain topography that provides access to private residences. Mitigation measures have been put in place, including additional road work leading to the bridge to control accumulated water runoff in ditches; directing sediment laden water into sediment ponds that can meet capacity during storm events; and increased frequency of road maintenance.

For the projects listed in Appendix D, none of the environmental analyses for the projects reviewed for CE # 4 and CE #5 predicted significant effects on the human environment. While the survey results for three projects indicated post-implementation that some effects were more intense than predicted, two of those projects included effects not directly tied to the road management components, and the effects were not significant. The third project implemented mitigation measures to address the effects.

Based on a review of past actions, a review of CEs implemented by other Federal agencies, and the USFS’s extensive experience with implementing projects that allow for the use and occupancy of NFS lands, the USFS has concluded that this category of proposed actions would not individually or cumulatively have significant effects and, therefore, should be categorically excluded from documentation in an EA or EIS.

These categories would appear in 36 CFR 220.5 (e)(24) and (e)(25), would require a project or case file and decision memo and would include certain road management activities. The scope of the proposed CE is consistent with the scope of the 20 projects examined in this review, of which the majority had no significant impacts. Consequently, we expect the level of effects associated with proposed actions covered by the proposed CE to be below the threshold for significant environmental effects.

There are no foreseeable events that indicate that the proposed actions covered by this proposed CE would substantially differ in the future. The Agency has, therefore, concluded that the environmental impacts attendant to these proposed actions would not differ significantly from those associated with the implemented actions. That is, based upon the data and information associated with this category of proposed actions, the Agency does not expect that activities undertaken under this CE would individually or cumulatively have significant environmental effects. Additionally, proposed actions would be implemented consistent with the applicable forest plan compliance and BMPs and with any appropriate mitigation measures.

### BMPs

The USFS developed the core Road Management Activities (Rod) BMPs to avoid, minimize, or mitigate adverse effects to soil, water quality, and riparian resources that may result from road management activities. Following are some of the National Road BMPs that would likely be considered by interdisciplinary teams when planning implementing projects using CE #4 or CE #5:

<b>Fac BMP</b>	<b>Objective</b>
Road-1 Travel Management Planning and Analysis	Use the travel management planning and analysis process to develop measures to avoid, minimize, or mitigate adverse effects to soil, water quality, and riparian resources during road management activities.
Road-2 Road Location and Design	Locate and design roads to avoid, minimize, or mitigate adverse effects to soil, water quality, and riparian resources.
Road-3 Road Construction and Reconstruction	Avoid or minimize adverse effects to soil, water quality, and riparian resources from erosion, sediment, and other pollutant delivery during road construction or reconstruction.
Road-4 Road Operations and Maintenance	Avoid, minimize, or mitigate adverse effects to soil, water quality, and riparian resources by controlling road use and operations and providing adequate and appropriate maintenance to minimize sediment production and other pollutants during the useful life of the road.
Road-6 Road Storage and	Avoid, minimize, or mitigate adverse effects to soil, water

Decommissioning	quality, and riparian resources by storing closed roads not needed for at least 1 year and decommissioning unneeded roads in a hydrologically stable manner to eliminate hydrologic connectivity, restore natural flow patterns, and minimize soil erosion.
Road-7 Stream Crossings	Avoid, minimize, or mitigate adverse effects to soil, water quality, and riparian resources when constructing, reconstructing, or maintaining temporary and permanent waterbody crossings.
Road-9 Parking and Staging Areas	Avoid, minimize, or mitigate adverse effects to soil, water quality, and riparian resources when constructing and maintaining parking and staging areas.

**Information from Professional Staffs, Experts, and Scientific Analysis**

The USFS has a strong cadre of professional staff, engineers, and scientists with extensive experience in roads management on NFS lands. Appendix B has a list of professional staff with knowledge of activities identified under this category of proposed actions. This group of experts provided input and review of the proposed CE based on their expertise. The group of engineers also ensured language was appropriate and that industry standards were met.

**Benchmarking Other Agencies’ Experiences**

The forest transportation system is unique and extensive, especially compared to road systems managed by other agencies. The goal of the forest transportation system is to provide access to NFS lands for recreation and resource extraction, among other activities. NFS roads are typically low-volume and rural and, therefore, tend to have fewer impacts. Given the area of land managed by the Agency, the 370,000 miles of roads currently in the forest transportation system are typically necessary over time, although many are not used for day-to-day operations.

While the forest transportation system is unique, many other Federal agencies have CEs that cover categories of proposed actions similar to those covered by proposed CE #4 and CE #5. An interdisciplinary team completed a review of other Federal agencies’ CEs. Cited below are CEs from other Federal agencies that cover categories of proposed actions similar to those covered by the USFS’s proposed CEs. Based on this review, the USFS’s interdisciplinary team found that the proposed CEs would cover proposed actions that are similar in size and scope, would be conducted under similar resource conditions, and would have similar environmental impacts to the proposed actions covered by the CEs of other Federal agencies. Accordingly, the USFS concluded that the proposed actions covered by its proposed CEs would not individually or cumulatively result in significant effects on the human environment and, therefore, should not require documentation in an EA or EIS.

**USDA Farm Service Agency**

The FSA’s CEs highlighted below include construction or ground disturbance activities for bridges and roads similar to activities proposed by the USFS in proposed CE #4. FSA differs from the USFS in that its focus is to deliver effective, efficient agricultural programs and serve farmers, ranchers, and agricultural partners. USFS actions are primarily focused on national forests and

grasslands.

The CEs described below for FSA require an Environmental Screening Worksheet, which is similar to the USFS's approach of requiring documentation for the proposed CE. FSA regulations include several extraordinary circumstances (7 CFR 799.33) that align with those of the USFS, including uncertain impacts on protected resources such as listed species, wetlands, federally designated lands, and special water sources. Many of FSA's extraordinary circumstances are closely linked to CEQ's significance criteria. See Appendix G for a comparison of agency extraordinary circumstances.

**FSA, 7 CFR 799.32**

(e) The following proposed actions are grouped into broader categories of similar types of proposed actions with ground disturbance, each of the listed proposed actions has the potential for extraordinary circumstances because they include construction or ground disturbance. Therefore, additional environmental review and consultation will be necessary in most cases. 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 this section, will be considered categorical exclusions in this category, unless it is determined that extraordinary circumstances exist, as specified in § 799.33:

(2) *Construction or ground disturbance actions.* The following list includes categorical exclusions for construction or ground disturbance proposed actions:

- (i) Bridges;
- (xi) Grading, leveling, shaping, and filling in areas or to depths not previously disturbed;
- (xxiv) Roads, including access roads;
- (xxxiv) Surface roughening;

**National Park Service**

The National Park Service's (NPS's) CE list includes a section on Actions Related to Development (516 DM 12.5 (C)). When taken in context with the NPS's NEPA Handbook, outlined below, this CE correlates with activities proposed in CE #4 rehabilitation, repaving, and reconstruction, with limitations of activities occurring on existing roads and within the existing road prism.

DOI has a set of extraordinary circumstances that apply to all DOI agencies. This set of extraordinary circumstances includes items that are similar to those in the USFS's list, including impacts on cultural resources, designated areas, floodplains, wetlands, listed species, and historic properties. NPS's list of extraordinary circumstances aligns closely with CEQ's significance factors. See Appendix G for a comparison of Agency extraordinary circumstances. NPS requires documentation for use of this CE, similar to the USFS's requirement for documentation of the proposed CE.

**NPS, 516 DM 12.5**

(C) (9) Repair, resurfacing, striping, installation of traffic control devices, repair/replacement of guardrails, etc. on existing roads.

Guidance Statement from 2015 NPS NEPA Handbook: This CE also applies to road maintenance, rehabilitation, repaving, and reconstruction on existing roads within the existing road prism. Actions taken under this CE may also include repair or replacement of culverts, signs, surfacing of right-turn lanes at intersections in previously disturbed areas, seal coating a parking lot, maintenance of an existing gravel road in the same footprint, routine roadside brushing, routine ditching, adding gravel, grading, and other modifications.

**Bureau of Land Management**

While the language is more specific, BLM's CE language highlighted below correlates to the activities in proposed CE #4 for providing safety improvements in a right-of-way and being able to close a road. The list below also includes a CE for incorporating eligible roads in a transportation plan, similar to the activity covered under proposed CE #5; however, BLM limits the activity to situations where no new construction or upgrading is needed. DOI has a set of extraordinary circumstances that apply to all DOI agencies. This set of extraordinary circumstances includes items that are similar to those in the USFS's list, including impacts on cultural resources, designated areas, floodplains, wetlands, listed species, and historic properties. BLM's extraordinary circumstances include four that are directly related to those in the USFS's list: threatened and endangered species, American Indian sacred and religious sites, sites listed in the National Register of Historic Places, and cumulative effects. Other BLM extraordinary circumstances correspond to CEQ's significance criteria. See Appendix G for a comparison of agency extraordinary circumstances.

**BLM, 516 DM 11.9 (G)**

- (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.

**Bureau of Indian Affairs**

The Bureau of Indian Affairs (BIA) has two CEs related to roads and bridges. As highlighted below, the activities for resurfacing a highway and for rehabilitation, reconstruction, or replacement of an existing bridge structure are aligned with the USFS proposed CE #4. However, BIA includes more limitations on width and alignment.

DOI has a set of extraordinary circumstances that apply to all DOI agencies. This set of extraordinary circumstances includes items that are similar to those in the USFS's list, including impacts on cultural resources, designated areas, floodplains, wetlands, listed species, and historic properties. BIA

additionally states that activities in their list of categorical exclusions are single, independent actions not associated with a larger, existing or proposed, complex or facility. See Appendix G for a comparison of Agency extraordinary circumstances.

**BIA, 516 DM 10.5(L), Roads and Transportation**

- (8) Resurfacing a highway without adding to the existing width.
- (9) Rehabilitation, reconstruction, or replacement of an existing bridge structure on essentially the same alignment or location (e.g., widening, adding shoulders or safety lanes, walkways, bikeways, or guardrails).

**Federal Transit Administration**

The FTA has multiple CEs, listed below, that are directly related to the proposed actions covered by proposed CE #4, including activities for bridge work (including transportation facility realignment), safety improvements, and modernization of highways. The FTA has a list of “unusual circumstances” that is fairly simple, including significant environmental impacts; substantial controversy on environmental grounds; significant impact on historic properties; and inconsistencies with other laws. See Appendix G for a comparison of extraordinary circumstances.

FTA regulations require FTA approval for use of the CEs at 23 CFR 771.118. The applicant “shall submit documentation which demonstrates that the specific conditions or criteria for these CEs are satisfied and that significant environmental effects will not result.” This is akin to the USFS’s requirement for documentation of the proposed CEs in a project or case file and a decision memo.

**FTA, 23 CFR 771.118**

- (c)(14) Bridge removal and bridge removal related activities, such as in-channel work, disposal of materials and debris in accordance with applicable regulations, and transportation facility realignment.
- (15) Preventative maintenance, including safety treatments, to culverts and channels within and adjacent to transportation right-of-way to prevent damage to the transportation facility and adjoining property, plus any necessary channel work, such as restoring, replacing, reconstructing, and rehabilitating culverts and drainage pipes; and, expanding existing culverts and drainage pipes.
- (d)(1) Modernization of a highway by resurfacing, restoring, rehabilitating, or reconstructing shoulders or auxiliary lanes (e.g., lanes for parking, weaving, turning, climbing).
- (2) Bridge replacement or the construction of grade separation to replace existing at-grade railroad crossings.

**Federal Highway Administration**

The Federal Highway Administration (FHWA) has CEs that are similar to the FTA’s for modernization of a highway and bridge work, as highlighted below. The proposed actions covered by the FTA’s CEs are similar to the proposed actions covered by FHWA’s CEs and align with the proposed actions covered by proposed CE #4.

FHWA’s extraordinary circumstances are closely aligned with CEQ’s significance criteria and align with the USFS’s extraordinary circumstances regarding no cumulative impacts and no significant

impacts on cultural or historic sites. See Appendix G for a comparison of Agency extraordinary circumstances.

**FHWA, 23 CFR 771.117**

(c) The following actions meet the criteria for CEs in the CEQ regulations (40 CFR 1508.4) and § 771.117(a) and normally do not require any further NEPA approvals by the FHWA:

(22) Projects, as defined in 23 U.S.C. 101, that would take place entirely within the existing operational right-of-way. Existing operational right-of-way refers to right-of-way that has been disturbed for an existing transportation facility or is maintained for a transportation purpose. This area includes the features associated with the physical footprint of the transportation facility (including the roadway, bridges, interchanges, culverts, drainage, fixed guideways, mitigation areas, etc.) and other areas maintained for transportation purposes such as clear zone, traffic control signage, landscaping, any rest areas with direct access to a controlled access highway, areas maintained for safety and security of a transportation facility, parking facilities with direct access to an existing transportation facility, transit power substations, transit venting structures, and transit maintenance facilities. Portions of the right-of-way that have not been disturbed or that are not maintained for transportation purposes are not in the existing operational right-of-way.

(26) Modernization of a highway by resurfacing, restoration, rehabilitation, reconstruction, adding shoulders, or adding auxiliary lanes (including parking, weaving, turning, and climbing lanes), if the action meets the constraints in paragraph (e) of this section.

(27) Highway safety or traffic operations improvement projects, including the installation of ramp metering control devices and lighting, if the project meets the constraints in paragraph (e) of this section.

(28) Bridge rehabilitation, reconstruction, or replacement or the construction of grade separation to replace existing at-grade railroad crossings if the actions meet the constraints in paragraph (e) of this section.

(e) Actions described in (c)(26), (c)(27), and (c)(28) of this section may not be processed as CEs under paragraph (c) if they involve:

- (1) An acquisition of more than a minor amount of right-of-way or that would result in any residential or non-residential displacements;
- (2) An action that needs a bridge permit from the U.S. Coast Guard, or an action that does not meet the terms and conditions of a U.S. Army Corps of Engineers nationwide or general permit under section 404 of the Clean Water Act and/or section 10 of the Rivers and Harbors Act of 1899;
- (3) A finding of “adverse effect” to historic properties under the National Historic Preservation Act, the use of a resource protected under 23 U.S.C. 138 or 49 U.S.C. 303 (section 4(f)) except for actions resulting in *de minimis* impacts, or a finding of “may affect, likely to adversely affect” threatened or endangered species or critical habitat under the Endangered Species Act;
- (4) Construction of temporary access, or the closure of existing road, bridge, or ramps, that would result in major traffic disruptions;
- (5) Changes in access control;
- (6) A floodplain encroachment other than functionally dependent uses (e.g., bridges, wetlands) or actions that facilitate open space use (e.g., recreational trails, bicycle and pedestrian paths); or construction activities in, across or adjacent to a river component designated or proposed for inclusion in the National System of Wild and Scenic Rivers.

## Department of Energy

DOE's CEs highlighted below cover proposed actions related to construction and relocation of short access roads as well as traffic flow adjustments, including widening and realignment, which directly align with the proposed actions covered by proposed CE #4. These proposed actions are limited to the existing right-of-way and must be consistent with applicable land use or transportation plans. DOE's extraordinary circumstances are broader than the USFS' and include scientific controversy about the environmental effects of the proposal; uncertain effects or effects involving unique or unknown risks; and unresolved conflicts concerning alternative uses of available resources. Additionally, projects cannot be segmented to meet the parameters of a CE. The CEs listed below must be documented, similar to the USFS requirement that the proposed CE must be documented in a project or case file and a decision memo.

### **DOE, 10 CFR 1021.410**

#### **Appendix B to Subpart D of Part 1021—Categorical Exclusions Applicable to Specific Agency Actions**

##### **B1. Categorical Exclusions Applicable to Facility Operation**

B1.13 Construction, acquisition, and relocation, consistent with applicable right-of-way conditions and approved land use or transportation improvement plans, of pedestrian walkways and trails, bicycle paths, small outdoor fitness areas, and short access roads and rail lines (such as branch and spur lines).

B1.32 Traffic flow adjustments to existing roads (including, but not limited to, stop sign or traffic light installation, adjusting direction of traffic flow, and adding turning lanes), and road adjustments (including, but not limited to, widening and realignment) that are within an existing right-of-way and consistent with approved land use or transportation improvement plans.

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## **Proposed CE #6: Revision to 36 CFR 220.5(e)(20)**

*As Revised* 36 CFR 220.5(e)(20). Activities that restore, rehabilitate, or stabilize lands occupied by roads and trails, including unauthorized roads and trails and NFS roads and NFS 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 a road to a more natural state by restoring natural contours and removing construction fills, loosening compacted soils, revegetating the roadbed and removing ditches and culverts to reestablish natural drainage patterns;
- (ii) Restoring a trail to a natural state by reestablishing natural drainage patterns, stabilizing slopes, reestablishing vegetation, and installing water bars; and
- (iii) Installing boulders, logs, and berms on a road segment to promote naturally regenerated grass, shrub, and tree growth.

## History of Proposed CE #20

CE #20 was established in 2012 when the USFS adopted three CEs for soil and water restoration. The current CE excludes NFS roads and NFS trails and covers only proposed actions related to unauthorized roads and trails. The USFS is seeking to add NFS roads and NFS trails to the CE to allow for decommissioning of these routes for purposes of restoration.

## Implemented Actions

The USFS has extensive on-the-ground experience with decommissioning and obliterating roads and restoring lands occupied by roads and trails, including both unauthorized roads and trails and NFS roads and NFS 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; and
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 an NFS road or NFS trail 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.

Since the category was adopted, 161 decision memos have been completed for CE #20 as of April 9, 2018. Initially, a separate NFS trail decommissioning CE was being examined as part of the work for proposed CE #3 and a separate NFS road decommissioning CE was being examined in conjunction with proposed CE #4 and CE #5. Upon further discussion and review, the interdisciplinary team determined a more efficient approach would be to modify existing CE 220.5(e)(20) to incorporate the activities for NFS roads and NFS trails. These activities on NFS roads and trails were included as part of the review done for proposed CE #2, CE #3, CE #4, and CE #5, including the review of randomly selected past actions cited earlier in this document. Representative examples of past actions and their corresponding documentation used in this review are listed in Appendix E. Some or all of these projects would be covered by the proposed CEs. Additionally, the supporting statement and appendices that were developed in 2012 for the adoption of the existing 220.5(e)(20) have been reviewed and incorporated in the record; they can be accessed online at <https://www.fs.fed.us/emc/nepa/restorationCE/index.html>.

None of the environmental analyses for the 20 projects reviewed for this proposed CE predicted

significant effects on the human environment. Based on this review of past actions, information from professional staff, experts, scientific analysis, a review of CEs 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 proposed actions would not individually or cumulatively have significant effects on the human environment and, therefore, should be categorically excluded from documentation in an EA or EIS.

In the USFS's experience, the potential for certain types of proposed actions to restore lands occupied by roads and trails to have significant effects on the human environment is generally avoided when the proposed action would take 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 CE would appear in 36 CFR 220.5(20), would require a project or case file and decision memo and would cover proposed actions to restore lands occupied by roads and trails including unauthorized roads and trails and NFS roads and NFS trails. The scope of the proposed revision to the category is consistent with the scope of the 20 projects examined in this review, each of which had no significant environmental effects. Consequently, the level of effects associated with proposed actions covered by the revised CE are expected to be below the threshold for significant environmental effects. Additionally, proposed actions would be implemented consistent with the applicable forest plan and BMPs and with any appropriate mitigation measures.

### **Information from Professional Staffs, Experts, and Scientific Analysis**

The USFS has a strong cadre of professional staff and scientists with extensive experience implementing activities identified under this category, as well as conducting scientific research on these activities. A listing of professional staffs and experts with knowledge of activities identified under this proposed CE 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 CE.

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.

In addition to the peer reviewed scientific analyses, research, and monitoring documentation cited in the record for the development of 36 CFR 220.5(e)(20), supporting information is included in Appendix E. Peer reviewed scientific analyses, research, and monitoring conducted on activities identified under this category of actions are included in Appendix F. A large body of the research and monitoring included in Appendix F and incorporated from the record for existing CE #20 focuses 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 quantify the ecological benefits of restoration treatments and using the results to adjust subsequent treatments. The focus of the research and monitoring presented here is 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 proposed CE are not significant.

### **Benchmarking Other Agencies' Experiences**

As stated previously, the USFS has an extensive and unique road and trails system that it manages as part of the NFS. Due to the uniqueness and variation of agency missions, no other Federal agency's CEs were found that directly correspond to proposed CE #6. This is similar to the finding documented when existing CE #20 was adopted. Also similar to the findings at that time, many Federal agencies have CEs that include proposed actions that align with the proposed actions covered by proposed CE #6.

An interdisciplinary team completed a review of other Federal agencies' current list of CEs. Similar to the findings associated with development of existing CE #20, no other Federal agency's CEs were found that directly correspond to the proposed CE #6. However, many Federal agencies have CEs that include proposed actions that align with the proposed actions covered by the existing and proposed CE #6. Based on this comparative review, the USFS found that it would be proposing the same or similar actions under similar circumstances with similar environmental impacts. The USFS has concluded that the addition of proposed actions involving NFS roads and NFS trails to the CE, as shown in proposed CE #6, would not individually or cumulatively result in significant effects on the human environment and, therefore, these proposed actions should not require documentation in an EA or EIS.

### **Bureau of Land Management**

BLM's CE language highlighted below correlate to the activities in the existing CE and would still be related under the proposed revision. These activities include road treatments to permit or advance recovery by artificial or natural means; to reestablish vegetative cover; to minimize erosive potential from disturbed areas; to install small infrastructure components such as signing, ditches, gates, and waterbars; as well as to close roads and trails. 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 forests or national grasslands.

DOI has a set of extraordinary circumstances that apply to all DOI agencies. BLM's extraordinary circumstances include four that are directly related to those in the USFS's list: threatened and endangered species, American Indian sacred and religious sites, sites listed in the National Register of Historic places, and cumulative effects. Other BLM extraordinary circumstances correspond to CEQ's significance criteria. See Appendix G for a comparison of agency extraordinary circumstances.

**BLM, 516 DM 11.9****(C) Forestry**

(d) shall require treatment of temporary roads constructed or used to 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 included in the existing CE and that remain in proposed CE #6. FAA's CE and the USFS's proposed CE differ in that the FAA CE is generally used in highly developed locations, whereas the USFS's proposed road CE would be used in more remote settings.

A review of FAA extraordinary circumstances indicates 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. See Appendix G for a comparison of Agency extraordinary circumstances.

**FAA, Order 1050.1E**

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

**U.S. Department of Transportation – Maritime Administration**

This U.S. Department of Transportation (DOT), Maritime Administration, CE is included in the comparability analysis as it includes activities that are the same, similar, or comparable in their environmental impacts to those included in the existing CE and would still apply under the revision in CE #6. 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. DOT's CE and the proposed USFS CE #3 differ in that the Maritime Administration CE is generally used in maritime locations, while the USFS roads CE would be used in more remote settings.

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

**DOT, 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.

**Natural Resources Conservation Service**

While the Natural Resources Conservation Service (NRCS) CE highlighted below is associated with farming and ranching activities, the restoration emphasis described within it is closely aligned with the restoration goals of proposed CE #6. NRCS's CE contrasts with the USFS's proposed CE in that NRCS proposed actions take place primarily on non-Federal lands, where USFS proposed actions are primarily focused on national forest and grasslands.

The NRCS NEPA guidance includes several extraordinary circumstances that correspond to those of the USFS, including the presence of threatened and endangered species and wetlands. Several NRCS extraordinary circumstances closely correlate with CEQ's significance criteria (40 CFR 1508.27). See Appendix G for a comparison of Agency extraordinary circumstances.

**NRCS, 7 CFR 650.6**

(d)(5) Restoring the natural topographic features of agricultural fields that were altered by farming and ranching activities for the purpose of restoring ecological processes.

**Conclusions**

The USFS finds that the category of actions defined in the proposed infrastructure CEs above would not individually or cumulatively have significant 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 146 projects reviewed for this supporting statement; information from professional staff, experts, and scientific analyses; a review of CEs implemented by other Federal agencies; a responsible official's review of CEQ's significance criteria (40 CFR 1508.27) and the extraordinary circumstances listed in 36 CFR 220.5(b) of the proposed rule; and the USFS's extensive and rich experience with implementing and monitoring of infrastructure activities.