



**Supporting Statement:
Categorical Exclusions
For Certain Special Uses, Infrastructure, and Restoration Projects**

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Introduction

The USDA Forest Service (USFS) is establishing six new categorical exclusions (CEs), consolidating two CEs into one, and modifying two existing CEs. These CEs primarily focus on projects related to special use authorizations, infrastructure, and restoration. CEs identify actions that normally do not 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. On June 13, 2019, the USFS published the proposed rule to update the Agency's NEPA procedures, including several proposed CEs (80 FR 27544). In response to public comments on the proposed rule, some of the proposed CEs were modified or deleted. The CEs outlined in this document reflect those modifications and the CEs being established in the final rule.

The Council on Environmental Quality (CEQ) regulations¹ 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 normally do not have significant effects on the human environment and, consequently, do not require preparation of an EA or an EIS. The USFS procedures for complying with and implementing NEPA are found at 36 CFR 220. The categories of actions (CEs) that do not require preparation of an EA or an EIS by the USFS are listed at 36 CFR 220.6.

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

For decades, the USFS has implemented projects authorizing a variety of land uses supporting recreation, access, energy uses, and other activities that benefit the public. The USFS also has vast experience implementing projects focused on managing infrastructure located across National Forest System (NFS) lands and increasing forest and watershed restoration. Based on subject matter expertise, review of the agency's history implementing such actions, input from the public, and benchmarking against the practices of other Federal agencies, the USFS has found that some special use, infrastructure management, and restoration activities normally do not have a significant effect on the human environment.

Our extensive experience predicting and evaluating the environmental effects of certain categories of action outlined in this supporting statement has led to the USFS establishing several new CEs. The special uses CEs are intended to help reduce backlogs for processing renewals of existing authorizations and increase efficiency in processing recreation special uses authorizations. The CEs focused on infrastructure (facilities, roads, and trails) are intended to

¹ On July 16, 2020, CEQ published a final rule in the Federal Register updating the regulations implementing the procedural provisions of NEPA (85 FR 43304). The updated regulations and their relationship to the CEs in this supporting statement are discussed in the section "Updated CEQ NEPA Regulations" below.

facilitate projects that maintain or restore ecological functions and improve the Agency's ability to manage facilities, roads, and trails. The restoration CE is intended to support forest, watershed, and habitat restoration and recovery activities, with a primary purpose of meeting restoration objectives and increasing resilience on NFS lands.

Purpose of Supporting Statement

This supporting statement summarizes the administrative record and rationale for the substantiation and establishment of new Forest Service CEs in 36 CFR 220, as amended by the final rule that this statement accompanies. The USFS establishes CEs for specified classes of actions that are supported by a record showing that they normally will not have significant effects on the human environment. 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. This supporting statement covers the following CEs, as they are listed in 36 CFR 220.6 as amended by the final rule.

36 CFR 220.6(d) *Categories of actions for which a project or case file and decision memo are not required.*

(11) Issuance of a new special use authorization to replace an existing or expired special use authorization, when such issuance is to account only for administrative changes, such as a change in ownership of authorized improvements or expiration of the current authorization, and where there are no changes to the authorized facilities or increases in the scope or magnitude of authorized activities. The applicant or holder must be in compliance with all the terms and conditions of the existing or expired special use authorization. Subject to the foregoing conditions, examples include but are not limited to:

- (i) Issuing a new authorization to replace a powerline facility authorization that is at the end of its term;
- (ii) Issuing a new permit to replace an expired permit for a road that continues to be used as access to non-NFS lands; and
- (iii) Converting a transitional priority use outfitting and guiding permit to a priority use outfitting and guiding permit.

(12) Issuance of a new authorization or amendment of an existing authorization for recreation special uses that occur on existing roads or trails, in existing facilities, in existing recreation sites, or in areas where such activities are allowed. Subject to the foregoing condition, examples include but are not limited to:

- (i) Issuance of an outfitting and guiding permit for mountain biking on NFS trails that are not closed to mountain biking;
- (ii) Issuance of a permit to host a competitive motorcycle event;
- (iii) Issuance of an outfitting and guiding permit for backcountry skiing;
- (iv) Issuance of a permit for a one time use of existing facilities for other recreational events; and
- (v) Issuance of a campground concession permit for an existing campground that has previously been operated by the Forest Service.

36 CFR 220.6(e) *Categories of actions for which a project or case file and decision memo are required.*

(3) Approval, modification, or continuation of special uses that require less than 20 acres of NFS lands. Subject to the preceding condition, examples include but are not limited to:

- (i) Approving the construction of a meteorological sampling site;
- (ii) Approving the use of land for a one-time group event;
- (iii) Approving the construction of temporary facilities for filming of staged or natural events or studies of natural or cultural history;
- (iv) Approving the use of land for a 40-foot utility corridor that crosses four miles of a national forest;
- (v) Approving the installation of a driveway or other facilities incidental to use of a private residence; and
- (vi) Approving new or additional communication facilities, associated improvements, or communication uses at a site already identified as available for these purposes.

(20) Activities that restore, rehabilitate, or stabilize lands occupied by roads and trails, including unauthorized roads and trails and National Forest System roads and National Forest System 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.

(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:

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

(22) Construction, reconstruction, decommissioning, or disposal of buildings, infrastructure, or improvements at an existing recreation site, 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. Activities within this category are intended to apply to facilities located at recreation sites

managed by the Forest Service and those managed by concessioners under a special use authorization. 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.

(23) Road management activities on up to 8 miles of NFS roads and associated parking areas. Activities under this category cannot include construction or realignment. Examples include but are not limited to:

- (i) Rehabilitating an NFS road or parking area where management activities go beyond repair and maintenance;
- (ii) Shoulder-widening or other safety improvements within the right-of-way for an NFS road; and
- (iii) Replacing a bridge along an NFS road.

(24) Construction and realignment of up to 2 miles of NFS roads and associated parking areas. Examples include but are not limited to:

- (i) Constructing an NFS road to improve access to a trailhead or parking area;
- (ii) Rerouting an NFS road to minimize resource impacts; and
- (iii) Improving or upgrading the surface of an NFS road to expand its capacity.

(25) Forest and grassland management activities with a primary purpose of meeting restoration objectives or increasing resilience. Activities to improve ecosystem health, resilience, and other watershed and habitat conditions may not exceed 2,800 acres.

(i) Activities to meet restoration and resilience objectives may include, but are not limited to:

- (A) Stream restoration, aquatic organism passage rehabilitation, or erosion control;
- (B) Invasive species control and reestablishment of native species;
- (C) Prescribed burning;
- (D) Reforestation;
- (E) Road and/or trail decommissioning (system and non-system);
- (F) Pruning;
- (G) Vegetation thinning; and
- (H) Timber harvesting.

(ii) The following requirements or limitations apply to this category:

- (A) Projects shall be developed or refined through a collaborative process that includes multiple interested persons representing diverse interests;

- (B) Vegetation thinning and harvesting activities shall be designed to achieve ecological restoration objectives. Projects under this category shall not include salvage harvesting as defined in Agency policy; and
- (C) Construction and reconstruction of permanent roads is limited to 0.5 miles. Construction of temporary roads is limited to 2.5 miles, and all temporary roads shall be decommissioned no later than 3 years after the date the project is completed. Projects may include repair and maintenance of NFS roads and trails to prevent or address resource impacts; repair and maintenance of NFS roads and trails is not subject to the above mileage limits.

CEQ Regulatory Basis for CEs

NEPA is a procedural statute intended to ensure Federal agencies consider the environmental effects of their actions in their decision-making process. NEPA requirements apply to “major Federal actions” as defined at 40 CFR 1508.1(q). 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, as necessary, and to identify in their NEPA procedures CEs for categories of actions that normally do not have a significant effect on the human environment and, therefore, do not require preparation of an EA or EIS (40 CFR 1501.3, 1501.4, 1501.6(a), 1507.3(e)(2)(ii), and 1508.1(d)).

Updated CEQ NEPA Regulations

On July 16, 2020, CEQ published a final rule in the Federal Register updating the regulations implementing the procedural provisions of NEPA (85 FR 43304). The final rule modernizes and clarifies the CEQ regulations to facilitate more efficient, effective, and timely NEPA reviews by Federal departments and agencies in connection with proposals for agency action.

CEQ’s updated regulations took effect on September 14, 2020 (40 CFR 1506.13). All agencies must comply with these regulations. Where existing USFS NEPA procedures are inconsistent with CEQ’s updated regulations, CEQ’s updated regulations shall apply, unless there is a clear and fundamental conflict with the requirements of another statute (40 CFR 1507.3(a)). Per CEQ’s updated regulations, the USFS will revise, as necessary, its agency procedures to implement the CEQ’s updated regulations no more than 12 months after September 14, 2020, including to eliminate any inconsistencies with CEQ’s updated regulations (40 CFR 1507.3(b)). The CEQ regulations apply to any NEPA process begun after September 14, 2020 and also provide that agencies may apply the updated regulations to ongoing activities and environmental documents begun before the effective date of the revised regulations (*see* 40 CFR 1506.13).

The USFS consulted with CEQ while developing the CEs discussed in this supporting statement and provided an opportunity for review by CEQ for conformity with NEPA and CEQ’s updated regulations before adopting a final rule (*see* 40 CFR 1507.3(b)). On November 10, 2020, the USFS received a letter from CEQ stating that the CEs included in the final rule are in conformance with NEPA and CEQ’s updated regulations.

Substantiating Categorical Exclusions

The USFS has used a combination of previously implemented actions; information from professional staffs, expert opinions, and scientific analysis; and benchmarking other agencies' experiences to support its new and modified CEs.

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. 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. 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.

3. Benchmarking Other Agencies' Experiences

An agency may 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.² 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 including the environmental setting in which the actions take place.

Forest Service Implementation of CEs

In compliance with the CEQ regulations, a CE is defined as "a category of actions that the agency has determined, in its NEPA procedures, normally do not have a significant effect on the human environment" (40 CFR 1508.1(d)). 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 when the proposed action is within one or more of the categories listed at 7 CFR part 1b.3 or 36 CFR 220.6(d) or (e) (36 CFR 220.6(a)).

² CEQ has determined that the categorical exclusions contained in agency NEPA procedures as of September 14, 2020 are consistent with the new CEQ regulations. *See*, § 1507.3. The Forest Service notes its concurrence that its existing categorical exclusions are consistent with the 2020 CEQ NEPA regulations. Further, CEQ has endorsed adoption or use of other agencies CEs, where appropriate. *See*, 40 CFR 1506.3(d), 1507.3(e)(5).

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, as indicated in 40 CFR 1501.4 and 36 CFR 220.6, the agency must assess whether there are extraordinary circumstances related to the effects of the proposed action. An agency may prepare an EA on an action in order to assist agency planning and decision making. See 40 CFR 1501.5(b).

Project Development

For all administrative CEs, including those established by the final rule, 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 as described at 36 CFR 220.6.³ The USFS will make diligent efforts to involve the public in implementing its NEPA procedures as required by CEQ's revised NEPA regulations at 40 CFR 1506.6. The Agency's final rule does not address or reduce existing Agency public involvement practices concerning CEs. Responsible officials determine the public engagement necessary to ensure informed decision making and use this input to help inform the proposed action. Use of CEs as documented by a decision memo will also be posted to the Schedule of Proposed Actions (36 CFR 220.4(d)). The USFS evaluates each individual action it proposes under NEPA using an interdisciplinary process, including those actions it ultimately determines meet their NEPA obligations with a CE.

In determining whether a particular proposed action qualifies for reliance on a CE, the USFS responsible official must first determine if the proposed action fits within the description of a category of actions that is identified as a CE in the agency's NEPA regulations (36 CFR 220.6(a)). The responsible official must also conduct an extraordinary circumstances review. In this review, the responsible official considers a list of resource conditions to determine whether extraordinary circumstances related to the proposed action warrant further analysis and documentation in an EA or EIS. The list is intended to be a starting place and does not preclude consideration of other factors or conditions by the responsible official, at the responsible official's discretion in conformity with CEQ's NEPA regulations.

The list of resource conditions to be considered in conducting the extraordinary circumstances review includes:

- Federally listed threatened or endangered species or designated critical habitat, species proposed for Federal listing or proposed critical habitat, or Forest Service sensitive species;
- Flood plains, wetlands, or municipal watersheds;
- Congressionally designated areas, such as wilderness, wilderness study areas, or national recreation areas;
- Inventoried roadless area or potential wilderness area;
- Research natural areas;

³ In its updated NEPA regulations, CEQ established extraordinary circumstances requirements that reflect current USFS practice as codified at 36 CFR 220.6(b). *See* (see 85 FR 43304, 43322, & n. 78 (Jul 16, 2020) (explaining the extraordinary circumstances process at 40 CR 1501.4(b) and noting that this reflects current practice for the USFS).

- American Indians and Alaska Native religious or cultural sites; and
- Archaeological sites, or historic properties or areas.

If one or more of the resource conditions included in the extraordinary circumstances at 36 CFR 220.6(b) exists, the responsible official assesses the degree of the potential effect of a proposed action on the listed resource conditions.

The mere presence of any one or more resource conditions does not preclude the use of a CE. It is the existence of a cause-effect relationship between a proposed action and the potential effect on these resource conditions, and if such a relationship exists, the degree of the potential effect on these resource conditions that determines whether extraordinary circumstances exist (36 CFR 220.6(b)(2), *see also* 40 CFR 1501.4(b)(1)). The responsible official relies on many sources of information in determining whether extraordinary circumstances preclude reliance on a CE, which may include input from the public, input from the interdisciplinary team process, and consultation with other agencies. Additionally, the responsible official considers whether application of best management practices or design features to a proposed action would reduce the degree of effects to eliminate the potential for extraordinary circumstances precluding the use of the CE.

In developing a proposed action, an interdisciplinary team will evaluate whether an activity would be consistent with the land management plan. Each Forest Service proposed action, including those authorized with a CE, must be consistent with the applicable land management plan (16 U.S.C. 1604(i)). Consistency with land management plans may include aligning the proposed action with the plan goals, objectives, components, desired conditions, standards, guidelines, and management area restrictions. 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. A proposed action may include a plan amendment and still be deemed consistent with the land management plan.

Development of a proposed action must also account for compliance with other laws, regulations, and policies. Reliance on a CE for NEPA compliance 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 interagency consultation 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 to agency actions independently of NEPA. 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.

During the project development process, projects are frequently designed with project-specific design features. These design features are integrated into proposed actions in order to minimize environmental effects. This can include identifying best management practices that must be accounted for to address local site conditions; some decision documents prescribe specific national core best management practices and require their implementation during project implementation. Examples of potential design features are provided in discussion of each of the sections related to the established CEs.

Taken together, the components of project development (consistency with the land management plan, compliance with other laws, addition of site-specific design features, determination of the degree of effects, and consideration of public input) provide the responsible official the necessary information to determine whether reliance on a CE is appropriate. When a responsible official determines that reliance on a CE is not appropriate, the responsible official will not categorically exclude the action and will instead prepare the appropriate documentation for compliance with NEPA (36 CFR 220.6(b)).

CEs listed in section 36 CFR 220.6(e) require a case file and decision memo. A decision memo documents the decision to be implemented, the category used and the rationale for doing it, and a finding that no extraordinary circumstances exist, among other pertinent information described in 36 CFR 220.6(f). As a minimum, a case file should include any records prepared, such as: the names of interested and affected people, groups, and agencies contacted; the determination that no extraordinary circumstances exist; a copy of the decision memo; and a list of the people notified of the decision (36 CFR 220.6(e)).

Process and Supporting Information for Development of New CEs

This section explains how the USFS determined that the categories of actions listed below should be categorically excluded from documentation in an EA or EIS under NEPA. The USFS provides a justification for each 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.

For the categories of actions established as CEs, the USFS conducted interdisciplinary meetings and discussions with agency experts to review past agency actions. The USFS relied upon these discussions, experiences, environmental reviews, and expertise to determine that the categories of 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 CE.

The USFS also collated environmental review information, data, and scientific research from field units that have undertaken projects in these categories 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 Planning, Appeals, and Litigation System (PALS).

For several projects, effects findings were verified through monitoring. The data and information provided represent on-the-ground knowledge, experience, and judgment of the contributing interdisciplinary specialists, responsible officials, and researchers.

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

Overview of Related Policies, Practices, and Programs

Design Features and Best Management Practices

The Forest Service incorporates design features and best management practices as a standard operating procedure into proposed actions at all levels of NEPA analysis in order to avoid or minimize impacts, as described below in the discussion of individual CEs. Examples of design features that could be included in development of a proposed action for each category are included in the individual justifications for each of the CEs below. The USFS developed the National Best Management Practices (BMPs) Program⁴ 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. The specific BMPs related to the individual CEs are included in the individual substantiation of the CEs below. The Forest Service reviewed recent decision memos for projects using the Healthy Forest Restoration Act CEs and found they all included incorporation of design features and/or best management practices.

Special Uses Management

For decades the USFS has authorized a variety of land uses supporting recreation, access, energy uses, and other activities that benefit the public. All uses of NFS lands, improvements, and resources are designated “special uses,” except those authorized by the regulations governing sharing use of roads; grazing and livestock use; the sale and disposal of timber and special forest products, such as greens, mushrooms, and medicinal plants; and minerals. The Agency has experienced a backlog of more than 5,000 applications for new special use permits and renewals of existing special use permits that are awaiting environmental analysis and decision. On average, the Forest Service annually receives 3,000 applications for new special use permits. Before conducting a special use, individuals or entities generally must submit a proposal to the authorized officer and must obtain a special use authorization from the authorized officer. The regulatory requirements for processing special use applications are outlined at 36 CFR 251 and additional direction for FS staff is found at FSM 2710, FSM 2720, and FSH 2709.11. These requirements include a two-level screening process to reach a determination to approve or deny an application and proposed use. These policies and procedures would continue to apply to the CEs in the final rule for special use authorizations.

⁴ <https://www.fs.fed.us/biology/watershed/BMP.html>

Existing USFS CEs for Special Uses Activities

The USFS has existing CEs (d)(10) and (e)(15) (as identified in 36 CFR 220.6 promulgated in 2008) for use when modification or reauthorization of an existing special use does not involve changes in the authorized facilities or increase in the scope or magnitude of authorized activities, and only when the permit holder is in full compliance with the terms and conditions of the special use authorization. In the proposed rule, the USFS consolidated these two CEs and the consolidated CE is being carried forward in the final rule at 36 CFR 220.6(d)(11). The USFS also has existing CE (e)(3) for approval, modification, or continuation of special uses. In the proposed rule, this existing CE was expanded from 5 acres to 20 acres. This expanded CE is being carried forward in the final rule at (e)(3). Additionally, the USFS has a CE located at 220.6(d)(8) for approval, modification, or continuation of minor, short-term (1 year or less) special uses of NFS lands. No changes are being made to that CE.

Infrastructure Management – Facilities, Roads, and Trails

The USFS infrastructure includes over 370,000 miles of roads, 18,000 miles of powerline facilities, 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 National Forest System (NFS) lands 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. The Forest Service provides access to roughly 29,700 recreation sites.

More than half of all facilities need improvement, with roughly 41 percent needing major repairs or renovation.⁵ Of the 40,000 buildings owned by USDA and utilized by the Forest Service, 62 percent are more than 25 years old and 39 percent are more than 50 years old.⁶ 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

⁵ USDA FS, *The Rising Cost of Wildfire Operations: Effects on the Forest Service's Non-Fire Work* (Aug. 2015).

⁶ USDA FS, *Comprehensive Capital Improvement Plan* (Aug. 2019).

decrease in asset value. Deferred maintenance can also pose health and safety concerns.⁷

Maintenance of NFS roads has declined over the last 20 years, while demands for access have increased. This increased use of the NFS roads network has caused the aging network to deteriorate, which can contribute to degradation of fish and wildlife habitats and result in safety concerns. Bridges in poor condition or that are older and are not designed for current loads can impede economic activity, reduce watershed health, and hinder aquatic habitat connectivity. Of 6,200 road bridges, roughly 75 percent are over 40 years old and 10 percent are in poor condition.⁸

Administrative and Recreation 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 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. 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.

FSH 2309.13, chapter 10, provides further direction on recreation facility planning, including the design narrative. A Design Narrative clarifies existing forest plan direction and the scope and scale of the project and guides the design and implementation of recreation facility projects. A recreation facility is anything human-built or -placed in the landscape, including individual features, infrastructure, and collections of features that support managed recreation opportunities and experiences (FSH 2309.13).

Travel Management

The Travel Management Rule (36 CFR 212) contains subparts A, B, and C. Subpart A establishes requirements for administration of the Forest transportation system, including roads, trails, and airfields, and contains provisions for acquisition of rights-of-way. Subpart B covers the designation of roads, trails, and area for motor vehicle use, and Subpart C covers designation of roads, trails, and areas for over-snow vehicle use. Travel analysis helps inform decisions relating to administration of the Forest transportation system and helps to identify proposals for changes in travel management direction.

In implementing 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

⁷ USDA, Office of the Inspector General, *Forest Service Deferred Maintenance: Audit Report 08601-0004-31* (May 2017).

⁸ USDA FS, *Comprehensive Capital Improvement Plan* (Aug. 2019).

roads and trails. Travel analysis is a dynamic, interdisciplinary, science-based process that examines ecological, social, cultural, and economic concerns. Information from the travel analysis process is used to inform future travel management decisions at the project level. Travel management decisions identify whether a route needs to be added or removed, if an NFS road needs to be constructed, or if a route needs to be decommissioned, amongst other activities.⁹

Prior to use of the CEs defined in the rule, the identification of an NFS road or trail as unneeded and eligible for decommissioning or of a road needing to be constructed would occur through the travel analysis and travel management decision processes. The CEs do not make access decisions; access decisions for NFS roads and trails are made through the travel management process. The CEs do not involve decisions to add roads to the forest transportation system. Rather, once the Agency has determined that a road needs to be constructed through travel management, a CE could be used to comply with NEPA to support the decision to authorize the actual road construction.

Existing USFS CEs for Infrastructure Activities

The USFS has multiple existing CEs that cover actions related to the new CEs established for infrastructure management, including administrative sites, recreation sites, and roads and trails, as described below.

Administrative Sites

The USFS has a CE at 36 CFR 220.6(d)(3) that 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 new CE at 220.6(e)(21) would allow the USFS to complete environmental analysis of proposed actions covering construction, reconstruction, and disposal of administrative sites more efficiently. The CE will require documentation in a decision memo and will be limited to existing administrative sites. The new CE is intended to add a category of proposed actions covered by a CE rather than replace or modify the existing CE (d)(3).

Recreation Sites

The USFS has an existing CE for repair and maintenance of recreation sites and facilities ((d)(5)) that does not require a decision memo. The existing CE typically covers routine activities for keeping fixed assets in an acceptable condition and does not require documentation in a decision memo. Much of the USFS's extensive deferred maintenance backlog goes beyond routine repair and maintenance. The new recreation sites CE varies from the existing CEs in that the new CE would cover a broader range of management activities at existing recreation sites. The new CE will require documentation in a decision memo and will be limited to existing recreation sites. The new CE is intended to add a category of proposed actions covered by a CE rather than replace or modify the existing CE (d)(5).

⁹ A route is defined in FSH 7705 as "Route. A road or trail." A NFS road is defined by 36 CFR 212 as "National Forest System Road. A Forest road other than a road which has been authorized by a legally documented right-of-way held by a State, county, or local public road authority."

Road and Trail Management

The USFS has an existing CE, 36 CFR 220.6(d)(4), that covers repair and maintenance of roads, trails, and landline boundaries. The existing CE does not require documentation in a decision memo. The existing CE covers routine maintenance of NFS roads, while the new roads management CEs at (e)(23) and (24) would cover broader NFS road management activities. The new CEs also include mileage limits for certain activities to limit the amount of proposed disturbance covered by the CE. The new CEs are intended to add categories of proposed actions covered by a CE rather than replace or modify the existing CE (d)(4).

The revision to the existing CE at 36 CFR 220.6(e)(20) would broaden it to include NFS roads and NFS trails; the current application of the CE limits it to unauthorized roads and trails. The CE would continue to require documentation in a project or case file and a decision memo.

Restoration and Resilience Focus

The USFS's *Strategic Plan for FY 2015-2020*¹⁰ includes an emphasis on developing forest and grassland ecosystems that are resilient and adaptive to a changing environment. This includes an emphasis on restoring ecosystems that are naturally adapted to wildland fire and repairing ecosystems that have been damaged by severe wildfire. To meet this goal, the USFS seeks to maintain resilient land and water conditions at the watershed level and to restore deteriorated lands and waters (such as abandoned mine lands and areas of unmanaged recreation use that need rehabilitation). The USFS also seeks to develop and apply mitigation, treatment, and restoration methods, technologies, and strategies for addressing disturbances such as wildfire, human use, invasive species, insects, and extreme weather events. The long-term result of this objective is for the nation's forests and grasslands to be in a healthy and ecologically resilient condition.

The USFS uses ecological restoration to manage NFS lands in a sustainable manner (Forest Service Manual (FSM) 2020). The aim is to re-establish 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 environmental conditions. (FSM 2020.2).

The Forest Service defines restoration in its Ecosystem Restoration Policy (FSH 1909.12 and 36 CFR 219.19) as “the process of assisting the recovery of an ecosystem that has been degraded, damaged, or destroyed. Ecological restoration focuses on reestablishing the composition, structure, pattern, and ecological processes necessary to facilitate terrestrial and aquatic ecosystems sustainability, resilience, and health under current and future conditions. Functional restoration focuses on the underlying processes that may be degraded, regardless of the structural condition of the ecosystem.”

In addition, the USFS watershed condition policy goal is “to protect National Forest System

¹⁰ 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

watersheds by implementing practices designed to maintain or improve watershed condition, which is the foundation for sustaining ecosystems and the production of renewable natural resources, values, and benefits” (FSM 2520).

Existing USFS CEs for Restoration Activities

The USFS has several existing CEs, documented at 36 CFR 220.6(e), that have similar activities to those included in the restoration CE. These existing CEs include (6) timber stand and/or wildlife habitat improvement; (11) post-fire rehabilitation activities; (12) harvest of live trees; (14) commercial and non-commercial sanitation harvest of trees to control insects or disease; (18) restoring wetlands, streams, riparian areas; and (20) activities that restore, rehabilitate, or stabilize lands occupied by roads and trails. All of these CEs apply the consideration of extraordinary circumstances (36 CFR 220.6(b)) and require documentation in a project or case file and a decision memo (36 CFR 220.6(e)).

The USFS also uses two categories established by Congress from amendments to the Healthy Forests Restoration Act of 2003 (HFRA). These CEs address activities to reduce risk from insects and disease, and risk of wildfire on Federal public lands, which are similar in both intent and activity to activities proposed under the restoration CE. The USFS’s restoration CE includes some similar limitations related to collaboration and road and trail work. The CE differs from the HFRA CEs in that it allows for a broader scope of restoration activities, is not limited to the areas designated by statute, and is limited to 2,800 acres. The two HFRA CEs are limited to 3,000 acres. More information on the two HFRA CEs is included in the substantiation section specific to the restoration CE, beginning on page 62.

While the types of activities may be similar, the restoration CE is distinct from these existing CEs in that it would allow activities to be implemented in areas outside those specified in HFRA. The restoration CE is also unique in that it requires collaboration and contains some specific limitations on treatment activities and on road and trail activities, similar to requirements for the HFRA CEs. Forest Service CEs are independently established, as has been the case with historical agency practice concerning development and use of CEs. The activities covered by, or limitations in, a particular CE do not constrain or limit the operation of any other category. Likewise, more than one CE may apply to an activity. The activities allowed under the CE are similar to those that can be implemented under stewardship contracting (Section 604 (16 USC 6591c) of Public Law 108-148 as amended by Section 8205 of Public Law 113-79, the Agricultural Act of 2014), though stewardship contracting would not be a required mechanism for implementation under the restoration CE.

Substantiation of Individual Categorical Exclusions

Special Uses – (d)(11)

(11) Issuance of a new special use authorization to replace an existing or expired special use authorization, when such issuance is to only account for administrative changes, such as a change in ownership of authorized improvements or expiration of the current authorization, and where there are no changes to the authorized facilities or increases in the scope or magnitude of authorized activities. The applicant or holder must be in compliance with all the terms and conditions of the existing or expired special use authorization. Subject to the foregoing conditions, examples include but are not limited to:

- (i) Issuing a new authorization to replace a powerline facility authorization that is at the end of its term;
- (ii) Issuing a new permit to replace an expired permit for a road that continues to be used as access to non-NFS lands; and
- (iii) Converting a transitional priority use outfitting and guiding permit to a priority use outfitting and guiding permit.

References to existing CEs (d)(10) and (e)(15) reflect their location at 36 CFR 220.6 as promulgated in the 2008 regulations. For easy reference, they are:

(d)(10) Amendment to or replacement of an existing special use authorization that involves only administrative changes and does not involve changes in the authorized facilities or increase in the scope or intensity of authorized activities, or extensions to the term of authorization, when the applicant or holder is in full compliance with the terms and conditions of the special use authorization. Examples include but are not limited to:

- (i) Amending a special use authorization to reflect administrative changes such as adjustment to the land use fees, inclusion of non-discretionary environmental standards or updating a special use authorization to bring it into conformance with current laws or regulations (for example, new monitoring required by water quality standards), and
- (ii) Issuance of a new special use authorization to reflect administrative changes such as, a change of ownership or control of previously authorized facilities or activities, or conversion of the existing special use authorization to a new type of special use authorization (for example, converting a permit to a lease or easement).

(e)(15) Issuance of a new special use authorization for a new term to replace an existing or expired special use authorization when the only changes are administrative, there are not changes to the authorized facilities or increases in the scope or intensity of authorized activities, and the applicant or holder is in full compliance with the terms and conditions of the special use authorization.

History of Existing CEs

CE (d)(11) is a combination of the CEs previously found at (d)(10) and (e)(15). Wording in the two existing categories created confusion because one category, (e)(15), required a decision memo and authorized a new term for existing or expired permits, while the other category, (d)(10), did not require a decision memo and applied to permits that needed administrative changes other than authorizing a new term (e.g. updating name on the permit due to change in ownership). Both categories, however, were limited to administrative changes where the scope or magnitude of authorized activities would not change and the applicant or permit holder were in full compliance with the terms and conditions of the special use authorization. Accordingly, the Agency determined that a decision memo was not necessary for the new category. The new category retains the provision from (e)(15) allowing authorization of a new term. The new category also adds examples to enhance clarity.

Implemented Actions

The USFS has extensive experience authorizing special uses ranging from one-time recreation events to long-term use and occupancy of NFS lands, including outfitting and guiding; rights-of-

way for power lines, utilities, oil and gas transmission lines, and road access to private lands; recreational residences; organization camps; and communications sites.

From fiscal years 2012 through 2016, category (e)(15) was used 1,584 times (roughly 317 times per year). This review indicated that the CE is being used as intended and within its limiting factors. Decision documents for existing CE (d)(10) cannot be reviewed because the CE did not require a documentation in a decision memo. Categories that do not require a decision memo are not required to be entered into PALS. However, for those projects completed using category (d)(10) that were voluntarily added to PALS, the CE was recorded as used 157 times between fiscal years 2012 through 2016.

Additionally, the USFS analyzed two EAs for which this category would apply from the review of past agency actions described above. One of the EAs authorized the conversion of 15 transitional special use permits into priority use permits. The other EA authorized the continued use of 5 recreation residences and renewal of the associated special use permits. The USFS reached a finding of no significant impact on each of these EAs. These projects are listed in Appendix A1.

BMPs and Design Features

The purpose of the Recreation and Special Uses Management Activities core BMPs developed by the USFS is to avoid, minimize, or mitigate adverse effects on soil, water quality, and riparian resources that may result from management activities located on NFS lands. Following are some of the National BMPs that would be considered by interdisciplinary teams when planning and implementing projects covered by (d)(11):

BMP	Objective
Fac-1 Facilities and Non-Recreation Special Uses Planning	Use the applicable special use authorization and administrative facilities planning processes to develop measures to avoid, minimize, or mitigate adverse effects on soil, water quality, and riparian resources during construction and operation of facilities and non-recreation special use activities.
Fac-8 Non-Recreation Special Use Authorizations	Avoid, minimize, or mitigate adverse effects on soil, water quality, and riparian resources from physical, chemical, and biological pollutants resulting from activities under non-recreation special use authorizations.
Rec-9 Recreation Special Use Authorizations	Avoid, minimize, or mitigate adverse effects on soil, water quality, and riparian resources from physical, chemical, and biological pollutants resulting from activities under recreation special use authorizations.

Following are examples of design features that are typically incorporated into proposed actions developed using category (d)(11) or of terms and conditions that would be specified in the permit. Conditions or stipulations are also frequently included as part of a permit, which require the holder to meet certain environmental protection measures or face termination of the permit or civil or criminal penalties.

Resource	Design Feature/Terms and Conditions Examples
Wildlife	All permits will comply with the Reasonable and Prudent Measures, Terms and Conditions, the Conservation Recommendations listed in the 2012 USFWS Biological Opinion.
Riparian/wetland areas	Livestock use will be discouraged in sensitive riparian/wetland areas.
Invasive Plants	Agency-approved seed will be used to revegetate areas of exposed soil, straw, or certified weed-free hay will be used if mulching is needed and follow-up monitoring will be required to insure revegetative work is successful.
Plants/Vegetation	Livestock will be restrained at least 100 feet from water sources and in a manner that does not damage trees, tree roots and fragile vegetation.

Info from Professional Staff, Experts, and Scientific Analysis

The USFS has a strong cadre of professional staff and scientists with extensive experience in special uses management on NFS lands. Appendix A2 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 CE based on their expertise.

Benchmarking Other Agencies' Experience

An interdisciplinary team reviewed lists of other Federal agencies' CEs and extraordinary circumstances.¹¹ Cited below are CEs from other Federal agencies that cover proposed actions like those covered by CE (d)(11). For example, CEs highlighted below include lease and permit renewals for activities like those authorized by the USFS, such as rights-of-way, cabin sites, easements, and other uses.

Based on this review, the USFS's interdisciplinary team found that the special use CE would cover proposed activities that would be similar in size and scope, that would be conducted under similar resource conditions, and would have similar environmental effects to the CEs of other Federal agencies. In addition, each agency's extraordinary circumstances were found to address several commonalities with the USFS's extraordinary circumstances (regarding threatened and endangered species, American Indian sacred and religious sites, and sites listed in the National Register of Historic Places).

Bureau of Land Management (Department of Interior (DOI)/Bureau of Land Management (BLM): 516 DM Chapter 11.9.E)

(9) Renewals and assignments of leases, permits, or rights-of-way where no additional rights are conveyed beyond those granted by the original authorizations.

Bureau of Reclamation (DOI/Reclamation: 516 DM 14.5.D.)

(8) Renewal of existing grazing, recreation management, or cabin site leases which do not increase the level of use or continue unsatisfactory environmental conditions.

¹¹As noted above, CEQ has determined that the categorical exclusions contained in agency NEPA procedures as of September 14, 2020, are consistent with the new CEQ regulations. *See*, § 1507.3 Agency NEPA procedures. Additionally, the Forest Service notes its concurrence that its existing categorical exclusions are consistent with the 2020 CEQ NEPA regulations.

U.S. Fish and Wildlife Service (DOI/USFWS: 516 DM 8.5)

(5) The issuance or reissuance of special use permits for the administration of specialized uses, including agricultural uses, or other economic uses for management purposes, when such uses are compatible, contribute to the purposes of the refuge system unit, and result in no or negligible environmental effects.

National Park Service (DOI/NPS: 516 DM 12.5.A)

(1) Changes or amendments to an approved action when such changes would cause no or only minimal environmental impact.

(4) Reissuance/renewal of permits, rights-of-way or easements not involving new environmental impacts.

U.S. Department of Defense, Navy (DOD/Navy: 32 CFR 775.6)

(17) Renewals and/or initial real estate ingrats and outgrants involving existing facilities and land wherein use does not change significantly. This includes, but is not limited to, existing Federally-owned or privately-owned housing, office, storage, warehouse, laboratory, and other special purpose space.

U.S. Department of Defense, Air Force (DOD/USAF: 32 CFR Part 989, Appendix B)

A2.3.7. Continuation or resumption of pre-existing actions, where there is no substantial change in existing conditions or existing land uses and where the actions were originally evaluated in accordance with applicable law and regulations, and surrounding circumstances have not changed.

Department of Homeland Security (DHS Instruction Manual #023-01-001-01)

C2. Lease extensions, renewals, or succeeding leases where there is no change in the facility's use and all environmental operating permits have been acquired and are current.

U.S. Department of the Treasury (Treasury Directive 75-02)

C2. Lease extensions, renewals, or succeeding leases for real property and all facilities on such property where there is no change in the facility's use and all environmental permits have been acquired and are current.

This CE is codified at 36 CFR 220.6(d)(11) and is listed under categories of actions that do not require documentation in a case file or decision memo.

Special Uses – (d)(12)

(12) Issuance of a new authorization or amendment of an existing authorization for recreation special uses that occur on existing roads or trails, in existing facilities, in existing recreation sites, or in areas where such activities are allowed. Subject to the foregoing condition, examples include but are not limited to:

- (i) Issuance of an outfitting and guiding permit for mountain biking on NFS trails that are not closed to mountain biking;
- (ii) Issuance of a permit to host a competitive motorcycle event;
- (iii) Issuance of an outfitting and guiding permit for backcountry skiing;
- (iv) Issuance of a permit for a one time use of existing facilities for other recreational events; and
- (v) Issuance of a campground concession permit for an existing campground that has previously been operated by the Forest Service.

Implemented Actions

The USFS has substantial experience authorizing recreation special uses that occur on existing NFS roads or NFS trails, in existing facilities, or at existing recreation sites. Many of these recreation special uses occur on existing NFS roads or NFS trails or in existing facilities that are designed and managed for those uses and have no more impacts than noncommercial public use.

The Forest Service reviewed the NEPA documentation for 12 recent projects that relate specifically to the types of actions associated with this CE, ranging from recreation events involving motor vehicle use, mountain bike use, or horseback use on existing NFS roads and NFS trails to outfitter and guide permits for snowmobiling, cat-skiing, backpacking, and fly-fishing activities. The environmental analyses detailed in Appendix A1 support proposed actions that would be covered by this special uses CE. The USFS reached a finding of no significant impact on each of the environmental assessments associated with these projects.

The USFS additionally obtained information related to implementation and monitoring for two of these 12 projects. Specifically, the USFS surveyed personnel 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. For the projects listed in Appendix A1, the respondents indicated that the effects were not more 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 analyses for the projects reviewed for this special uses CE predicted significant impacts on the human environment.

BMPs and Design Features

The purpose of the Recreation and Special Uses Management Activities core BMPs developed by the USFS is to avoid, minimize, or mitigate adverse effects on soil, water quality, and riparian resources that may result from management activities located on NFS lands. Following are some of the National BMPs that would likely be considered by interdisciplinary teams when planning and implementing projects utilizing CE (d)(12):

BMP	Objective
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.

Following are examples of design features that are typically incorporated into proposed actions developed using category (d)(12). Additionally, permit clauses, terms, and conditions that are designed to protect resources are usually incorporated into a special use permit to fit on-the-ground conditions. Conditions or stipulations are also frequently included as part of a permit, which require the holder to meet certain environmental protection measures or face termination of the permit or civil or criminal penalties.

Resource	Design Feature Examples
Cultural/Heritage	Known sites along the proposed routes would be annually monitored, as part of

	<p>routine ground operations, by an archeologist prior to and following the events. Known sites would be visually monitored for damage to sites due to evidence of vehicle tracks off of the designated trails into the sites. If monitoring results detect impacts from the motorcycle events, either signs or barricades would be installed. Areas impacted from the event would be excluded from further use and impacts mitigated.</p>
Wildlife	<p>Should a nesting and/or reproductive pair of either spotted owl or northern goshawk be located within ¼ mile of event routes or staging areas, during February 15 through September 15 (Sierra Nevada Forest Plan Amendment Record of Decision, pages 60 to 61); the district wildlife biologist, project manager, line officer, and event organizers would take appropriate measures to reduce or remove potential disturbance effects (noise or human activity) from the events.</p> <p>Other measures to protect habitat for species of concern and to meet standards and requirements of the Forest Plan include any trees felled should be left in place to provide for hiding cover and foraging and resting habitat.</p> <p>Prior to the first event, race staff will be trained to identify southern rubber boas and proper procedures to avoid harm/harassment should any boas be encountered during events, event setup/cleanup, and trail maintenance. Likewise, race participants will be informed in event sign-up paperwork that deliberately harming or harassing native wildlife species during races or practice is prohibited and can result in disqualification.</p>
Water/Riparian Areas	<p>No modification to living vegetation or woody debris within Riparian Reserves or within wetted width of stream/river channels is permitted for the purposes of launching rafts or kayaks, creating open waterways for floating rafts/fishing boats or whitewater kayaking, or for ease in take-out.</p> <p>Permittees will not create access points along streambanks and shorelines for boat launch (put-in) and landing (take-out).</p>
Invasive Plants	<p>If noxious weed sites are discovered within the project area, report the sighting to the West Zone Botanist. The site will be reviewed on the ground and invasive plant prevention practices will be developed as appropriate. This area will be monitored for noxious weeds as part of the Forest’s invasive plant detection and monitoring program.</p>
Plants/Vegetation	<p>Consider adding re-vegetation measures to the site management plan. Where needed, areas could be seeded or planted with native species to reduce bare ground, lowering the risk of introduction of noxious weeds and reducing erosion.</p> <p>Prior to each race season, the Forest Service permit administrator and Forest Service botanist will meet in the field with Team Big Bear, identifying specific avoidance areas. Avoidance areas will include all areas where the event course passes adjacent to occupied threatened and endangered plant habitat and some areas where the event course passes adjacent to suitable habitat or occupied sensitive plant habitat.</p>

Recreation	<p>All camp locations will be in existing disturbed campsites. No new disturbance is permitted. The outfitter will report campsite use annually as part of their final use report.</p> <p>If the Forest Service determines that existing campsites need to be closed to protect resources, any sites may be prohibited from use by the permittee and alternate sites may be designated by the Forest Service.</p> <p>Permitted use will be limited to existing trails. Constructing, placing or maintaining any kind of trail or other improvement on National Forest System land without a special use authorization, contract, or approved operating plan is prohibited (36 CFR 261.10a).</p>
Equipment/Roads	<p>Actions conducted or authorized by written permit by the Forest Service that will operate outside the limits of the road prism (including public works and service contracts), require the cleaning of all heavy equipment (bulldozers, skidders, graders, backhoes, dump trucks, etc.) prior to entering National Forest System Lands.</p>
Firewood	<p>No standing trees, including snags, will be cut or damaged, nor will any material be attached to trees with nails or wire. If an immediate, unavoidable safety hazard is posed the outfitter-guide should select an alternate site and notify the Forest Service of the hazard as soon as possible.</p>
Regulations	<p>All outfitter-guides and clients are subject to the same rules and regulations that pertain to the non-guided public. Outfitter-guides shall review with clients pertinent regulations and appropriate use practices, including those posted at trailheads and/or referenced in the operating plan.</p>
Grazing	<p>To ensure grazing permits are able to be managed by the Forest Service and grazing permittees, commercial outfitters and guides will only be authorized use of range developments when there are no conflicts with allotment management.</p>

Info from Professional Staff, Experts, and Scientific Analysis

The USFS has a strong cadre of professional staff and scientists with extensive experience in special uses management on NFS lands. Appendix A2 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 CE based on their expertise.

Benchmarking Other Agencies' Experience

An interdisciplinary team reviewed other Federal agencies' CEs and extraordinary circumstances. Cited below are CEs from other Federal agencies that cover proposed actions like those covered by this special uses CE. Based on this review, the USFS's interdisciplinary team found that CE (d)(12) would cover proposed actions that would be similar in size and scope, would occur under similar resource conditions, and would have similar environmental effects to the CEs of other Federal agencies. Like the USFS, the CEs cited below are limited to recreation special uses.

In addition, a review of the other Federal agencies' extraordinary circumstances determined that they have several commonalities with the USFS's (regarding threatened and endangered species, American Indian sacred and religious sites, and sites listed in the National Register of Historic

Places).

Bureau of Land Management (DOI/BLM: 516 DM 11 - 11.9.E)

H. Recreation Management. Issuance of Special Recreation Permits for day use or overnight use up to 14 consecutive nights; that impacts no more than 3 staging area acres; and/or for recreational travel along roads, trails, or in areas authorized in a land use plan. This CX cannot be used for commercial boating permits along Wild and Scenic Rivers. This CX cannot be used for the establishment or issuance of Special Recreation Permits for “Special Area” management (43 CFR 2932.5).

U.S. Department of Defense, U.S. Navy (32 CFR Part 775)

(31) Approval of recreational activities which do not involve significant physical alteration of the environment or increase human disturbance in sensitive natural habitats and which do not occur in or adjacent to areas inhabited by endangered or threatened species.

Department of Homeland Security (DHS Instruction Manual #023-01-001-01)

B6 Approval of recreational or public activities or events at a location typically used for that type and scope (size and intensity) of activity that would not involve significant physical alteration of the environment.

In the USFS’s experience, the potential for special uses to have significant effects on the human environment is generally avoided when special uses occur on existing NFS roads or NFS trails, in existing facilities, or in areas where such recreation special use is allowed.

This CE is codified at 36 CFR 220.6(d)(12) and is listed under the categories of actions that would not require a project or case file and decision memo.

Special Uses – (e)(3)

(3) Approval, modification, or continuation of special uses that require less than 20 acres of NFS lands. Subject to the preceding condition, examples include but are not limited to:

- (i) Approving the construction of a meteorological sampling site;
- (ii) Approving the use of land for a one-time group event;
- (iii) Approving the construction of temporary facilities for filming of staged or natural events or studies of natural or cultural history;
- (iv) Approving the use of land for a 40-foot utility corridor that crosses four miles of a national forest;
- (v) Approving the installation of a driveway or other facilities incidental to use of a private residence; and
- (vi) Approving new or additional communication facilities, associated improvements, or communication uses at a site already identified as available for these purposes.

Implemented Actions

The USFS has substantial experience authorizing special uses that involve minimal acreage. Between fiscal years 2012 through 2016, a decision memo for the existing CE was completed 2,176 times. While the CE was completed using the five acres bound, the activities covered under the current CE are very similar to those covered under the expanded CE.

The USFS reviewed the NEPA documentation for 62 recent projects that relate to actions associated with this CE. These projects are listed in Appendix A1. The activities in those projects

included:

- New electric transmission and distribution line construction;
- Replacement, relocation, and upgrades to existing transmission lines and towers;
- Construction of fiber optic communication lines;
- New construction of natural gas pipelines;
- Maintenance and replacement of existing natural gas pipelines;
- Construction of new water pipelines and replacement or extension of existing water pipelines;
- Construction of water treatment plants, related facility expansion, and water storage tank construction;
- Repair and expansion of existing dams and associated facilities;
- Construction of communications facilities at existing and new sites;
- Reconstruction and widening of existing roads, construction and reconstruction of access roads, and bridge replacement;
- Expansion of an existing cinder pit; and
- Vegetation management that is incidental to the above activities.

The average size of these projects was 41.9 acres, with a range from under five acres to over 300 acres. The environmental analyses detailed in Appendix A1 support proposed actions that would be covered by this special uses CE. The USFS reached a finding of no significant impact on each of the environmental assessments associated with these projects.

The USFS additionally obtained information related to implementation and monitoring of 9 of these projects. Specifically, the USFS surveyed personnel located 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. For the projects listed in Appendix A1, the respondents indicated that the effects were not more 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 analyses for the projects reviewed for this special uses CE predicted significant effects on the human environment. In the USFS's experience, approval, modification, or continuation of special uses that require less than 20 acres of NFS lands does not have the potential to have significant effects on the human environment.

BMPs and Design Features

The purpose of the Recreation and Special Uses Management Activities core BMPs developed by the USFS is to avoid, minimize, or mitigate adverse effects on soil, water quality, and riparian resources that may result from management activities located on NFS lands. Following are some of the National BMPs that would likely be considered by interdisciplinary teams when planning and implementing projects utilizing CE (e)(3):

BMP	Objective
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Fac-1 Facilities and Non-Recreation Special Uses Planning	Use the applicable special use authorization and administrative facilities planning processes to develop measures to avoid, minimize, or mitigate adverse effects on soil, water quality, and riparian resources during construction and operation of facilities and non-recreation special uses activities.
Fac-2 Facility Construction and Stormwater Control	Avoid, minimize, or mitigate adverse effects on soil, water quality, and riparian resources by controlling erosion and managing stormwater discharge originating from ground disturbance during construction of developed sites.
Fac-8 Non-Recreation Special Use Authorizations	Avoid, minimize, or mitigate adverse effects on soil, water quality, and riparian resources from physical, chemical, and biological pollutants resulting from activities under non-recreation special use authorizations.
Fac-9 Pipelines, Transmission Facilities, and Rights-of-Way	Avoid, minimize, or mitigate adverse effects on soil, water quality, and riparian resources during the construction and maintenance of pipelines, powerlines, transmission facilities, and other rights-of-way.

Following are examples of design features that are typically incorporated into proposed actions developed using category (e)(3). Additionally, permit clauses, terms, and conditions that are designed to protect resources are usually incorporated into a special use permit to fit on-the-ground conditions. Conditions or stipulations are also frequently included as part of a permit, which require the holder to meet certain environmental protection measures or face termination of the permit or civil or criminal penalties.

Resource	Design Feature Examples
Cultural/Heritage	<p>If cultural resources are encountered during the course of this project, earth-disturbing activities in the vicinity of the find will be suspended, in accordance with federal regulations, and the forest archaeologist notified to evaluate the discovery and recommend subsequent courses of action.</p> <p>The eligible sites identified during the archaeological survey will be avoided via installation of a construction fence or other FS approved method. No activities will be allowed beyond the fence. The contractor must contact the Forest Service Project Administrator to identify the site location before construction activities begin. If cultural or paleontological resources are found during implementation of the project, operations will immediately cease at that location and the District Ranger will be notified. Unauthorized excavation, removal, or damage of archaeological resources is subject to fines and other penalties under authority of the Archaeological Resources Protection Act (ARPA) of 1979 (as amended).</p>
Wildlife	Mitigation measures to minimize disturbance to raptor nests may be required if a Northern goshawk or Red-shouldered hawk nest is found within close proximity to the project area. Restricting activities during nesting season may

	<p>be suggested, to be determined upon a site visit by the district wildlife biologist.</p>
Hydrology/Wetlands	<p>To reduce erosion and subsequent sedimentation from construction and staging areas, include proper drainage and dispersion of water including preventing any runoff from reaching the staging area and draining the area properly with necessary erosion control measures as required by the Forest Service project administrator.</p> <p>Care will be taken to minimize disturbance to the wetland area. Any soil removed will be stockpiled carefully to minimize destruction of soil structure. The stockpile will be placed so as to not be disturbed until reclamation. Wetland activities will be conducted in conjunction with FS permit administrator.</p> <p>The reclaimed wetland area would be fenced to exclude livestock. The area to be fenced would be determined by the Forest Service after evaluating the size wetland area that was reclaimed. The fence will be of sufficient durability to minimize maintenance and be of materials that blend in with the Forest.</p>
Invasive Plants	<p>Seed disturbed soils with native seed mix suitable for upland sandy oak-pine barren habitat.</p> <p>Minimize the length of time that bare ground is exposed. Re-seed/re-vegetate bare ground as quickly as possible.</p> <p>Clean equipment of soil, seeds, and any plan materials prior to its use on NFS lands.</p>
Plants/Vegetation	<p>If vegetation removal is necessary, the permittee must contact the Forest prior to implementation.</p> <p>Disturbed areas would be revegetated with native or desirable non-native plant species as approved by the Forest Service. Preference would be given to locally native plant materials. Gravel, mulch, topsoil, or seed used at the Project site would be obtained, to the greatest extent practical, from a source that implements an NNIP management program.</p>
Soils	<p>Surface soils will be salvaged to a minimum depth of 6 inches. If topsoil depths are greater than 6 inches, the entire depth will be salvaged, stockpiled, and protected from erosion or other damages during operations.</p>
Fuels	<p>Allow temporary refueling and servicing only at approved locations, located well away from the aquatic management zone, groundwater recharge areas, and waterbodies.</p>
Visuals	<p>The top 1/3 upslope face of the dam will incorporate a dark, non-reflective rip rap color to minimize visual impact.</p> <p>Visible new ground disturbance on overland access routes may encourage the public to attempt unauthorized off-road motor vehicle use. Therefore, adequate rehabilitation of the disturbed area (including physical barriers such</p>

	as rocks, logs, or slash and/or visual barriers such as wooden or fiberglass signposts) shall be completed to discourage or limit such unauthorized use.
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Info from Professional Staff, Experts, and Scientific Analysis

The USFS has a strong cadre of professional staff and scientists with extensive experience in special uses management on NFS lands. A listing of professional staff with knowledge of activities identified under this category of proposed actions can be found in Appendix A2. This group of experts provided input and review of the CE (e)(3) based on their expertise.

Benchmarking Other Agencies' Experience

An interdisciplinary team reviewed other Federal agencies' CEs and extraordinary circumstances. Cited below are CEs from other Federal agencies that cover proposed actions similar to those covered by CE (e)(3). Based on this review, the USFS's interdisciplinary team found that the proposed actions covered by the special uses CE would be similar in size and scope, would occur under similar resource conditions, and would have similar environmental effects to the CEs of other Federal agencies. Unlike other agencies, the USFS does include an acreage limit for use of the category.

In addition, a review of the other Federal agencies' extraordinary circumstances determined that they have several commonalities with the USFS's (regarding threatened and endangered species, American Indian sacred and religious sites, and sites listed in the National Register of Historic Places).

Bureau of Land Management (DOI/BLM: 516 DM 11 - 11.9.E)

(19) Issuance of short-term (3 years or less) rights-of-way or land use authorizations for such uses as storage sites, apiary sites, and construction sites where the proposal includes rehabilitation to restore the land to its natural or original condition.

National Park Service (DOI/NPS: 516 DM 12.5A)

(5) Issuance of permits for demonstrations, gathering, ceremonies, concerts, arts and crafts shows, etc., entailing only short-term or readily mitigatable environmental disturbance.

Tennessee Valley Authority (18 CFR 1318, Appendix A to Subpart C of Part 1318—Categorical Exclusions)

(16) Construction of new transmission line infrastructure, including electric transmission lines generally no more than 10 miles in length and that require no more than 125 acres of new developed rights-of-way and no more than 1 mile of new access road construction outside the right-of-way; and/or construction of electric power substations or interconnection facilities, including switching stations, phase or voltage conversions, and support facilities that generally require the physical disturbance of no more than 10 acres.

(17) Routine modification, repair, and maintenance of, and minor upgrade of and addition to, existing transmission infrastructure, including the addition, retirement, and/or replacement of breakers, transformers, bushings, and relays; transmission line uprate, modification, reconductoring, and clearance resolution; and limited pole replacement. This exclusion also applies to improvements of existing access roads and construction of new access roads outside of the right-of-way that are generally no more than 1 mile in length.

(18) Construction, modification and operation of communication facilities and/or equipment, including power line carriers, insulated overhead ground wires/fiber optic cables, devices for electricity transmission control and monitoring, VHF radios, and microwaves and support towers.

This CE is codified at 36 CFR 220.6(e)(3) and is listed under the categories of action that would require documentation in a case file or decision memo. When applying this CE, as with the implementation of its NEPA procedures generally, the USFS will make diligent efforts to involve the public, including providing public notice of opportunities for public involvement (40 CFR 1506.6).

Infrastructure (Roads and Trails) – (e)(20)

(20) Activities that restore, rehabilitate, or stabilize lands occupied by roads and trails, including unauthorized roads and trails and National Forest System roads and National Forest System 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 CE (e)(20)

This CE was originally established in 2013 when the USFS adopted three CEs for soil and water restoration. When originally established, the CE excluded NFS roads and NFS trails and only covered proposed actions related to decommissioning unauthorized roads and trails. The USFS has expanded the CE 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, 216 decision memos have been completed for CE (e)(20) as of February 11, 2020.

When this rulemaking effort started, initially, separate NFS road and NFS trail decommissioning CEs were being examined in conjunction with development of the new CEs for road management activities. Upon further discussion and review, the interdisciplinary team determined a more efficient approach would be to modify existing CE 220.6(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 CEs (d)(23) and (d)(24), including the review of randomly selected past actions cited in the section of this document for establishment of those two CEs. Representative examples of past actions and their corresponding documentation used in this review are listed in Appendix B1. Additionally, the supporting statement and appendices that were developed in 2012 for the adoption of the existing 220.6(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 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 normally 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.

BMPs and Design Features

Upon reviewing decision memos for projects that utilized the existing CE (e)(20), examples of how BMPs and design features were incorporated into the project are listed below. Due to the activities being similar regardless of if the activity is occurring on an unauthorized road or trail or a NFS road or NFS trail, these examples would likely also apply to use of the CE in its

expanded form.

BMP Examples from Decision Memos for CE (e)(20)	
Example 1	Road decommissioning uses a variety of best management practices (BMPs) including those for invasive plants (equipment cleaning and inspection), and water quality which may include erosion control measures and native plant revegetation. BMPs will be applied to maintain slope stability, and minimize soil disturbance from road decommissioning work. Many of these are site specific BMPs from the Idaho Forest Practices Act and Stream Channel Alteration Handbook.
Example 2	Mechanical support will follow BMPs for fuel storage and fueling to minimize the risk of a fuels spill into live water. The contractor will have fuel spill containment supplies onsite in the event of a spill and their employees will be trained in the proper application and use of those materials.

Other National BMPs that could be incorporated into a proposed action using this CE include:

Road BMP	Objective
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-6 Road Storage and Decommissioning	Avoid, minimize, or mitigate adverse effects to soil, water 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.

Following are examples of design features and mitigation measures from decision memos on previous projects using CE (e)(20):

Resource	Design Feature and Mitigation Measure Examples
Aquatic Habitat	Decommissioning activities shall be coordinated to avoid impacting fish spawning windows and locations.
Wildlife	No activity will take place within an active northern goshawk nest area (30 acres) from March 1-Sept. 15.
Soils/Hydrology	Log or metal culverts, other drainage structures, and associated fills shall be removed from stream channels, followed by restoring channels to natural grade and sideslope contour. Work during wet conditions shall cease if rutting and erosion cannot be controlled. Prior to leaving the site, any rutted areas and other damaged areas shall be smoothed, sloped and graded to drain, and all erosion control features shall be constructed and functional.

Plants/Vegetation	<p>Vegetation shall be preserved and placed on top of re-contoured road segments and completed channel side slopes in stable positions not interfering with stream channel flow.</p> <p>Clumps of available vegetation and associated soil shall be transplanted onto disturbed areas for erosion protection and long-term site productivity.</p> <p>Mulching with native materials where available, or using weed-free straw, to ensure coverage of exposed soils.</p>
Recreation/Access	<p>A narrow (18 in. wide) footpath, free of slash and woody debris, would be left along the top edge of the decommissioned road to facilitate public access into the area. The footpath would not be maintained after project completion.</p> <p>At completion, the decommissioned roads would no longer require maintenance and would not be accessible to motorized vehicles.</p>

Info from Professional Staff, Experts, and Scientific Analysis

The USFS has a strong cadre of professional staff and scientists with extensive experience implementing activities identified under this category, as well as conducting scientific research on these activities. A listing of professional staffs and experts with knowledge of activities identified under this CE can be found in Appendix B2. It is this group of interdisciplinary staff and experts that reviewed the Agency’s past actions and used their extensive expertise to develop CE (e)(20).

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 220.6(e)(20), supporting information is included in Appendix B3. Peer reviewed scientific analyses, research, and monitoring conducted on activities identified under this category of actions are included in Appendix B3. A large body of the research and monitoring included in Appendix B3 and incorporated from the record for existing CE (e)(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 reducing sediment yields from roads and trails.

Benchmarking Other Agencies’ Experience

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 CE (e)(20). This is similar to the finding documented when the CE was originally established. However, many Federal agencies have CEs that include proposed actions that align with the actions covered by this CE and the other CEs being established for road management activities. Based on this comparative review, the USFS found that it would be

proposing the same or similar actions under similar circumstances with similar environmental effects. Additionally, the USFS is able to build off its experience using the category for unauthorized roads and trails.

Bureau of Land Management

BLM's CE language highlighted below correlate to the activities in the CE (e)(20). 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. DOI's extraordinary circumstances include three that are directly related to those in the USFS's list: threatened and endangered species, American Indian sacred and religious sites, and sites listed in the National Register of Historic places.

DOI/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 CE (e)(20). FAA's CE and the USFS's CE differ in that the FAA CE is generally used in highly developed locations, whereas the USFS's 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, and presence of historic or cultural properties.

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 because it includes activities that are the same, similar, or comparable in their environmental impacts to those included in CE (e)(20). 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 USFS CE 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 two in common with the USFS: the presence of threatened and endangered species and listing in the National Register of Historic Places.

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 CE (e)(20). NRCS's CE contrasts with the USFS's 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 has several extraordinary circumstances that correspond to those of the USFS, including the presence of threatened and endangered species and wetlands.

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.

This CE is codified at 36 CFR 220.6(e)(20) and is listed under the categories of action that would require documentation in a case file or decision memo. In making determinations under this CE, as with the implementation of its NEPA procedures generally, the USFS will make diligent efforts to involve the public, including providing public notice of opportunities for public involvement (40 CFR 1506.6).

Infrastructure (Administrative Sites) – (e)(21)

(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:

- (i) Relocating an administrative facility to another existing administrative site;
- (ii) Construction, reconstruction, or expansion of an office, a warehouse, a lab, a greenhouse, or a fire-fighting facility;
- (iii) Surface or underground installation or decommissioning of a water or waste disposal system infrastructure;
- (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;
 - (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 PALS 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 need 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 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 B4 as representative examples of proposed actions that would be partially or entirely covered by the 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 B4 that received survey responses, respondents indicated that the effects were not more 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 CE predicted significant effects on the human environment.

BMPs and Design Features

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 (e)(21):

Fac BMP	Objective
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.

Following are examples of design features that are typically incorporated into a proposed action for projects under category (e)(21):

Resource	Design Feature Examples
Cultural/Heritage	Monitoring by a professional archeologist is required for new soil disturbance

	<p>such as trenching for utilities and blading of surfaces beyond that which has been previously disturbed.</p> <p>If, prior to, or during construction work, items of archeological or historical value, or human remains are reported or discovered, or an unknown deposit of such items is disturbed, the contractor would immediately cease activities in the area affected. The Forest Service would be notified and ground disturbing activity would not resume until written authorization is provided.</p> <p>Prior to demolition of the buildings, all historic features in and immediately adjacent to the APE should be flagged for avoidance by heritage resource personnel. Several historic features occur around the two single family residences (Buildings #1049 and #1030) and associated garages (Buildings #1511 and #1512), and one is located adjacent to the APE at the duplex (Building #1029), a retaining wall along the southern edge of the drive.</p>
Wildlife	<p>Tree cutting will be limited to the period when most bats are hibernating (November 1 to March 31).</p> <p>The objective is to minimize harm to any bat species that potentially reside in any of the buildings on the administrative site that may be removed. Surveys for bats would be conducted prior to dismantling. If evidence of bats is found, then demolition of buildings can occur when they seasonally vacate the building.</p>
Soils/Hydrology	<p>Where soil disturbance would occur during construction, erosion control measures would be taken.</p> <p>All appropriate Forest Best Management Practices (BMPs) shall be implemented to minimize damage to surface soil structure and to reduce potential for erosion and sediment transport to drainages due to project activities.</p> <p>Erosion control measures would include the establishment of silt fences, hay bales and/or brush barriers around construction areas to prevent sediment from moving off-site.</p>
Invasive Plants	<p>All known weed sites would be treated by manual/hand pulling prior to any ground disturbing activities.</p> <p>During project implementation and after the project is completed, monitor the site for noxious weeds. Any new populations of noxious weeds will be immediately treated.</p> <p>To limit the spread and establishment of invasive plant species into the project area, all heavy equipment used during the project implementation will be free of noxious weeds and seeds or invasive exotic weeds and seeds before entering the project area.</p>
Plants/Vegetation	<p>Any reseeding or planting plans must first be approved by the Forest Botanist. Any landscaping would utilize native plants appropriate to the site conditions.</p> <p>ERIOGONUM LUTEOLUM VAR. SALTUARIUM (GOLDENCARPET BUCKWHEAT) No plants were found during botanical surveys for the proposed project. If any plants</p>

	are found populations. There will be an amendment to the project file documenting prior to or during project implementation, resource protection measures will be implemented to ensure their full protection. Measures may include, but are not limited to, flagging, buffering, and avoiding the populations. There will be an amendment to the project file documenting any new Threatened, Endangered, Sensitive, or Proposed plant occurrences.
Recreation Access/Roads	Prepare a traffic safety and control plan prior to commencing project implementation. The plan will provide for public safety on Forest Service controlled roads and trails open to public travel.
Fuels	To avoid potential problems with pine engraver beetles, slash would not be created (through harvest activity or follow-up fuels treatments) and left on site from January 1st through June 1st.
Recreation/Visual	Where site specific characteristics allow, leave a forested buffer between new clearings and trails.
Air	The project would include standard dust control measures as part of its compliance with local air quality protection regulations (El Dorado County Air Quality Management District and TRPA).

Info from Professional Staff, 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 B5 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 CE based on their expertise; this expertise and input informed the crafting of the CE language. Following the public comment period, subject matter experts from the Washington Office Engineering Staff were consulted to discuss public comments and determine if any language changes were needed.

Benchmarking Other Agencies' Experience

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 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 effects to the CEs of other Federal agencies.

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 administrative sites CE. 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 CE described below for FSA requires an Environmental Screening Worksheet, which is similar to the USFS's approach of requiring documentation for the administrative sites 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.

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 actions covered by CE (e)(21). Similar to the USFS's CE, NPS's CE is primarily limited to locations that have already been developed or disturbed.

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.

DOI/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 covers removal of structures and materials, similar to language included in the USFS's CE for administrative sites. DOI's extraordinary circumstances list include three that are directly related to the USFS's list:

threatened and endangered species, American Indian sacred and religious sites, and sites listed in the National Register of Historic places.

DOI/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 related 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.

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's administrative sites CE. These include activities for 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, similar to the USFS's limiting use of the CE to existing administrative sites as defined by law. The FTA has a list of "unusual circumstances" that is fairly simple, including significant environmental impacts, significant impact on historic properties, and inconsistencies with other laws.

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. The activities of construction, disposal, improvements, etc. are similar to the activities covered by the USFS's CE. Some of their activities are limited to similar to existing land use, which is similar to the USFS's requirement that the CE be used for existing administrative sites. The Navy's CEs also reference other laws, regulations, and policies; similar regulations for health and human safety would be complied with when using the CE (e)(21).

While not specifically called "extraordinary circumstances," The Navy has a few extraordinary circumstances that align with the USFS's list, 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)

(33) New construction that is similar to or compatible with existing land use (i.e., site and scale of construction are consistent with those of existing adjacent or nearby facilities) 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 and runoff within existing handling capacities). The test for whether this CATEX can be applied should focus on whether the proposed action generally fits within the designated land use of the proposed site;

(34) 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;

(35) Acquisition, installation, modernization, repair, or operation of utility (including, but not limited to, water, sewer, and electrical) and communication systems (including, but not limited to, data processing cable and similar electronic equipment) that use existing rights of way, easements, distribution systems, and facilities;

(36) Decisions to close facilities, decommission equipment, or temporarily discontinue use of facilities or equipment, where the facility or equipment is not used to prevent or 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 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 CE must be documented. The majority of the cited activities are limited to already disturbed areas, similar to CE (e)(21) 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.

This CE is codified at 36 CFR 220.6(e)(21) and is listed under the categories of action that would require documentation in a case file or decision memo. When making determinations under this CE, the USFS shall make diligent efforts to involve the public, including providing public notice of opportunities for public involvement (40 CFR 1506.6).

Infrastructure (Recreation Sites) – (e)(22)

(22) Construction, reconstruction, decommissioning, or disposal of buildings, infrastructure, or improvements at an existing recreation site, 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. Activities within this category are intended to apply to facilities located at recreation sites managed by the Forest Service and those managed by concessioners under a special use authorization. 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.

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.

CE (e)(22) was developed to increase efficiency and management of recreation sites. The Forest Service conducted a review of recent past actions implementing activities associated with this 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. These projects were reviewed to identify potential categories for the proposed rule. Following this initial look, additional review was completed to further refine the activities covered by the CE and some projects were determined to not be within the scope of the activities considered. Fifty projects are included in Appendix B6 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 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 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 CE predicted significant effects on the human environment.

BMPs and Design Features

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 the recreation sites CE:

Fac BMP	Objective
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-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.

Following are examples of design features that are typically incorporated into a proposed action for projects under category (e)(22):

Resource	Design Feature Examples
Cultural/Heritage	Heritage monitoring will be implemented by a qualified heritage specialist who

	<p>will be onsite during project development activities to observe for potential subsurface components.</p> <p>If cultural resources are encountered during project implementation of the action alternative, ground-disturbing activities will cease and the district Archaeologist will be notified. The cultural resource will be evaluated and a mitigation plan developed in consultation with the Oregon SHPO, if necessary.</p> <p>New archaeological sites found or located as a result of project implementation shall require that the activity cease within the area until the Forest Archaeologist evaluates the site and proposes mitigation.</p>
Wildlife	<p>No ground disturbing or vegetation clearing for constructing campground facilities from December 1 to April 14, then May 15 to June 21 to protect wintering wildlife and nesting migratory birds.</p> <p>To conserve nesting habitat of raptors, a Wildlife Biologist would be consulted to establish a nest zone buffer around any raptor nest discovered prior to or during project implementation, and if appropriate, would restrict activities within the nest area during occupancy. These restrictions will be executed according to the requirements of the species involved.</p>
Aquatic Species	<p>Provide ecological conditions to sustain viable populations of native and desired non-native species and to achieve objectives for Management Indicator Species.</p> <p>Keep vehicles and equipment out of streams, lakes, and wetlands except to cross at designated points or where protected by 1 foot of snowpack or frozen soil. Build crossings and do restoration work, where necessary.</p> <p>Maintain long-term ground cover, soil structure, water budgets, and flow patterns of wetlands to sustain their ecological function.</p> <p>Manage stream flows under appropriate authorities to minimize damage to fish and wildlife habitat.</p>
Soils/Hydrology	<p>Watershed conservation practices and Forest Plan standards and guidelines prescribe measures to protect or minimize impacts to soil and watershed resources. Practices that address hydrologic function, riparian areas, sediment control, soil productivity, and water purity are applicable to this project.</p> <p>Project construction and maintenance activities should be avoided in particularly sensitive areas, areas that are consistently saturated or have perennially shallow water table conditions (i.e. wetlands), and critical areas of groundwater recharge/discharge.</p> <p>Decommissioning would be done during low flows.</p> <p>Minimize the extent of new soil disturbance from equipment by implementing appropriate design elements for avoiding or reducing the disturbance footprint to only that which is needed.</p>

<p>Invasive Plants</p>	<p>All disturbed ground will be re-vegetated with desirable plant species. Utilize seed mix approved by the Forest Botanist and certified to be free of weed species. Seed mixes that incorporate native plant species similar to those within the project area are desirable. Any mulch used in re-vegetation efforts must be certified to be free of weed species.</p> <p>All road base and gravel materials used in the construction of roadways, walking paths, parking areas, or campsites shall be certified as weed-free.</p>
<p>Plants/Vegetation</p>	<p>Design proposed campground loop and spurs to maintain as much existing healthy vegetation as possible, utilizing existing openings and minimizing site grading. Cut and fill slopes on the campsites should be flat enough to get full revegetation of slopes.</p> <p>Re-vegetate all disturbed areas after the site has been satisfactorily prepared. Repeat seeding until satisfactory re-vegetation is accomplished. Reseed with a native seed mixture using a variety of native seed grasses, wildflowers and forbs.</p> <p>Vegetation marked for use in stream restoration activities will be marked prior to implementation. Care will be taken to remove these trees with the rootwad and stored for future placement and use as stream features and fish habitat.</p>
<p>Recreation/Visual</p>	<p>Design and manage developed recreation sites according to the ROS class and scenic integrity objectives as mapped.</p> <p>The scenic character will be protected through appropriate siting of buildings and the use of low-impact materials and colors (e.g., indigenous construction materials, such as stone and wood, as well as low-reflective glass and roofing materials).</p> <p>Treat slash generated from construction activities as soon as possible given chosen method (chip, burn or removal) or safe burning conditions.</p>

Info from Professional Staff, 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 B7 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 CE based on their expertise.

Benchmarking Other Agencies’ Experience

Many other agencies have CEs that cover actions similar to those covered by CE (e)(22). An interdisciplinary team reviewed other Federal agencies’ current list of CEs, which are cited below. Based on this review, the USFS’s interdisciplinary team found that the USFS’s CE would cover actions that would be similar in size and scope, would be conducted under similar resource conditions, and would have similar environmental effects 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 normally result in significant effects 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 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 requires documentation for use of these CEs, similar to the requirements for CE (e)(22) to be documented in a decision memo. In its determinations under this CE, the USFS will make diligent efforts to involve the public, including providing public notice of opportunities for public involvement (40 CFR 1506.6).

DOI/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.

(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, C17, C18, and D2 – as numbered in 516 DM 12.5) have been used between April 30, 2016, and April 16, 2018. The following table highlights their use over that timeframe:

NPS CE	Documented Use from 2016-2018
C(3)	5,130
C(8)	1,686

C(11)	391
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 action covered by the USFS's CE.

NPS also provided the USFS with examples of FONSI for EAs completed related to actions covered by CE (e)(22), 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 correlates to the activities covered by the CE (e)(22) for removal of structures and materials. 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. DOI's extraordinary circumstances include three that are directly related to those in the USFS's list: threatened and endangered species, American Indian sacred and religious sites, and sites listed in the National Register of Historic places.

DOI/BLM, 516 DM 11.9

(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.

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.

USACE, 33 CFR 325, Appendix B

The following activities are not considered to be major Federal actions significantly affecting the quality of the human environment and are therefore categorically excluded from NEPA documentation:

- (1) Fixed or floating small private piers, small docks, boat hoists and boathouses.
- (2) Minor utility distribution and collection lines including irrigation;
- (3) Minor maintenance dredging using existing disposal sites;
- (4) Boat launching ramps;
- (5) All applications which qualify as letters of permission (as described at 33 CFR 325.5(b)(2)).

Department of Energy

DOE's CEs highlighted below cover activities related to facility management, including associated infrastructure. Similar to the USFS's limitation of the CE being used for activities on existing recreation sites, DOE's CEs are primarily limited to previously developed areas. DOE's extraordinary circumstances are broader than the USFS's and include 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 DOE's CEs listed below must be documented, similar to the USFS requirement that the 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

B1.15 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 the CE (e)(22). The FTA has a list of “unusual circumstances” that is fairly simple, including significant environmental impacts, significant impact on historic properties, and inconsistencies with other laws.

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 CE (e)(22) 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 CE (e)(22). While not specifically called “extraordinary circumstances,” The Navy has a few extraordinary circumstances that align with the USFS’s list, 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)

(33) New construction that is similar to or compatible with existing land use (i.e., site and scale of construction are consistent with those of existing adjacent or nearby facilities) and, when completed, the use or operation of which complies with existing regulatory requirements (e.g., a building within a Start Printed Page 66591 cantonment area with associated discharges and runoff within existing handling capacities). The test for whether this CATEX can be applied should focus on whether the proposed action generally fits within the designated land use of the proposed site;

(34) 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;

(35) Acquisition, installation, modernization, repair, or operation of utility (including, but not limited to, water, sewer, and electrical) and communication systems (including, but not limited to, data processing cable and similar electronic equipment) that use existing rights of way, easements, distribution systems, and facilities;

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

This CE is codified at 36 CFR 220.6(e)(22) and is listed under the categories of action that would require documentation in a case file or decision memo. When using this CE, the USFS will make diligent efforts to involve the public, including providing public notice of opportunities for

public involvement (40 CFR 1506.6).

Infrastructure (Road Management Activities and Road Construction/Realignment) – (e)(23) and (e)(24)

(23) Road management activities on up to 8 miles of NFS roads and associated parking areas. Activities under this category cannot include construction or realignment. Examples include but are not limited to:

- (i) Rehabilitating an NFS road or parking area where management activities go beyond repair and maintenance;
- (ii) Shoulder-widening or other safety improvements within the right-of-way for an NFS road; and
- (iii) Replacing a bridge along an NFS road.

(24) Construction and realignment of up to 2 miles of NFS roads and associated parking areas. Examples include but are not limited to:

- (i) Constructing an NFS road to improve access to a trailhead or parking area;
- (ii) Rerouting an NFS road to minimize resource impacts; and
- (iii) Improving or upgrading the surface of an NFS road to expand its capacity.

The supporting statement provided with the proposed rule discussed proposed rule CE (e)(23) for conversion of unauthorized roads to NFS roads and proposed rule CE (e)(25) for road management activities in the same discussion. In the final rule, the road conversion CE is not being carried forward and the CE that was presented at (e)(25) in the proposed rule has been split into two CEs in the final rule at (e)(23) and (e)(24). Development of the language for these two CEs 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. 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.

These CEs were developed to increase efficiency and management of NFS roads. In preparation of the CEs that were included in the proposed rule, the Forest Service conducted a review of recent past actions implementing activities associated with this 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 in order to identify activities to be considered for inclusion in a CE. Following further review, seven of these projects were determined to be outside of the scope of the rulemaking or project documents were not available. Fifty-five projects and their corresponding documentation were included in Appendix D of the supporting statement that was released with the proposed rule. 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 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 substantial effects, none had the potential for significant effects.

- One project includes activities for replacement and rehabilitation of bridges, including culverts. The more substantial effects are associated with the timing of the project versus the project activities. The effects have been more substantial 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. Although these effects were described as more substantial than predicted, they did not rise to a level of uncertainty on significant impacts. Potential impacts to threatened and endangered species would be considered under the extraordinary circumstances review and would be used to help a responsible official determine the appropriate level of NEPA analysis.
- The second project is a vegetation management project that includes road construction, reconstruction, and decommissioning activities. The description of more substantial effects appears associated with 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 closely tied to the road management activities in this project, and the activities related to the effects were completed to address safety concerns. This project was broader in scope than the CE; the sideboards presented in the final CE would limit the scope of the project. Additionally, any potential impacts to threatened and endangered species would be caught under the extraordinary circumstances review.
- The third project that indicated there were more substantial 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.

In refining the CEs for the final rule, the Forest Service conducted additional research after publication of the proposed rule in order to refine the CEs for the final rule. The initial project selection was completed in order to inform development of potential CEs. At the initial time of searching for projects, it was not known what CEs would be developed from the research. As such, the initial data set was pulled from a coarse filter of projects labeled as “road management.” During additional research following publication of the proposed rule, modifications were made to the existing project list and additional projects were added. From the existing project list of 55 projects in Appendix D of the supporting statement for the proposed rule, projects were removed because they did not match the activities covered under the proposed CE or because they related to CEs that were removed for the final rule (the road conversion CE). This resulted in 32 projects remaining from the initial list. In light of what activities are covered under the CEs and to provide a more activity-specific dataset, a new search was conducted in PALS from FY12-16 using a more fine filter of both the project purpose of roads management and the project activity of road improvements/construction. This resulted in almost 200 projects; following the initial process for project selection, a 20% random sample of that results list was produced. Projects were then further screened out to remove those projects that were already included in the initial data set. This resulted in an additional 21 projects. The consolidated and updated list of 53 projects is included in Appendix B8.

For the projects listed in Appendix B8, none of the environmental analyses for the projects reviewed for CEs (e)(23) and (e)(24) predicted significant effects on the human environment. While the survey results for three projects indicated post-implementation that some effects were more substantial than predicted, two of those projects included effects not specifically tied to the road management components, and the effects were not significant. The effects in the third project stemmed from a pre-existing old road rather than the project itself, and the Agency implemented mitigation measures to address the effects.

BMPs and Design Features

The USFS developed the core Road Management Activities 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 and implementing projects using CEs (e)(23) and (e)(24):

Road BMP	Objective
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 Decommissioning	Avoid, minimize, or mitigate adverse effects to soil, water 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.

Following are examples of design features that typically could be incorporated into a proposed action carried out under CEs (e)(23) and (e)(24):

Resource	Design Feature Examples
Cultural/Heritage	If any cultural resources are discovered during operations all ground-disturbing activity will cease. The Forest Archeologist will determine changes to be made to the project before work resumes.
Wildlife	Where treatment management actions are proposed within a 3/8-mile radius of a known goshawk nest site, a wildlife biologist will delineate three 30-acre nesting habitat protection areas. Prior to bridge removal, the district wildlife biologist will conduct a survey of the bridge to determine if any bats are roosting in the structure. Any roosting bats will be excluded prior to demolition activities (i.e., plastic will be placed over roost openings so bats can exit the structure, but cannot re-enter).
Soils/Hydrology	Require specified road construction when crossing intermittent or perennial stream courses, or ditches. All specified road locations will be reviewed by a watershed specialist. Erosion Control for this project shall be as per SCDOT Standard Specifications for Highway Construction-2007, Section 815-Erosion Control. During construction, temporary BMPs would be installed to minimize erosion and remove sediment by capturing and filtering runoff before it leaves the project limits. The intent is for the BMPs to be installed with a phased approach where perimeter controls are installed prior to clearing and earthwork activities and additional measures are introduced throughout varying stages of the construction process.
Transportation	Whenever possible, roads shall be relocated or constructed out of draw bottoms to improve drainage and protect soil and water resources. Abandoned roadbeds

	<p>shall be revegetated and returned to as natural a state as possible. Where sod has effectively stabilized existing roadbeds, efforts would be made to minimize disturbance to the sod layer during maintenance and reconstruction activities.</p> <p>Route verification would be held prior to road contract preparation, to show Forest and District Specialists the location and design of planned relocation, realignment and new construction to ensure the road would not have additional adverse effects on resources.</p> <p>Road contracts will prohibit harvest, hauling, and/or roadwork within active Red-cockaded Woodpecker (RCW) clusters during the nesting season, April 1 through July 31.</p>
<p>Invasive Plants</p>	<p>Equipment cleaning measures would be required by contracts to prevent the introduction of non-native invasive plants.</p> <p>All equipment and tools must be free of soil, mud (wet or dried), seeds, vegetative matter or other debris that could contain seeds in order to prevent new infestations of noxious weeds in the project area. Dust or very light dirt that would not contain weed seed is not a concern.</p> <p>Ensure that any gravel or other earth materials come from a source and at the appropriate time of year that promotes rapid turnover so material is less likely to become infested with weed propagules. Utilize material from the middle of the identified source piles.</p>

Info from Professional Staff, 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 B9 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 CE based on their expertise. The group of engineers also ensured language was appropriate and that industry standards were met.

Benchmarking Other Agencies’ Experience

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 effects. 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. Most of the CEs examined in use by other agencies do not prescribe mileage limitations for specific activities. The USFS has included mileage limits for CEs (e)(23) and (e)(24).

While the forest transportation system is unique, many other Federal agencies have CEs that cover categories of proposed actions similar to those covered by CEs (e)(23) and (e)(24). 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 CEs.

USDA Farm Service Agency

The FSA's CEs highlighted below include construction or ground disturbance activities for bridges and roads similar to activities covered by CEs (e)(23) and (e)(24). 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 CEs (e)(23) and (e)(24). 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.

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 read with the NPS's NEPA Handbook, outlined below, this CE correlates with activities proposed for 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 requires documentation for use of this CE, similar to the USFS's requirement for documentation of CEs (e)(23) and (e)(24).

DOI/NPS, 516 DM 12.5

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

NPS states “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 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 USFS CEs (e)(23) and (e)(24). 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.

DOI/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 closely correspond to the proposed actions covered by the roads CEs, 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; significant impact on historic properties; and inconsistencies with other laws.

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 CEs (e)(23) and (e)(24) 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 CEs (e)(23) and (e)(24).

FHWA's extraordinary circumstances include significant environmental impacts and inconsistency with other laws, align with the USFS's extraordinary circumstances regarding significant impacts on cultural or historic sites.

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 actions covered by CEs (e)(23) and (e)(24). These DOE proposed actions are limited to the existing right-of-way and must be consistent with applicable land use or transportation plans. Similarly, all uses of the USFS CEs (e)(23) and (e)(24) must be in compliance with travel management decisions, land management plans, and all other laws, regulations, and policies. DOE's extraordinary circumstances are broader than the USFS's and include 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 CEs (e)(23) and (e)(24) 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.

These CEs are codified at 36 CFR 220.6(e)(23) and (e)(24) and are listed under the categories of action that would require documentation in a case file or decision memo. In using this CE, as in its implementation generally of its NEPA procedures, the USFS will make diligent efforts to involve the public, including providing public notice of opportunities for public involvement (40 CFR 1506.6).

Restoration – (e)(25)

(25) Forest and grassland management activities with a primary purpose of meeting restoration objectives or increasing resilience. Activities to improve ecosystem health, resilience, and other watershed and habitat conditions may not exceed 2,800 acres.

(i) Activities to meet restoration and resilience objectives may include, but are not limited to:

(A) Stream restoration, aquatic organism passage rehabilitation, or erosion control;

- (B) Invasive species control and reestablishment of native species;
 - (C) Prescribed burning;
 - (D) Reforestation;
 - (E) Road and/or trail decommissioning (system and non-system);
 - (F) Pruning;
 - (G) Vegetation thinning; and
 - (H) Timber harvesting.
- (ii) The following requirements or limitations apply to this category:
- (A) Projects shall be developed or refined through a collaborative process that includes multiple interested persons representing diverse interests;
 - (B) Vegetation thinning or timber harvesting activities shall be designed to achieve ecological restoration objectives, but shall not include salvage harvesting as defined in Agency policy; and
 - (C) Construction and reconstruction of permanent roads is limited to 0.5 miles. Construction of temporary roads is limited to 2.5 miles, and all temporary roads shall be decommissioned no later than 3 years after the date the project is completed. Projects may include repair and maintenance of NFS roads and trails to prevent or address resource impacts; repair and maintenance of NFS roads and trails is not subject to the above mileage limits.

Implemented Actions

The USFS has many years of on-the-ground experience with restoring forest and watershed conditions by harvesting and thinning trees from dense forest stands; reducing hazardous fuels through either mechanical methods or prescribed fire; restoring lands following a broad-scale disturbance event (insect, disease or wildfire); improving aquatic and habitat conditions; reducing the occurrence of invasive species; and decommissioning, maintaining, and reconstructing roads and trails.

The Forest Service reviewed recently implemented actions to develop this CE by randomly selecting a sample of 68 projects from over 718 projects completed under an EA from fiscal years 2012 to 2016. The associated Decision Notice (DN) and FONSI were reviewed to look at the types of project activities occurring on the ground related to restoration actions. The EAs detailed in Appendix C1 represent projects where actions are entirely covered under the Restoration CE, or a portion thereof, where the scope of activities are broader but still contain individual actions encompassed under this CE. The average of net¹² commercial and non-commercial harvest activities from the 68 sampled EAs was 3,949 acres, and the average of net total project activities was 6,300 acres. The median of net vegetation management activities was 2,813 acres and the median of net activity acres was 2,909 acres. Appendix C1 provides more detail regarding the activities included in the sampled EAs.

Summary of Data – 68 EAs Analyzed			
	Net Vegetation	Net Activity	Net Commercial and Non-

¹² Within a project, multiple activities can occur per acre. In instances where it was determined from the project documents that multiple activities occurred in the same area, gross and net acres are listed in Appendix C1. More information on how the calculations were developed is provided in Appendix C1.

	Management Acres	Acres	Commercial Harvest
Mean	5,996	6,302	3,949
Median	2,813	2,909	2,499

Net vegetation management activities includes commercial harvest, non-commercial harvest, and fuel treatments (including fuel treatments following management activities and prescribed burning). Net activity acres include the net acres for all activities authorized in the decision notice. Net commercial and non-commercial treatments includes the net totals of commercial timber harvest, hazard tree removal, non-commercial stand improvement, mechanical fuel reduction, and other species/habitat enhancement.

The data presented in the appendix and the mean and median totals differ from what was presented in the supporting statement for the restoration CE that was released with the proposed rule. After additional review of the data and concerns raised in public comments, the USFS re-analyzed the project data to further validate the numbers. Additionally, the agency did not fully explain how the numbers in the original appendix were used. More complete explanation is included in Appendix C1. These numbers were used to adjust the acreage limitation in the final CE.

To obtain information related to implementation and monitoring of these projects, USFS personnel on national forests across the U.S., who were familiar with the projects, responded to a questionnaire intended to verify whether the observed effects of these implemented projects were consistent with the NEPA analysis, and if not, examine how they differed. Twenty-three of the 68 projects were subject to additional review through the questionnaire. The questionnaire asked if the project had been implemented, if the project effects were more substantial than predicted, how the effects were observed, where the monitoring results can be found, and how the effects differed from what was predicted. Two forests stated their projects had not been implemented and two forests did not respond. For the 19 projects identified in Appendix A1 that provided survey responses, respondents indicated that the effects were not more 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 analyses for the projects reviewed for this CE predicted significant environmental effects on the human environment.

BMPs and Design Features

The purpose of the core BMPs¹³ developed by the USFS is to avoid, minimize, or mitigate adverse effects to soil, water quality, and riparian resources that may result from common management activities, such as restoration and road management, on NFS lands. Following are some of the National BMPs that would be considered by interdisciplinary teams when planning and implementing projects using the Restoration CE:

Fire BMP	Objective
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¹³ <https://www.fs.fed.us/biology/watershed/BMP.html>

Fire-2 Use of Prescribed Fire	Avoid, minimize, or mitigate adverse effects of prescribed fire and associated activities on soil, water quality, and riparian resources that may result from excessive soil disturbance as well as inputs of ash, sediment, nutrients, and debris.
Vegetation BMPs	Objective
Veg-1 Vegetation Management Planning	Use the applicable vegetation management planning processes to develop measures to avoid, minimize, or mitigate adverse effects to soil, water quality, and riparian resources during mechanical vegetation treatment activities.
Veg-2 Erosion Prevention and Control	Avoid, minimize, or mitigate adverse effects to soil, water quality, and riparian resources by implementing measures to control surface erosion, gully formation, mass slope failure, and resulting sediment movement before, during, and after mechanical vegetation treatments.
Veg-3 Aquatic Management Zones	Avoid, minimize, or mitigate adverse effects to soil, water quality, and riparian resources when conducting mechanical vegetation treatment activities in the AMZ.
Veg-4 Ground-Based Skidding and Yarding Operations	Avoid, minimize, or mitigate adverse effects to soil, water quality, and riparian resources during ground-based skidding and yarding operations by minimizing site disturbance and controlling the introduction of sediment, nutrients, and chemical pollutants to waterbodies.
Veg-5 Cable and Aerial Yarding Operations	Avoid, minimize, or mitigate adverse effects to soil, water quality, and riparian resources during cable and aerial yarding operations by minimizing site disturbance and controlling the introduction of sediment, nutrients, and chemical pollutants to waterbodies.
Veg-6 Landings	Avoid, minimize, or mitigate adverse effects to soil, water quality, and riparian resources from the construction and use of log landings.
Veg-7 Winter Logging	Avoid, minimize, or mitigate adverse effects to soil, water quality, and riparian resources from winter logging activities.

Veg-8 Mechanical Site Treatment	Avoid, minimize, or mitigate adverse effects to soil, water quality, and riparian resources by controlling the introduction of sediment, nutrients, chemical, or other pollutants to waterbodies during mechanical site treatment.
Road BMPs	Objective
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-5 Temporary Roads	Avoid, minimize, or mitigate adverse effects to soil, water 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-6 Road Storage and Decommissioning	Avoid, minimize, or mitigate adverse effects to soil, water quality, and riparian resources when constructing, reconstructing, or maintaining temporary and permanent waterbody crossings.
Road-7 Stream Crossings	Locate and design roads to avoid, minimize, or mitigate adverse effects to soil, water quality, and riparian resources.
Rec-4 Motorized and Non-motorized Trails	Avoid, minimize, or mitigate adverse effects to soil, water quality, and riparian resources by controlling soil erosion, erosion of trail surface materials, and water quality problems originating from construction, maintenance, and use of motorized and nonmotorized trails.

Following are examples of design features that might be incorporated into a proposed action carried out under CE (e)(25):

Resource	Design Feature Examples
Cultural/Heritage	All site features within areas of potential disturbance will be flagged prior to implementation and avoided during implementation. Wooden artifacts, features, or structures would be protected during burning activities.
Wildlife	To maintain habitat integrity in some portions of the project area, pockets of

	<p>trees, up to 1 ½ acres in size, would be retained in some of the riparian and other upland areas.</p> <p>Where available, three of the largest snags per acre would be retained throughout the project area.</p>
Soils/Hydrology	<p>Generally, ground based equipment would operate on slopes less than 35 percent (30 percent on decomposed granite soils), except for pitches of 150 feet or less.</p> <p>Equipment exclusion zones would be established for both seasonal stream and perennial streams to protect stream bank stability and water quality.</p>
Invasive Plants	<p>Contract equipment would be washed and inspected prior to entering National Forest System lands to remove any soil and debris that may harbor noxious weed seeds.</p> <p>Known occurrences of noxious weeds would be managed. If road surface material is needed to repair roads, sources would be inspected and determined to be weed free.</p>
Plants/Vegetation	<p>Occupied or potentially occupied Sensitive plant habitat will be excluded from burning.</p> <p>Burning will retain coarse woody debris in and around sensitive plant habitats.</p>
Recreation Access/Roads	<p>Where treatments are necessary, decrease magnitude of treatments along trails to reduce short term effects to the recreation experience, and discourage off trail use. Where feasible leave down woody material and brush along trails to reduce off trail travel proliferation of social trails.</p>
Fuels	<p>Handpiled slash may be burned in the winter when snow is on the ground or during the monsoon season when ground moistures are higher to minimize fire spread and reduce scorching on soils and the residual stand.</p> <p>Prescribed fire should be used to maintain meadows from encroachment of conifers, reduce fuel loading and to maintain browse species.</p>
Recreation/Visual	<p>As much as possible hide evidence of treatments such as cuts, fire lines, evidence of motorized equipment, tire tracks, etc. in areas visible from trails.</p> <p>Feather vegetation, slash, or large woody debris removal within 100 feet of the trail corridors to provide screening and discourage off-trail use.</p>
Air	<p>All prescribed burning would be conducted in compliance with State, Federal, and County air quality standards.</p> <p>For each prescribed fire, the Forest Service would have contingency plans identified to reduce smoke emissions.</p>

Information from Professional Staff, Experts, and Scientific Analysis

The USFS has a strong cadre of professional staff and scientists with extensive experience implementing and researching restoration activities on NFS lands. Appendix C2 has a list of professional staff and experts with knowledge of activities identified under this category of actions. These experts provide extensive experience implementing and monitoring these types of activities. Their experiences include conducting and leading interdisciplinary teams through environmental analysis on project proposals, resource specialists involved in on-the-ground implementation of these restoration activities, and program managers guiding the development and execution of restoration programs. The experience of these professional staffs is from a wide range of ecosystems across the United States including forested, grassland, and arid landscapes.

During review of the public comments, subject matter experts provided input that informed changes to the CE in the final rule. These professional staff and experts provided science-based input in assessing which activities under this CE would not have significant effects on the environment. This input resulted in narrowing the scope of the restoration CE and its allowed activities. The CE under the final rule requires all activities conducted under the restoration CE to have a primary purpose of meeting restoration objectives or increasing forest and grassland resilience. Additionally, the CE requires that thinning and harvesting activities be designed ecological restoration objectives. The primary purpose requirement does not apply to road construction, reconstruction, repair, or maintenance as limited in the category because these activities are often necessary to provide access to a project area in order to implement restoration activities. The list of activities covered by the CE have also been clarified in the final rule. A limitation has also been added to prohibit use of salvage harvesting under the restoration CE. The changes made to the restoration CE in the final rule in relation to purpose, activities, and restrictions will prevent significant effects and were made in direct response to professional input.

Examples of peer-reviewed scientific analysis, research, and monitoring conducted on forest, watershed and habitat activities identified under this category of actions are listed in Appendices C3 and C4. These references document management effectiveness and mitigation of resource effects of the activities covered under CE (e)(25).

Following the public comment period, the rule writing team convened a group of scientists from the Rocky Mountain Research Station to analyze the body of literature submitted in public comments specific to the restoration CE. Additionally, the team analyzed the original literature included in the supporting statement and brought forward new literature, which is cited in Appendix C3. In response to the science team's review, modifications were made to some of the activities covered under the CE. The appendices were updated to be responsive to public comments. Appendix C4 was updated to include monitoring associated with the 23 Collaborative Forest Landscape Restoration Program (CFLRP) projects located across the U.S. The projects vary in size and have unique collaborative histories, infrastructure, and ecological conditions; all are in fire-adapted landscapes, with the goal of reintroducing natural fire and reducing the risk of fire to valued resources. The monitoring is displayed as ecological indicator progress reporting; where available additional monitoring reports are also included. While the size of CFLRP projects tend to be much larger than the acreage included in the restoration CE, many of the treatment activities, such as thinning, reforestation, prescribed fire, etc. are similar to those

covered by (e)(25) at a smaller scale. The monitoring results available for some of these projects helps demonstrate the effectiveness of these activities at accomplishing restoration and resilience objectives and desired conditions on National Forest System lands.

Benchmarking Other Agencies' Experience

A review of CEs established by other Federal agencies and by Congress was completed by an interdisciplinary team. The CEs cited below are those that have actions similar to those covered by CE (e)(25). 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 effects to the CEs of other Federal agencies. Accordingly, the USFS concluded that its activities under this CE would not normally result in significant effects on the human environment and, therefore, should not require documentation in an EA or EIS.

Bureau of Land Management

The Bureau of Land Management (BLM) has an agency mission that is the most similar to the USFS and conducts similar activities to address restoration needs. The CEs listed below include management of fish and wildlife habitat, forest management, including impacts or risks from insects and disease, and salvaging dead or dying trees, or trees impacted by disturbances and address construction of temporary roads as a part of these activities.

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

DOI/BLM

DOI Manual CH 11.9 (A) Fish and Wildlife

- (1) Modification of existing fences to provide improved wildlife ingress and egress.
- (2) Minor modification of water developments to improve or facilitate wildlife use e.g., modify enclosure fence, install flood valve, or reduce ramp access angle).
- (3) Construction of perches, nesting platforms, islands, and similar structures for wildlife use.
- (5) Routine augmentations, such as fish stocking, providing no new species are introduced.

DOI Manual 11.9 (C) Forestry

- (2) Sale and removal of individual trees or small groups of trees which are dead, diseased, injured, or which constitute a safety hazard, and where access for the removal requires no more than maintenance to existing roads.
- (3) Seeding or reforestation of timber sales or burn areas where no chaining is done, no pesticides are used, and there is no conversion of timber type or conversion of non-forest to forestland. Specific reforestation activities covered include: seeding and seedling plantings, shading, tubing (browse protection), paper mulching, bud caps, ravel protection, application of non-toxic big game repellent, spot scalping, rodent trapping, fertilization of seed trees, fence construction around out-planting sites, and collection of pollen, scions and cones.
- (4) Pre-commercial thinning and brush control using small mechanical devices.

Bureau of Indian Affairs

The Bureau of Indian Affairs (BIA's) CEs listed below include forest stand improvement; responses to emergency range and forest rehabilitation, including salvage of damaged timber; logging road construction; prescribed burning; and forestation projects including native species.

These activities are similar to those in CE (e)(25).

The BIA documents its review of the existence of extraordinary circumstances (DOI regulation 43 CFR 46.215), using its CEER Checklist. If any of the listed extraordinary circumstances are present, then the project must be modified to eliminate the extraordinary circumstance, or the CE may not be used and an EA or EIS must be conducted.

DOI/BIA

DOI Manual Chapter 10.5(H):

- (3) Approval of emergency forest and range rehabilitation plans when limited to environmental stabilization on less than 10,000 acres and not including approval of salvage sales of damaged timber.
- (4) Approval of forest stand improvement projects of less than 2000 acres when in compliance with policies and guidelines established by a current management plan addressed in earlier NEPA analysis.
- (5) Approval of timber management access skid trail and logging road construction when consistent with policies and guidelines established by a current management plan addressed in earlier NEPA analysis.
- (6) Approval of prescribed burning plans of less than 2000 acres when in compliance with policies and guidelines established by a current management plan addressed in earlier NEPA analysis.
- (7) Approval of forestation projects with native species and associated protection and site preparation activities on less than 2000 acres when consistent with policies and guidelines established by a current management plan addressed in earlier NEPA analysis.

Natural Resources Conservation Service

The Natural Resource Conservation Service's (NRCS's) CE listed below include restoration and stabilization of riparian areas and water ways, which are similar activities to CE (e)(25). Based on the expertise of agency resource professionals who have experience implementing these actions across the country, the USFS believes that methods of implementing these actions are the same or similar to NRCS. The NRCS differs from the USFS implementation in that NRCS implementation takes place primarily on non- Federal and agricultural lands, where USFS actions are primarily focused on National Forest and Grasslands.

The NRCS does identify several extraordinary circumstances that correspond to those of the USFS. They include the presence of threatened and endangered species and wetlands. Several NRCS extraordinary circumstances involve significant effects on the environment.

Natural Resources Conservation Service

7 CFR 650.6 (d):

- (1) Planting appropriate herbaceous and woody vegetation, which does not include noxious weeds or invasive plants, on disturbed sites to restore and maintain the sites ecological functions and services;
- (2) Removing dikes and associated appurtenances (such as culverts, pipes, valves, gates, and fencing) to allow waters to access floodplains to the extent that existed prior to the installation of such dikes and associated appurtenances;
- (5) Restoring the natural topographic features of agricultural fields that were altered by farming and ranching activities for the purpose of restoring ecological processes;
- (8) Stabilizing stream banks and associated structures to reduce erosion through bioengineering techniques following a natural disaster to restore pre-disaster conditions to the extent practicable, e.g., utilization of living and nonliving plant materials in combination with natural and synthetic support

materials, such as rocks, rip-rap, geo-textiles, for slope stabilization, erosion reduction, and vegetative establishment and establishment of appropriate plant communities (bank shaping and planting, brush mattresses, log, root wad, and boulder stabilization methods)"

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

(19) Undertaking minor agricultural practices to maintain and restore ecological conditions in floodplains after a natural disaster or on lands impacted by human alteration. Examples of these practices include: mowing, haying, grazing, fencing, off-stream watering facilities, and invasive species control which are undertaken when fish and wildlife are not breeding, nesting, rearing young, or during other sensitive timeframes.

U.S. Fish and Wildlife Service

These Fish and Wildlife Service's (FWS's) CEs include activities for the restoration of fish and wildlife habitats through constructing or installing structures to support or protect habitat, through prescribed burning, and through supplementation of native species. These include similar objectives and activities that could be implemented by the USFS when restoring fish and wildlife habitats.

DOI has a set of extraordinary circumstances that apply to all DOI agencies. The DOI's extraordinary circumstances that are similar to USFS extraordinary circumstances include threatened and endangered species, American Indian sacred and religious sites, and sites on the National Register of Historic places.

Fish and Wildlife Service (516 DM 8.5(B))

(3) The construction of new, or the addition of, small structures or improvements, including structures and improvements for the restoration of wetland, riparian, instream, or native habitats, which result in no or only minor changes in the use of the affected local area. The following are examples of activities that may be included.

(i) The installation of fences.

(ii) The construction of small water control structures.

(4) The use of prescribed burning for habitat improvement purposes, when conducted in accordance with local and State ordinances and laws.

(5) Fire management activities, including prevention and restoration measures, when conducted in accordance with Departmental and Service procedures.

(6) Introduction or supplementation (e.g., stocking) of native, formerly native, or established species in to suitable habitat within their historic or established range, where no or negligible environmental disturbances are anticipated.

Categories Established by Congress

The two categories established by Congress are both amendments to the Healthy Forests Restoration Act of 2003 (HFRA) and address activities to reduce risk from insects and disease, and risk of wildfire on Federal public lands, which are similar in both intent and activity to those of CE (e)(25). Additionally, CE (e)(25) has some similar limitations related to collaboration and road and trail work. The CE differs from the HFRA CEs in that it allows for a broader scope of restoration activities, and is not limited to the areas designated by statute.

The two categories address extraordinary circumstances differently. Extraordinary circumstances

are not reviewed for the HFRA Section 603 CE but they are considered in the HFRA Section 605 CE.

HFRA, Section 603 as Amended by Agricultural Act of 2014, Sec. 8204. Insect and disease infestation.

Under section 603, an insect and disease project may be categorically excluded from documentation in an environmental assessment or an environmental impact statement and exempt from pre-decisional objections. In order to use this CE, projects must:

- Maximize old growth and large trees to the extent the trees promote stands that are resilient to insect and disease threats;
- Consider the best available scientific information; and
- Be developed through a collaborative process that:
 - includes multiple interested persons representing diverse interests;
 - and is transparent and non-exclusive, or meets the requirements of a resource advisory committee under subsections (c) through (f) of section 205 of the Secure Rural Schools and Community Self-Determination Act.

Projects that carry out part of a proposal that complies with the eligibility requirements of Collaborative Forest Landscape Restoration Program will meet the collaborative process requirements of section 603.

Section 603 imposes limitations on the use of the section 603 CE. A project that is categorically excluded:

- May not exceed 3,000 acres; and
- Shall be located in the wildland urban interface, or in an area in condition classes 2 or 3 in Fire Regime Groups I, II, or III, if outside the Wildland Urban Interface.
- May not include the establishment of permanent roads, but may allow for necessary maintenance and repairs on existing permanent roads and may allow for the construction of temporary roads (where not otherwise prohibited) for the purposes of carrying out this section. Temporary roads would have to be decommissioned no later than three years after the date of project completion.

The section 603 CE may not be used in areas that are:

- Congressionally designated Wilderness and Wilderness Study Areas;
- Areas where the removal of vegetation is restricted or prohibited by statute or by Presidential proclamation; and
- Areas where the activities described above would be inconsistent with the applicable Land and Resource Management Plan.

HFRA, Section 605 as Amended by the Consolidated Appropriations Act of 2018.

Categorical Exclusion for Wildfire Resilience Projects

Amends the Healthy Forest Restoration Act of 2003, by adding section 605. The primary purpose of this CE is for wildfire resilience projects and is very similar to the HFRA CE created in the Agricultural Act of 2014.

Components of the CE that are similar to the 2014 HFRA CE are:

- Carried out in accordance with subsections (b), (c) and (d) of section 102 and sections 104 and 105.
- Exempt CE from objections under section 105.
- Maximizes retention of old growth.
- Considers best available science.
- Is developed and implemented through a collaborative process.

- Project size is 3,000 acres.
- Projects can occur within the WUI or lands outside of WUI within condition classes 2 or 3 in Fire Regime groups 1, 2, or 3.
- No new permanent roads. Temporary roads must be decommissioned within 3 years after project.
- Cannot be carried out in Wilderness, where removal of vegetation is restricted or prohibited by acts of Congress or Presidential proclamation or would be inconsistent with a land management plan.
- Public notice and scoping are required.
- There are reporting requirements on acres treated utilizing this authority.

The CE is codified at 36 CFR 220.6(e)(25) and is listed under the categories of action that would require documentation in a case file or decision memo. In using this CE, as in its implementation of its NEPA procedures generally, the USFS shall make diligent efforts to involve the public, including providing public notice of opportunities for public involvement (40 CFR 1506.6). Use of the CE must also meet the collaboration requirements included in the category.

Conclusions

After reviewing previously implemented actions, benchmarking other Federal agencies' CEs, working with subject matter experts and scientists, reviewing public comments, and examining the history of use of certain existing CEs (where applicable), the USFS has concluded that it is appropriate to establish the new CEs carried forward at 36 CFR 220.6(d) and 36 CFR 220.6(e), as amended by the final rule that this statement accompanies.

Through review of the data presented in this document, associated appendices, and the administrative record, the USFS has found that the activities covered by the CEs listed within this document normally do not have significant effects on the human environment as provided under 40 CFR 1501.4. The USFS's vast experience in predicting and evaluating the environmental effects of the category of activities outlined in this supporting statement has led the Agency to supplement its NEPA regulations with new CEs.

The scope of the categories presented are 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 for categorical exclusion. Consequently, the level of effects associated with actions covered by the new CEs are expected to be below the threshold for significant environmental effects as provided under 40 CFR 1501.3.

There are no foreseeable events that indicate that the activities covered in the new CEs would substantially differ in the future. The Agency has, therefore, concluded that the environmental effects 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 normally would have significant effects on the human environment. Additionally, project activities would be implemented consistent with the applicable land management plan, other laws, regulations, and policies, BMPs, and design features or other measures as contemplated by 40 CFR 1501.4(b)(1).