

Attachment 3A

Explanatory Note for Department of Commerce (DOC) Report August 2, 2010

This note and the accompanying spreadsheet report the status and progress of National Environmental Policy Act (NEPA) compliance for the Department of Commerce on all projects and activities funded under Division A of the American Recovery and Reinvestment Act of 2009 (ARRA) through June 30, 2010.

NEPA not Applicable

One of the ARRA projects under National Oceanic and Atmospheric Administration (NOAA) Operations, Research, and Facilities is currently noted as “NEPA Not Applicable” on spreadsheet page 1. This includes just a small portion of funds being used by NOAA Fisheries to carry out Endangered Species Act (ESA) Section 7 consultations for habitat restoration grants, as well as, consultations on external Federal actions funded under ARRA (ESA consultations are requested by lead action agencies which are preparing NEPA documents for their proposed Federal actions).

NOAA Operations, Research and Facilities (ORF):

NOAA Operations, Research and Facilities (ORF) incorporates the NOAA Habitat Conservation Projects as well as the Vessel Maintenance and Repair projects. NOAA Habitat Conservation Programs is discussed in detail below. The Vessel Maintenance and Repair program was covered under one programmatic categorical exclusion which was completed on October 13, 2009 (row 7). This programmatic categorical exclusion covered numerous maintenance and repair activities on NOAA vessels.

NOAA Habitat Conservation (spreadsheet page 2 rows 1-7):

The NOAA Office of Habitat Conservation (OHC) continues to administer the projects under the ORF to restore coastal and marine habitats through a phased approach. There are 85 ARRA projects under this program covered under two EISs, two programmatic EAs, 17 project-specific EAs, and one programmatic CE.

- One ARRA project is not applicable to NEPA because it covers Endangered Species Act consultations and is not represented on page 2.
- Sixty two are habitat projects covered under two Programmatic EA documents (spreadsheet 2, row 1),
- Seventeen habitat projects are covered under specific EAs (spreadsheet 2, rows 2, 3 and 5),
- Two habitat projects are covered under individual EISs (spreadsheet 2, row 4), and
- Three vessel maintenance projects covered under one programmatic CE (spreadsheet 2, row 7).

Two pending EAs on line 3, Habitat Restoration-Phase 2 of 2, were completed during this reporting period. This reduced the number of pending EAs from six to four. This action increased the number of completed EAs (line 2) to 12.

Additionally, after the 5th Reporting period, NOAA's Office of Habitat determined that one project reported as pending on line 5 (Habitat Restoration- Multi-phased) was within the scope of a programmatic EA on line 1, therefore reducing the number of pending multi-phase EAs from two to one. As addressed in the fifth report, row 6 was determined to be within the scope of the 2002 Programmatic Environmental Assessment (PEA) for the Community-based Restoration Program (row 5) and a 2006 Supplemental PEA. Row 6 has been amended to show that it was combined with the PEA in row 5.

Currently there are 5 EAs that are pending for the ORF Habitat Restoration projects. They are all "pending" due to their planned timing for phased activities. At the current time, the applicants have not provided a sufficient level of adequately detailed information needed in order to complete NEPA compliance, however, this was anticipated due to phased approach. The applicants are expected to provide this information during this fiscal year, as planned.

NOAA Procurement, Acquisition and Construction (PAC) (spreadsheet page 2 rows 8 – 28):
There is only one CE remaining as pending under NOAA PAC detailed below.

NOAA PAC project "NOAA Climate Computing/Modeling" (row 18) NOAA remains actively engaged in a lease acquisition process with GSA to acquire an existing building to be modified for High Performance Computing data center use. The target for completing the lease agreement is still pending and anticipated in July 2010. NOAA expects that a CE will be completed just before the lease is signed.

NIST Construction and Research Facilities (CRF) (spreadsheet page 2 rows 29 – 40):
There are a total of 21 ARRA projects under CRF which are covered under 18 CEs, 2 EAs, and 1 EIS. Two CRF projects have been withdrawn. There are eight pending CEs.

Solar Panels at Kauai, HI (row 35): The interagency agreement has been completed and sent to the Navy for signature and transfer of funds. The U.S. Navy provided the completed CE, signed April 27, 2010.

NIST Construction Grants for Research Facilities (rows 36-38): The NEPA reviews have been completed for an additional 4 of the grants with the CE memorandums signed for each (4 projects had previously been reported as "done"). Of the remaining 8 projects, 6 are in final review and approvals are pending. The other 2 pending are actively working to complete their CE submissions.

National Structural Fire Resistance Laboratory Addition to Building 205 (row 32): The Supplemental EA was completed and resulted in a Finding of No Significant Impact, signed May 24, 2010.

Withdrawn:

- *Design and Construct New Time Code Radio Broadcast Stations: Low Frequency Station in Kauai, HI* (row 33): This project has been deleted from the list of NIST ARRA funded projects. This project has been withdrawn from the list of NIST ARRA funded projects. The New Time-Code Radio Broadcast Station in Kauai, HI was a shared line-item project with the New Time-Code Broadcast Station in the Eastern United States. The two projects were to be built for a total of \$15 million. However, the Eastern United States Station has proven to be more complex and costly than originally anticipated and requires the full \$15 million funding amount. The greater need for the station is in the Eastern United States as the signal from the existing time-code station in Fort Collins, CO does not reach many millions of people in the Eastern US. Regretfully, NIST has decided to put the Kauai project on hold with the hopes of constructing this more modest, but important, radio station at a later date.
- *Design and Construct New Time Code Radio Broadcast Stations: Low Frequency Station in Eastern US* (row 34): The Redstone, Alabama site location became unavailable when other Federal tenants raised concerns about potential electromagnetic interference from the proposed NIST station. Regretfully, NIST has withdrawn this project from its ARRA Construction Program and has deferred it to a later date - if a viable site can be identified and secured.

NTIA Broadband Technology Opportunities Program (BTOP) (spreadsheet page 2 rows 42- 46):

The number of ARRA projects under the BTOP program has increased from 74 to 83 since the last reporting cycle. The report ending 3/31/10 reported that 32 EAs were pending. The current report shows 33 EAs pending. During the current reporting period 4 EAs have been added to the program and are pending, 2 EAs that were previously pending have been completed, and 1 EA that was pending was changed to a CE based in the receipt of additional information.

BTOP has had two separate rounds of funding, August 2009 and January 2010. The first round has been completed and awards made. This report reflects the environmental reviews that were conducted for that round, with two EAs (with FONSI) completed. As of this report, no awards for the second round had been made, and consequently no projects from the second round are included.

Infrastructure projects that are funded by BTOP and receive a Special Award Condition that includes the preparation of an Environmental Assessment (EA) have six months from the date of award to submit the draft EA to NTIA/BTOP for review and comment. The project will be reported as finalized if a Finding of No Significant Impact determination is made following a sufficiency review of the final EA. Accordingly, the number of completed EAs reported will dramatically increase as the six month deadlines are realized and subsequent final EAs and FONSI are issued.

BTOP Construction and Deployment of Broadband Infrastructure (row 43): 6 of the 14 infrastructure grant projects that received Categorical Exclusions under NEPA are still in the process of completing consultations under Section 106 of the National Historic Preservation Act.

BTOP Construction and Deployment of Broadband Infrastructure (row 44): Currently there are 33 Environmental Assessments under development by grant recipients. It is important to note that the majority of grant recipients were previously not cognizant of the federal environmental and historic preservation review requirements. This has resulted in NTIA having to devote significant time to educating the grantees through special teleconferences, guidance documents and one on one calls, to explain the federal NEPA environmental review requirements. While this level of interaction with the grant recipients is unusual, it is having the desired effect in that BTOP Grantees are able to prepare the draft EA's for submission within the allotted time-frames. As of June 30, 2010, two final EAs had been approved and FONSI's issued, and 8 other projects had submitted draft EAs for review.

BTOP Broadband Mapping Grants (row 46): One Categorical Exclusion was used for all potential NTIA "State Broadband Mapping Grants". The projects only involve data development for program planning purposes, do not adversely impact the environment, and do not have any extraordinary circumstances. Therefore a categorical exclusion was deemed the appropriate level of NEPA analysis. As of June 30, 2010, 56 grants have been issued under this one categorical exclusion for broadband mapping.

EDA Economic Development Assistance Program (EDAP) (spreadsheet page 2 rows 46-48):

To date, EDA has completed a total of 69 NEPA actions for ARRA projects, including 63 EAs and 6 CEs. EDA has obligated all of its ARRA funds, and completed the NEPA actions for all of those awards. EDA did not have any report updates since the last reporting period other than an increase in Total Obligations on Spreadsheet 1.

Census 2010 Census and Programs (spreadsheet page 2 row 49):

The one CE for this program which involves salaries, and related information collection activities has been completed. (CE completed on 11/30/2009, row 49).

Please note that all reported "Date NEPA Done" projects reflect actual dates that the CE memos were signed and EA FONSI's "concurred" with by the NOAA NEPA Coordinator, or in the case of EDA or NTIA, when the FONSI's are signed by their respective NEPA Official.

Benefits of the NEPA process on ARRA projects:

NOAA Operations, Research and Facilities (DOC spreadsheet page 2 rows 1-7):

Benefits provided as a result of NEPA compliance for these actions include effective standard and special award conditions placed on the use of ARRA funds, which will ensure adequate protection for federally administered areas of coastal or marine habitat, and/or biological

resources such as anadromous fisheries, federally listed endangered or threatened species, and marine mammals, and also adequate protection for NHPA-listed (or eligible for listing) historic structures and cultural resources.

NIST Construction and Research Facilities (DOC spreadsheet page 2 row 31)

NIST Construction Activities in Gaithersburg – Programmatic Environmental Assessment:

The programmatic environmental assessment process allowed NIST to evaluate the environmental effects of several projects at the same time. By analyzing all ARRA projects and a few additional non-ARRA projects at once, a holistic approach to the campus was taken and environmental impact boundaries were outlined in the Finding of No Significant Impact for all present and future projects. Projects must fall within the boundaries or they will require additional environmental analysis.

NTIA Broadband Technology Opportunities Program (BTOP) (DOC spreadsheet page 2 row 42)

Broadband Infrastructure Fiber Optic Cable Project– Environmental Assessment: The NEPA process was the key procedural step in indentifying and protecting critical habitat and protected lands in South Dakota, while still allowing the grantee to use ARRA funds to add fiber backbone capacity to existing networks and specifically target and develop broadband infrastructure in areas that were underserved due to economic infeasibility.

The South Dakota Network Project was developed to serve the State of South Dakota by allowing the state to upgrade and expand broadband infrastructure to combat the social and economic issues facing local and rural communities. Specifically, this \$20.5 million project funded by the NTIA Broadband Technology Opportunities Program will increase high-speed internet connectivity in over 344 community anchor facilities, such as schools, libraries, hospitals, etc, and public safety agencies allowing for end-point users to have access to vital healthcare, educational, and emergency services. Since South Dakota is a land with many historical sites, protected tribal lands and sensitive ecological habitats, the prospect of ground disturbing activities in any of these areas has the potential to significantly impact the environment. As a result of the NEPA review process the project was able to move forward quickly without out significantly impacting the environment. The grantee and NTIA worked closely with the South Dakota State Historic Preservation Office, the U.S. Fish and Wildlife Service and other state and federal agencies to insure that sensitive areas and habitats will not be disturbed as a result of this broadband infrastructure project.

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