

Attachment 4A

Explanatory Note for Department of Commerce Report February 1, 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 December 31, 2009.

Please note that the obligations reported in the accompanying spreadsheet report are the "performing" obligations of the Department as of December 31. The Department adjusted its reporting of obligations in FY10 to address interagency agreements. Performing agencies are directed to report only their obligations in the Recovery.gov template. In other words, if department X transfers money from their own ordering TAFS account to another department Y's performing TAFS account, then the financial activity should be reported to Recovery.gov at such time that the performing agency (department Y in this case) obligates and outlays the funds. The ordering agency should not report their obligations and outlays to the performing agency. That means that the obligations and outlays of the performing agency to recipients will be captured in Recovery reporting at the time the performing agency puts the dollars to work.

Because the obligations are not reported the same way as they were in previous reports, in some cases the obligation amounts are less in this report than obligations reported in the 3rd report to Congress.

NOAA Operations, Research and Facilities (ORF):

One of the programs (NOAA Operations, Research, and Facilities (ORF)) 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 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 Habitat Conservation (spreadsheet page 2 rows 1-5):

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. The "Full project implementation" falls within the scope of two programmatic environmental assessments (row 1). There are multiple Habitat Restoration NEPA actions for projects with 2 or more phases (rows 2 through 5). The number of EAs and EISs were incorrectly reported in the 3rd Report to Congress. After evaluation of the projects it was determined that some of the projects were within the scope of previous environmental assessments. These numbers have been updated in this report to include 17 EAs reduced from 25 EAs (rows 2 and 3) 2 EAs reduced from 6 EAs for projects with 3 or more phases (row 5). The original EIS was broken up into two EISs due to the scale and independence of the proposal which was divided into two separate actions (row 4).

Currently there are 10 EAs that are pending for the ORF Habitat Restoration projects. They are “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 their planned-for phases. The applicants are expected to provide this adequate information during this fiscal year, as planned.

NOAA Vessel Maintenance and Repair (row 6):

There is one NOAA ORF Vessel Maintenance and Repair project (row 6) for which a CE was completed since the last report (CE completed on 10/13/2009).

NOAA Procurement, Acquisition and Construction (PAC) (spreadsheet page 2 rows 7 – 27):

There are currently 14 CEs, 3 EAs, and 1 EIS that have been completed for NOA PAC projects. The “NEXRAD Radar Systems & Dual Polarization” CE was completed on 12/20/2009. There are three CEs that remain pending.

- NOAA PAC project “NOAA Climate Computing/Modeling” (row 17) NOAA is working closely with GSA Region 3 office in Philadelphia towards a lease acquisition of an existing facility and the CE will be completed just before a lease is signed. The anticipated date for the lease is July, 2010.
- “Accelerate Satellite Observations” (row 20) remains as pending. It is expected that the climate sensors projects (TSIS and CERES FM6) will fit under existing CE's for the development of space flight hardware (satellites). The candidate CE's are under review within the agency and the CE memo is expected to be completed by the end of February.
- The NOAA PAC project, “Weather Facility Construction – Nome, AK – staff housing renovation” (row 23) are also still being reported again as CE “pending”. The CE for the proposed action to rehabilitate the two NWS residential four-plex units in Nome, Alaska will be completed once the scope of the project is finalized. Several design options for the rehabilitation project are presently being reviewed. It is anticipated that the CATEX will be completed by January 31, 2010.

NIST Construction and Research Facilities (CRF) (spreadsheet page 2 rows 28 – 35):

There are 3 CEs, 1 programmatic EA, and 1 EIS that have been completed for NIST Construction and Research Facilities projects. The programmatic EA for the 11 projects for “Construction Activities in Gaithersburg” (row 30) was completed on 12/22/2009.

NIST CRF “NIST Construction Grants for Research Facilities” (row 34 and new row 35) was changed from one “pending programmatic EA” to “completed and pending CEs”, and was separated into two lines. . Prescreening during the competitions and review of the new DoC

CEs has enabled NIST to anticipate that the awarded and pending grants will qualify for CEs. Therefore, the pending EA was eliminated. Four ARRA funded grants have been awarded.

NIST CRF for “Design and Construct New Time-Code Radio Broadcast Stations: Low Frequency Station in Kauai, Hawaii” has been withdrawn (row 31). The project was deleted from the list of NIST ARRA funded projects prior to NEPA being initiated. 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.

There are currently 15 CEs and 1EA that remain pending for NIST CRF projects.

- Design and Construct New Time Code Radio Broadcast Stations: Low Frequency Station in Eastern US” (row 32) EA is still pending. The lengthy process for determining site location has been resolved. The final site, an Army base in Redstone, Alabama, was selected in December 2009. NIST is preparing a Memo of Intent for the Army to initiate the project. The Army will then begin the Environmental Assessment upon receipt of the Memo of Intent. Anticipated EA completion is April 2010.
- NIST CRF still has a CE pending for the “Solar Panels at Kauai, HI” (row 33). The site is located on U.S. Navy’s Pacific Missile Range Facility and NIST is coordinating with the Navy. The NEPA analysis and documentation has been sent to US Navy for review and completion of the proposed final CE determination. Solar panels will be located on the U.S. Navy’s Pacific Missile Range Facility where an existing NIST radio station operates. The Navy has provided verbal assurance that the project falls within their current NEPA analysis and will be approved with a CE. However, a written and signed NEPA document is being withheld pending an interagency agreement for NIST to send funds to the Navy for archaeological observations related to the project. The interagency agreement is currently under review by NIST acquisition and legal staff. Anticipated CE completion is April 2010.
- NIST Construction Grants for Research Facilities (row 35) has 14 CEs pending. 2 of these have completed the CE process, although after 12/31/2009, and the other 12 grants will be awarded within the next two weeks. Prescreening during the competitions and review of the new DoC CEs has enabled NIST to anticipate that the awarded and pending grants will qualify for CEs.

NTIA Broadband Technology Opportunities Program (BTOP) (spreadsheet page 2 rows 39-40):

NTIA Broadband Technology Opportunities Program has 8 CEs completed. There are four EAs that are reported as pending.

The NEPA actions for “Construction and Deployment of Broadband Infrastructure” (row 39) was reported as a completed CE in the last report, however since the last reporting cycle, 4 projects have been awarded under Special Award Conditions that require preparation of an Environmental Assessments and Section 106 Consultations. The environmental documentation is required to be submitted to NTIA by the applicant within 6 months. To date, NTIA has not yet received an EA for review and therefore these projects are being reported as “pending.”

Row 40, “Non Construction Broadband Projects”, was added to the report for this reporting cycle. The last report indicated that 1 CE was completed for a construction project (row 39). This was incorrect since the project did not include any construction. . 7 CEs have been completed in this reporting cycle..

Row 41, “State Broadband Mapping Grants”, was added to the report for this reporting cycle. A categorical exclusion was used for all potential NTIA “State Broadband Mapping Grants” (row 42). Because the projects only involves data development for program planning purposes, they do not adverse impacts to the environment. During this quarter, funding was awarded to 41 grant applicants under this one categorical exclusion for broadband mapping.

EDA Economic Development Assistance Program (EDAP) (spreadsheet page 2 rows 42 and 43):

To date, EDA has completed a total of 68 NEPA actions for ARRA projects, including 63 EAs and 5 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.

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, when the FONSI’s are signed by their EDA NEPA Official.

Census Periodic Censuses and Programs (spreadsheet page 2 rows 46):

The one CE for this program which involves salaries, and related information collection expenses has been completed since the last report (CE completed on 11/30/2009, row 46).

Benefits of the NEPA process on ARRA projects:

NOAA Operations, Research and Facilities (DOC spreadsheet page 2 rows 1-5):

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

NIST Construction Activities in Gaithersburg (DOC spreadsheet page 2 row 31) – 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)

Broadband Infrastructure Fiber Optic Cable Project (DOC spreadsheet page 2 row 40) – Environmental Assessment: When a BTOP applicant submitted their application they were unaware of the environmental issues that needed to be addressed or why those issues were important. Through an iterative process with the reviewers and DOC staff, the applicant became considerably more aware of the environmental implications of their project and submitted an excellent response on their Environmental Questionnaire. This project demonstrates the value of outreach to applicants who had previously no knowledge environmental requirements or NEPA.

The primary issue with this applicant was the trenching and excavating of wetlands. Through the environmental review process, the applicant became aware of the critical issues associated with wetlands and is working to fully mitigate any impacts caused by their project.

EDA Economic Development Assistance Program (DOC spreadsheet page 2 rows 42 and 43):

Wetland Protection, Madison County, IN - Flagship Enterprise Center - Environmental Assessment: EDA provided \$2.7 million in Recovery Act funding for the construction of an 80,000 square-foot multi-tenant business/industrial facility on an 8.4 acre site. There is an isolated wetland and a forested wetland to the southwest of the project site.

As a result of the NEPA process, a 26.5 acre forested wetland to the southwest of the project site will be protected. The wetland is an important wildlife habitat because of the permanent aquatic habitat that might be used by migratory waterfowl. As such, the US Fish and Wildlife Service (USFWS) recommended it be protected. Specifically, excavation on the project site must not

affect the hydrology of the wetland by changing any slope or drainage features; no runoff from storm events should be directed to the wetland from impervious surfaces on the project site; and retention facilities to handle storm water must be contained within the current footprint of the project site.

Rookery Protection, Ohio County, WV - Ohio County PSD Water System Project -

Environmental Assessment: EDA provided \$6.4 million in Recovery Act funding to the Ohio County PSD to construct a water storage tank, a pump station, and 27,000-feet of water lines to facilitate development east of Wheeling, WV. The NEPA coordination made the Ohio County PSD and the project engineers aware of the presence of a great blue heron rookery so that construction of the line could occur only during the time of year when the herons are not nesting in the rookery.

Endangered Species Protection, Palmer, AK - Dock Expansion, Matanuska-Sustina Borough

- Environmental Assessment: EDA provided \$3 million in Recovery Act funding to the Matanuska-Susitna Borough to add 7.8 acres to an existing 5.2 acre dock composed of gravel. Prior to receiving EDA funding, the recipient obtained a Clean Water Act (CWA) Section 404 permit for the project from the U.S. Army Corps of Engineers (Corps). As part of the NEPA/CWA Section 404 process, the applicant agreed to modify the proposed dock expansion. A proposed small boat launch was eliminated from the project in response to concerns that an increase in small boat traffic could adversely impact federally-listed, endangered Cook Inlet beluga whales.

Historic Cemetery Protection, Chemung County, NY - Chemung County Industrial

Development Association Water System Project - Environmental Assessment: EDA provided approximately \$1.5 million to the Chemung County IDA to construct water and sewer lines and a road to serve a proposed industrial development in Chemung County, NY. The NEPA coordination made the Chemung County IDA aware of the presence of the historic cemetery so that the cemetery could be avoided during the construction of the proposed infrastructure and the industrial development.

#