Attachment 15A(1)

Explanatory Note for Department of Transportation (DOT) Report
May 3, 2010

Department of Transportation projects and activities funded under Division A of the American Recovery and Reinvestment Act of 2009 (ARRA or Recovery Act) are divided into activities by the Federal Highway Administration (FHWA), Federal Transit Administration (FTA), Federal Aviation Administration (FAA), Federal Railroad Administration (FRA), Maritime Administration (MARAD), and Office of the Secretary of Transportation (OST). Information regarding the projects/activities in each Modal Administration/Office is provided below.

Federal Highway Administration

- ARRA provides funds for restoration, repair, construction and other activities eligible for assistance under 23 U.S.C. Section 133(b) (the Surface Transportation Program), and for passenger and freight rail transportation and port infrastructure projects eligible for assistance under 23 U.S.C. Section 601(a)(8). ARRA lists specific amounts for projects in Puerto Rico and territories. ARRA provides funding for transportation investments at Indian reservations and Federal lands. Three percent of the funds are set aside for Transportation Enhancement activities such as historic preservation, bicycle and pedestrian trails and environmental mitigation.

- U.S. Governors are required to make certifications and other assurances that ARRA funding will be spent for worthy infrastructure projects. The FHWA report lists projects, by State, that have been obligated. For some States, the projects listed include all highway projects that have been identified in the governor's certification lists. Obligation means that a commitment has been made to pay a State for the eligible Federal share when a project has been approved and a project agreement has been executed. When funds are obligated, States are notified that Federal funds are available for the State use, meaning that the State can incur costs, begin projects and later be reimbursed for eligible costs incurred.

- The total number of ARRA Funded Projects/Activities listed on page 1, column E accounts for FHWA projects where funds have been obligated. The obligation totals for these projects are listed in Total Obligations for Projects & Activities on page 1, column L. This aligns with the Department of Transportation Financial & Activity reports.

- The total NEPA actions reported in column J of page 1 of the FHWA spreadsheet do not include projects where the appropriate level of NEPA analysis is yet to be determined or a determination is made that NEPA is not applicable. Projects determined to be NEPA not applicable are listed under column F of page 1. Projects listed on page 2 with no data in the other columns are still in the scoping phase and the NEPA class of action has not been determined at the time of this report.

- The report does not contain estimates or aggregate projects/activities. Each line item on page 2 identifies an individual project/activity receiving ARRA funding.

- Since the States can make funding decision changes, the report includes projects that may ultimately be funded by non-ARRA sources depending upon how each State reported the information. If a project's funding source was changed following initial reporting, it is listed as withdrawn on the report. If a project was identified as in the scoping phase (NEPA class of action to be determined) and it was determined not to advance the project, it has been listed as withdrawn. If a project was inaccurately identified as an FHWA ARRA funded project, it has been deleted. These actions account for the change in withdrawn projects numbers from the 12/31/09 report to this report.

- Of the $27.5 billion appropriated for Highway Infrastructure Investment, ARRA provides that FHWA may retain up to $40 million for oversight activities. These expenses are not included in the report because they are used to administer the ARRA funds and not for ARRA funded projects/activities.

- The "Description of the Project/Activity" in column C, page 2 of the spreadsheet identifies the specific ARRA project and activities by: State, FHWA Federal Project Number, Project Name (often the State Project Number), Project Description, and FHWA Project Purpose Code (i.e. FMIS improvement type codes).

- The two FHWA NEPA Not Applicables (N/As) listed on Page 1 of the spreadsheet are for projects that are covered under CERCLA/RCRA.

- Multiple NEPA actions are listed for several FHWA projects because additional NEPA actions from different Federal agencies are required to complete the project.

- FHWA NEPA actions that have been pending for longer than 90 days are a result of several factors, including
    - Projects which are designated contingency projects in the event that additional ARRA funds become available due to other projects being withdrawn or projects coming in under budget;
    - Projects which will have a NEPA Categorical Exclusion determination made on the date of obligation;
    - Projects where FHWA has approved NEPA action and has obligated funds but are awaiting Federal permits prior to initiating construction; and
    - Because FHWA has until September 30, 2010 to fully obligate its ARRA funding, projects may remain as NEPA pending until such time as the project is ready to be obligated or to move forward into construction.

- For FHWA Federal Lands Division projects, the ARRA obligation deadline is September 30, 2010. Therefore, FHWA NEPA actions do not need to be completed for Federal Lands projects until September 30, 2010.

- Several Federal-Aid projects fall under the Ferry Boat Discretionary Program and are not required to have NEPA completed or an obligation made until September 30, 2010.

- Some Federal-Aid projects are no longer being carried forward as ARRA projects but continue to have ARRA obligations associated with the project. They will be withdrawn when funds are released from FHWA's financial system.

- ARRA appropriated funds for disadvantaged business enterprise bonding assistance for transportation projects are specifically funded through ARRA. DOT's Office of Small and Disadvantaged Business Utilization has developed an outreach campaign to distribute information on this program, working with State DOTs, the surety industry and other Federal agencies such as the Small Business Administration and the Minority Business Development Agency. The DOT administration providing funding for the projects will be the lead agency for any environmental review of the projects. As of March 31, 2010, the OSDBU had reimbursed 13 separate bond fees for a total of $104,859.

- NEPA Benefits:

  FHWA has processed or is currently processing ARRA-funded projects in many States that demonstrate the benefits provided by the NEPA analysis and documentation. The involvement of stakeholders and collaboration with resource agencies have resulted in projects which incorporate features such as context sensitive solutions and non-motorized facilities into the improvements to highway facilities. For example, on the Yuma Pivot Point Plaza project (row 568), the NEPA process led to the recognition of the importance of protecting the Swing Span project, a historic feature of the transcontinental railroad system, as well as connecting the Plaza with the adjacent Gateway Park. In the case of the U.S. 33 Nelsonville Bypass (row 9315), the NEPA process led to mitigation measures during and after construction, including tree and grass planting for erosion control and native plant restoration, provisions for large and small animal crossings, special fencing to prevent animal encroachments into the right-of-way, and special lighting to direct the flight of bats over the roadway.

<u>Federal Transit Administration</u>

- FTA has awarded 945 ARRA Grants for over 6,000 projects totaling $8,317,833,000 as of March 31, 2010. FTA has obligated all of the designated ARRA funds for the following transit investments: 36-New Starts Capital Investment Grants ($742M), 56-Fixed Guideway Infrastructure Investment Grants ($742M), 86-Non-Urban Area Formula Grants ($745M) and 96-Urban Area Formula Grants ($5.98B). There are two grant programs currently in process: 86-Non-Urban Area Formula Tribal Transit ($17M) and 77-Transit Investments in Greenhouse Gas and Energy Reduction – TIGGER ($100M), reflected at the bottom of the accompanying spreadsheet (lines 6,692 through 6,772). The NEPA process is conducted for each of the projects and, in many cases, contributes to the prevention or elimination of damage to the environment as well as the enhancement of environmental quality. There have been 6,723 Categorical Exclusions (CE), 26 Environmental Assessments (EA) and 22 Environmental Impact Statements (EIS) conducted since February 2009.

- The date of NEPA document completion is the date that the ROD, FONSI or CE determination was approved by FTA. Projects reported as "done" did not involve other agency NEPA reviews.

- The information in the FTA report is taken directly from FTA's grants management system, which is called TEAM for "Transportation Electronic Award Management."

- FTA retains administration takedown allowances under the transit programs. FTA reports the appropriated amount less the administrative and oversight funding.

- ARRA-funds are distributed through the following FTA programs:

    - **36- New Starts Capital Investment Grant ($742M) (Page 1, Row 1 of FTA Spreadsheet):**

    The New Starts planning and project development process reflects a continuum of local policy development, technical studies and decision-making activities, where broad regional problems are identified and prioritized; options for addressing specific problems in specific corridors are identified, evaluated and narrowed; and optimal investment strategies are selected and advanced for more detailed analysis and, ultimately, implementation and operation. There is a statutory preference for projects that are in construction or for which funds may be obligated within 150 days of enactment of ARRA.

    Environmental documents have been prepared for a variety of ARRA-funded "New Start" (49 U.S.C. § 5309) projects. NEPA compliance for all ARRA-funded projects is the same, insofar as environmental considerations are concerned, as traditionally funded projects.

    ARRA-funded projects include any fixed guideway system which utilizes and occupies a separate right-of-way, or rail line, for the exclusive use of public transportation and other high occupancy vehicles, or uses a fixed cantenary system and a right-of-way usable by other forms of transportation. This includes, but is not limited to, heavy rail, light rail, commuter rail, automated guideway transit, people movers and exclusive facilities for buses (such as bus rapid transit) and other high occupancy vehicles. ARRA funds are also applied to general maintenance and replacement of equipment.

    - **56-Fixed Guideway Infrastructure Investment ($742M) (Page 1, Row 2):**

    A "Fixed Guideway" refers to any transit service that uses exclusive or controlled rights-of-way or rails, entirely or in part. The term includes heavy rail, commuter rail, light rail, monorail, trolleybus, aerial tramway, inclined plane, cable car, automated guideway transit, ferryboats, that portion of motor bus service operated on exclusive or controlled rights-of-way and high-occupancy-vehicle (HOV) lanes. Funds are allocated by a statutory formula to urbanized areas with rail systems that have been in operation for at least seven years.

Environmental documents have been prepared for a variety of ARRA-funded projects including capital projects to modernize or improve existing fixed guideway systems, the purchase and rehabilitation of rolling stock, track, line equipment, structures, signals and communications, power equipment and substations, passenger stations and terminals, security equipment and systems, maintenance facilities and equipment, operational support equipment, including computer hardware and software, system extensions, and preventive maintenance.

- **96-Urban Area Formula ($5.98B) (Page 1, Row 4):**

This program (49 U.S.C. § 5307) makes Federal resources available to urbanized areas and to Governors for transit capital and operating assistance in urbanized areas and for transportation related planning. An urbanized area is an incorporated area with a population of 50,000 or more that is designated as such by the U.S. Department of Commerce, Bureau of the Census.

Environmental documents have been prepared for a variety of ARRA-funded projects in urban areas. Funds have been used for planning, engineering, design and transportation-related studies as well as capital investments and general maintenance of buses, vehicles, paratransit services, fixed guideway systems and construction of transit facilities.

- **86-Non-Urban Area Formula ($745M) (Page 1, Row 3) and Tribal Transit ($17M) (Page 1, Row 5):**

The Non-Urban Area Formula Program (49 U.S.C. § 5311) provides formula funding to States for the purpose of supporting public transportation in areas of less than 50,000 people. Eighty percent of the statutory formula is based on the non-urbanized population of the States; 20 percent is based on land area. No State may receive more than 5 percent of the amount apportioned for land area. In addition, FTA adds amounts apportioned based on non-urbanized population according to the growing States formula factors of 49 U.S.C. § 5340 to the amounts apportioned to the States under the § 5311 program.

Eligible applicants for the Tribal Transit Program are Federally-recognized Indian tribes or Alaska Native villages, groups, or communities as identified by the Bureau of Indian Affairs (BIA) in the Department of the Interior (DOI) for capital projects and cost.

Non-urban area formula and tribal transit NEPA compliance for ARRA-funded projects is the same, insofar as environmental considerations are concerned, as traditionally funded projects.

Environmental documents have been prepared for a variety of ARRA-funded projects. Funds may be used for capital, operating and administrative assistance to State agencies, local public bodies, Indian tribes, nonprofit organizations and operators of public transportation services. Projects must meet the requirements of the Americans with Disabilities Act, the Clean Air Act or Federally-funded bicycle access projects.

- **77-Transit Investments in Greenhouse Gas and Energy Reduction-TIGGER ($100M) (Page 1, Row 6):**

  ARRA made available $100 million for a discretionary program to support transit capital projects that resulted in greenhouse gas reductions or reduced energy use. FTA published a Federal Register Notice on March 24, 2009 announcing the availability of funding and selection criteria for the program and inviting proposals. FTA received 224 applications and selected 43 projects to receive the $100 million in available funding.

<u>Federal Aviation Administration</u>

- The FAA was appropriated ARRA funds for two program areas: Grants-in-Aid for Airports and Facilities and Equipment. Only projects which have completed NEPA determinations are being considered for ARRA support from these appropriations.

- This FAA report covers 287 airport grants, totaling $1.098 billion (Page 1, Row 1 of the FAA spreadsheet). The four stages in awarding Grants-in-Aid for Airports, as described on our website (www.faa.gov/recovery/), are: Programmed, Released, Reserved, and Obligated. As of March 31, 2010 all of the funds allocated for airport grant projects have been obligated and are under grant. A small amount of funding (estimated at less than $1 million at any point in time) continues to be "recycled" as airport construction bids come in below estimates and identified savings are redistributed to support project overruns. All projects are either underway or completed.

- The FAA has awarded contracts to 306 projects from the Facilities and Equipment appropriation for a cumulative total of $135.9 million (Page 1, Row 2 of the FAA spreadsheet). Facilities and Equipment contracts are major capital investments related to modernizing and improving air traffic control and airway facilities, equipment and systems.

- This report does not contain estimates. The report does aggregate projects for the Facilities and Equipment contracts, for which there were numerous NEPA actions with the same type and status. Information on individual Facilities and Equipment projects can be found at: http://www.faa.gov/recovery/programs/

- For Grants-in-Aid for Airport projects, NEPA is triggered when funds are Programmed for a proposed project (Stage 1 in the Grants-in-Aid awarding process). NEPA analyses are initiated during this time. NEPA analyses, including EAs and EISs, are completed before the Released stage of the funding process. The date of NEPA document completion is the date that the FAA approved the NEPA action. There are no other agency NEPA reviews.

- Information for the Grants-in-Aid for Airports is taken from FAA's grants management system, which is called SOAR. Information on the Facilities and Equipment contracts is from Delphi, the Department of Transportation's comprehensive financial management system.

- FAA may retain administration and oversight allowances under the Grants-in-Aid for Airports program. Obligated funds reported do not include any funds for oversight.

- NEPA Benefits: Below is an example of benefits provided as a result of FAA's NEPA actions:

  Construction of a Replacement Airport at St. George, Utah (Environmental Impact Statement) (FAA Spreadsheet, Page 2, Row 721): Through alternatives development in the NEPA process, the EIS allowed for the evaluation of alternatives with environmental benefits for airport noise, air quality and energy efficiency. As a result, under the proposed action, no dwellings fall within the 65 decibel Day-Night Sound Level (DNL) noise contour. The replacement airport at St. George is designed for larger aircraft, contributing to fewer overall operations and a decrease in jet fuel demand and emissions. In addition, the proposed facilities were designed to be more energy efficient.

Federal Railroad Administration

- As of March 31, 2010, FRA has obligated nearly $1.3 billion of their appropriation of nearly $9.3 billion.

- On January 28, 2010 FRA announced applications selected for funding under the High Speed Intercity Passenger Rail (HSIPR) grant program. The HSIPR Program generated enormous interest and excitement across the country. The FRA received 259 grant applications from 37 States and the District of Columbia requesting nearly $57 billion in funding – far exceeding the initial $8 billion available under the American Recovery and Reinvestment Act of 2009 and FRA's FY09 budget. In total, 79 applications from 31 States were selected for funding, with 62 funded through ARRA and 17 funded with FRA FY09 appropriations.

- The selected HSIPR projects to be funded are being reported for the first time on this spreadsheet.

- HSIPR actions reported as pending on the FRA spreadsheet are undergoing final environmental review. Having substantially completed NEPA documentation was a prerequisite for application eligibility for construction projects funded under Track 1a and corridor development projects under Track 2. FRA staff is actively reviewing and issuing decisions. The type of environmental decision used varies by project.

- While all HSIPR projects have been selected for award, no awards have yet been made for selected projects. Awards will be made in the near future on a rolling basis, as applicants with selected projects are able to provide the materials needed to craft an acceptable grant/cooperative agreement. Administrative services have been funded, and that is reflected in a reduction in the total ARRA appropriation reported for the Capital Assistance for High-Speed Rail Corridors and Intercity Passenger Rail Service Program (reduced from $8 billion to $7,998,471,045 first reported in the third report).

- The Amtrak NEPA actions reported as pending on the FRA spreadsheet are awaiting submission of various documents needed to support a finding of Categorical Exclusion under FRA Procedures for Considering Environmental Impact. These include SHPO impact determinations, cultural resources assessments, and proof of federal permitting agency consultation. The specific required documents vary by project.

- The "Seattle Maintenance Facility – Upgrade Phase 1 and 2" was voluntarily withdrawn from the program because Amtrak, after consultation with FRA engineering staff, determined that it was not a project that could likely be completed within the two-year statutory deadline established by ARRA. This was first reported in our second Explanatory Note.

- The total appropriation for Amtrak has been adjusted from $1.3 billion to $1,293,525,000 to subtract funds for administrative purposes. This was first reported in the third report.

- NEPA Benefits:

  FRA's NEPA process has resulted in the identification and documentation of valuable historic resources. For example, environmental analysis required under FRA's NEPA Procedures Replacement of the Safe Harbor Transmission Lines in Lancaster County, PA (for Row number 448 on Page 20 of the FRA spreadsheet), has determined that the transmission poles involved are historic resources. A cultural resources assessment for the same project indicated the possible presence of tribal cultural resources within the area of potential effects. This project remains Pending as FRA, Amtrak and other involved agencies coordinate public meetings concerning the preservation of these resources. FRA is actively engaged in Tribal Consultation to craft a memorandum of agreement acceptable to all parties.

<u>Maritime Administration</u>

- The Maritime Administration was tasked with administering the Small Shipyard Grant program under ARRA. The grant program notice was published on March 4, 2009, and applications were due by April 20, 2009. A total of 454 applications were received and reviewed.

- Of the applications received, 75 were selected to be funded, totaling $98 million. The remaining $2 million is for oversight activities, as stipulated by ARRA.

- A NEPA analysis was conducted for the selected applications. Applicant projects consisted of repair and modernization activities. It was determined that all of the selected projects fit squarely within Agency categorical exclusion guidelines; there were no controversial or extraordinary projects. A single, programmatic categorical exclusion was issued.

<u>Office of the Secretary</u>

- ARRA appropriated $1.5 billion of discretionary grant funds (TIGER) to be awarded by the Department of Transportation for capital investments in surface transportation infrastructure.

- The total appropriation for TIGER has been adjusted from $1.5 billion to $1,298,500,000 to subtract funds appropriated for administrative purposes and federal credit assistance, as stipulated by the Recovery Act.

- A final notice of the TIGER program, announcing funding availability, project selection criteria and application requirements, was published on June 17, 2009.

- TIGER applications were submitted by September 15, 2009. The Department received more than 1400 applications requesting close to $60 billion in funding from 50 states, 3 territories and the District of Columbia. Applications were assessed to determine whether projects were well aligned with the short- and long-term criteria specified in the program's Federal Register notice. The Department required rigorous economic justifications for projects requesting more than $100 million in funds.

- On February 17, 2010, 51 TIGER projects were selected for award. These projects represent some of the most innovative projects as well as multi-modal, multi-jurisdictional projects that are often overlooked by the existing funding system. The projects range from major billion dollar freight rail corridors in the Mid-Atlantic and South, to bridge and road repairs in Oklahoma and South Carolina to port projects in Maine and Hawaii.

- Although TIGER projects have been selected, awards have not yet been made. The Department is currently in the process of determining necessary NEPA actions and developing grant agreements with the 51 awardees. In this report, DOT has begun to report those 14 TIGER grants for which the NEPA course of action has been determined and initiated by March 31, 2010.

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