

## Attachment 3E(1)

### Explanatory Note for Forest Service Report May 3, 2010

Pursuant to the Office of Management and Budget's American Recovery and Reinvestment Act 2009 (ARRA) implementation guidance, appendix 7, and the Council on Environmental Quality guidance as updated, the Forest Service submits this Section 1609(c) report for activity through March 31, 2010.

This report updates and clarifies the fourth report and addresses the National Environmental Policy Act (NEPA) work necessary for ARRA Division A funded projects and activities that will use over 90 percent of the funds appropriated.

As of March 31, 2010, the Forest Service has identified 705 ARRA funded projects. A “project” as defined for ARRA budgeting/accounting purposes does not always align with the “project” as defined for NEPA purposes. In this case, the ARRA “project” is a combination of many component “projects” (subprojects) that have independent utility and are individually analyzed under NEPA. This results in fewer ARRA funded projects being reported than the number of NEPA actions.

During this reporting period, a net of 10 additional ARRA projects are reported (18 have been initiated and 8 have been withdrawn). Also, with the addition and withdrawal of projects, as well as with adjustments to the quantity of NEPA actions for some existing projects, a net of 26 additional NEPA actions are reported. These changes are explained in detail below.

**NEPA Not Applicable (N/A NEPA):** There are 252 ARRA projects for which NEPA is not applicable. Of those projects, 10 fall under the Comprehensive Environmental Response, Compensation and Liability Act; 4 are under the authority of the Federal Highway Administration which is responsible for the associated NEPA action including review of the Forest Service ARRA funded project/activity; and 29 are under the Hazardous Fuels Reduction under the Rescission Act of 1995 (P.L. 104-19, Section 504(b)). Additionally, 209 are grants issued to state and local governments, non-governmental organizations, private land owners, and 1 private business under the following authorities which provide no discretionary decisionmaking and do not require NEPA analysis.

- The Watershed Restoration and Enhancement Act (P.L. 105-277, Section 323 as amended by P.L. 109-54, Section 434) — four projects located on non-federal lands adjacent to National Forest System lands
- The Cooperative Forestry Assistance Act of 1978 (P.L. 95-313) — 190 projects located on non-federal lands primarily for hazardous fuels projects
- Division F, Title III, Consolidated Appropriations Act, 2008 (P.L. 110-161) — one project for an infrastructure assistance grant to help sustain the region's small forest products business
- Section 210 of the Energy Policy Act of 2005 (P.L. 109-58) — 14 projects

**Updates to the previous report:** As the scope of subprojects continued to evolve, several ARRA projects required adjustments to the number and kind of NEPA actions. Changes may be due to the need for additional or fewer subprojects to expend allocated funds. Subprojects initially identified for categorical exclusion (CE) could not qualify or had extraordinary circumstances requiring an environmental assessment (EA). Subprojects initially proposed that required EAs were replaced by less complex actions eligible for CEs, or project design has finally been determined.

- Project #55 dropped one EA.
- Project #102 added one CE.
- Project #122 was in error for changing NEPA actions from EAs to CEs in the last report. Further, the 15 EAs have been reduced to 4EAs as project design has been further refined.
- Project #134 removed one EA.
- Project #176 added one EA.
- Project #190 completed the design and identified one CE.
- Project #204 removed two CEs.
- Project #228 added eleven CEs.
- Project #283 removed one CE.
- Project #294 corrected from CE to EA.
- Project #329 was redesigned and identified one CE.
- Project #361 removed one CE and added one EA
- Project #411 removed one CE.
- Project #448 removed one CE.
- Project #454 removed one CE and added one EA.

**New Information for this report:**

- Twenty-nine NEPA actions remain pending from the last report; 14 CEs and 15 EAs. This was reduced from the last report of 164 pending actions.
  - All CEs are being checked for extraordinary circumstances.
  - Except for one CE, all CEs are expected to be completed in April 2010.
  - All EAs are progressing through their normal time frames and no unanticipated barriers to completion have been identified.
- CEs have been completed for the following projects.
  - One CE for projects #55, #67, #92, #102, #126, #140, #179, #190, #201, #204, #217, #288, #317, #320, #321, #327, #329, #335, #345, #363, #365, #373, #400, #405, #411, #436, #448, #453, and #454.
  - Two CEs for projects #133, #290, and #322.
  - Three CEs for projects #286, #291, #301, #325, and #478.
  - Four CEs for project #134.
  - Five CEs for projects #102 and #333.
  - Eight CEs for project #282.
  - Twelve CEs for projects #283 and #285.
  - Sixteen CEs for project #228.
- EAs have been completed for the following projects.

- One EA for projects #54, #71, #122, #140, #144, #175, #176, #179, #180, #207, #217, #269, #284, #294, #344, #361, #447, and #454.
- Two EAs for project #282.
- Three EAs for project #180.
- ARRA Projects Withdrawn
  - Project #94, when fully evaluated found that ARRA funding would not be required for the project to move forward.
  - Project #95, final project development determined the project was underfunded and it was determined that funds could be better used elsewhere.
  - Project #183, due to the project being in a roadless area, the environmental impact statement (EIS) could not be completed within established timelines.
  - Project #377, project cost has nearly doubled with a two decade payback. Funds could be better spent.
  - Project #437, archaeological requirements were more complex than expected and funds could be spent more efficiently.
  - Project #469, archeological surveys found to be incomplete precluding timely completion of the project.
  - Project #479, litigation filed (EIS).
  - Project #492, rejected by prison as biomass boiler proposal was further developed (NEPA N/A).

- New ARRA Projects

Eighteen new projects have been established (#493 – 509 and one N/A NEPA) to replace withdrawn projects, resulting in a net addition of 10 ARRA projects for this reporting period (see page 1 of the Spreadsheet). Except for projects #503 and #505, all NEPA has been completed.

**Benefits of the NEPA process:** After several decades of implementing NEPA, the Agency sees the greatest benefit of the Act is its requirement to use a systematic, interdisciplinary approach to decision-making, which includes involving the public. Public involvement has always been a critical element to the Agency as a means to add to the level of information about the possible environmental and social effects of a project. Because of NEPA’s systematic approach, environmental and social effects, findings required by various environmental statutes, and public input are considered together during decision-making.

The following examples show how public involvement can enhance decision-making.

1. **CIM-0104-04R; Lakeview-Reeder Roads; EIS** (project #101)

This project entailed road maintenance reconstruction and new road construction in an area where the endangered species boreal toad exists. The road reconstruction would improve fish passage and reduce sedimentation in the area. Through public comment on the draft EIS, a public comment identified a discrepancy regarding a buffer zone for the protection of the boreal toad. The road was redesigned to account for the discrepancy and provide an adequate buffer.

2. **CIM-0811-09T; Roan Mountain Facilities Maintenance; CE** (project #326)

This project entailed repaving existing trails and repaving a parking area and access road. During the scoping process individuals requested the use of porous pavement be considered to reduce rain runoff. The use of porous pavement requires a 1.2 meter minimum clearance from the bottom of the paved surface to bedrock (EPA Fact Sheet 1999). Since bedrock at the site is 6-12 inches, the use of porous pavement is not feasible without major site preparation. The NEPA process allowed the public to better understand why an alternative action that appeared to be environmental friendly was not pursued.

3. **WFM-0202-14HF; Babione Vegetation Management Project; EA** (project #379)  
This vegetation management project was designed to conduct various vegetation treatments to reduce hazardous fuels and restore forest health. Through the public involvement process the Agency worked with adjacent landowners to address concerns that on-the-ground activities could lead to increased trespass on their private land. In order to alleviate this concern and still meet the project's purpose, several design elements were incorporated.
4. **WFM-0412-01HF; Crooked River Vegetation Management Project; CE** (project #47)  
This vegetation management project was designed to conduct various vegetation treatments to reduce hazardous fuels and restore forest health. The Agency identified the State of Idaho's Department of Fish and Game as a cooperating agency. The state brought forward new information on flammulated owl habitat, which led to deferred treatment on approximately 55 acres.
5. **WFM-0521-1; Butler II/Slide Post-Fire Fuels Reduction Project; EA** (project #8)  
This vegetation management project was designed to protect adjacent communities from the risk of future high-intensity wildfire and provide a safe environment for work crews. Two special interest groups objected to the project as designed. The forest met with the groups and found resolution. Both groups were brought into the implementation monitoring to ensure their concerns were addressed.
6. **CIM0-0100-01T; Trail Construction and Reroutes, 2010; CE** (project #204)  
This project entails the construction of hiking trails to improve recreation experiences. The process revealed that the public held differing opinions on whether one segment of a proposed trail should be designated as motorized or non-motorized. To address these concerns, the responsible official decided to remove the trail segment from consideration and address the issue during the upcoming travel management analysis process.

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