Attachment 4A

Explanatory Note for Department of Commerce (DOC) Report
May 3, 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 March 31, 2010.

Please note the NIST Health Information Technology (HIT) total obligations figure was incorrect for both the September and December, 2009, reports. The $2,289,628 figure provided for both September and December for HIT was the total obligations for SmartGrid, which NIST was subsequently informed, should not have been included in the ARRA report. Smartgrid and HIT are two separate programs and were erroneously combined in the previous report.

NEPA not Applicable
One of the ARRA projects under 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 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 1-6):
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.

- One ARRA project NEPA does not apply because it covers Endangered Species Act consultations.
- Sixty two are habitat projects covered under two Programmatic EA documents (spreadsheet 2, row 1) ,
- Eighteen habitat projects are covered under specific EAs (spreadsheet 2, rows 2, 3 and 5), and
- Two habitat projects are covered under individual EISs (spreadsheet 2, row 4)

There were a few EAs that were incorrectly reported in the 4th Report to Congress. Two EAs were inadvertently omitted from line 3 (previously reported 8 EAs pending), bringing this number to 10 EAs pending for Phase 2 of 2 for 4th reporting period. Additionally, after the 4th

reporting period, NOAA's Office of Habitat determined that 3 other projects under this same line were within the scope of previous EAs on line 1, therefore reducing the number from 10 to 7 EAs.

One of the pending 7 EAs on line 3 was completed during this reporting period, reducing line 3 to 6 EAs still pending for this report, while increasing line 2 completed EAs by one to "10." These numbers have been updated in this report to include a total of 16 EAs reduced from 17 EAs (rows 2 and 3) due to the corrections.

Currently there are 8 EAs (rows 3 and 5) 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 the phased approach. The applicants are expected to provide this adequate information during this fiscal year, as planned.

Spreadsheet Page 2, row 6 was reported as a completed EA in previous reports. This was a reporting error. This project did not result in an additional EA, but rather it was the ARRA project 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. Page 2, row 6 has been amended to show that it was combined with the PEA in row 5.

NOAA Procurement, Acquisition and Construction (PAC) (spreadsheet page 2 rows 8 – 28): There are a total of 21 ARRA funded projects under PAC. Two projects have been completed during this reporting cycle:

- *Accelerate Satellite Observations* (row 21): completed its CE memo for this project on March 31, 2010.
- *Weather Facility Construction – Nome, AK – staff housing renovation* (row 24): completed its CE memo for this project February 3, 2010.

There is only one CE remaining as pending.

- *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 approximately July 6, 2010, and it is anticipated at a CE will be completed just before a lease is signed.

NIST Construction and Research Facilities (CRF) (spreadsheet page 2 rows 29 – 37): 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 thirteen pending CEs and one pending EA.

Withdrawn

- *Design and Construct New Time Code Radio Broadcast Stations: Low Frequency Station in Kauai, HI* (row 33): 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.

Pending

- *Solar Panels at Kauai, HI* (row 35): The interagency agreement has been completed and sent to the Navy for signature and transfer of funds. Navy is still reviewing NEPA documentation. The CE is expected to be completed in April.

- *NIST Construction Grants for Research Facilities* (rows 36-37): 16 ARRA funded grants have been awarded, the final 12 of which were awarded in mid-January 2010. The two lines in the report reflecting completed and pending CEs, have been changed to 4 completed and 12 pending. All 12 pending are actively working to finalize their CEs. All are anticipated to be completed within the next quarter.

- *National Structural Fire Resistance Laboratory Addition to Building 205* (row 32): NIST reviewed this project against the environmental impact boundaries established in the NIST Gaithersburg PEA FONSI (described below) and determined that the project may be outside the boundaries for air quality. Therefore, NIST is currently developing a Supplemental EA for this project. The Supplemental EA will tier from the site-wide Programmatic EA. Anticipated completion is April, 2010.

NTIA Broadband Technology Opportunities Program (BTOP) (spreadsheet page 2 rows 41- 45):

The number of ARRA projects under the BTOP program has increased by 74 since the last reporting cycle.

BTOP had two separate rounds of funding, August 2009 and January 2010. Applicants that applied in the first round were notified of their status (awarded or not) over a several month period. The number of BTOP projects identified on this report represents those that were awarded, and accepted their award, prior to March 31, 2010. The second round of funding for Public Computer Center and Sustainable Broadband Adoption projects closed on March 15, 2010, and on March 26, 2010, Comprehensive Community Infrastructure Projects closed. These

second round applications are currently under review. As the applications move into the due diligence phase and environmental reviews are completed, those that are awarded will be added to the total number of ARRA projects.

Additionally, those infrastructure projects that are funded by BTOP and receive a Special Award Condition that includes the preparation of an EA have six months from the date of award to submit the draft EA to NTIA/BTOP for sufficiency review. Only after the sufficiency review is complete and a FONSI or Mitigated FONSI is issued will the project be reported as finalized. Accordingly, the number of completed EAs will dramatically increase as the six month deadline is realized.

*BTOP Construction and Deployment of Broadband Infrastructure (*row 43*)*: Currently there are 32 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 spend an enormous amount of time 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 preparing EA's for submission within the allotted time-frames. As of March 31st, one EA has been submitted (ahead of schedule) for review and is currently undergoing sufficiency analysis.

*BTOP Construction and Deployment of Broadband Infrastructure (*row 42*)*: 6 of the 8 infrastructure grant projects that received Categorical Exclusions are still in the process of completing consultations under Section 106 of the National Historic Preservation Act.

*BTOP Broadband Mapping Grants (*row 45*)*: 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 March 31st, 2010, 54 grants have been issued under this one categorical exclusion for broadband mapping. There are currently only two additional mapping grants awaiting award.

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.

Census 2010 Census and Programs (spreadsheet page 2 rows 49):
Please note a change in the title of this project. The one CE for this program which involves salaries, and related information collection expenses has been completed. (CE completed on 11/30/2009, row 46).

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.

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 43)

Broadband Infrastructure Fiber Optic Cable Project– Environmental Assessment: NTIA continues to find that the majority of the BTOP applicants and grantees are unaware of environmental and historic preservation review requirements or why these issues are important. Spending time to educate the applicants and grantees has resulted in a better informed public and resulted in a higher quality environmental document. The documentation NTIA has received so far is generally complete and requires only minimal coordination with the grantee to finalize. This not only facilitates the timely completion of grantee environmental requirements, but minimizes the costs associated with NEPA/NHPA compliance.

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