



EXECUTIVE OFFICE OF THE PRESIDENT  
COUNCIL ON ENVIRONMENTAL QUALITY  
WASHINGTON, D.C. 20503

November 20, 2009

MEMORANDUM FOR HEADS OF DEPARTMENTS AND FEDERAL AGENCIES  
REPORTING ON NEPA STATUS FOR ACTIVITIES AND PROJECTS RECEIVING  
AMERICAN RECOVERY AND REINVESTMENT ACT FUNDING<sup>1</sup>

FROM: Nancy H. Sutley  
Chair

SUBJECT: ADDITIONAL REPORTING ON NEPA STATUS AND PROGRESS FOR THE  
AMERICAN RECOVERY AND REINVESTMENT ACT

In the American Recovery and Reinvestment Act of 2009 (ARRA), Congress reaffirmed that the National Environmental Policy Act (NEPA) process protects public health, safety and environmental quality by ensuring transparency, accountability and public involvement in federal actions, and in the use of public funds. Under Section 1609(c) of the Act, Congress required quarterly reports on the status and progress of funded activities with respect to compliance with NEPA. This memorandum supplements my memorandum of April 3, 2009, which set forth reporting requirements.

On November 2, CEQ submitted the third quarterly reports to Congress. Departments and agencies with reporting responsibilities have risen to the challenge of expeditious NEPA compliance for ARRA funding decisions. Your efforts in meeting this challenge are commendable and demonstrate the concerted commitment of countless individuals responsible for preparing the NEPA actions as well as for transmitting the quarterly reports. In addition, timely reporting has provided transparency and accountability.

As your departments and agencies have obligated ARRA funding, the volume of projects has steadily increased, the reporting procedures and information have improved, and now we are challenged to improve our reports. To that end, we are requesting additional information about compliance and the value added by the NEPA process. The intent of the NEPA process is to help public officials make decisions that are based on an understanding of the environmental consequences of those decisions and take actions that protect, restore and enhance the environment. As stated in the CEQ NEPA regulations, NEPA's purpose is to enable better decisions rather than to generate paperwork.

Two additional items must be reported beginning with the next report due to CEQ on January 15, 2010.

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<sup>1</sup> Secretaries of Agriculture, Commerce, Defense, Education, Energy, Health and Human Services, Homeland Security, Housing and Urban Development, Interior, Labor, State, Treasury, Veterans, Affairs Attorney General, and Heads of Corporation for National and Community Service, Environmental Protection Agency, General Services Administration, National Aeronautics and Space Administration, National Endowment for the Arts, National Science Foundation, Small Business Administration, Social Security Administration, US Agency for International Development

- (1) The explanatory note must: (1) identify those projects and activities where the NEPA actions are reported as “pending” for more than one reporting period; (2) provide the reason(s) the NEPA actions remain pending; and (3) provide a reasonable projection of progress being made to complete the NEPA actions.
- (2) The explanatory note for the next report must provide examples of the benefits provided as a result of the NEPA action. Examples include situations where conditions were placed on the use of funds to protect sensitive resources such as protected species or historic structures, or where changes were made in constructing facilities to increase their energy efficiency. We recognize that, based on the types of projects and activities being undertaken, some departments and agencies may not have many examples; consequently, the departments and agencies should coordinate their proposed responses with the CEQ Associate Director for NEPA Oversight as soon as possible.

Attached are: (1) the updated reporting guidance for departments and agencies to use when submitting their explanatory notes and spreadsheets; (2) a copy of the previously distributed spreadsheet; (3) a protocol developed to assist in identifying NEPA actions pending more than one reporting period; and (3) a format for examples of the benefits provided.

ARRA implementation has proceeded expeditiously and in compliance with all environmental, health and safety requirements, and we will continue to work with you to ensure that NEPA compliance continues to be both timely and meaningful. It is very encouraging that no department or agency has identified any project or activity experiencing substantial delays in completing NEPA reviews and documentation. If delays are encountered, immediately notify CEQ by sending a message to [recovery@ceq.eop.gov](mailto:recovery@ceq.eop.gov). The e-mail should identify the project, its current status, all known reasons for the delay, and a point of contact (name, title, organization, work phone, cell phone, and e-mail).

Attachments: A. ARRA Subsection 1609(c) NEPA Reporting Guidance  
B. ARRA NEPA Spreadsheet  
C. Protocol to Identify Pending NEPA Actions  
D. Format to Report Benefits of the NEPA Action

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AMERICAN RECOVERY AND REINVESTMENT ACT (ARRA)  
SUBSECTION 1609(c) REPORTING GUIDANCE: November 16, 2009

Executive Branch departments and agencies receiving appropriations under Division A of the ARRA must submit their Subsection 1609(c) report to CEQ at [recovery@ceq.eop.gov](mailto:recovery@ceq.eop.gov) **no later than January 15th, 2010**, for all ARRA activities and projects reported to OMB **through** December 31, 2009. The report will provide the NEPA status and progress through December 31, 2009, for all projects and activities receiving ARRA funding.

Subsequent department and agency Subsection 1609(c) reports must be submitted to CEQ on or before January 15, 2010, and every 90 days thereafter through October 15, 2011. These quarterly reports will include the NEPA status and progress on ARRA projects and activities through the last day of the previous month.

All communications to CEQ regarding ARRA reporting should be sent to the [recovery@ceq.eop.gov](mailto:recovery@ceq.eop.gov) e-mail address. E-mail subject lines should provide enough information to allow CEQ to determine which department/agency and report is being referenced/submitted (i.e., "DHS January 15, 2010 ARRA NEPA Report").

To ensure the information quality of Subsection 1609(c) reports, the department or agency funding the ARRA project or activity is responsible for reporting the status of all NEPA compliance associated with the project or activity – including any environmental review and documentation prepared by or for an approving or permitting agency, a grantee, or a contractor.

In cases involving NEPA work performed by contractors, if the contractor should provide the agency with information necessary for Section 1609 reporting, then the department or agency funding the project or activity with ARRA funds should work with the contracting officer to develop any necessary special contract provisions.

The report due on January 15, 2010 must build upon and update the explanatory notes and spreadsheets CEQ provided to Congress on November 2, 2009. For example, the January report will add and describe new projects and activities, update the status of NEPA actions, and add completion dates where appropriate. The latest department and agency explanatory notes and spreadsheets are available via [www.nepa.gov](http://www.nepa.gov) and can be directly accessed at [http://ceq.hss.doe.gov/nepa/reports\\_congress\\_Nov2009.htm](http://ceq.hss.doe.gov/nepa/reports_congress_Nov2009.htm). CEQ will use these reports to prepare the next Subsection 1609(c) report due to Congress in February 2010.

Projects and activities funded under Division B of the ARRA and oversight/audit funds provided to the Office of Inspector General are not reportable and should not be included in the Subsection 1609(c) report. Generally speaking, ARRA Division A funding provided for department/agency use to administer ARRA funds or facilitate completion of ARRA projects and activities are also not reportable. Exceptions are when the funds include both ARRA-funded projects/activities and department/agency expenses.

The explanatory note must be an electronic document that can be edited in order to facilitate standardizing and finalizing the report to Congress. In the past, CEQ used information in the cover memos as the basis for agency-specific “Explanatory Notes.” The explanatory notes can be provided as an individual document or as part of a cover memorandum. Explanatory notes complement the completed spreadsheets and should provide information necessary to understand the data provided in the spreadsheet. When referencing the spreadsheet, refer, as appropriate, to the spreadsheet page, column, and rows. When discussing individual projects and/or NEPA actions use “titles/programs” and “project/activity descriptions” that match those used in your spreadsheet.

Include the following information in the explanatory note:

- Summarize changes that have occurred since the last report including progress made toward obligating the departments/agency’s ARRA appropriation;
- Explain any differences between ARRA appropriations and the funding totals listed on Page 1 of the spreadsheet;
- Explain the basis for determinations that NEPA was not applicable;
- Explain why projects were withdrawn;
- Describe how projects have been grouped in rows on page 2 of the spreadsheet, particularly when projects and NEPA actions do not correlate on a one-to-one basis;
- Identify any NEPA actions that have remained pending for multiple reports, explaining why they remain pending, and providing a summary of progress made since the last report – one method of determining which projects have remained pending over multiple reporting periods is provided with this guidance; and
- Identify any reporting errors and how they have been corrected.

Use the following instructions when completing the spreadsheet:

- Use the provided CEQ spreadsheet. Please note the built-in formulas to assist in tabulation of data. These formulas must not be deleted. If significant changes or modifications to the spreadsheet format are required for your department/agency data, please coordinate with CEQ before submitting the report or modifying the spreadsheet. Modifications prevent CEQ from obtaining the required information for the report to Congress and verifying the accuracy of the data.
- If you add rows to Page 1 or Page 2 of the spreadsheet, please be sure to copy and paste formulas into the new rows. The formulas do not automatically transfer into a newly created row.

- If the spreadsheet consists of multiple pages, please add page numbers to the bottom of the spreadsheet.
- Please note that if instructions state to “leave blank,” that means no data entry should be made. No additional data terminology should be entered.
- The format and content of your data should be entered exactly as specified by the instructions or spreadsheet column headings. Any data not specified by the instructions/spreadsheet will result in incorrect data tabulation and prevent CEQ from mining the data from the spreadsheet for the report to Congress. In some cases, even extra spaces in certain cells will prevent the spreadsheet formulas from totaling correctly.
- All previously reported data should be included in the most current report. You do **NOT** stop reporting completed or withdrawn projects/activities. The entries for projects/activities remain on the spreadsheet. The only previously reported information that should be removed is any data error that has been corrected. In case of data errors, the explanatory note must describe the error and explain changes in the report that are brought about by the correction (for example, explaining why information was removed).
- When all department/agency ARRA projects and activities are completed, and all ARRA funds have been obligated, send a memorandum to CEQ at [recovery@ceq.gov](mailto:recovery@ceq.gov) confirming that the report reflects completion of all reportable items. Memoranda confirming that no changes occurred during the previous reporting period must be submitted until the last ARRA NEPA reporting is submitted on October 15, 2011. In the event of subsequent changes (for example, identifying the need to supplement a NEPA analysis, or replace an ARRA-funded project and prepare another NEPA document), then the report must include an updated spreadsheet and explanatory note.

Use the following instructions to complete **Page 1** of the attached spreadsheet:

- The department or agency name, end date of the report, submitter, and contact information for the submitter are entered at the top of Page 1. Thursday, December 31, 2009, is the end date for the report.
- The information in column B (Treasury Appropriations Fund Symbol); column D (Total ARRA Appropriations – for the Title/Program reported on that row) and column L (Total Obligations – for the ARRA Funded Projects and Activities reported on that line) is available from the department or agency financial officials responsible for ARRA funding. In order for CEQ to generate a report that aligns with ARRA appropriations, the Title/Program names should match those in the statute (please refer to the previously provided copy of ARRA). In instances where the Title/Program category used by the department/agency does not align with the statute or has changed from the last submitted report, provide an explanation in your explanatory note.

- Appropriations/programs associated with Division A ARRA funding should be reflected on Page 1, columns B, C, and D of the spreadsheet, even if projects have not yet been selected or identified. The fact that projects and activities and related NEPA actions are yet to be determined should be explained in the explanatory note.
- The information in column C (Title/Program) must be identical with the information in column B of page 2 for the spreadsheet to function properly.
- The number of ARRA funded projects and activities are entered in column E. Do **not** include withdrawn projects. When the department or agency is using estimates or is aggregating projects or activities, the explanatory note must explain the how the estimate or aggregate was developed.
- The determination that NEPA procedures are not applicable is reported in column F. For example: (1) when there is no NEPA analysis or documentation required because there is no agency discretion for NEPA analysis; (2) when NEPA is statutorily waived (e.g. Clean Water Act Section 511(c)); or (3) when the activity or project is under another process that is functionally equivalent to NEPA (functional equivalence is limited to certain EPA programs such as CERCLA); then the total number of such determinations will be reported on Page 1 of the attached spreadsheet in the “NEPA Not Applicable” column with the total number of such projects and activities. If NEPA is Not Applicable (N/A), columns B, C, D, E, & F (on Page 1) should still be filled out. There are no entries on Page 2 for such projects and activities. The explanatory note should provide a brief description of the rationale supporting the determination that NEPA is not applicable.
- Columns G, H, I, J, and K on Page 1 are automatically imported from Page 2. Do **NOT** manually enter data for these columns. Go to Page 2 and enter data.
- The total obligations in column L reflect the amounts that will result in outlays, immediately or in the future, for a project or activity. Obligation data should correlate with the Funds Available data on recovery.gov as of the report end date.

Use the following instructions to complete **Page 2** of the attached spreadsheet:

Column B

- The “Title/Program” from column C on Page 1 is repeated in column B of Page 2. These entries must be identical for the spreadsheet to work properly.

Column C

- The “Description of the Project/Activity” in column C is determined by the reporting department or agency and must be one that is unique and which clearly identifies the specific ARRA projects and activities (e.g., agency project identification number). Executive Branch departments and agencies can report on either: (1) individual

projects and activities; or (2) groups of projects or activities when the projects or activities are similar and comply with NEPA in the same way.

Note: If you have a grant program with awards pending and are unsure of how many grants will be covered under an existing NEPA Action (i.e., CE, EA, or EIS), the following is required. The grants coming under a particular program/title should be identified by entering information in columns B and C on Page 2, the quantity of NEPA actions in column D is “1”, the NEPA Action is identified in column E, and the NEPA status of “pending” is entered in column F. An explanation must be provided in the explanatory note.

#### Column D

- “NEPA Action” reports the number of NEPA documents for the ARRA project. This is left blank in cases where the level of NEPA action has not been determined. The number of NEPA actions will generally be reported on one-to-one basis (one ARRA project for one NEPA action). Exceptions are when a number of similar projects/activities that use the same level of NEPA action are grouped together and when an individual project has multiple NEPA actions.
  - For example, if 57 grants under the same grant program are awaiting completion of 57 individual categorical exclusions, the grants can be reported on one row and entering “57” in column D. Agencies must explain the basis for grouping the projects/activities in the explanatory note. Note that grouping the projects/activities on a single line requires that the like projects/activities comply with NEPA using the same type of NEPA action (CE, EA or EIS). If some of these grants are completed in subsequent reports, those actions must be reported on a new row. The result would be two rows – one for the pending NEPA actions and one for the completed NEPA actions.
  - For individual projects with multiple NEPA actions, the total number of NEPA actions would be specified. For example, if there are 3 NEPA actions required for one project (one for the funding agency, and 2 for permits that allow the project or activity to proceed), then the quantity entered would be 3. The Date NEPA is Done (column I) would reflect the date the last NEPA Action is completed. Projects with multiple NEPA actions should be explained in the explanatory note.
- When grouping “like” projects / activities, the project/activity description (column C) on Page 2 should identify the similar projects and activities by including the total number of projects and appropriate project ID numbers, in the description.
- In cases where project/activities are withdrawn, the number reported in column D should reflect the number of ARRA projects withdrawn in column D, **not** the number of NEPA actions, and there should be no entry in column E.

### Column E

- The type of NEPA action (i.e., CE, EA, or EIS) is reported in column E. If the type of NEPA action has not been determined or the project has been withdrawn, column E should be blank.

### Column F

- The status of the NEPA action (i.e., pending, done, or withdrawn) is reported in column F. All actions that have been reported as pending over multiple reporting periods should be explained in the explanatory note.
  - Categorical Exclusion (CE) actions are reported as “pending” in those cases where a CE is not completed (i.e., done) by the end date of the report. The CE is reported as “done” after the determination has been made that there are no extraordinary circumstances or after finalizing the document when the agency prepares documentation for the CE. The explanatory note must describe how the date was determined (e.g., the date the documentation was completed; the date the latest CE documentation for a group of similar projects/activities using the same CE was completed).
  - Environmental Assessment (EA) actions are reported as “pending” after initiation (e.g., public involvement as practicable, if not practicable then date of intra/inter-agency involvement). The EA is reported as “done” after completion of the FONSI (and any associated mitigation action plan).
  - Environmental Impact Statement (EIS) actions are reported as “pending” after the Notice of Intent is published. The EIS is reported as “done” when the Record of Decision is completed (i.e., signed or published) following the final EIS or any supplemental NEPA review and documentation.
- In those cases where more than one NEPA review is prepared for the same project/activity, the status of the “NEPA action” and “Date NEPA is Done” columns on Page 2 of the attached spreadsheet would reflect the latest NEPA action taken.
- If any projects/activities are withdrawn or cancelled, then “withdrawn” is entered in column F. The number reported in column D must be the number of ARRA projects that are withdrawn. The NEPA action should be deleted from column E and the number of ARRA projects withdrawn must be deducted from the total number of ARRA funded projects and activities on Page 1, column E of the spreadsheet.
- If the type of NEPA action has **NOT** been determined, then column F should remain blank. Only Title / Program (column B) and Project / Activity (column C) should be completed for these identified projects.

### Columns G & H

- Columns G and H entries are automatically made in the CEQ provided spreadsheet; consequently, no information should be entered in those columns.

### Column I

- When the NEPA action is done, the date it is done is entered in column I. When a group of similar projects/activities using the same type of NEPA action is reported on one line, then the date of the most recently completed NEPA action is reported and the method for determining the reported date must be described in the explanatory note. When an agency uses a date other than the date a document is signed, the explanatory note should explain the basis for the date.
- DO NOT enter a projected date for pending NEPA actions in column I. Leave column I blank for pending NEPA actions

### Column J

- Enter “yes” or “no” in column J to indicate whether all applicable Federal environmental compliance requirements for the activity or project are completed – such as the requirements in the National Historic Preservation Act, Endangered Species Act, and Clean Water Act. Federal environmental compliance requirements include those delegated to other governmental entities (e.g., CWA section 401 certifications). Enter “yes” only when all Federal environmental reviews / documents necessary to allow expenditure of ARRA funds are completed. Agencies should contact CEQ if they have questions, and explain the situation and basis for the entry in the explanatory note transmitting the spreadsheet.

Use the following instructions to print out of the spreadsheet:

- To eliminate additional rows and limit printing out blank pages:
  - 1) Select and click on the first row number with no data on Page 2 (the entire row should become highlighted).
  - 2) Press “Ctrl-Shift-End” simultaneously.
  - 3) Press “Delete.”

Thorough agency reviews should be completed before explanatory notes and spreadsheets are submitted to CEQ. To facilitate OMB review of the report to Congress, the individuals in the departments and agencies responsible for reviewing and receiving information from OMB for interagency clearance should be made aware of the status of the spreadsheets and explanatory notes submitted to CEQ.

### Remember:

Any substantial delays in completing NEPA reviews and documentation should be reported to CEQ by sending an e-mail message to [recovery@ceq.eop.gov](mailto:recovery@ceq.eop.gov) that identifies the project, its current status, all known reasons for the delay, and a point of contact (name, title, organization, phone, cell phone and e-mail).

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## Protocol to Identify Pending NEPA ARRA Actions

The protocol listed below is one example of how to determine pending projects over multiple reports. If your agency has another way of determining carryover pending projects please feel free to utilize your own process.

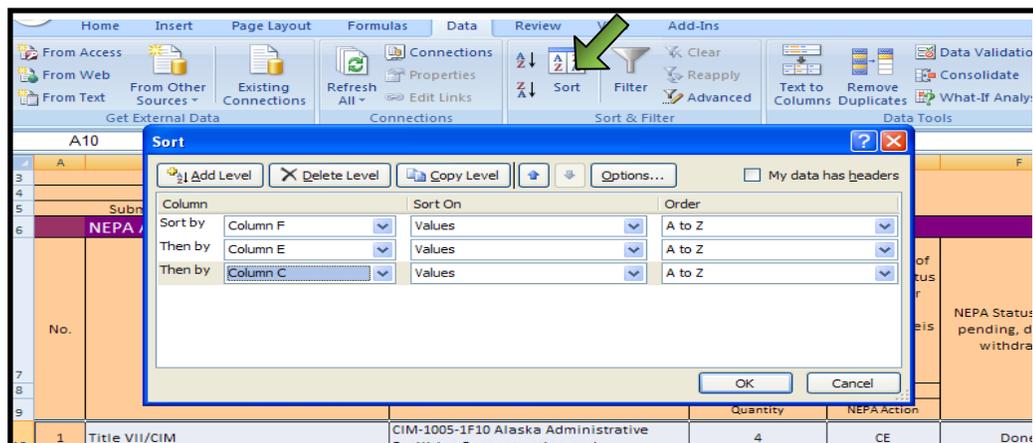
1. Create a duplicate of the current spreadsheet as a new spreadsheet with pending in the title.

*Ex. Agency\_NEPA\_ARRA\_Spreadsheet\_123109-pending.doc*

2. Delete rows from Page 1 of 2 (highlight rows with your mouse and right click selecting delete rows) leaving the header (rows 1-5) for agency name and preparer.

NEPA ARRA Section 1609 Report Data (Page 1 of 2) [ddd Apr 03 09]						
Department or Agency Name:		USDA - Forest Service				
End Date for this Report:		09/30/2009				
Submitter Name:		Kenneth Karkula				
Submitter Contact Info (E-mail / Phone):		kkarkula@fs.fed.us		202-205-2869		
NEPA ARRA Section 1609 Report Data (Page 2 of 2) [ddd Apr 03 09]						
No.	Title/Program	Project/Activity Description	NEPA Action: Enter the number of NEPA actions with the same status (see instructions). Enter ce for Categorical Exclusion; ea for Environmental Assessment; or eis for Environmental Impact Statement.		NEPA Status: Enter pending, done, or withdrawn.	
7			TOTAL ACTIONS: 1949			
8			Quantity	NEPA Action		
9						
10	1	Title VII/CIM	CIM-1005-1F10 Alaska Administrative Facilities Reconstruction and	4	CE	Done

3. Sort Page 2 of 2 by column F, column E, and column C. This will sort the projects by status (done, pending, or withdrawn) then by type of document (CE, EA, or EIS), and then by the title of the project.
  - Highlight all rows containing data by clicking on the row # of the first row on the right side and dragging mouse down until you have highlighted all the rows with data.
  - Go to Data Tab at the top of the page
  - Click on Sort
    - Sort by Column F, Column E, and Column C



## Protocol to Identify Pending NEPA ARRA Actions

4. Delete all projects that are not pending from the spreadsheet (done, withdrawn, and no status projects).
  - Done projects will be on top of pending, withdrawn and blanks. Highlight all the rows that contain done items then right click and hit delete. The first row under Page 2 of 2 header should list the first pending item.
  - Go to the end of the rows that list pending items and delete any withdrawals and blanks by highlighting the rows, right clicking, and selecting delete.
  
5. Compare the current pending spreadsheet with the previous pending spreadsheet.
 

**Note that the previous pending spreadsheet has highlighted rows** (Green = first report; Aqua = second report).

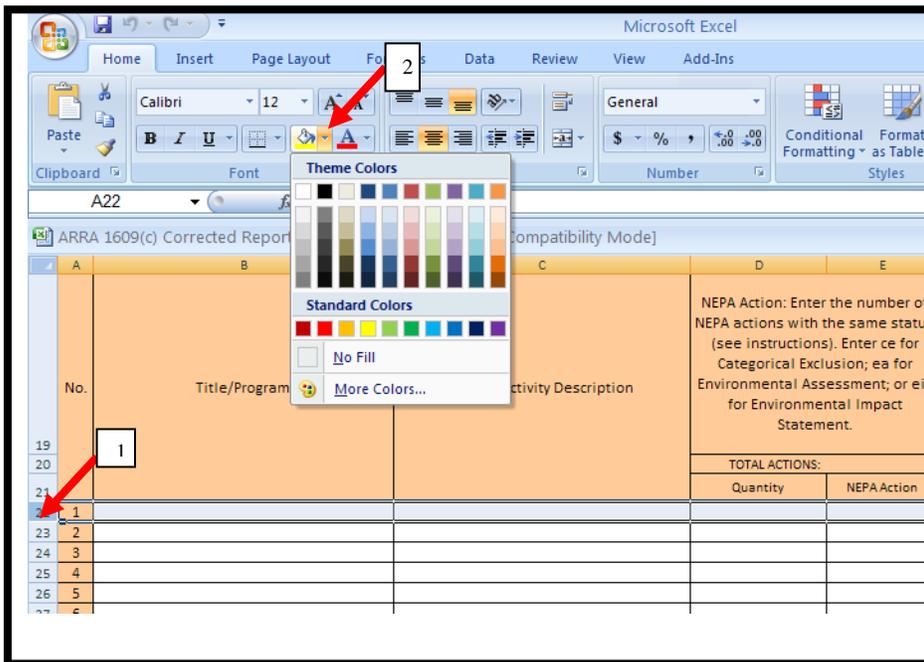
  - Go through line by line to see if the pending project has been reported previously.
    - It is possible that the pending project has been named differently than a previous report. To ensure that it has not been reported previously do a search for the previous pending report for a specific term.

**Example:**

Title VII/WFM	WFM-0604-03HF/Hazardous Fuels Reduction/Blue Mountain Fuels and Timber Stewardship	4	EA	Pending
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Search for “Blue Mountain Fuels” in the previous pending report [Open previous pending report; Press CTRL+F; Type in “Blue Mountain” and click “find next”]

6. If a project has been reported previously, select the row by clicking on the number of the row to highlight it. Then click on the drop down menu for the fill function and select a color:



- Green = first report;
- Aqua = second report;
- Your choice = third report (shown in yellow);
- No highlight = new pending projects that have not been previously reported

	First Report
	Second Report
	Third Report

## Protocol to Identify Pending NEPA ARRA Actions

7. Once all of the projects have been identified as either pending from a previous report or a new pending project, the number of projects per report have to be calculated by type of NEPA action. To do this follow the following steps:
  - In column M, manually enter “1” (if reported initially on the first report); “2” (for second report); “3” (for third report); etc.
    - *Note: Some agencies have information in column M. These agencies will use the first blank column to manually enter a number for each row.\**
  - Copy and Paste Pending Calculations into M7 cell (CEQ has provided this calculation).
    - Use the calculation cells as a key for the highlights.
      - See below: 1<sup>st</sup> report calculations are highlighted green; 2<sup>nd</sup> report calculations are highlighted aqua; third report calculations are shown as highlighted yellow.
    - The formulas will calculate automatically.
    - *Note: the calculations go through the 11<sup>th</sup> report and are keyed to the manual entries in column M. Only put “1” for the first report; “2” for the second report; and so on to ensure that the formulas calculate correctly.*
    - *Note: Some agencies have used more than 4 rows to report their contact information and will paste their calculations into the cell next to “Leave these Columns Blank”.\**

TOTAL ACTIONS:		NEPA Status: Enter pending, done, or withdrawn.	Number of Completed NEPA Actions for the Recovery Act Funded Activity or Project	Number of Pending NEPA Actions for the Recovery Act Funded Activity or Project	Date NEPA is Done (mm/dd/yyyy)	All federal environmental reviews and documents are completed	Leave These Columns Blank	1st Report			2nd Report			3rd Report			New		
Quantity	NEPA Action							OE	EA	EIS	OE	EA	EIS	OE	EA	EIS	OE	EA	EIS
1	EIS	Pending		1		No													
1	EA	Pending		1		No													
1	CE	Pending		1		No													
3	EA	Pending		3		No													
1	CE	Pending		1		No													

8. Save file.

\* These agencies will have an agency specific calculation provided to them.

## **Examples of NEPA Benefits**

Provide one or more examples of ARRA funded projects that demonstrate the benefits provided by the NEPA analysis and documentation (For example, cases where conditions were placed on the use of funds to protect sensitive resources such as protected species or historic structures, or where changes were made in constructing facilities to increase their energy efficiency).

Include the following information:

- a. Department / Agency Name and point of contact with contact information
- b. Name of the Project or Activity
- c. Level of NEPA action (CE, EA or EIS)
- d. A statement describing the value added by the NEPA process.
- e. Brief description of the project or activity and how it benefited from the NEPA action

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