

## Attachment 7A

### Explanatory Note for Department of Energy Report November 2, 2009

The Department of Energy reported 154 projects and activities that were funded under Division A of the American Recovery and Reinvestment Act of 2009 (ARRA).

Nine of the 154 projects and activities involve Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) activities for which National Environmental Policy Act (NEPA) reviews are not required, and one involves an appliance rebate program for which DOE has no agency discretion for NEPA analysis. The remaining ARRA funded 144 projects and activities require NEPA review.

As of September 30, 2009, DOE had completed more than 2,000 NEPA reviews for all or part of 102 projects for obligations totaling more than \$17 billion under the ARRA. In addition, 26 NEPA reviews are underway, including 7 environmental impact statements (EISs) (a final EIS has been completed for 1 of these; record of decision pending), 13 environmental assessments (EAs), and 6 ongoing reviews using categorical exclusions (CEs).

DOE continues to review applications received in response to funding opportunity announcements related to the Recovery Act. This process will result in a substantial increase in the number of DOE NEPA actions identified in future reports, including several new EAs and EISs. Likewise, new Recovery Act projects are expected to be identified by the Bonneville Power and Western Area Power Administrations, and other DOE programs; these Recovery Act funded projects and activities also will be included in future reports.

#### General Notes:

1. This report includes 144 DOE Recovery Act projects requiring NEPA review. This is fewer than included in DOE's previous report because DOE has cancelled some projects and merged the scope of work of other projects. Projects that appeared in the previous report but that do not appear as discrete projects in this report are:

#### Energy Efficiency and Renewable Energy

Education and Workforce Development

Deployment of Efficient Industrial Equipment

Energy-Intensive Process R&D

Foundational and Long-Term Photovoltaics Research

Develop Greenhouse Gas Protocol & Toolset for Federal Agencies

Advanced Combustion Engine R&D

Solar Market Transformation

Construction of Marine and Hydrokinetic Testing Facilities

## Science

### OSTI Digitizing Science

#### Enhancements in Science Cybersecurity

## Electricity Delivery and Energy Reliability

### Transformer Equipment Manufacturing

The level of NEPA review had not been determined for any of these projects; thus, there are no NEPA actions to report as “withdrawn” for these projects.

2. Twenty-six NEPA reviews are pending, 22 (6 CEs, 11 EAs, and 5 EISs) of which were pending in the previous report. A pending CE determination generally refers to a situation where the initial review indicates that a CE determination is appropriate but additional information is necessary to complete the review. Based on that additional information, DOE could finalize the CE determination or decide that an EA or EIS is the required level of NEPA review. Similarly, a pending EA could result in a decision to prepare an EIS. Following is the status of pending documents by appropriations account:

- Title 17 - Innovative Technology Loan Guarantee Program - Recovery Act – 1 CE is pending during application review. 5 EAs and 3 EISs are in preparation; their schedules are aligned with application review.
- Defense Environmental Cleanup – 2 CE determinations are pending appropriate points in project planning to ensure all information is considered in the determination. 3 EAs are in preparation. During the reporting period, DOE issued the draft EA for review for ORP Recovery Act Project: 242-A Evaporator Upgrades and Life Extension. The EA for Building 310 D&D at Argonne National Laboratory involves consideration of new characterization information. The Bureau of Land Management is the lead agency for preparation of the EA associated with the WIPP Recovery Act Project.
- Fossil Energy R&D/Carbon Capture and Storage – During the reporting period, DOE issued a record of decision (ROD) to proceed with financial assistance. Pending is consideration of updated information and a potential second ROD regarding future phases of the FutureGen project.
- Non-Defense Environmental Cleanup – During the reporting period, DOE completed an extended public comment period to meet the needs of the state and interested public for the draft EIS associated with the West Valley Recovery Act Project.
- Uranium Enrichment Decontamination and Decommissioning Fund – 3 CE determinations are pending appropriate points in project planning to ensure all necessary information is considered in the determination.
- Energy Efficiency and Renewable Energy – DOE is reviewing 1 existing EA against the scope of the National Wind Technology Center Upgrades project to determine whether further NEPA review is required.

- Science – DOE is awaiting siting information to complete the review of 2 existing EAs associated with the ARM Climate Research Facility Initiative to determine whether further NEPA review is required.
3. DOE has not determined the appropriate level of NEPA review for all proposed actions. The most common explanations are that DOE is reviewing applications received in response to funding opportunity announcements or is still in discussion with potential awardees. These processes can affect the timing and scope of NEPA review and the availability of related information.
  4. Appropriations for the Title 17 - Innovative Technology Loan Guarantee Program - Recovery Act are reduced by \$2 billion because Congress transferred this amount on August 7, 2009, to the Department of Transportation to extend the Consumer Assistance to Recycle and Save Program (Pub. L. 111-47); this congressional action reduced DOE's total ARRA appropriations by \$2 billion relative to prior reports. Other changes in appropriations amounts reflect transfers from five accounts (Energy Efficiency and Renewable Energy, Title 17 - Innovative Technology Loan Guarantee Program, Electricity Delivery and Energy Reliability, Fossil Energy Research and Development, and Energy Transformation Acceleration Fund) to the new Departmental Administration account (\$42 million, not reported on page 1 of the report) and to the Small Business Innovation Research (SBIR) and Small Business Technology Transfer (STTR) programs within the Science account.

Two appropriations accounts were first included in DOE's previous report. The Isotope Production and Distribution Fund account is for a sub-set of projects managed by the Office of Science that are reported under a separate TAFS than the Science account. The Advanced Technology Vehicles Manufacturing Loan Program - Recovery Act is an account for an administrative fees transfer direct by ARRA.

5. Obligations as of September 30, 2009, included on page 1 of the report for 14 DOE Recovery Act accounts total \$17,442,970,757. This is less than the \$18,110,675,423 reported in the DOE Financial and Activity Report to OMB as of September 30. The difference of \$667,704,666 is accounted for, in part, by the inclusion in the report to OMB of \$112,542,542 in reimbursable Recovery Act work for others under three accounts: General Science and Research Activities, \$84,677,683; Energy Efficiency and Renewable Energy, \$1,887,800; and Weapons Activities, \$25,977,059. Because this work is not paid for by DOE with Division A ARRA funds, it is not included in this report. The difference also includes \$20,150,583 obligated under the new Departmental Administration account and not included in this report. The remainder of the difference (\$535,011,542) is included in the OMB report under Title 17 Innovative Technology Direct Loan Financing Account - Recovery Act, which is a special account for the face value of loan guarantees plus accrued interest. NEPA actions associated with this direct loan financing account are reported under the Title 17 - Innovative Technology Loan Guarantee Program - Recovery Act appropriation.
6. Information on 10 of DOE's Recovery Act projects is not reported on page 2 because NEPA reviews are not required. This includes 2 projects that were not listed in the "NEPA Not Applicable" column on page 1 in the previous report: 1 Defense Environmental Cleanup

project (SPRU Recovery Act Project; scope changed) and 1 Energy Efficiency and Renewable Energy project.

The 9 CERCLA projects referred to in the “NEPA Not Applicable” column on page 1 of the current report are:

Defense Environmental Cleanup

Hanford River Corridor Soil and Groundwater Recovery Act Project (WA)  
INL Soil and Groundwater Recovery Act Project (ID)  
Mound Operable Unit 1 Recovery Act Project (OH)  
Oak Ridge Defense Y-12 D&D Recovery Act Project (TN)  
Oak Ridge Defense ORNL D&D Recovery Act Project (TN)  
SPRU Recovery Act Project (NY)

Non-Defense Environmental Cleanup

Oak Ridge Non-Defense Recovery Act Project (TN)  
Stanford Linear Accelerator Center Recovery Act Project (CA)

Uranium Enrichment D&D Fund

Oak Ridge UE D&D Funded Recovery Act Project (TN)

The remaining project listed under “NEPA Not Applicable” is an Energy Efficiency and Renewable Energy project (EE Appliance Rebate Programs) for which DOE has no agency discretion for NEPA analysis.

7. 11 projects involve both NEPA review and work being performed under CERCLA. These projects are not included in the “NEPA Not Applicable” column on page 1. The status of NEPA compliance is reported on page 2. The projects are listed below.

Defense Environmental Cleanup

Hanford River Corridor D&D Recovery Act Project (WA)  
Hanford Central Plateau D&D Recovery Act Project (WA)  
Hanford Central Plateau Soil and Groundwater Recovery Act Project (WA)  
INL Recovery Act Project (ID)  
SPRU Recovery Act Project (NY)  
SRS D&D P & R Areas Recovery Act Project (SC)  
SRS D&D M & D Areas Recovery Act Project (SC)  
SRS D&D, Soil & Groundwater Activities Site-wide Recovery Act Project (SC)

Non-Defense Environmental Cleanup

BNL Recovery Act Project (NY)

Uranium Enrichment D&D Fund

Paducah Recovery Act Project (KY)  
Portsmouth Recovery Act Project (OH)

8. The number of ARRA Funded Projects/Activities is less than the number of NEPA actions. First, some DOE Recovery Act projects involve distributing funds to multiple applicants, with distinct NEPA compliance requirements for each application. Second, some DOE Recovery Act projects include multiple activities, with distinct NEPA compliance requirements for each activity. Third, implementation of some DOE Recovery Act projects relies on more than one NEPA action (e.g., programmatic and tiered site-specific EISs).
9. For the 3 environmental management accounts (Defense Environmental Cleanup, Recovery Act; Non-Defense Environmental Cleanup, Recovery Act; and Uranium Enrichment Decontamination and Decommissioning Fund, Recovery Act), 2 EISs of national scope are applicable to multiple projects involving waste disposal. These are the Waste Management Programmatic EIS and the Waste Isolation Pilot Plant Supplemental EIS. To avoid over-reporting the number of completed EISs, these 2 EISs both are reported on page 2 only for the Defense Environmental Cleanup/WIPP Recovery Act Project.
10. The 2008 Los Alamos National Laboratory (LANL) Site-Wide EIS is relevant to four Recovery Act projects. The first ROD for that EIS is relevant to the Defense Environmental Cleanup/LANL Defense Soil and Groundwater Recovery Act Project and to the Isotope Production and Distribution Fund/Enhanced Utilization of Isotope facilities: Isotope Production Facility. The second ROD for the LANL Site-Wide EIS is relevant to a portion of the Recovery Act work for the Defense Environmental Cleanup/LANL Defense D&D Recovery Act Project and the Non-Defense Environmental Cleanup/LANL Non-Defense Recovery Act Project. The LANL Site-Wide EIS is reported on page 2 for only the LANL Defense D&D Recovery Act Project to avoid over-counting the number of NEPA actions.
11. Three Science projects at Brookhaven National Laboratory in New York (PHENIX Silicon Vertex and PHENIX Forward Vertex equipment purchases, and enhanced AIP funding at BNL) are addressed in the same EA. That EA is reported only once on page 2 of the spreadsheet.
12. Separate spreadsheet entries delineate activities within a project that differ by NEPA compliance strategy. We have indented the Project/Activity Description for each row after the initial row to identify the activities that are grouped by particular NEPA actions (i.e., CE, EA, and EIS).
13. The “Date NEPA is Done” is the date a CE determination or FONSI was signed or the date a ROD was published in the *Federal Register*. For all projects where the current NEPA status is indicated as “done,” DOE will continue to monitor implementation. Should new information arise or the proposed action change, DOE will determine whether additional NEPA review is required.
14. Regarding whether all Federal environmental reviews and documents are complete, a blank cell indicates that DOE is continuing to confirm the answer. Information will be updated in future reports.

Project-Specific Notes:

EERE/Energy Efficiency and Conservation Block Grant Program – The approximately 2,200 grant applications (state, city, county, and tribal governments) include multiple activities, many of which are independently justified and not connected actions. As of September 30, DOE had made CE determinations for discrete, independent activities within 1,560 of the applications. DOE is continuing to review applications and will identify additional NEPA actions in future Section 1609(c) reports.

EERE/State Energy Program – The 56 grant applications (50 states, District of Columbia, American Samoa, Guam, Northern Marianas, Puerto Rico, and the Virgin Islands) include multiple activities, many of which are independently justified and not connected actions. As of September 30, DOE had made CE determinations for discrete, independent activities within all of the applications. DOE is continuing to review other activities proposed in the applications and will identify additional NEPA actions in future Section 1609(c) reports.

Title 17/Credit Subsidy Program Section 1705 – The Bureau of Land Management is the lead agency for preparation of EISs for Aqua Caliente, BrightSource, and Solar Millennium. U.S. Fish and Wildlife Service is the lead agency for the EA for Kahuku (First Wind). DOE is, or has requested to be, a cooperating agency for each of these NEPA reviews. These NEPA actions are reported on page 2 of DOE's Section 1609(c) report because DOE is the funding agency for these projects.

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