Attachment 3A

Explanatory Note for Department of Commerce (DOC) Report
November 5, 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 September 30, 2010.

National Oceanic and Atmospheric Administration (NOAA) (spreadsheet page 1, rows 1-2 and page 2, rows 1-29)

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 Endangered Species Act (ESA) Section 7 consultations: (1) for habitat restoration grants, and (2) on external Federal actions funded under ARRA (ESA consultations are requested by lead action agencies preparing NEPA documents for their proposed Federal actions).

NOAA Operations, Research and Facilities (ORF) (spreadsheet page 1, row 2 and page 2, rows 1-7):

NOAA Operations, Research and Facilities (ORF) incorporates the NOAA Habitat Conservation Projects as well as the Vessel Maintenance and Repair projects.

NOAA Habitat Restoration (spreadsheet page 2, rows 1-6):
There are 85 ARRA projects under this program:

- NEPA does not apply to one ARRA project because it involves Endangered Species Act consultations;
- Sixty-three are habitat projects covered under two Programmatic EA documents (spreadsheet page 2, row 1);
- Sixteen habitat projects are covered under specific EAs (spreadsheet page 2, rows 2, 3 and 5); and
- Two habitat projects are covered under individual EISs (spreadsheet page 2, row 4)

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. The "Full project implementation" falls within the scope of two programmatic environmental assessments (page 2, row 1). There are multiple Habitat Restoration NEPA actions for projects with 2 or more phases (page 2, rows 2-5).

The previous report showed four pending EAs on page 2, line 3. Two of these four pending EAs were completed during this reporting period. Due to new information available, it was determined that one of the four pending EAs could have its NEPA requirement completed under the EAs described on page 2, line 1, "Full project implementation". The net result of these changes is the value on page 2, line 3 has been reduced by three to now show one EA still pending for this report, while increasing page 2, line 2 completed EAs by two to fourteen.

There are two EAs that are currently pending for the ORF Habitat Restoration projects. They are "pending" due to their planned timing for phased activities. At this time, the applicants have not provided a sufficient level of adequately detailed information needed to complete NEPA compliance. However, this was anticipated from the onset and planned for in the phases. The applicants are expected to provide adequate information during this fiscal year, as planned.

Spreadsheet Page 2, row 6 was reported as a completed EA in reports prepared prior to the April 15th 2010 report. This was a reporting error. This projects 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.

Vessel Maintenance and Repair (spreadsheet page 2, row 7):
The Vessel Maintenance and Repair program was covered under one programmatic categorical exclusion which was completed on October 13, 2009. This programmatic categorical exclusion covered numerous maintenance and repair activities on NOAA vessels.

NOAA Procurement, Acquisition and Construction (PAC) (spreadsheet page 1, row 1 and page 2, rows 8 -29):

The total number of projects under PAC increased by 1, to 22 projects on row 1 of page 1. NOAA PAC project *"MOC-A Bulkhead Replacement"* (row 8) was a recently assigned project using ARRA funds. This project involved adopting an Army Corps EA as the analysis needed to complete NEPA for replacement of a steel bulkhead on an existing NOAA port in Norfolk, VA. The NEPA was completed on this project 9/10/2010.

There is only one CE remaining as pending under NOAA PAC, project *"NOAA Climate Computing/Modeling"* (row 19). GSA awarded a lease to a private company in Fairmont, WV on August 31. NOAA is currently working with the Lessor to finalize the design-build tenant improvement project for the data center space within the building for High Performance Computing data center, and now has enough project details to complete their CE for this project during Q4 of 2010.

National Institute of Standards and Technology (NIST) (spreadsheet page 1, rows 3-5 and page 2, rows 30-41)

NIST has completed all NEPA actions under ARRA.

NIST Construction and Research Facilities (CRF) (spreadsheet page 1, row 3 and page 2, rows 30 – 39):

There are a total of 23 ARRA projects under CRF which are covered under twenty CEs, two EAs, and one EIS. Two CRF projects have been withdrawn.

Design and Construct New Time Code Radio Broadcast Stations: Low Frequency Station in Kauai, HI (row 34): This project has been deleted from the list of NIST ARRA funded projects.

Design and Construct New Time Code Radio Broadcast Stations: Low Frequency Station in Eastern US (row 35): 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.

NIST Construction Grants for Research Facilities (rows 37-39): The NEPA documentation has been completed for all16 Construction Grants.

National Telecommunications and Information Administration (NTIA) (spreadsheet page 1, rows 6-7 and page 2, rows 42-48)

Digital to Analog Converter Box Program (spreadsheet page 1, row 6 and page 2, row 42)
One EA was completed for this project on 8/20/2009.

Note: (spreadsheet 1, row 6) The total appropriation for the DTV Converter Box Program was decreased by $239,500,000. due to Congress rescinding a portion of the project. This decreased the overall appropriation from $650,000,000. to $410,500,000.

Also please note that the total obligations for this line item (spreadsheet 1, row 6) went down this period from $338,510,367. to $333,792,955.00. DOC is researching this decrease and will report the findings on the next ARRA report.

Broadband Technology Opportunities Program (BTOP) (spreadsheet page 1, row 7 and page 2, rows 43- 48):

NOTE: (spreadsheet 1, row 7) The total appropriation for the Broadband Technology Opportunity Program (BTOP) decreased by $302,000,000. due to Congress rescinding a portion of the project. This decreased the total appropriate from $4,690,000,000. to $4,388,000,000.

The number of ARRA projects under the BTOP program has increased from 83 to 234 since the last reporting cycle making a total of 151 new projects entered for this reporting period.

The breakdown of those 151 projects is as follows:

BTOP Construction and Deployment of Broadband Infrastructure (row 43): Nine EAs that were previously reported as pending have been completed resulting in a total of 11 EAs completed.

BTOP Construction and Deployment of Broadband Infrastructure (row 44): Nine additional CEs have been finalized for construction projects. This brings the total number of construction CEs to 23.

BTOP Construction and Deployment of Broadband Infrastructure (row 45): There are 56 new pending EAs resulting in increasing the total to 89 pending EAs. 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 devote significant time to 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 able to prepare the draft EA's for submission within the allotted time-frames.

BTOP Non-construction Broadband Projects (row 46): NOTE: THIS IS A NEW LINE ITEM. One project proposed to build a new Public Computer Center on Tribal lands. As the project was a Public Computer Center it was categorized for funding purposes as "non-construction". This grantee is required to prepare an EA.

BTOP Non-construction Broadband Projects (row 47): An additional 76 CEs were finalized for non-construction projects bringing the total to 109 CEs.

BTOP Broadband Mapping Grants (row 48): 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 September 30, 2010, 56 grants have been issued under this one categorical exclusion for broadband mapping.

BTOP has had two separate rounds of funding, August 2009 and January 2010. As of September 30, 2010, the first and second round, including all the separate waves of awards in each round, are complete and all funds are obligated. As a result, this report accounts for all the projects funded by BTOP and reflects the status for all BTOP projects.

Infrastructure projects that are funded by BTOP and receive a Special Award Condition that includes the preparation of an Environmental Assessment (EA) have six months from the date of award to submit the draft EA to NTIA/BTOP for review and comment. The project will be

reported as finalized if a Finding of No Significant Impact determination is made following a sufficiency review of the final EA. Accordingly, the number of completed EAs reported will dramatically increase as the six month deadlines are realized and subsequent final EAs and FONSIs are issued.

<u>Economic Development Administration (EDA)</u> (spreadsheet page 1, rows 8-9 and page 2 rows 49- 51):

Economic Development Assistance Program (EDAP)
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 other than an increase in salaries (Spreadsheet 1, row 18) from $1,905,710. to $2,874,000.

<u>Census Bureau</u> (spreadsheet page 1, row 10 and page 2 row 52):

2010 Census and Programs
The one CE for this program involves salaries and related information collection activities and has been completed. (CE completed on 11/30/2009, row 52.) The total obligations exceed the total appropriation due to incoming transfers/MOUs totaling $1,124,036.00 not included in the original Appropriation.

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 or NTIA, when the FONSI's are signed by their respective NEPA Official.

Benefits of the NEPA process on ARRA projects:

NOAA Operations, Research and Facilities

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

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/BTOP

Broadband Infrastructure Fiber Optic Cable Project– Environmental Assessment: The NEPA process was the key procedural step in indentifying and protecting critical habitat and protected lands in the State of Washington, while still allowing the grantee to use ARRA funds to add fiber backbone capacity to existing networks and specifically target and develop broadband infrastructure in areas that were underserved due to economic infeasibility.

The NoaNet was developed to serve the State of Washington by allowing the state to upgrade and expand broadband infrastructure to combat the social and economic issues facing local and rural communities and to enhance broadband connectivity to six Indian tribes in the state. Specifically, this $54.4 million project funded by the NTIA Broadband Technology Opportunities Program will increase high-speed internet connectivity in 25 of Washington's 39 counties over 285 community anchor facilities, such as schools, libraries, hospitals, etc, and public safety agencies allowing for end-point users to have access to vital healthcare, educational, and emergency services. Since Washington is a land with many historical sites, protected tribal lands and sensitive ecological habitats, the prospect of ground disturbing activities in any of these areas has the potential to significantly impact the environment. As a result of the NEPA review process, NTIA environmental reviewers where able to identify a potential project activity, the installation of submarine cable across an environmentally rich lake, which could have had a devastating effect on wildlife in the region. However, the grantee and NTIA worked closely with the U.S. Fish and Wildlife Service and other state and federal

agencies to develop an alternative route insure that sensitive areas and habitats would not be disturbed as a result of this broadband infrastructure project.

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