

Attachment 3E(1)

Explanatory Note for Forest Service Report February 1, 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 December 31, 2009.

This report updates and clarifies the third report and addresses the National Environmental Policy Act (NEPA) work necessary for ARRA Division A funded projects and activities.

As of December 31, 2009, the Forest Service has identified 695 ARRA funded projects. A “project” as defined for ARRA budgeting/accounting purposes doesn’t always align with the “project” as defined for NEPA purposes. In this case, the ARRA “project” is a combination of multiple 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.

NEPA Not Applicable: There are 252 ARRA projects that NEPA is not applicable. Ten projects fall under the Comprehensive Environmental Response, Compensation and Liability Act, 29 projects are under the Hazardous Fuels Reduction under the Rescission Act of 1995 (P.L. 104-19, Section 504(b)), and 209 ARRA projects are grants issued to state and local governments, non-governmental organizations, private land owners, and one private business under the following authorities which provide no discretionary decision making and therefore 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) — 189 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) – 15 projects

In addition, the Forest Service is not reporting on four projects are under Federal Highway Administration authority and they are responsible for the associated NEPA action which includes review of the Forest Service ARRA funded project/activity.

Updates to the previous report: As the scope of subprojects continued to evolve, several Recovery Act 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) action could not qualify or had

extraordinary circumstances thereby requiring an Environmental Assessment (EA), subprojects initially proposed that required EAs being replaced by less complex actions eligible for CEs, or project design has finally been determined.

- Project #54 reduced the number of EAs from four to one.
- Project #66 reduced by one the number of EISs and increased the number of EAs by eight.
- Project #67 increased the number of EAs by two and increased the number of CEs by two.
- Project #107 changed one EA to a CE.
- Project #122 changed fourteen EAs to CEs and added an additional CE.
- Project #140 added an EA.
- Project #176 changed CE to an EA.
- Project #180 removed one EA.
- Project #182 added a CE.
- Project #204 changed two EAs to CEs and removed two CEs.
- Project #228 added four CEs.
- Project #258 changed an EA to a CE.
- Project #269 changed a CE to an EA.
- Project #282 added four CEs.
- Project #284 changed an EA to a CE.
- Project #285 added four CEs and removed one EA.
- Project #288 removed one CE.
- Project #290 removed two CEs
- Project #291 added two CEs.
- Project #292 removed two CEs.
- Project #294 replaced two EAs with CEs and added one CE.
- Project #295 added two CE.
- Project #300 added forty-six CEs, thirteen EAs, and two EISs. This project was initiated by a grant to the Oregon Youth Employment Initiative, which in turn selects trails projects on Federal and State lands. The sixty-one NEPA actions represent subprojects on Forest Service lands.
- Project #301 added one CE.
- Project #317 removed seven CEs.
- Project #318 removed eight CEs.
- Project #322 added two CEs.
- Project #324 removed nine CEs.
- Project #325 added three CEs.
- Project #333 added eight CEs.
- Project #335 added four CEs.
- Project #348 removed five CEs.
- Project #356 changed from an EA to CE.
- Project #379 added one EA.
- Project #411 changed two EAs to CEs.

- Project #446 removed one CE.
- Project #448 added a CE.
- Project #449 added one CE.
- Project #454 changed one EA to a CE.

New Information for this report:

- 164 NEPA actions remain pending from the last report; 132 CEs, 31 EAs, and one EIS. This was reduced from the last report from 332 pending actions.
 - Nine CEs are under development.
 - 123 CEs are being checked for extraordinary circumstances. Of the 123, forty are waiting for cultural resource surveys and concurrence from State Historic Preservation Officers.
 - All CEs are expected to be completed by April, 2010.
 - All EAs are progressing through their normal time frames and no unanticipated barriers to completion have been identified.
 - The ROD for the EIS is expected in early January, 2010.
- CEs have been completed for the following:
 - One CE for projects #66, #96, #107, #133, #178, #182, #185, #227, #235, #236, #259, #282, #284, #286, #287, #288, #292, #294, #322, #323, #324, #325, #326, #328, #334, #338, #345, #347, #356, #360, #361, #362, #406, #429, #433, #434, #435, #438, #448, #450, #451, #452, and #487.
 - Two CEs for projects #132, #204, #407, #409, #429, #317, #318, and #365.
 - Three CEs for projects #192, #283, and #449.
 - Four CEs for projects #67, #134, and #335.
 - Five CEs for projects #285 and #295.
 - Thirteen CEs for project #333.
 - Sixteen CEs for project #282.
- EAs have been completed for the following:
 - One EA for projects #52, #133, #282, #284, #324, #328, #345, #347, #379, #455, and #487.
 - Two EAs for projects #333 and #408.
 - Three EAs for project #67.
 - Eight EAs for project #66.
 - Nineteen EAs for project #139.
- EISs have been completed for the following:
 - One EIS for project #479.
 - Two EISs for project #66.
- Pending Actions Removed

Projects #329, #348 and #437 are being proposed for withdrawal from ARRA and funded through other appropriations. The NEPA quantity, action and status have been removed from the spreadsheet. When these projects are withdrawn from ARRA the NEPA status will be changed to withdrawn.

Benefits of the NEPA process:

After 30 plus years 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.

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 for 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.

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