

## Attachment 3A

### Explanatory Note for Department of Commerce (DOC) Report February 1, 2011

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 December 31, 2010.

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

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

NOAA ORF incorporates the NOAA Habitat Conservation Projects as well as the Vessel Maintenance and Repair projects.

*NEPA not Applicable* (spreadsheet page 1, row 1)

One of the ARRA projects under NOAA ORF 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 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 two pending EAs 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 this information during the second or third quarter of FY11, and are expected to be on schedule.

Spreadsheet Page 2, row 6 was reported as a completed EA in reports prepared prior to the April 15<sup>th</sup> 2010 report. This was a reporting error. These projects did not result in an additional EA, as it was determined the ARRA project was within the scope of the 2002 Programmatic Environmental Assessment (PEA) for the Community-based Restoration Program (page 2, row 1) and a 2006 Supplemental PEA. Page 2, row 6 has been amended to show that it was combined with the PEA in page 2, row 1 rather than row 5 as previously reported.

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 2 and page 2, rows 8 -29)**

The total number of projects under PAC remains at 22 projects on row 2 of page 1.

There is only one CE remaining as pending under NOAA PAC, project “*NOAA Climate Computing/Modeling*” (page 2, row 19). GSA awarded a lease to a private company in Fairmont, WV on August 31. NOAA completed a CE for this project on January 3, 2011; therefore, this action will show as complete in the ninth ARRA report.

**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 21 ARRA projects under CRF which are covered under 18 CEs, two EAs, and one EIS. Two projects have been withdrawn. (spreadsheet page 1, row 3)

*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 all 16 Construction Grants.

**NIST Scientific and Technical Research and Services (STRS) (spreadsheet page 1, row 4 and spreadsheet 2, row 40)**

One CE has been completed for this project on 9/30/2009. This was inadvertently omitted from previous reports.

**NIST Health Information Technology (spreadsheet page 1, row 5 and spreadsheet page 2, row 41)**

One CE has been completed for this project on 9/30/2009. This was inadvertently omitted from the previous reports.

**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) Due to Congress rescinding a portion of the project, the total appropriation for the DTV Converter Box Program was decreased by \$239,500,000. This decreased the overall appropriation from \$650,000,000 to \$410,500,000.**

In the seventh report, there was a decrease in total obligations on spreadsheet page 1, row 6 from \$338,510,367 to \$333,792,955.00 and NTIA had committed to explain this change. The decrease was a result of a cancelled contract with IBM that was no longer required.

**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) remained \$4,388,000,000 as of 12/31/2010.**

The number of ARRA projects under the BTOP program has decreased from 233 to 232 because of the deobligation of grant funds to Leech Lake Reservation Business Committee.

The breakdown of those 233 projects is as follows:

*BTOP Construction and Deployment of Broadband Infrastructure* (spreadsheet page 2, row 43):

13 EAs that were previously reported as pending have been completed resulting in a total of 24 EAs completed. This is an increase from the previously reported 11 EAs completed.

*BTOP Construction and Deployment of Broadband Infrastructure* (spreadsheet page 2, row 44): The total number of CEs decreased from 23 to 22 due to misinformation presented in the application for the New Mexico Department of Information Technology (NMDIT) project. The project originally qualified for a categorical exclusion, but the NMDIT discovered after the project was submitted and approved that there would be some ground-disturbing activities associated with the project. The NMDIT approached NTIA about the change and their status changed from categorical exclusion to requiring they prepare an EA. This project has been added to the total number of EA's required to be completed (spreadsheet 1, row 7 and spreadsheet 2, row 45).

*BTOP Construction and Deployment of Broadband Infrastructure* (spreadsheet page 2, row 45): There is total of 77 pending EAs, down from 89 last reporting period. This reflects the 13 EAs that have been completed as well as the one EA (NMDIT- explained in previous section) that was added.

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 EAs for submission within the allotted time-frames.

*BTOP Non-construction Broadband Projects* (spreadsheet page 2, row 46): 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* (spreadsheet page 2, row 47): The total number of CEs decreased from 109 to 108 as a result of the deobligation of funds to the Leech Lake Reservation Business Committee

*BTOP Broadband Mapping Grants* (spreadsheet page 2, 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. All 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 FONSI's are issued.

**Economic Development Administration (EDA) (spreadsheet page 1, rows 8-9 and page 2 rows 49- 51):**

**Economic Development Assistance Program (EDAP)**

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 page 1, row 8) from \$2,874,869 to \$2,901,762.

**Census Bureau (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 amount to \$999,997,458.

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 identifying 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 were 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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