

SUPPORTING STATEMENT
U.S. Department of Commerce
Office of the Secretary
DOC National Environmental Policy Act
Environmental Questionnaire and Checklist
OMB Control No. 0690-XXXX

A. JUSTIFICATION

This is a request for emergency review; requested approval date December 7, 2009.

1. Explain the circumstances that make the collection of information necessary.

On February 17, 2009, President Obama signed the “American Recovery and Reinvestment Act of 2009” (Recovery Act) into law (Pub.L.111-5, 123 stat 115(2009)). The Recovery Act funding authorization expires on September 30, 2010; therefore, demand for program funds are immediate. The emergency review and approval of the Commerce Department’s NEPA Environmental Questionnaire and Checklist will allow DOC to effectively determine the level of NEPA documentation required for each submitted project and meet the Recovery Act time restrictions.

The U.S. Department of Commerce (DOC) Environmental Questionnaire and Checklist (EQC) will allow for a more rapid review of infrastructure projects and facilitate DOC in evaluating the potential environmental impacts of a project and determining if a Categorical Exclusion (CE) to the National Environmental Policy Act (NEPA) applies to the project. The EQC was developed to collect data concerning potential environmental impacts and help educate the Federal reviewer about the project, streamline the collection of data, and maintain consistency in quality and quantity of information received.

An immediate need for the EQC exists to address NEPA actions associated with the American Recovery and Investment Act of 2009 (ARRA) funded projects at DOC. Due to the compressed timelines associated with the funding of ARRA projects, the Council on Environmental Quality (CEQ) has emphasized that DOC should attempt, wherever feasible and in accordance with the law, to apply CEs to comply with NEPA. To this end, the Department finalized a series of eleven Categorical Exclusions published in the Federal Register July 10, 2009 (74 FR 33204) to address many of the environmental issues associated with the designated ARRA-funded projects. Additionally, one of the public comments received on the DOC Proposed Categorical Exclusion Federal Register Notice was a request for a checklist to facilitate the presentation of environmental documentation required under NEPA and the National Historic Preservation Act (NHPA). The EQC was prepared to address that comment as well as allow for a more consistent approach to data gathering.

2. Explain how, by whom, how frequently, and for what purpose the information will be used. If the information collected will be disseminated to the public or used to support information that will be disseminated to the public, then explain how the collection complies with all applicable Information Quality Guidelines.

The EQC is designed to be used by both grants applicants and Federal entities proposing construction or infrastructure projects. The questions address a diverse range of potential environmental issues covered under Federal environmental laws and regulations and are designed to provide a reviewer enough information to determine the level of NEPA documentation necessary to comply with the law. This data is not part of any other submission for either DOC grants or Federal projects so there is no duplication of effort associated with the document.

If the project is either Categorically Excluded or requires the completion of an Environmental Assessment (EA), the supporting documentation is kept at the certifying Operating Unit and not published in the Federal Register. If the information indicates an Environmental Impact Statement (EIS) is required to comply with NEPA, that document will be published in the Federal Register and the associated administrative record (including the responses to this EQC) will be available through the DOC responsible program office.

The information is for use solely by the DOC NEPA reviewer assigned to the project and is not to be disseminated to the public.

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological techniques or other forms of information technology.

The document is designed to be filled out and submitted electronically. It will be available via the DOC NEPA website (still in development mode) and on the DOC forms website.

4. Describe efforts to identify duplication.

This data is not supplied through any other method. It is specific to compliance with NEPA and NHPA.

5. If the collection of information involves small businesses or other small entities, describe the methods used to minimize burden.

The data may be collected from virtually any source, public or private, interested in obtaining Federal funding or other Federal resources from DOC. If the entity is a small business, a Native American Tribe, or a disadvantaged or minority entity, the responsible program office is encouraged to perform outreach to educate the entity about the informational needs, as

necessary. This outreach can take the form of telephone, mail, or email correspondence with the applicant.

6. Describe the consequences to the Federal program or policy activities if the collection is not conducted or is conducted less frequently.

If this collection does not occur, DOC would be unable to accurately determine the extent of NEPA documentation required. Under those circumstances, DOC would have no choice but to require the most onerous and comprehensive level of documentation possible to ensure compliance with NEPA. This would mean at a minimum an EA would have to be prepared on all projects seeking Federal funding or other Federal resources. The time delay associated with performing an EA versus assigning a CE to the project can be as much as a year and a cost differential of potentially thousands of dollars. The difference between performing an EIS and assigning a CE can be as much as two years and hundreds of thousands of dollars.

7. Explain any special circumstances that require the collection to be conducted in a manner inconsistent with OMB guidelines.

There are no special circumstances present in the collection of this data.

8. Provide information of the PRA Federal Register Notice that solicited public comments on the information collection prior to this submission. Summarize the public comments received in response to that notice and describe the actions taken by the agency in response to those comments. Describe the efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.

A Federal Register Notice soliciting public comment by December 7, 2009, will be published.

The eleven CEs proposed by DOC were published in draft form on May 26th, 2009 (74 FR 24782) and finalized on July 10th, 2009 (74 FR 33204) and refer to the development of the NEPA Checklist to facilitate data collection. The comments received on the Federal Register Notice were as follows: one positive comment with a request for DOC to develop an environmental checklist to allow the applicant to more easily address environmental issues; one from National Capital Planning Commission (NCPC) asking to include specific language regarding consultations with NCPC on certain types of projects; and one general comment against “changing NEPA in any way”.

9. Explain any decisions to provide payments or gifts to respondents, other than remuneration of contractors or grantees.

Not applicable.

10. Describe any assurance of confidentiality provided to respondents and the basis for assurance in statute, regulation, or agency policy.

No assurance of confidentiality is provided. The EQC, however, would be made available under the Freedom of Information Act and would be included in the Administrative Record of an EIS.

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private.

The EQC does not contain any questions that could be construed as “sensitive” in nature. All information requested are in accordance with existing environmental and historic preservation requirements and laws and as such do not address sexual behavior, attitudes, religious beliefs or other matters commonly considered private.

12. Provide an estimate in hours of the burden of the collection of information.

The estimated response time is 2 hours and the estimated number of respondents/responses is 200 = **400 burden hours**.

The time it takes to fill out the application is dependant on the size of the project and the potential environmental issues present on the site. Generally, it should not take more than two hours to fill in the data. However, on a complex site covering multiple jurisdictions, it could take several days to obtain the data necessary to complete the checklist. One of the ways DOC has streamlined this process is to allow for an “unable to determine” and “need more information” block that can be checked in the event of excessive informational needs. In the event that more information is needed to complete the EQC, a reviewer will contact the applicant to assist in determining the data needs and how best to address the issue.

13. Provide an estimate of the total annual cost burden to the respondents or record-keepers resulting from the collection (excluding the value of the burden hours in Question 12 above).

Not applicable.

14. Provide estimates of annualized cost to the Federal government.

The cost to the Federal government is negligible as this data would have to be reviewed either in this format or in an EA/EIS to ensure compliance with NEPA and NHPA requirements.

15. Explain the reasons for any program changes or adjustments.

This is a new collection.

16. For collections whose results will be published, outline the plans for tabulation and publication.

These results will not be published.

17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons why display would be inappropriate.

Not Applicable.

18. Explain each exception to the certification statement.

Not Applicable.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

This data collection does not include statistical information.