

U.S. DEPARTMENT OF ENERGY
OFFICE OF ENERGY EFFICIENCY AND RENEWABLE ENERGY
NEPA DETERMINATION



RECIPIENT: State Energy Program - Weatherization and Intergovernmental Programs
Office(WIPO)Recipients with a DOE executed Historic Preservation
Programmatic Agreement

STATE: CO

PROJECT TITLE : State Energy Program - Program Year 2022 - IJA Provision 40109 -Administrative and Legal
Requirements Document (ALRD)

Funding Opportunity Announcement Number	Procurement Instrument Number	NEPA Control Number	CID Number
SEP-IJA ALRD	SEP-IJA-ALRD-2022A	GFO-SEP-IJA-ALRD-2022A	

Based on my review of the information concerning the proposed action, as NEPA Compliance Officer (authorized under DOE Policy 451.1), I have made the following determination:

CX, EA, EIS APPENDIX AND NUMBER:

Description:

A9 Information gathering, analysis, and dissemination

Information gathering (including, but not limited to, literature surveys, inventories, site visits, and audits), data analysis (including, but not limited to, computer modeling), document preparation (including, but not limited to, conceptual design, feasibility studies, and analytical energy supply and demand studies), and information dissemination (including, but not limited to, document publication and distribution, and classroom training and informational programs), but not including site characterization or environmental monitoring. (See also B3.1 of appendix B to this subpart.)

A11 Technical advice and assistance to organizations

Technical advice and planning assistance to international, national, state, and local organizations.

B2.2 Building and equipment instrumentation

Installation of, or improvements to, building and equipment instrumentation (including, but not limited to, remote control panels, remote monitoring capability, alarm and surveillance systems, control systems to provide automatic shutdown, fire detection and protection systems, water consumption monitors and flow control systems, announcement and emergency warning systems, criticality and radiation monitors and alarms, and safeguards and security equipment).

B5.1 Actions to conserve energy or water

(a) Actions to conserve energy or water, demonstrate potential energy or water conservation, and promote energy efficiency that would not have the potential to cause significant changes in the indoor or outdoor concentrations of potentially harmful substances. These actions may involve financial and technical assistance to individuals (such as builders, owners, consultants, manufacturers, and designers), organizations (such as utilities), and governments (such as state, local, and tribal). Covered actions include, but are not limited to weatherization (such as insulation and replacing windows and doors); programmed lowering of thermostat settings; placement of timers on hot water heaters; installation or replacement of energy efficient lighting, low-flow plumbing fixtures (such as faucets, toilets, and showerheads), heating, ventilation, and air conditioning systems, and appliances; installation of drip-irrigation systems; improvements in generator efficiency and appliance efficiency ratings; efficiency improvements for vehicles and transportation (such as fleet changeout); power storage (such as flywheels and batteries, generally less than 10 megawatt equivalent); transportation management systems (such as traffic signal control systems, car navigation, speed cameras, and automatic plate number recognition); development of energy-efficient manufacturing, industrial, or building practices; and small-scale energy efficiency and conservation research and development and small-scale pilot projects. Covered actions include building renovations or new structures, provided that they occur in a previously disturbed or developed area. Covered actions could involve commercial, residential, agricultural, academic, institutional, or industrial sectors. Covered actions do not include rulemakings, standard-settings, or proposed DOE legislation, except for those actions listed in B5.1(b) of this appendix. (b) Covered actions include rulemakings that establish energy conservation standards for consumer products and industrial equipment, provided that the actions would not: (1) have the potential to cause a significant change in manufacturing infrastructure (such as construction of new manufacturing plants with considerable associated ground disturbance); (2) involve significant unresolved conflicts concerning alternative uses of available resources (such as rare or limited raw materials); (3) have the potential to result in a significant increase in the disposal of materials posing significant risks to human health and the environment (such as RCRA hazardous wastes); or (4) have the potential to cause a significant increase in energy consumption in a state or region.

B5.14 Combined heat and power or cogeneration systems

Conversion to, replacement of, or modification of combined heat and power or cogeneration systems (the sequential or simultaneous production of multiple forms of energy, such as thermal and electrical energy, in a single integrated system) at existing facilities, provided that the conversion, replacement, or modification would not have the potential to cause a significant increase in the quantity or rate of air emissions and would not have the potential to cause significant impacts to water resources.

B5.16 Solar photovoltaic systems	The installation, modification, operation, and removal of commercially available solar photovoltaic systems located on a building or other structure (such as rooftop, parking lot or facility, and mounted to signage, lighting, gates, or fences), or if located on land, generally comprising less than 10 acres within a previously disturbed or developed area. Covered actions would be in accordance with applicable requirements (such as local land use and zoning requirements) in the proposed project area and would incorporate appropriate control technologies and best management practices.
B5.17 Solar thermal systems	The installation, modification, operation, and removal of commercially available smallscale solar thermal systems (including, but not limited to, solar hot water systems) located on or contiguous to a building, and if located on land, generally comprising less than 10 acres within a previously disturbed or developed area. Covered actions would be in accordance with applicable requirements (such as local land use and zoning requirements) in the proposed project area and would incorporate appropriate control technologies and best management practices.
B5.18 Wind turbines	The installation, modification, operation, and removal of a small number (generally not more than 2) of commercially available wind turbines, with a total height generally less than 200 feet (measured from the ground to the maximum height of blade rotation) that (1) are located within a previously disturbed or developed area; (2) are located more than 10 nautical miles (about 11.5 miles) from an airport or aviation navigation aid; (3) are located more than 1.5 nautical miles (about 1.7 miles) from National Weather Service or Federal Aviation Administration Doppler weather radar; (4) would not have the potential to cause significant impacts on bird or bat populations; and (5) are sited or designed such that the project would not have the potential to cause significant impacts to persons (such as from shadow flicker and other visual effects, and noise). Covered actions would be in accordance with applicable requirements (such as local land use and zoning requirements) in the proposed project area and would incorporate appropriate control technologies and best management practices. Covered actions include only those related to wind turbines to be installed on land.
B5.19 Ground source heat pumps	The installation, modification, operation, and removal of commercially available smallscale ground source heat pumps to support operations in single facilities (such as a school or community center) or contiguous facilities (such as an office complex) (1) only where (a) major associated activities (such as drilling and discharge) are regulated, and (b) appropriate leakage and contaminant control measures would be in place (including for cross-contamination between aquifers); (2) that would not have the potential to cause significant changes in subsurface temperature; and (3) would be located within a previously disturbed or developed area. Covered actions would be in accordance with applicable requirements (such as local land use and zoning requirements) in the proposed project area and would incorporate appropriate control technologies and best management practices.
B5.20 Biomass power plants	The installation, modification, operation, and removal of small-scale biomass power plants (generally less than 10 megawatts), using commercially available technology (1) intended primarily to support operations in single facilities (such as a school and community center) or contiguous facilities (such as an office complex); (2) that would not affect the air quality attainment status of the area and would not have the potential to cause a significant increase in the quantity or rate of air emissions and would not have the potential to cause significant impacts to water resources; and (3) would be located within a previously disturbed or developed area. Covered actions would be in accordance with applicable requirements (such as local land use and zoning requirements) in the proposed project area and would incorporate appropriate control technologies and best management practices.
B5.22 Alternative fuel vehicle fueling stations	The installation, modification, operation, and removal of alternative fuel vehicle fueling stations (such as for compressed natural gas, hydrogen, ethanol and other commercially available biofuels) on the site of a current or former fueling station, or within a previously disturbed or developed area within the boundaries of a facility managed by the owners of a vehicle fleet. Covered actions would be in accordance with applicable requirements (such as local land use and zoning requirements) in the proposed project area and would incorporate appropriate control technologies and best management practices.
B5.23 Electric vehicle charging stations	The installation, modification, operation, and removal of electric vehicle charging stations, using commercially available technology, within a previously disturbed or developed area. Covered actions are limited to areas where access and parking are in accordance with applicable requirements (such as local land use and zoning requirements) in the proposed project area and would incorporate appropriate control technologies and best management practices.

Rationale for determination:

The U.S. Department of Energy is proposing to provide funding to existing State Energy Program (SEP) Recipients as outlined in the SEP Infrastructure Investment and Jobs Act (IIJA) of 2022 SEP-Administrative Legal Requirements Document (SEP-IIJA-ALRD-2022), also known as the Bipartisan Infrastructure Law (BIL) to enhance energy security, state-led energy initiatives, and to increase energy affordability.

Under the SEP Formula Awards as outlined in IIJA Provision 40109 Administrative Legal Requirements Document (ALRD) Program Year 2022 (SEP-IIJA-ALRD-2022), BIL would provide approximately \$500 million to all 50 States, Territories, and the District of Columbia.

This NEPA determination is specific to the 55 SEP Recipients* with a DOE executed Historic Preservation Programmatic Agreement for activities that are funded by the SEP-IIJA-ALRD-2022.

The SEP Recipient without a DOE executed Historic Preservation Programmatic Agreement has a separate NEPA determination: GFO-SEP-IIJA-ALRD 2022B.

DOE has determined the following Bounded Categories of activities that are funded by SEP-IIJA-ALRD-2022, are categorically excluded from further NEPA review, absent extraordinary circumstances, cumulative impacts, or connected actions that may lead to significant impacts on the environment, or any inconsistency with “integral elements” (as contained in 10 CFR Part 1021, Appendix B) as they relate to a particular project.

Bounded Categories:

1. Administrative activities associated with management of the designated state and management of programs and strategies to encourage energy efficiency and renewable energy, including energy audits.
2. Development of plans including but not limited to Transmission & Distribution plans and state energy conservation plans that may require feasibility studies, preparation of preliminary project design, outreach, and technical support to local governments, Indian Tribes and affected stakeholders. All project activities identified and funded from this ALRD must be listed within the Bounded Categories. Projects not listed within these Bounded Categories would require submission of an Environmental Questionnaire (EQ-1).
3. Development and implementation of programs and strategies to encourage energy efficiency and renewable energy such as policy development and stakeholder engagement.
4. Development and implementation of classroom training programs.
5. Development and implementation of building codes including inspection services, and associated activities to support code compliance and promote building energy efficiency.
6. Implementation of financial incentive programs including rebates and energy savings performance contracts for existing facilities; grants and loans to support energy efficiency, renewable energy and energy/water saving projects. All project activities funded under a financial incentive program must be listed within the Bounded Categories or would require submission of an Environmental Questionnaire (EQ-1).
7. Funding commercially available energy or energy/water efficiency or renewable energy upgrades, provided that projects adhere to the requirements of the respective Recipient’s DOE executed Historic Preservation Programmatic Agreement, are installed in existing buildings, do not require structural reinforcement, no trees are removed, are appropriately sized and are limited to:
 - a. Installation of insulation.
 - b. Installation of energy efficient lighting.
 - c. HVAC upgrades (to existing systems).
 - d. Weather sealing.
 - e. Purchase and installation of energy efficient or energy/water efficient home appliances and equipment (including, but not limited to, energy or water monitoring and control systems, and thermostats).
 - f. Retrofit of energy efficient pumps and motors, for such uses as wastewater treatment plants, where it would not alter the capacity, use, mission or operation of an existing facility.
 - g. Retrofit and replacement of windows and doors.
 - h. Installation of Combined Heat and Power System—systems sized appropriately for the buildings in which they are located, not to exceed peak electrical production at 300kW.
8. Development, implementation, and installation of onsite renewable energy technology from renewable resources, provided that projects are installed in or on an existing structure or within the boundaries of a facility (defined as an already disturbed area due to regular ground maintenance), do not require structural reinforcement, no trees are removed, are appropriately sized, and are limited to:
 - a. Solar Electricity/Photovoltaic—appropriately sized system or unit not to exceed 60 kW.
 - b. Battery storage, if applicable, would be attached to a structure (e.g., inside a garage), or within the boundaries of a facility.
 - c. Wind Turbine—20 kW or smaller.
 - d. Solar Thermal (including solar thermal hot water)—system must be 200,000 BTU per hour or smaller.
 - e. Ground Source Heat Pump—5.5 tons of capacity or smaller, horizontal/vertical, ground, closed-loop system
 - f. Biomass Thermal—3 MMBTUs per hour or smaller system with appropriate Best Available Control Technologies (BACT) installed and operated.
9. Installation of fueling pumps and systems for fuels such as compressed natural gas, hydrogen, ethanol and other commercially available biofuels, (but not storage tanks) installed on the site of a current fueling station.

10. Purchase of alternative fuel vehicles.

11. Installation of electric vehicle supply equipment (EVSE), including testing measures to assess the safety and functionality of the EVSE, restricted to existing footprints and levels of previous ground disturbance, within an existing parking facility defined as any building, structure, land, right-of-way, facility, or area used for parking of motor vehicles. All activities must use reversible, non-permanent techniques for installation, where appropriate, use the lowest profile EVSE reasonably available that provides the necessary charging capacity; place the EVSE in a minimally visibly intrusive area; use colors complementary to surrounding environment, where possible, and are limited to the current electrical capacity. This applies to Level 1, Level 2, or Level 3 (also known as Direct Current (DC) Fast Charging) EVSE. Installation of EVSE on Tribal Lands, or installations of EVSE that may affect historic properties located on Tribal Lands, is excluded from this Bounded Category, without first contacting your DOE Project Officer who will coordinate with the DOE NEPA Specialist.

Recipients shall adhere to the restrictions of their DOE executed Historic Preservation Programmatic Agreement. DOE executed Historic Preservation Programmatic Agreements are available on the Weatherization and Intergovernmental Programs website: <https://www.energy.gov/eere/wipo/historic-preservation-executed-programmatic-agreements>. The restrictions of the Bounded Categories must be followed and documented.

All activities must be documented (e.g., a NEPA log) to ensure compliance with the restrictions of the Bounded Categories. The documentation must be available for DOE review upon request and submitted quarterly as outlined in the Federal Assistance Reporting Checklist. Recipients are required to participate in DOE led training on NEPA and historic preservation which would include the additional reporting requirements for the above activities prior to commencing work on the above activities. The training is available at www.energy.gov/node/4816816. Recipients are responsible for contacting NEPA with any NEPA or historic preservation questions at GONEPA@ee.doe.gov.

The Recipient is responsible for identifying and promptly notifying DOE of extraordinary circumstances, cumulative impacts, or connected actions that may lead to significant impacts on the environment, or any inconsistency with the "integral elements" (as contained in 10 CFR Part 1021, Appendix B) relating to any proposed activities. Additionally, the Recipient must demonstrate compliance with Section 106 of the National Historic Preservation Act (NHPA) and inform DOE of activities in the 100-year floodplain and wetlands.

DOE is required to consider floodplain management and wetland protection as part of its environmental review process (10 CFR 1022). As part of this required review, DOE determined requirements set forth in Subpart B of 10 CFR 1022 are not applicable to the activities described in Bounded Categories 1-7g above that would occur in the 100-year floodplain (hereinafter "floodplain") or wetland because the activities would not have short-term or long-term adverse impacts to the floodplain or wetland. These activities are administrative or minor modifications of existing facilities to improve environmental conditions. All other integral elements and environmental review requirements are still applicable. All activities occurring in the floodplain or wetland must be documented. Activities occurring in the floodplain or wetland (except those under Bounded Categories 1-7g) are subject to additional NEPA review and approval by DOE.

For activities requiring additional NEPA review, Recipients must complete the environmental questionnaire (found at <https://www.eere-pmc.energy.gov/NEPA.aspx>) for review by DOE.

Most activities listed under "Bounded Categories" are more restrictive than the Categorical Exclusion. The restrictions must be followed for the Bounded Category to be applicable.

* SEP Recipients with a historic preservation programmatic agreement: AL, AK, AS, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MP, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VA, VT, WA, WV, WI, WY, and VI.

NEPA PROVISION

DOE has made a conditional NEPA determination.

The NEPA Determination applies to the following Topic Areas, Budget Periods, and/or tasks:

This NEPA Determination only applies to activities funded by the SEP IIJA Provision 40109 Administrative and Legal Requirements Document. All activities must be documented (e.g., a NEPA log) to ensure compliance with the restrictions of the Bounded Categories as outlined in the Federal Assistance Reporting Checklist. Recipients must have a DOE executed Historic Preservation Programmatic Agreement.

The NEPA Determination does not apply to the following Topic Area, Budget Periods, and/or tasks:

This NEPA Determination does NOT apply to activities funded by sources other than the SEP IIJA Provision 40109

Administrative and Legal Requirements Document, activities that do not fit within the restrictions of the Bounded Categories listed above, or to Recipients that do not have a DOE executed Historic Preservation Programmatic Agreement.

Include the following condition in the financial assistance agreement:

Activities/projects not listed under "Bounded Categories" are subject to additional NEPA review and approval by DOE. For activities/projects requiring additional NEPA review, Recipients must complete the environmental questionnaire (<https://www.eere-pmc.energy.gov/NEPA.aspx>) and receive notification from DOE that the NEPA review for the activities/projects has been completed and the Contracting Officer has approved the activities/projects prior to initiating those activities/projects.

1. This NEPA Determination only applies to activities funded by the SEP IIJA Provision 40109 Administrative and Legal Requirements Document.
2. All activities must be documented (e.g., a NEPA log) to ensure compliance with the restrictions of the Bounded Categories. The documentation must be available for DOE review upon request and submitted quarterly as outlined in the Federal Assistance Reporting Checklist.
3. Activities not listed under "Bounded Categories" including ground disturbing activities outside the boundaries of a facility (defined as an already disturbed area due to regular ground maintenance), structural improvements to facilities, and tree removal, are subject to additional NEPA review and approval by DOE. For activities requiring additional NEPA review, Recipients must complete the environmental questionnaire found at <https://www.eere-pmc.energy.gov/NEPA.aspx> and receive notification from DOE that the NEPA review for the activities has been completed and the Contracting Officer has approved the activities prior to initiating those activities.
4. This authorization does not include activities where the following elements exist: extraordinary circumstances; cumulative impacts or connected actions that may lead to significant effects on the human environment; or any inconsistency with the "integral elements" (as contained in 10 CFR Part 1021, Appendix B) as they relate to a particular project.
5. The Recipient must identify and promptly notify DOE of extraordinary circumstances, cumulative impacts or connected actions that may lead to significant effects on the human environment, or any inconsistency with the "integral elements" (as contained in 10 CFR Part 1021, Appendix B) as they relate to project activities.
6. Recipients must have a DOE executed Historic Preservation Programmatic Agreement and adhere to the terms and restrictions of its DOE executed Historic Preservation Programmatic Agreement. DOE executed Historic Preservation Programmatic Agreements are available on the Weatherization and Intergovernmental Programs website: <https://www.energy.gov/eere/wipo/historic-preservation-executed-programmatic-agreements>.
7. Most activities listed under "Bounded Categories" are more restrictive than the Categorical Exclusion. The restrictions listed in the "Bounded Categories" must be followed.
8. Recipients are responsible for completing the online NEPA and historic preservation training at www.energy.gov/node/4816816 and contacting NEPA with any questions GONEPA@ee.doe.gov.
9. This authorization excludes any activities that are otherwise subject to a restriction set forth elsewhere in the Award.

Notes:

Weatherization & Intergovernmental Programs Office - WAP
This NEPA Determination requires legal review of the tailored NEPA provision.
NEPA review completed by Alex Colling on 11/15/2022.

FOR CATEGORICAL EXCLUSION DETERMINATIONS

The proposed action (or the part of the proposal defined in the Rationale above) fits within a class of actions that is listed in Appendix A or B to 10 CFR Part 1021, Subpart D. To fit within the classes of actions listed in 10 CFR Part 1021, Subpart D, Appendix B, a proposal must be one that would not: (1) threaten a violation of applicable statutory, regulatory, or permit requirements for environment, safety, and health, or similar requirements of DOE or Executive Orders; (2) require siting and

construction or major expansion of waste storage, disposal, recovery, or treatment facilities (including incinerators), but the proposal may include categorically excluded waste storage, disposal, recovery, or treatment actions or facilities; (3) disturb hazardous substances, pollutants, contaminants, or CERCLA-excluded petroleum and natural gas products that preexist in the environment such that there would be uncontrolled or unpermitted releases; (4) have the potential to cause significant impacts on environmentally sensitive resources, including, but not limited to, those listed in paragraph B(4) of 10 CFR Part 1021, Subpart D, Appendix B; (5) involve genetically engineered organisms, synthetic biology, governmentally designated noxious weeds, or invasive species, unless the proposed activity would be contained or confined in a manner designed and operated to prevent unauthorized release into the environment and conducted in accordance with applicable requirements, such as those listed in paragraph B(5) of 10 CFR Part 1021, Subpart D, Appendix B.

There are no extraordinary circumstances related to the proposed action that may affect the significance of the environmental effects of the proposal.

The proposed action has not been segmented to meet the definition of a categorical exclusion. This proposal is not connected to other actions with potentially significant impacts (40 CFR 1508.25(a)(1)), is not related to other actions with individually insignificant but cumulatively significant impacts (40 CFR 1508.27(b)(7)), and is not precluded by 40 CFR 1506.1 or 10 CFR 1021.211 concerning limitations on actions during preparation of an environmental impact statement.

A portion of the proposed action is categorically excluded from further NEPA review. The NEPA Provision identifies Topic Areas, Budget Periods, tasks, and/or subtasks that are subject to additional NEPA review.

SIGNATURE OF THIS MEMORANDUM CONSTITUTES A RECORD OF THIS DECISION.

NEPA Compliance Officer Signature:  Electronically Signed By: Casey Strickland Date: 11/16/2022
NEPA Compliance Officer

FIELD OFFICE MANAGER DETERMINATION

- ☒ Field Office Manager review not required
☐ Field Office Manager review required

BASED ON MY REVIEW I CONCUR WITH THE DETERMINATION OF THE NCO :

Field Office Manager's Signature: _____ Date: _____
Field Office Manager