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(1.08.09.13)

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



**RECIPIENT:** State Energy Program - Weatherization and intergovernmental Programs Office      **STATE:** CO  
 (WIPO)

**PROJECT TITLE** State Energy Program - Program Year 2018 - Formula Awards - Administrative and Legal Requirements  
 : Document (ALRD)

**Funding Opportunity Announcement Number**      **Procurement Instrument Number**      **NEPA Control Number**      **CID Number**  
 SEP-ALRD-2018           GFO-SEP-ALRD-2018

**Based on my review of the information concerning the proposed action, as NEPA Compliance Officer (authorized under DOE Order 451.1A), 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.
- 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 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.
- 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).

Rationale for determination:

The U.S. Department of Energy (DOE) administers the annually appropriated State Energy Program (SEP) as authorized by Title III, Energy Policy and Conservation Act, as amended. All grant awards made under this program shall comply with applicable laws and procedures including regulations contained in 10 CFR Part 420 and other procedures applicable to this regulation as DOE may prescribe for the administration of financial assistance. The goal of the SEP is to provide leadership to maximize the benefits of energy efficiency and renewable energy through communications and outreach activities, technology deployment, and accessing new partnerships and resources.

Under the SEP Formula Awards as outlined in the Administrative Legal Requirements Document, Program Year 2018, (SEP-ALRD-2018), DOE would provide approximately \$39M in formula-based awards to all 50 States, Territories, and the District of Columbia (hereinafter "States"). Estimated individual State allocations are included in the administrative legal requirements document. As matching funds to each award, States must contribute an amount no less than 20% of their total federal allocation; for the Territories the cost match requirement is waived.

DOE has determined the following bounded categories of activities that are funded by SEP-ALRD-2018 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 C.F.R. Part 1021, Appendix B) as they relate to a particular project:

The Bounded Categories below only apply to projects funded under SEP-ALRD 2018.

**Bounded Categories:**

1. Administrative activities associated with management of the designated State Energy Office and management of programs and strategies to encourage energy efficiency and renewable energy, including energy audits.
2. Development and implementation of programs and strategies to encourage energy efficiency and renewable energy.
3. Development and implementation of training programs.
4. Development and implementation of building codes and inspection services, and associated training and enforcement of such codes in order to support code compliance and promote building energy efficiency.
5. Implementing financial incentive programs such as rebates and energy savings performance contracts for existing facilities or for energy efficient equipment, provided that the incentives are not so large that they would be deemed to be grants that create projects that would not otherwise exist. (For example, giving a wind farm that cost \$100 million a sum of \$50 million and calling it a rebate would not fall within this Bounded Category).
6. Funding energy efficiency upgrades, provided that projects adhere to the requirements of the respective state's programmatic agreement with its SHPO, 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 STAR appliances (includes, but not limited to, furnaces and air conditioners);
  - f. replacement of windows and doors; and
  - g. high efficiency shower/faucet upgrade.
7. 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 and limited to:
  - a. Solar Electricity/Photovoltaic - appropriately sized system or unit not to exceed 60 kW
  - b. Wind Turbine - 20 kW or smaller.
  - c. Solar Thermal (including solar thermal hot water) - system must be 20 kW or smaller.
  - d. Ground Source Heat Pump - 5.5 tons of capacity or smaller, horizontal/vertical, ground, closed-loop system.
  - e. Combined Heat and Power System - boilers sized appropriately for the buildings in which they are located.
  - f. Biomass Thermal - 3 MMBTUs per hour or smaller system with appropriate Best Available Control Technologies (BACT) installed and operated.
8. Development, implementation and installation of energy efficient or renewable energy-powered systems (limited to lighting, cooling, heat) installed in existing buildings and facilities.
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 charging stations installed on existing facilities.

DOE is required to consider floodplain management and wetland protection as part of its environmental review process (Subpart B of 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 1-6g above that would occur in a 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 projects (except those under Bounded Categories 1-6g) must document that project activities do not occur in a floodplain or wetland. If the project activities do occur in a floodplain or wetland (except those under Bounded Categories 1-6g), those project activities are subject to additional NEPA review and approval by DOE.

Some Bounded Categories are more restrictive than the Categorical Exclusion. The restrictions must be followed for the Bounded Category to be applicable.

**NEPA PROVISION**

DOE has made a final NEPA determination for this award

Insert the following language in the award:

If the Recipient intends to make changes to the scope or objective of this project, the Recipient is required to contact the Project Officer, identified in Block 15 of the Assistance Agreement before proceeding. The Recipient must receive notification of approval from the DOE Contracting Officer prior to commencing with work beyond that currently approved. If the Recipient moves forward

with activities that are not authorized for Federal funding by the DOE Contracting Officer in advance of a final NEPA decision, the Recipient is doing so at risk of not receiving Federal funding and such costs may not be recognized as allowable cost share.

Insert the following language in the award:

You are required to:

The State is responsible for informing DOE of any 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 C.F.R. Part 1021, Appendix B) as they relate to a particular Project.

States shall adhere to the restrictions of the programmatic agreement with their State Historic Preservation Office (SHPO). Additionally, documentation of the above reviews for NEPA and Section 106, must be available for DOE review at all times.

States must document that project activities do not occur in a floodplain or wetland. If the project activities do occur in a floodplain or wetland, (except those under Bounded Categories 1-6g as listed in the Program Year 2018 SEP Formula Guidance), those project activities are subject to additional NEPA review and approval by DOE.

For activities/projects requiring additional NEPA review, States must complete the environmental questionnaire (<https://www.eere-pmc.energy.gov/NEPA.aspx>).

Some Bounded Categories are more restrictive than the Categorical Exclusion. The restrictions must be followed for the Bounded Category to be applicable.

Any work proposed to be conducted at a DOE laboratory may be subject to additional NEPA review by the cognizant DOE NEPA Compliance Officer for the specific DOE laboratory prior to initiating such work. Further, any work conducted at a DOE laboratory must meet the laboratory's health and safety requirements.

This NEPA determination applies only to projects funded by SEP-ALRD-2018. Contact your Project Officer for the NEPA determination on projects funded under previous ALRD's.

Note to Specialist :

Weatherization & Intergovernmental Programs Office - SEP  
This NEPA Determination requires a tailored NEPA provision.  
NEPA review completed by Diana Heyder, 01/30/18

**SIGNATURE OF THIS MEMORANDUM CONSTITUTES A RECORD OF THIS DECISION.**

NEPA Compliance Officer Signature:  Kristin Kerwin Date: 2/1/2018  
NEPA Compliance Officer

**FIELD OFFICE MANAGER DETERMINATION**

Field Office Manager review required

**NCO REQUESTS THE FIELD OFFICE MANAGER REVIEW FOR THE FOLLOWING REASON:**

- Proposed action fits within a categorical exclusion but involves a high profile or controversial issue that warrants Field Office Manager's attention.
- Proposed action falls within an EA or EIS category and therefore requires Field Office Manager's review and determination.

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

Field Office Manager's Signature: \_\_\_\_\_ Date: \_\_\_\_\_  
Field Office Manager