

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



**RECIPIENT:** New York State Homes and Community Renewal (HCR) Office of Housing Preservation Weatherization Assistance Program (WAP)

**STATE:** NY

**PROJECT TITLE :** Western NY SERC Project for IRS Qualified Opportunities Zones and Native American Territories

<b>Funding Opportunity Announcement Number</b>	<b>Procurement Instrument Number</b>	<b>NEPA Control Number</b>	<b>CID Number</b>
WAP Sustainable Energy Resources for Consumers (SERC) Grant Application Memorandum dated 12/15/2021	WAP-SERC-2022	GFO-WAP-SERC-2022B	

**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.
- 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.
- B5.16 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.
- B5.19 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.

#### Rationale for determination:

The U.S. Department of Energy's (DOE) Weatherization Assistance Program (WAP) is authorized per Title IV of the Energy Independence and Security Act of 2007 to use up to two percent of WAP funding for Sustainable Energy Resources for Consumers (SERC) Grants. The goal of WAP is to increase the energy efficiency of dwellings owned or occupied by low-income persons, reduce their total residential expenditures, and improve their health and safety. DOE has approximately \$12.3 million available for SERC Grants based on the Fiscal Year 2020 and 2021 appropriations. The WAP SERC Grant Application Memorandum dated December 15, 2021 (2021 SERC Memo), authorizes local weatherization providers to expand the WAP Program for "materials, benefits, and renewable and domestic energy technologies not currently covered," specific activities are outlined below.

DOE has determined the following Bounded Categories of activities that are funded by the 2021 SERC Memo 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 specific activity. Some activities would occur on Seneca Nation of Indians lands, and are more restricted than the activities in Allegany, Cattaraugus, Livingston, and Wyoming County.

The New York State Homes and Community Renewal (HCR) Office of Housing Preservation would be implementing the following activities in the Bounded Categories in Allegany, Cattaraugus, Livingston, and Wyoming Counties:

1. Commercially available energy or energy/water efficiency upgrades, provided that activities adhere to the requirements of the Recipients' DOE executed Historic Preservation Programmatic Agreement, are installed in existing buildings, are appropriately sized, and are limited to:
  - a. Installation and replacement of existing hot water heaters with heat pump water heaters or on demand hot water heaters
  - b. Installation and replacement of existing heating systems with air source heat pumps
2. Development, implementation, and installation of onsite renewable energy technology, 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. Ground Source Heat Pump—5.5 tons of capacity or smaller, horizontal/vertical, ground, closed-loop system

The New York State Homes and Community Renewal (HCR) Office of Housing Preservation Weatherization would be implementing the following activities in the Bounded Categories on Seneca Nation of Indians lands:

1. Commercially available energy or energy/water efficiency upgrades, provided that activities, are installed in or on existing structure less than forty-five (45) years old, are appropriately sized, and are limited to:
  - a. Installation and replacement of existing hot water heaters with heat pump water heaters or on demand hot water heaters
  - b. Installation and replacement of existing heating systems with air source heat pumps
2. Development, implementation, and installation of onsite renewable energy technology, provided that projects are installed in or on an existing structure less than forty-five (45) years old, do not require structural reinforcement, no trees are removed, are appropriately sized, and are limited to roof mounted solar photovoltaic systems appropriately sized, not to exceed 60 kW.

The Recipient shall adhere to the restrictions of their DOE executed Historic Preservation Programmatic Agreement for activities occurring within Allegany, Cattaraugus, Livingston, and Wyoming Counties. 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>. For activities on Seneca Nation of Indians lands, the Recipient shall restrict activities to structures less than forty-five (45) years old. Additionally, activities occurring on Seneca Nation of Indians lands that fit within the Bounded Categories and involve structures 45 years or older require the submission of a Historic Preservation Worksheet and approval from the DOE Contracting Officer prior to initiating the project. The Recipient should contact their Project Officer or email [GONEPA@ee.doe.gov](mailto:GONEPA@ee.doe.gov) for information to complete a Historic Preservation Worksheet.

The Recipient is required to review the PowerPoint presentations on NEPA and historic preservation prior to commencing work on the above activities. The presentations are available at [www.energy.gov/node/4816816](http://www.energy.gov/node/4816816). Recipients are responsible for contacting NEPA with any NEPA or historic preservation questions at [GONEPA@ee.doe.gov](mailto:GONEPA@ee.doe.gov).

All restrictions in the Bounded Categories must be followed and 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.

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 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 1a and 1b 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 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 1a and 1b) for Allegany, Cattaraugus, Livingston, and Wyoming Counties and Seneca Nation of Indians are subject to additional NEPA review and approval by DOE.

For activities not listed in the Bounded Categories, additional NEPA review is required. The Recipient 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.

## **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 the New York State Homes and Community Renewal Office of Housing Preservation for activities funded by the WAP Sustainable Energy Resources for Consumer (SERC) Grant Application Memorandum dated 12/15/2021. 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.

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 WAP Sustainable Energy Resources for Consumer (SERC) Grant Application Memorandum dated 12/15/2021, activities that do not fit within the restrictions of the Bounded Categories listed above, or to any Recipients other than the New York State Homes and Community Renewal Office of Housing Preservation.

Include the following condition in the financial assistance agreement:

1. This NEPA Determination only applies to activities funded by the WAP Sustainable Energy Resources for Consumers Grant Application Memorandum dated 12/15/2021.
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 in Allegany, Cattaraugus, Livingston, and Wyoming Counties 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, the Recipient 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. Activities on Seneca Nation of Indians lands not listed under "Bounded Categories" including any ground disturbing activities, structural improvements to facilities, and tree removal, are subject to additional NEPA review and approval by DOE. For activities requiring additional NEPA review, the Recipient 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 has been completed and the Contracting Officer has approved the activities prior to initiating those activities.
5. Activities on Seneca Nation of Indians lands that fit the restrictions of the Bounded Categories, but involve structures 45 years or older, require a Historic Preservation Worksheet submission and approval from the DOE Contracting Officer prior to initiating the project. The Recipient should contact their Project Officer or email [GONEPA@ee.doe.gov](mailto:GONEPA@ee.doe.gov) for information to complete a Historic Preservation Worksheet.
6. 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.
7. 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.
8. Most activities listed under the Bounded Categories are more restrictive than the Categorical Exclusion. The restrictions listed in the Bounded Categories must be followed.
9. The Recipient is responsible for completing the online NEPA and historic preservation training at [www.energy.gov/node/4816816](http://www.energy.gov/node/4816816) and contacting NEPA with any questions [GONEPA@ee.doe.gov](mailto:GONEPA@ee.doe.gov).
10. This authorization excludes any activities that are otherwise subject to a restriction set forth elsewhere in the Award.

Notes:

Weatherization & Intergovernmental Programs Office/ Office of State and Community Energy Programs (SCEP) – WAP  
This NEPA Determination requires legal review of the tailored NEPA provision.  
NEPA review completed by Diana Heyder on 12/13/22.

#### **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: \_\_\_\_\_



Casey Strickland

NEPA Compliance Officer

Date: 12/14/2022

**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: \_\_\_\_\_

Field Office Manager

Date: \_\_\_\_\_