

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



RECIPIENT: State Energy Program-Office of State and Community Energy Program-Recipients **STATE:** CO
with a Historic Preservation Programmatic Agreement

PROJECT TITLE : State Energy Program Energy Efficiency Revolving Loan Fund Capitalization Grant
Program -Administrative and Legal Requirements Document

Funding Opportunity Announcement Number Procurement Instrument Number NEPA Control Number CID Number
SEP EE RLF-ALRD-2022A GFO-SEP EE RLF-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.

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. 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 new partnerships and resources.

Under the State Energy Program Energy Efficiency Revolving Loan Fund Capitalization Grant Program, formula grants would be provided as outlined in the Administrative Legal Requirements Document (ALRD) Program Year 2022, (SEP EE RLF-ALRD-2022) in order to conduct energy audits, energy efficiency upgrades, and building retrofits to both residential and commercial buildings.

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

DOE has determined the following Allowable Activities that are funded by SEP- EE RLF-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.

Activities on tribal lands or tribal properties are restricted to homes/buildings less than forty-five (45) years old and without ground disturbance. Recipients may contact their Project Officer for a Historic Preservation Worksheet to request a review of activities that are listed below on tribal homes/buildings forty-five (45) years and older. Approval from DOE NEPA is required prior to initiating activities reviewed on a Historic Preservation Worksheet.

Allowable Activities:

1. Administrative activities associated with management of the designated State Energy Office and management of funds from SEP EE RLF-ALRD 2022 to encourage energy efficiency and renewable energy.
2. Development and implementation of outreach strategies for efforts funded by SEP EE RLF-ALRD 2022 to encourage energy efficiency and renewable energy including facility energy audits.
3. Development and implementation of programs and strategies to encourage energy efficiency and renewable energy such as policy development and stakeholder engagement.
4. Implementation of financial incentive programs including rebates and energy savings performance contracts for existing facilities including grants and loan programs to support energy efficiency, renewable energy and energy/water saving projects. All project activities funded under a financial incentive program must be listed within this NEPA determination.
5. Residential and commercial energy analysis and monitoring, including energy use assessments involving building monitoring equipment and smart thermostats.
6. Installation of commercially available retrofit/upgrade measures to improve air quality, energy, and/or water efficiency in existing buildings or facilities of the eligible Recipient, based on energy audit recommendations, provided that projects adhere to the requirements of the respective state's DOE executed Historic Preservation PA, are appropriately sized, no trees are removed or trimmed, and are limited to:
 - a. Insulation applied to building structures, ducts, hot water heater tanks, and heating pipes.
 - b. Air sealing applied to building structures and/or ducts.
 - c. Programmable and smart thermostats.
 - d. Installation of energy efficient lighting.
 - e. Upgrading, retrofitting, tuning, repairing, and/or replacing of existing heating, ventilation, and air conditioning (HVAC) equipment.
 - f. Repairing and/or replacing water heating system equipment.
 - g. Energy or water monitoring and control systems.
 - h. Retrofitting, repairing, and/or replacing of windows and doors, including installation of energy efficient storm windows and energy-saving window attachments.
 - i. Retrofitting or replacing of energy efficient pumps and motors for uses such as wastewater treatment plants, where it would not alter the capacity, use, mission, or operation of an existing facility.
 - j. 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).
7. Development, implementation, and installation of onsite renewable energy/energy efficiency technology, provided that activities adhere to the requirements of the respective state's DOE executed Historic Preservation PA, are installed in or on an existing structure, do not require ground disturbance, no trees are removed or trimmed, are appropriately sized, and are limited to:
 - a. Solar Electricity/Photovoltaic—not to exceed 60 kW.

b. Installing and/or repairing solar thermal systems, including solar thermal hot water systems that are 200,000 BTU/hour or smaller in size.

8. Installing, repairing, or optimizing use of energy storage systems, including electrochemical and thermal storage systems, provided that projects adhere to the requirements of the respective state's DOE executed Historic Preservation PA are installed in or on an existing structure, do not require ground disturbance, no trees are removed or trimmed, and are appropriately sized not to exceed 1,000 kWh.

Recipients shall adhere to the restrictions of their DOE executed Historic Preservation Programmatic Agreement. The restrictions of the Allowable Activities must be followed.

All incidental measures relating to hazardous materials identified during the SEP activities would be managed in accordance with applicable federal, state, and local requirements.

Quarterly NEPA logs will not be required with this NEPA determination. Recipients and subrecipients that are 3rd party administrators, if applicable, 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.

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).

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>.

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 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.

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 "Allowable Activities" are more restrictive than the Categorical Exclusion. The restrictions must be followed for the Allowable Activities 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, VT, VA, 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 Administrative and Legal Requirements Document for the State Energy Program Energy Efficiency Revolving Loan Fund Capitalization Grant Program. 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 Administrative and Legal Requirements Document for the State Energy Program Energy Efficiency Revolving Loan Fund Capitalization Grant program, or activities that do not fit within the restrictions of the Allowable Activities 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 "Allowable Activities" 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 has been completed with an approval letter from the Contracting Officer prior to initiating the project or activities.

1. This NEPA Determination only applies to activities funded by the Administrative and Legal Requirements Document for the State Energy Program Energy Efficiency Revolving Loan Fund Capitalization Grant Program.

2. Activities not listed under "Allowable Activities" including ground disturbing activities, activities on tribal properties older than forty-five (45) years old, and tree removal or tree trimming, 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 has been completed with an approval from the Contracting Officer prior to initiating the project or activities.

3. 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.

4. 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.

5. 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>.

6. Most activities listed under "Allowable Activities" are more restrictive than the Categorical Exclusion. The restrictions listed in the "Allowable Activities" must be followed.

7. Recipients and subrecipients that are 3rd party administrators, if applicable, are responsible for reviewing the online NEPA and Historic preservation PowerPoint trainings at www.energy.gov/node/4816816 and contacting NEPA with any questions at GONEPA@ee.doe.gov.

8. This authorization excludes any activities that are otherwise subject to a restriction set forth elsewhere in the Award.

Notes:

Office of State and Community Energy Programs – State Energy Programs
(State Energy Program Transformation & Planning)
This NEPA Determination requires legal review of the tailored NEPA provision.
NEPA review completed by Diana Heyder 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.

The proposed action is categorically excluded from further NEPA review.

SIGNATURE OF THIS MEMORANDUM CONSTITUTES A RECORD OF THIS DECISION.

NEPA Compliance Officer Signature:


NEPA Compliance Officer

Date: 12/13/2022

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: _____