

FREQUENTLY ASKED QUESTIONS

National Environmental Policy Act

Rules and Regulations under the Infrastructure Investment and Jobs Act

The National Environmental Policy Act of 1969 (NEPA) requires Federal agencies to integrate environmental values into their decision-making processes by considering the potential environmental impacts of their proposed actions.

Signed into law by President Nixon, NEPA was established to foster and promote the general welfare, to create and maintain conditions under which man and nature can exist in productive harmony, and fulfill the social, economic, and other requirements of present and future generations of America.

Below is a list of common questions and relevant considerations related to NEPA for potential applicants to the Oregon Department of Energy (ODOE) Section 40101(d) Grant: Preventing Outages and Enhancing the Resilience of the Electric Grid, which is funded by the U.S Department of Energy's Infrastructure Investment and Jobs Act (IIJA).

1. What are the primary NEPA requirements for this funding opportunity?

All recipients (and subrecipients) will be required to submit an environmental questionnaire (NETL Form 451.1-1/3) for each work location proposed as part of the application approval process.

- a. A US DOE NEPA representative will review these documents and any other pertinent information to determine the likely level of NEPA documentation required for qualified projects.
- b. If any projects are likely to also require an environmental assessment (EA) or environmental impact statement (EIS); the NEPA representative will provide further documentation.

2. Are costs associated with the NEPA review process covered?

If the U.S. Department of Energy (US DOE) determines certain records must be prepared to complete the NEPA review process (e.g., biological evaluations or environmental assessments), the costs to prepare the necessary records may be included as part of the project costs. However, you should discuss your project budget with ODOE prior to proceeding with unplanned expenses under the award.

3. What type of information does the Environmental Questionnaire require?

As part of this process, the [NETL Form 451.1-1/3](#) will need to be completed. While the questionnaire is 12 pages and requests a thorough environmental review of your project and project design, some key considerations include:

- a. A description of planned construction, installation, and or demolition activities, i.e., roads, utilities system rights-of-way, parking lots, buildings, laboratories, storage tanks, fueling facilities, underground wells, pipelines, or other structures.
- b. Whether the proposed project will have an outsized impact on socioeconomic and infrastructure conditions. Project-generated impacts to these conditions include examples like an increase in

traffic in urban or rural areas, use of local neighborhood roads, or a significant increase in local energy use.

- c. How wastewater, solid waste, or other hazardous materials might be generated because of the proposed project, and a plan for managing these effects.
- d. Regulatory compliance and new, modified, or existing permits under laws such as, The Clean Water Act, Toxic Substance Control Act, Endangered Species Act, and Floodplains and Wetlands Regulations to name only a few.
- e. Project issues that might generate public controversy regarding the proposed project.
- f. A description of how the project will be decommissioned, including the disposition of equipment and materials.

4. How do I navigate NEPA Flood Resilience requirements, specifically?

Both the environmental questionnaire and the Funding Opportunity for US DOE’s Administrative and Legal Requirements for this 40101(d) IJA funding include requirements regarding the effect of the proposed project on existing bodies of water and whether the proposed project will affect a floodplain or wetland.

Federal agencies, including US DOE, continue to avoid development in a floodplain to the extent possible. As part of NEPA requirements for ongoing Flood Resilience, applications should indicate whether a proposed project location(s) is within a floodplain, how the floodplain was defined, and how future flooding will factor into the project’s design.

To help determine this, the base floodplain used for planning has been the 100-year floodplain, or a floodplain with a 1.0 percent chance of flooding in any given year.

5. What if I can’t avoid implementing my project in a flood plain?

When it’s not possible to avoid project development in a floodplain, Federal agencies are directed to “expand management from the current base flood level to a higher vertical elevation and corresponding horizontal floodplain to address current and future flood risk and ensure that projects funded with taxpayer dollars last as long as intended.”

The higher flood elevation is based on one of three approaches: climate-informed science (preferred), freeboard value, or 0.2 percent annual flood change (500-year floodplain).

See the additional resources section before for a link to more information for navigating flood resiliency within your project.

6. How does NEPA affect the timing of my project implementation?

While NEPA compliance is a federal agency responsibility and the ultimate decisions remain with the Federal agency, all recipients selected for an award will be required to assist in the timely and effective completion of the NEPA process.

Before you proceed with implementing a project funded through ODOE Section 40101(d) Grant: Preventing Outages and Enhancing the Resilience of the Electric Grid, the subrecipient must have written authority from ODOE to proceed. It is possible to receive a Conditional Approval to move forward, which means that only certain preliminary steps can be taken before the full project is

approved for implementation. Your project may need multiple Conditional Approvals covering activities such as design, procurement, and final construction.

7. Are there certain types of projects that are categorically excluded from NEPA review?

Yes, however all subrecipients will still be required to complete the environmental questionnaire to receive US DOE approval regardless of whether your project may fall into a categorical exclusion. Projects that meet the categorical exclusion may move faster to full approval to implement than other projects subject to additional reviews.

To research current categorical exclusions, please visit: <https://www.energy.gov/nepa/categorical-exclusion-cx-determinations>

8. Additional Resources

Any potential applicants interested in finding more information regarding NEPA requirements can review the following information:

1. [FedConnect Landing Page](#)
The link above is the ALRD FedConnect Page for IIJA Section 40101(d) Formula Grants to States and Indian Tribes for Preventing Outages and Enhancing the Resilience of the Electric Grid. Once on the landing page, you will see a description and an overview of this opportunity. To the right, you will see a list of the attached documentation and Amendment 7 is the most updated ALRD. To view any of the attachments, simply click the attachment name.
2. [40101\(d\) Frequently Asked Questions](#)
The link above is the updated FAQ pertaining to 40101(d) Formula Grants to States and Indian Tribes.
3. [Allocation of Funds](#)
The link above is DOE's Allocation of Funds under the IIJA Section 40101(d) – Formula Grants to States and Indian Tribes for Preventing Outages and Enhancing the Resilience of the Electric Grid.
4. [NEPA.gov](#)
This website serves as a focal point for DOE NEPA implementation and contains information about current opportunities for public review of NEPA documents, an electronic archive of DOE NEPA documents, and other resources for NEPA practitioners and members of the public.
5. [DOE NEPA Program History](#)
The link above provides a detailed history about the origins and administration of NEPA regulations
6. [E.O.13690: Establishing a Federal Flood Risk Management Standard](#)
This website will provide more information on improving the resilience of communities and Federal assets against the impacts of flooding, and more detailed information to that provided in questions 4 and 5.
7. [A Citizen's Guide to NEPA \(doe.gov\)](#)
The link above is, A Citizen's Guide to NEPA.
8. [NETL F 451.1-1/3 \(doe.gov\)](#)
The link above is the questionnaire that will need to be completed for each work location proposed as part of the application approval process.

This document is intended to be for informational purposes only. If there is any conflict between information in this document and the awards agreement, the language in the awards agreement will prevail.

