

WA's State Environmental Review Process and Federal Cross Cutter Requirements

For Water Pollution Control Revolving Fund Applicants and Recipients



Presentation Overview

- Background and History
- SERP requirements and process
- Cross Cutter requirements and process
- Looking ahead

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Why do we have environmental review?

- Environmental review is required for all federal projects. - NEPA
- State environmental review process is unique to SRF programs.
 - Federal language allows states to perform NEPA-like review for projects funded with SRF.
 - Provides flexibility around existing environmental review requirements.

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Wastewater SRF Environmental Review

- Ecology's SRF environmental review broken into two steps:
 1. SERP
 2. Cross cutters
- What is SERP?
 - Analysis of potential environmental impacts and alternatives facilitated by SEPA.
- What are federal cross cutters?
 - Analyses required by federal laws that apply to all actions by the federal government.

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STATE ENVIRONMENTAL REVIEW PROCESS

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What Projects Need SERP?

- The following SRF project types require SERP:
 - Wastewater facilities and collection systems
 - Stormwater
 - Combined sewer overflow (CSO)
 - Reclaimed water
 - Large on-site systems (LOSS)
 - On-site septic repair and replacement

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When is SERP Required?

- Wastewater facilities, CSOs, LOSS, reclaimed water
 - **Step 1 Planning:** incorporated into planning process (should be a requirement in the agreement scope of work).
 - **Step 2 Design:** Prior to submitting application.
 - **Step 3 Construction:** Prior to submitting application.
 - **Step 4 Design/Construct:** Same as Step 2 Design requirements.

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When is SERP Required?

- Stormwater projects
 - Incorporated into design phase.
 - Prior to applying for or beginning construction.
- On-site septic repair and replacement: initiated after application submitted.

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Interim or standard refinance

- Interim refinance
 - SERP must be completed prior to any costs eligible for reimbursement.
- Standard refinance:
 - SERP (at least all required elements) must have been completed at the time when original work occurred.

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Previous SERP reviews

If a project was approved for SERP more than 5 years prior.

OR

SEPA review is more than 5 years old.

- SERP or SEPA must be re-affirmed by Ecology.
 - Submit all previous documentation for SERP.
 - Same process for review and re-affirmation as SERP approval.

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Before you start

- Other federal funding?
 - Ecology can adopt NEPA to meet SERP and cross cutter requirements.
 - Federal agencies cannot adopt Ecology's review.
- Want to try to avoid redundancy.
- More on this later.

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SERP Requirements

★ The following should be submitted together for Ecology's review and approval of SERP.

1. **Complete SERP coversheet.**
 - Available at <https://fortress.wa.gov/ecy/publications/summarypages/ecy070421.html>
2. **Complete SEPA process documentation.**

Materials provided to Ecology include:

 - SEPA checklist.
 - Affidavit of publication.
 - Any comments received.
 - Final signed determination.

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SERP Requirements

- 3. Cost effectiveness analysis** including a consideration of alternatives.
- Can be taken from existing document.
 - SRF required choosing most cost-effective alternative.
 - Include:
 - Alternatives considered.
 - Present worth analysis of alternatives.
 - Non-monetary costs and benefits.
 - Affordability analysis.

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SERP Requirements

- 4. Public meeting.** Materials submitted to Ecology include:
- Name and date of publication where meeting announcement was published. Copy of announcement when available.
 - Dates of comments.
 - Any comments received and how they were addressed.
- 5. Review and concurrence by Ecology.**
- Ecology will send concurrence letter and signed SERP Checklist to applicant.

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Tools for SERP

- **Applicants/Recipients:** SERP coversheet
 - Brief project description.
 - Checklist of required elements.
- **Ecology Staff:** SERP checklist
 - Detailed information on required SERP submittal.
 - Can be used as a quick reference tool for applicants/recipients listing Ecology's expectations.

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SERP Coversheet

The image shows a screenshot of the SERP Coversheet form. It includes a header with the Washington State Department of Ecology logo and the title 'State Environmental Review Process (SERP) Coversheet for (SE) Approval and Budgets'. Below the header, there are several sections with text and checkboxes, including 'Project Description', 'Checklist of Required Elements', and 'Comments'. The form is designed to be filled out by applicants to provide details about their project and confirm that they have met the required SERP criteria.

<http://www.ecy.wa.gov/biblio/ecy070421.html>¹⁶

SERP Checklist

The image shows a screenshot of the SERP Checklist form. It is a detailed document with multiple sections, each containing a list of requirements and checkboxes. The sections include 'Project Description', 'Checklist of Required Elements', 'Comments', and 'Signatures'. The checklist provides a comprehensive overview of all the information and documents that must be submitted as part of the SERP process.

<http://www.ecy.wa.gov/biblio/ecy070419.html>⁷

SEPA Categorical Exemption and SERP

- SERP still required when SEPA cat-ex applies.
- Required documentation/steps:
 - SERP cover sheet
 - Documentation that project was reviewed and cat-ex was determined.
 - Cost effectiveness analysis and consideration of alternatives.
- No public meeting required.
- Remember:
 - SEPA = State requirement.
 - SERP = Federal requirement.

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SERP Approval Procedure

1. Submit SERP packet to Ecology regional engineer/project manager:
 - SERP cover sheet.
 - Documentation of completed SEPA review process.
 - Cost effectiveness analysis and consideration of alternatives.
 - Public participation/meeting documentation.
2. Regional staff review the SERP packet.
3. If complete, regional staff send to the SERP Coordinator for review for state-wide consistency.

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SERP Approval Procedure

4. SERP Coordinator notifies Regional staff if SERP is adequate.
5. Regional staff finalizes and signs the SERP checklist and compiles the SERP concurrence letter.
6. Regional Section manager signs the concurrence letter. The original letter and checklist is sent to the applicant/recipient.
7. Submit a copy of the letter and checklist with the funding application. A copy is kept in the regional project file, and SERP Coordinator's file.

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FEDERAL CROSS CUTTERS

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Federal Cross Cutters

- What SRF projects need to meet federal cross cutter requirements?
 - **Wastewater facility construction projects:**
 - Wastewater treatment or collection.
 - I&I correction.
 - CSO projects.
 - Reclaimed water projects.
- Cultural resources review required for all other construction projects.
- Formal cross cutter review occurs after the final offer list is published and must be completed prior to signing the loan agreement.

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Federal Cross Cutters

- Analysis reports can be submitted separately to speed up resource agency review.
- Submit a final "Cross Cutter Report" to Ecology.
 - Technical review possible prior to final submission.
 - Will not be finalized until construction funding is offered.
 - Should include final resource agency determinations when possible.

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Federal Cross Cutters

- The Cross Cutter Report must address all cross cutters listed in the guidance.
- The loan agreement for construction projects cannot be signed until review is complete and approved.
- Step 4 projects (design/construct)
 - Should be completed during the design phase
 - Cannot start construction until complete.

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Federal Cross Cutters

- Clean Air Act
- Coastal Zone Management Act
- Endangered Species Act*
- Environmental Justice
- Farmland Protection Policy Act
- Floodplain Management Executive Orders
- National Historic Preservation Act*
- Safe Drinking Water Act
- Sustainable Fisheries Act (Essential Fish Habitat)*
- Wetland Protection Executive Orders
- Wild and Scenic Rivers Act

*Starred cross cutters above generally take the most time to research and get federal review and determination.

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Cross Cutter Analyses

- **Clean Air Act (CAA)**
 - Does the project occur within a nonattainment or maintenance area?
 - Work with Ecology’s Air Program or local clean air agency to get approval that the project complies with State Implementation Plan (SIP).
- **Coastal Zone Management Act (CZMA)**
 - Is the project in a coastal county?
 - Work with Ecology’s SEA Program to meet regulations for federal consistency certification.

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Cross Cutter Analyses

- **Endangered Species Act (ESA)**
 - Are there species or critical habitats in the project area?
 - Analyze all impacts, positive and negative.
 - Prepare a biological assessment (BA) document (or similar).
 - Consider
 - Potential project proximity to species and habitat.
 - Cradle-to-grave project activities and impacts.
 - Cumulative effects from other activities outside of project.
 - Habits and needs of listed species.
 - Future activities resulting from project completion.
 - Determination must be supported.
 - Anticipate at least 6 weeks for final determination from resource agencies.

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Cross Cutter Analyses

- **Environmental Justice (EJ)**
 - Will there be disproportionate environmental or human health impacts to low-income, minority, or tribal populations in the community?
 - Consider cumulative effects from other sources.
 - Should have meaningful opportunities for these populations to participate in the public process and provide information and input to make EJ decisions and conclusions.
 - Good idea to consider EJ during SEPA.

Does not have to do with rate payer impacts.

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Cross Cutter Analyses

- **Farmland Protection Act**
 - Does the project convert or adversely impact prime farmland?
 - Work with NRCS and county planning department to come up with recommendations and modifications to minimize impacts.
- **Floodplain Management**
 - Does the project impact the 100 year floodplain?
 - Get required permits and complete an assessment on adverse affects, alternatives, mitigation, and modifications.
 - Meet requirements for new construction in floodplain.

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Cross Cutter Analyses

- **National Historic Preservation Act (Section 106)**
 - Will there be ground disturbing activities or alteration to buildings 50 years or older?
 - Submit an EZ-1 Form to Ecology or conduct a cultural resources survey that covers all areas where ground disturbing activities will occur.
 - Include all areas where project activity will occur (i.e. staging areas).
 - Ecology’s responsibility to communicate with DAHP and tribes.
 - Prior correspondence to tribes and DAHP from the recipient does not fulfill requirement.

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Cross Cutter Analyses

- **Safe Drinking Water Act**
 - Is the project located in the vicinity of a sole source aquifer?
 - Determine if the project could contaminate the aquifer.
- **Sustainable Fisheries Act (Essential Fish Habitat)**
 - Conduct a similar review as discussed in ESA for fisheries.
 - Can be integrated into ESA analysis.

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Cross Cutter Analyses

- **Wetland Protection**
 - Is the project located in or affect a wetland?
 - Assess impacts and propose mitigation.
 - Ecology works with USFWS to assess zero-net-loss of habitat.
 - Requires public review and comment.
- **Wild and Scenic Rivers Act**
 - Is the project located on a designated wild or scenic river? (Klickitat, Skagit, and White Salmon rivers)
 - Does the project affect the free flowing character of the river?
 - Work with US Forest Service for recommendations and modifications to mitigate impacts.

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Cross Cutter Analyses

- All mitigation measures and changes
 - Must be outlined in the cross cutter report.
 - Will become conditions of the funding agreement.

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Cross Cutter Approval Process

1. Analyze the project to address federal cross cutter requirements.
2. Document environmental impacts. Separate reports may be submitted to expedite resource agency review. Submit reports to Ecology regional staff.
3. Regional staff will forward reports to the SERP Coordinator who will review and submit them to the resource agencies for final determinations.

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Cross Cutter Approval Process

5. The SERP Coordinator will correspond with regional staff and the applicant when determinations are made.
6. Write a final cross cutter report addressing all cross cutters and submit it to Ecology's regional staff.
7. Ecology's regional staff will review the cross cutter report and forward it to the SERP Coordinator to review for completeness and state-wide consistency.
8. When Ecology staff agree federal cross cutters are complete, regional staff will finalize and sign the Cross Cutter Checklist.

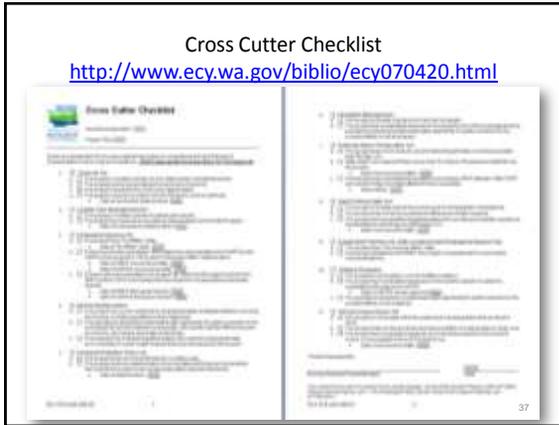
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Cross Cutter Approval Process

9. The Regional Section Manager signs a concurrence letter prepared by regional staff.
10. Concurrence letter and the Cross Cutter Checklist sent to the SRF applicant.

The Water Quality Program Manager cannot sign the loan agreement until project is in compliance with all required federal cross cutters.

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NEPA Adoption

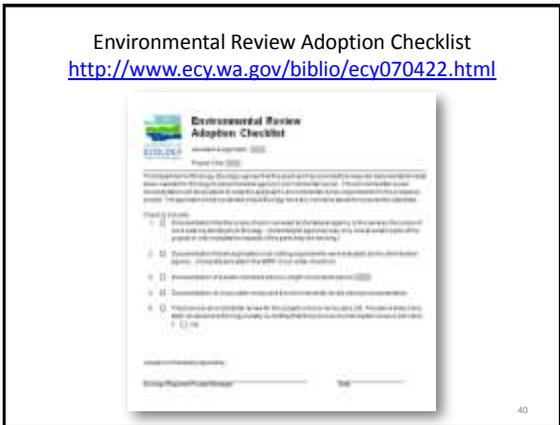
- NEPA can be accepted to meet SERP and/or cross cutter requirements.
- NEPA must:
 - Cover all Ecology funded portions of the project.
 - Cover all required federal cross cutters.
 - Be reviewed and officially adopted by Ecology.

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NEPA Adoption

- Submit all NEPA review documents to Ecology including decision documentation.
- Ecology will use the Environmental Review Adoption Checklist.
- Procedure similar to SERP review procedure.

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What's Happening Now?

- Draft guidance and final checklists are available on the web for everyone's use.
<http://www.ecy.wa.gov/programs/wq/funding/GrantLoanMgmtDocs/Eng/GrantLoanMgmtEngRes.html>
- EPA conducting review for final approval of guidance and checklists.
 - Once approved, final guidance will be published on Ecology's website.

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What's Coming Up?

- SERP review for FY2015 applicants as they come through the door.
- Coordinate with FY2014 recipients who are required to have cross cutters complete prior to agreement signature.

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QUESTIONS?

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