State Environmental Review Process and Cross Cutters

For State Water Pollution Control Revolving Fund Applicants and Recipients

DEPARTMENT OF ECOLOGY State of Washington

Contact Information
Liz Ellis, C.E.P.
State Environmental Review Process Coordinator,
Department of Ecology
Water Quality Program
PO Box 47600
Lacey WA 98504-7600
Phone: 360-407-6429
Email: liz.ellis@ecy.wa.gov

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Welcome!

Overview

- Introduce myself
- Refresher – State Revolving Fund
- Comparison – SERP and Cross Cutter Processes
- SERP Defined, How to Complete SERP
- Cross Cutters Overview, Process
- Questions/Discussion – I want to hear from you.

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Elizabeth A. Ellis, C.E.P.

- B.S. in Biology, C.W.U. – Animal behavior, minors in Physical Anthropology, General Psychology
- M.E.S., Evergreen, Certified Wood Product market (FSC)
- Public Servant since college days.
  - USFS – Wildlife Biologist; Social Science Associate;
  - NMFS – Natural Resource Management Specialist
  - NTC at Fort Irwin – NEPA Coordinator;
  - Naval Base Kitsap – Natural Resource Professional
  - Ecology – Environmental specialist
  - DNR Aquatics – Environmental Review Coordinator
- ABCEP, Certified
- NAEP, NEPA Working Group

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State Revolving Fund Assistance

Refresher

Low interest loan program
Funded through the Clean Water Act
EPA offers state a "capitalization grant"
Twenty percent (20%) state match
Must repay principal and interest
Funds facilities and activities projects
Average: ~$66M/year

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State Revolving Fund (SRF) Environmental Review

Two-Step Process

1. SERP First – Phase One, Planning
2. Cross Cutters Next, Design or Pre-Construction
   Hint: Consider starting Cross Cutters early, particularly if the project may:
   (a) Impact floodplains or wetlands
   (b) Involve archaeological resources and require a survey
   (c) Involve threatened and endangered species, and rise to the level of a "May Effect"
   (d) Have other potential impacts

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Process Similar

SERP Process

1. Applicant - **Two** SERP **Packets w/Cover Sheet**
2. Region reviews using **Checklist**
3. **SERP Coordinator** reviews
4. Complete? SERP **Checklist is signed**
5. Region -Concurrence Letter
6. Applicant receives **Concurrence Letter and Checklist**
7. **Applicant eligible for Funding (Except STEP 1)**

CrossCutter Process

1. Applicant - **Two** Cross Cutter **Reports**
2. Region reviews using **Checklist**
3. Region sends request to SERP Coordinator initiate formal review
4. **SERP Coordinator** reviews, identifies deficiencies
5. SERP Coordinator submits documentation to resource agencies
6. Region **finalize Cross Cutter Checklist and Concurrence Letter**
7. Applicant receives **Concurrence Letter and Checklist**
8. **Applicant eligible for Reimbursement (Design-Construct, Construct)**

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SERP

STATE ENVIRONMENTAL REVIEW PROCESS

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Does my project trigger SERP?

The answer is "Yes" if you have a Clean Water Act *State Revolving Fund (SRF) loan* that is funding:

- Wastewater facilities and collection systems
- Combined Sewer Overflows
- Reclaimed Water
- Large On-site Septic
- Onsite Septic repair and replacement
- Stormwater projects *with a SRF Loan component*

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What *is* SERP?

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What is SERP?

- EPA regulations require compliance with the National Environmental Policy Act, or NEPA
- EPA and State Agreement
- "NEPA-like" review process
- State Environmental Review Process
- SERP- WAC 173-98-720

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SERP is SEPA plus TWO

SEPA

+

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1. Cost Effectiveness Analysis
2. Public Meeting

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SEPA + TWO

SEPA

Public Meeting: Advertised, project described, comment opportunity

Cost Effectiveness Analysis, required by rule, WAC 173-98-730

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How do I "do SERP"?

Submit the following together for Ecology's review and approval

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 cont.

3. **Cost effectiveness analysis** including a consideration of alternatives.
   - Can be taken from existing document (such as Facilities Plan).
   - SRF requires 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 cont.

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.

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SERP Requirements cont.

5. **Review and concurrence by Ecology.**

- Ecology will send concurrence letter and signed SERP Checklist to applicant.
- **Remember**: Submit a copy of the letter and checklist with the funding application.
- Copies are kept in the regional project file, and SERP Coordinator's file for future reference.

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STEP Process and SERP

- **Step 1 –** SERP is part of the planning process
- **Step 2 – 4 -** complete the SERP **prior to applying** for SRF financing.
- **This requirement applies** to wastewater, stormwater construction, reclaimed water, combined sewer and Large Onsite Septic System projects.
- Basically, for any project from STEP 2- 4, including stormwater, have your SERP done before you apply for financing.

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Streamlining SERP

Previous SERP Reviews

- Previous SERP reviews can be used if less than five 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.

Another Federal Nexus?

- Ecology can adopt their NEPA to meet SERP
- Ecology can adopt their federal permitting process to meet certain Cross Cutter requirements.

Know where you are in the Funding Cycle and in the Fiscal Year.

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Cross Cutters

FEDERAL CROSS CUTTERS

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Definition is found in Federal Regulations

Defined under 40 CFR 35.3575 - Application of Federal cross-cutting authorities (cross-cutters).

"Federal laws, executive orders, and government-wide policies [that] apply by their own terms to projects and activities **receiving Federal financial assistance**, regardless of whether the statute authorizing the assistance makes them applicable…"

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Does my project need Cross Cutter Review?

- Have you applied for a SRF Loan?
- Is your project a Water Pollution Control Facilities?
  - Wastewater treatment or collection.
  - Infiltration and Inflow correction.
  - Combined Sewer Overflow abatement.
  - Reclaimed water projects.

  Then **YES.**

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Federal Cross Cutters

- Historic Resources
  - National Historic Preservation Act
  - Archeological and Historic Preservation Act
- Environmentally Sensitive Lands
  - Protection of Wetlands
  - Flood Plain Management
  - Farmland Protection Policy Act
- Environmental Justice
- Coastal Area Protection
  - Coastal Zone Management Act
  - Coastal Barriers Resources Act (Not WA)
- Wild and Scenic Rivers Act
- Protected/Sensitive Species and Habitat
  - Endangered Species Act
  - Essential Fish Habitat
- Clean Air Act
- Safe Drinking Water Act

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Cross Cutter Report Example

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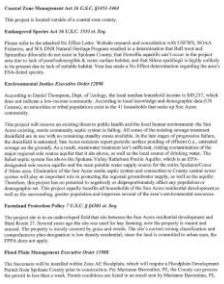
Cross Cutter Report Examples



Role of the State Agency & Cross Cutters

- Some cross-cutters require *detailed consultation and impact resolution* process, esp. where driven by Federal law (NHPA, ESA, Wetlands)
- A cross cutter "report" helps fill these obligations
- The state agency is the lead in implementing review
- State agency may accept report, and/or request further information, and coordinates with other federal agencies, as necessary on authorities

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Tools

Guidelines for State Environmental Review Process (SERP) and Federal Cross Cutters
http://www.ecy.wa.gov/programs/wq/funding/GrantLoanMgmtDocs/Eng/GrantLoanMgmtEngRes.html

NEPA Node - http://nepanode.anl.gov/

NEPAssist - http://www.epa.gov/compliance/nepa/nepassist-mapping.html

Critical Habitat Mapper – NOAA Fisheries
http://www.nmfs.noaa.gov/gis/data/critical.htm#west

EFH Mapper - http://www.habitat.noaa.gov/protection/efh/efhmapper/

Find Endangered Species - http://www.fws.gov/endangered/index.html

Department of Archaeology and Historic Preservation Washington Information System for Architectural and Archaeological Records Data (WISAARD)
http://www.dahp.wa.gov/learn-and-research/find-a-historic-place

Ecology websites – see SERP and Cross Cutter Guidance

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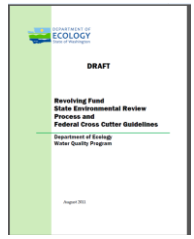
SERP and CC Guidance



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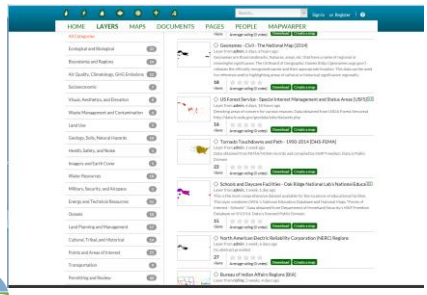
NEPA Node

For more information please contact John.Jediny@hq.doe.gov



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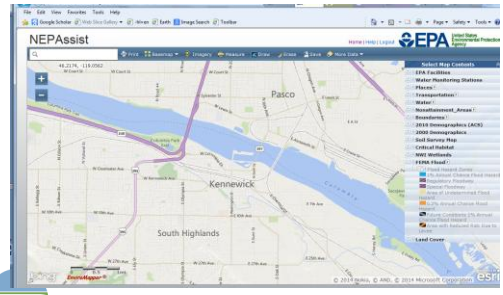
NEPAssist – Account req.



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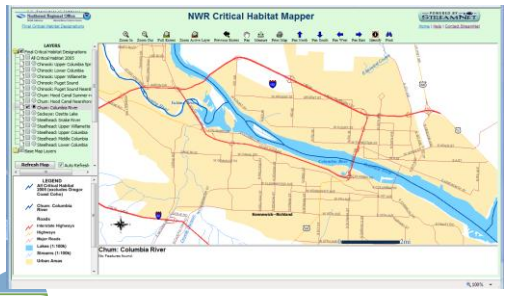
Critical Habitat Mapper



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NOAA Species Boundaries

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Critical Habitat Portal

IPaC – Species Lists - USFWS

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What Can Delay Report Approval?

- **Coastal Zone Management Act (CZMA)**
  - Not including the federal consistency certification in the final cross cutter report for projects in coastal counties
- **Endangered Species Act (ESA) and Essential Fish Habitat**
  - Not including an updated species list for the action area
  - Not including an analysis that justifies your determinations
- **Environmental Justice (EJ)**
  - Basing EJ on rate payer impacts
- **Sole Source Aquifer**
  - Not including an a conclusion or analysis

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What Can Delay Approval?

- NO EFFECT - the proposed action will have zero effect on the listed species or critical habitat, typically because the action is located outside of the species' range.
- NOT LIKELY TO ADVERSELY AFFECT - the proposed action may affect the listed species or critical habitat but the effects will be insignificant, discountable, or completely beneficial.
- LIKELY TO ADVERSELY AFFECT - the proposed action may negatively and significantly affect the listed species or critical habitat; this includes "take" of an individual of the listed species.

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What Can Delay Report Approval?

- **Wetland Protection**
  - Not documenting impacts to wetlands
- **Section 106 Consultation under the NHPA**
  - Trying to complete it on your own
- **Other potential delays**
  - Not updating your Cross Cutter report over time
  - Splitting your project into different funding phases and doing separate SERP and cross cutters.
  - A Federal nexus can be your friend, or create a planning nightmare.
  - Not breaking out separate agency reports
  - Keep Ecology's SERP Coordinator in the loop

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Questions and discussion

Liz Ellis, CEP
State Environmental Review Coordinator
360-407-6429
Liz.ellis@ecy.wa.gov

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