CWSRF Environmental Review

Liz Ellis, Environmental & Cultural Review Coordinator, Environmental Justice Contact

Today's Session will be Recorded.

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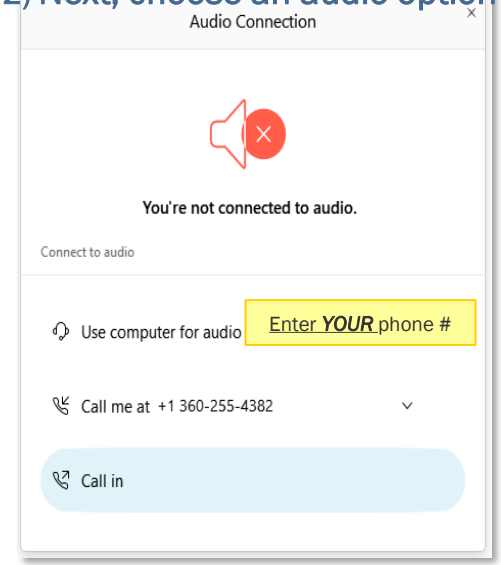

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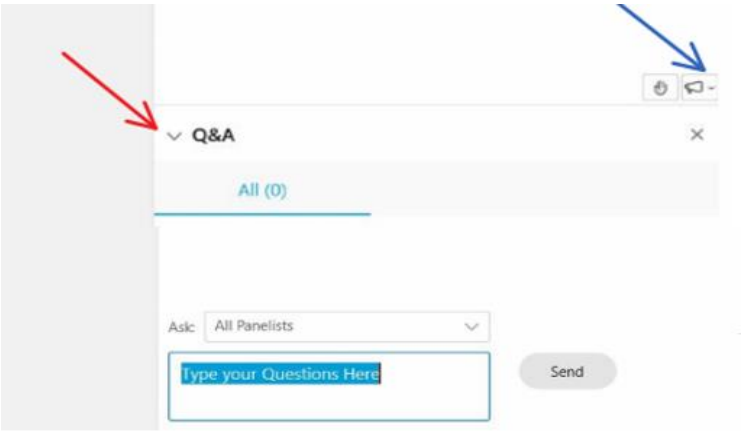

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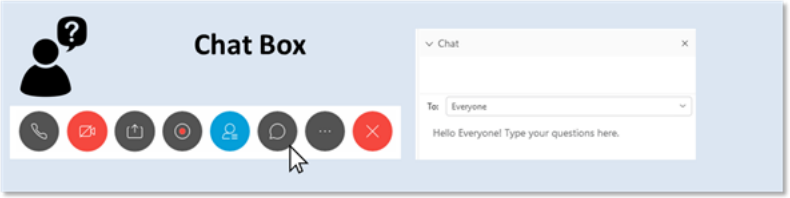

Ecology's strategic priorities

Support and engage our communities, customers, and employees

Reduce and prepare for climate impacts

Prevent and reduce toxic threats and pollution

Protect and manage our state's waters

Protect and restore Puget Sound

Welcome!

- Please feel free to ask questions in the chat box
- We will not be taking a break
- Time for discussion at the end of the presentation
- This presentation will be sent to you and will be posted online
- Liz Ellis, Environmental and Cultural Resource Review Coordinator, FMS WQP, 360-628-4410 (teleworking cell), liz.ellis@ecy.wa.gov

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Brief Overview

Environmental Review and SERP

- What is the State Environmental Review Process
- How is SERP different from the State Environmental Policy Act (SEPA)
  - Tips for effective environmental review

State Environmental Review Process (SERP)

- Similar to the National Environmental Policy Act, or NEPA
- Used by Ecology to review any potential impacts of the infrastructure project.
- Applies only to **treatment works projects** funded by the Clean Water State Revolving Fund.
- Includes review of economic impacts (rates), cultural impacts (archaeological, historic), social and community impacts (environmental justice), and impacts to environmental resources.
- Must include public outreach.
- Separate from the local process, known as the State Environmental Policy Act (SEPA)
- Information from SEPA, NEPA or TEPA can be used to fulfill the requirements for SERP
- SERP guidance is available in the Funding Guidelines.

Treatment Works defined

Treatment works projects include wastewater and stormwater collection, storage, and treatment systems. In Washington, such systems can be loosely termed "facilities." Other treatment works project examples include reclaimed water, combined sewer, and large on-site system sewage (LOSS) projects.

Non-treatment works projects eligible for CWSRF funding include repair and replacement of individually owned on-site sewage systems, education and outreach efforts, and other water quality activities and projects.

Treatment works projects require a treatments works design and plan, often an engineering plan or similar. Non-treatment works projects may not.

What is important is that treatment or non-treatment - ***Both types of project categories have proven successful in improving water quality.***

Environmental review is a process

From a plan to construction

- Planning
  - Best time to do public outreach
  - Best time to get feedback on those alternatives
  - Landowner approvals?
  - City/County approvals
  - Start SERP/Cultural Review if possible
  - Goal: 30% design at best
- Design
  - Focus on your design
  - Focus on the permits
  - Focus on your SERP
  - Cultural Review
  - Consultation, mitigation requirements
  - Landowner approvals
  - Goal: 90% design
- Construction
  - Everything ready to move forward
  - No approvals needed
  - Focus on going to bid

Elements of Environmental Review by Phase and Loan

This diagram illustrates Ecology's approach to environmental review for the Clean Water State Revolving Fund.

Environmental review is a process; it is not a one-time permit or consultation. Review can cover the entire life of the project – with permits and consultations finalized during different phases.

Ecology will issue a SERP determination with each loan issued during the life of the project, updating our records as necessary.

Planning Phase /Loan

- Planning loan - Excellent time to consider cultural review compliance requirements;
- Non-project SEPA is often done at the planning phase;
- Set up Non-Project for tiering project level SEPA in the future;
- Planning loans are considered the best time to do a public outreach;
- Discussion of considered alternatives required during public outreach.

Design Phase/Loan

- Design loans - When permits are applied for;
- Permits and consultation potentially impact the design due to mitigation or other negotiated changes;
- Permits and consultations during this phase will inform SEPA and therefore SERP;
- Local officials may amend a previous SEPA determination, or start a new SEPA review if one is warranted;
- Project level SEPA reviews generally occur in this phase;
- Geo-tech and site assessment may start - recipients may use a phased cultural resource review approach.

Construction Phase/Loan

- All permits and consultations should be complete;
- Design must be near or at 100% design; design and specs approved
- Recipient is ready to move forward with construction;
- Re-affirm the design phase SERP package UNLESS there has been a justified significant change to the project;
- Significant changes to the project may require amending cultural resources review, other permits.

Questions? Contact: Liz Ellis, Environmental and Cultural Resource Coordinator, Financial Management Section, Water Quality Program, Department of Ecology. (360) 628 4410 (Telework/Cell) liz.ellis@ecy.wa.gov

Deep Dive – SEPA and SERP

SEPA – Local responsibility

Local responsibility

Not necessarily triggered by application for a loan

Governed by local ordinances, state RCWs and WACs

Does not address everything – but comes close!

Local SEPA is a stand-alone decision

SERP – Ecology responsibility

Ecology responsibility - Federal

Triggered when a project is funded with SRF loan

Governed by federal laws, policy, approvals and EPA's oversight

The specific federal requirements for SERP are found in 40 CFR 35.3140.

Ecology's SERP approved by EPA

Ecology has a SERP procedure for staff

Questions to keep in mind when starting

- Do I have a new action or am I upgrading/maintaining?
- Am I in the planning or design phase?
- What permits will I need?
- How will the permits inform my environmental review?
- Am I completing SEPA, NEPA or a Tribal Environmental Policy Act (TEPA) review?
- Is it time to consider cultural resource review?
- Community/Public outreach? EJ? Rates?

Developing the SERP Information Packet

How to ensure a successful environmental review for a Clean Water SRF agreement

Developing the SERP Information Packet

A complete SERP Information Packet package consists of the following

- SERP Information Packet Coversheet;
- SEPA, NEPA or Tribal Equivalent (TEPA) review documentation, including but not limited to the following:
  - Cultural resource review
  - Information on the status of the Inadvertent Discovery Plan (IDP)
  - Public outreach documentation as required under SERP
    - Completed Environmental Justice (EJ) & Public Engagement Plan
  - Additional permits and approvals as required – local, state and/or federal
  - Landowner approvals
  - Clear description of any mitigation required in order to proceed with project

SERP Information Packet - Complete the SERP Coversheet

- The SERP Information Coversheet (Ecology publication ECY 070-421) (recently updated) is a helpful tool. It lists required information to include in your SERP Information Packet:

- The recipient uploads the SERP Information Packet to the Environmental and Cultural Review form in the EAGL system.

State Environmental Review Process
Information Packet Coversheet
To be completed by Clean Water State Revolving Fund (CWSRF) Applicants and Recipients and sent to Ecology's Project Manager and Environmental Review Coordinator

Applicant/Recipient and Project Information	
Applicant/Recipient (Organization):	
Loan number (if known):	
Project Title:	
Project Contact Person:	Telephone:
Address:	
Email:	
Brief Project Description:	

Please submit all documentation listed below with this form to Ecology's Project Manager and Environmental Review Coordinator for review and approval.

Exemptions

NEW! If you want to propose this phase of your project as exempt from environmental review, document your justification using one of these forms and return to the appropriate environmental review coordinator for approval.

- For SEPA, please complete the SERP SEPA Finding of Categorical Exemption

https://apps.ecology.wa.gov/publications/SummaryPages/ECY070643.html

- For NEPA/TEPA, complete the SERP Request for a NEPA Categorical Exclusion

https://apps.ecology.wa.gov/publications/SummaryPages/ECY070644.html

- Questions? Not sure? Contact Liz Ellis, 360-628-4410 or liz.ellis@ecy.wa.gov

Ready for submission? Upload to EAGL database

- Using EAGL will help initiate a SERP Review
  1. Upload the contents of the SERP Information Packet to the *Environmental and Cultural Review* form in the Ecology Administration of Grants and Loans (EAGL) system
  2. Provide your Ecology Project Manager and your Environmental Review Coordinator with an electronic copy of the SERP Information Packet
     - Contact Liz Ellis if you have questions
  3. These steps help to initiate the SERP review

Ecology's Administration of Grants & Loans (EAGL)

Fund Coordinator Review and Documentation in EAGL

- CWSRF Fund Coordinator also uses EAGL to seek out SERP documentation
- Environmental and Cultural Resource form is our repository
  - Ensure compliance before signing loans
  - Available for EPA and Audit reviews
- Okay to link to SEPA register provided done correctly (SEPA only)
- For Design loans, ensure documentation is listed as a deliverable
- For Construction loans, documentation uploaded before signing the loan

SERP Information Packet: What Ecology looks for

- What does Ecology look for (in general):
  - Current, accurate SEPA Checklist (WAC 197-11; RCW 43C.20).
  - Complete answers to the SEPA checklist questions **(checklists marked "N/A" for every response will be returned)** and complete NEPA or TEPA documentation covering all potential environmental, social, economic impacts, and clearly outlining any required mitigation
  - Correct use of project/non-project and/or phased review
  - Complete responses on permits; if re-affirming, need follow-up on permits and potential mitigation from previous SEPA/NEPA/TEPA
  - Correct application of any exemptions from review (must be approved by Ecology)
  - Correct use of re-affirmation

SERP Information Packet: What Ecology looks for

- Current public meeting on the proposal, with opportunity to accept public input. Virtual meetings fine.
- Appropriate approach for EJ and Title VI community profile and public engagement
- Correct application process for projects entirely on tribal lands
- Status of cultural resource review
- DEP Projects – include required federal laws and authorities
- **NOTE:** We also need to see information on all permits, authorities, approvals and consultations for all projects – DNR Use Authorizations, 401 WQC Certs, HPAs, ESA, **anything that may delay the project.**
- **If mitigation is required it must be included as a condition of the agreement.**

SERP Information Packet: How Ecology reviews and makes a decision

- Information you provide must meet the requirements of our federally approved SERP
- We use guidance to go through your documentation
- You can find the *environmental review requirements* online at EPA's website on Laws and Regulations (CWSRF Regulations) or click here:

https://www.govinfo.gov/content/pkg/CFR-2011-title40-vol1/pdf/CFR-2011-title40-vol1-part35-subpartK.pdf

- Cross cutting requirements are referenced vaguely in §35.3145.

Cross cutting requirements can be a confusing term. The term *cross cutter* is widely used by EPA. Most other agencies just use the term ***federal assurances***, or federal laws and authorities associated with financial assistance. There is no difference.

SERP Information Packet: How Ecology reviews and makes a decision

- We compare your documentation to the requirements and base our decision upon standards set for each section
- We may ask for more information
- There are a number of decisions we could make:
  1. Your packet is ***incomplete***, we need more information
  2. Your packet is ***not ripe*** for a SERP determination. For example, it is too early in the planning phase to make a decision.
  3. We agree with your threshold decision or FONSI. Your packet is complete. We ***affirm*** your decision.
  4. We agree your previous SERP Information Packet covers this agreement, and we will adopt it. We will fill out an Environmental Adoption Form. We will ***re-affirm*** the previous decision.
  5. We are sorry we have not come to an agreement, and we must ***reject*** your SERP Information Packet. Please try again.

SERP Determination

If we ***determine*** your SERP Information Packet is complete, develop a SERP Determination.

The SERP Determination is signed by the FMS Section Manager to sign.

Each phase, or agreement, requires that we re-visit this determination. The determination is associated with the decision to lend money.

Re-affirmation means no substantive changes have been made from one phase to the next (Planning to Design is the best example) and we can continue to rely upon the previous SERP Information Packet to reflect any potential impacts from this agreement/phase.

- This helps to explain why completing SERP Information Packets are required at the Planning Phase.

We are required to fill out an Environmental Review Adoption form and formally note this for the records.

If your design changes significantly complete a new SERP Information Packet.

Additional Information

Updates, tips and timesavers – where we address your questions each year

SERP Tips and Tools

- Where will you find the latest environmental and cultural review guidance?
- A bit more on the public outreach requirement
- New forms for categorical exclusions and exemptions
- Environmental Justice and Civil Rights – what is coming?

Obsolete, use for general reference only

Combined Funding Program

Environmental Review Guidance

Department of Ecology
Water Quality Financial Assistance

March 2016
Publication no. 16-10-003

Look in our Funding Guidelines

DEPARTMENT OF ECOLOGY
State of Washington

State Fiscal Year 2022 Funding Guidelines

Centennial Clean Water Program

Clean Water Act Section 319 Program

Stormwater Financial Assistance Program

Washington State Water Pollution Control Revolving Fund Program

https://ecology.wa.gov/About-us/How-we-operate/Grants-loans/Find-a-grant-or-loan/Water-Quality-Combined-Funding-Program/WQC-funding-cycle

Let's take a closer look at SERP Public Outreach

- What is required outside of SEPA?
- Does a NEPA/TEPA public participation plan meet the requirements?

SERP must meet federal requirements not SEPA requirements

- The public outreach must be completed in addition to SEPA to fulfill the federal requirements
- The public outreach must meet federal requirements
- Most NEPA/TEPA documents have public participation plans that meet these requirements
- If NEPA/TEPA does not meet the requirements, they also must do further engagement
- **NOTE**: This is separate from any public engagement associated with the identification of EJ population segments

SERP Public Outreach

Public Notice

- Notice must be provided to the public of proposed project
- Notice must give the public opportunity to comment on the alternatives
- Public must have the opportunity to examine the environmental review documents

Opportunity to Comment/Participate

- Formal public comment period must be provided during which no action on the project is allowed
- A public hearing or meeting must be provided for all projects
- Exceptions are made for categorical exclusions/exemptions (subject to Ecology review)

We look for the following during SERP Review

- Did you advertise your public outreach and how? How many types of media did you use? It helps to send us examples.
- Did you do a presentation?
- Did you share information on alternatives considered?
- Did you present the potential environmental impacts, project costs, and ratepayer impacts?
- Did you present your project in a meaningful way, and ask for input, comments, concerns?
- Did you receive any comments, and how did you address them?
- Did you send in a statement of no comments received?

Deep Dive-
Ecology's Public Outreach Requirements

Ecology has public notice and outreach requirements too

See § 35.3140 Environmental review requirements – *Public notice and participation*, and *Alternatives Consideration*.

Deep Dive-
Ecology's Public Outreach Requirements

Public Notice - Ecology

Notice must be provided ***when a decision is made*** (Ecology)

Public Hearings - Ecology

For projects ***determined by the state to be controversial***, a public hearing must be held.

Environmental Justice and Civil Rights Requirements

- Environmental justice and non-discrimination requirements also requires public engagement.
- Public engagement is different under EJ compared to NEPA, TEPA and SEPA – it often starts earlier.
- This public engagement targets only the underserved and minority communities
- Do you have any? You will not know until you complete a community profile for the area surrounding your project.

Tools and Tips for EJ

- Helpful sources of information include: Ecology's Water Quality Atlas; EJSCREEN, Washington Tracking Network, Ecology's What's in My Neighborhood U.S. Census, program staff, local agencies, and community service organizations.
- If an underserved population is identified, tailor public engagement to reduce barriers to engagement and ensure access to information.
- Example: Large size community that fishes in area with water quality restrictions, speaks primarily Russian
  - How to explain diet restrictions?
  - Signage, handouts, post signs where saw people fishing

Wouldn't have known what to do until Recipient made effort to find out who made up the community.

- Do you know your Community Profile?

Guidance available on EJ and Title VI

- **Do you need guidance on public engagement for underserved communities?**
  - Ask your environmental review coordinator for general guidance on what tools, ideas and strategy to help ensure your project includes meaningful outreach

If you have an existing process for reaching out and identifying underserved communities, use it and *please*, share it as part of the SERP Information Packet.

How to find the forms for SERP

Environmental review process for Water Quality Program grants & loans

Projects funded by a Water Quality Program grant or loan require a review for potential impacts to environmental or cultural resources. Federal, state, and local regulatory standards vary by project type, type of funding, and location.

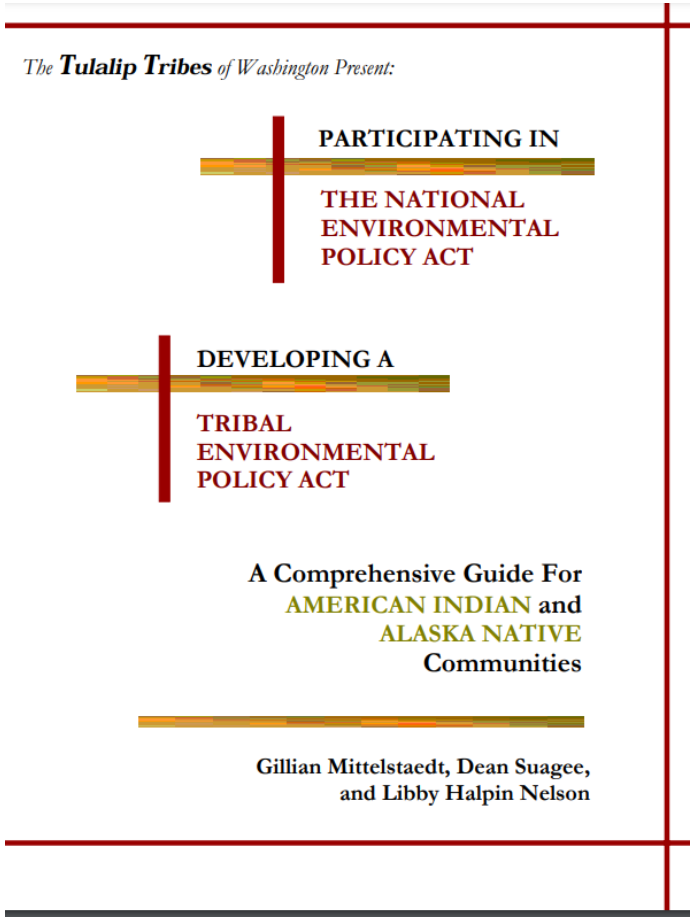
I want to...

- Find Environmental Review Guidance
- Download the SERP Coversheet
- Find Cultural Review information

Tribal Environmental Review

- Tribes do not complete SEPA; they are not local governments
- Tribes are at the level of a federal government
- Tribes complete a Tribal Environmental Policy Act (TEPA) decision, or they complete NEPA
- Either can be accepted
- For cultural review, the tribe takes the place of the State Historic Preservation Officer
  - Cultural resource review is initiated directly with the tribal government
  - The Tribal Historic Preservation Officer will make the decision

Helpful guidance for tribes


The Tulalip Tribes of Washington Present:

PARTICIPATING IN

THE NATIONAL ENVIRONMENTAL POLICY ACT

DEVELOPING A

TRIBAL ENVIRONMENTAL POLICY ACT

A Comprehensive Guide For AMERICAN INDIAN and ALASKA NATIVE Communities

Gillian Mittelstaedt, Dean Suagee, and Libby Halpin Nelson

Questions?

Thank you