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State of Washington

Combined Funding Program

Environmental Review Guidance

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Combined Funding Program

Environmental Review Guidance

by

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Executive Summary

Washington State Department of Ecology, Water Quality Program (WQ), manages a Combined Funding Program consisting of state and federal funds that finance clean water projects. These funds have different environmental and cultural review requirements. This document provides guidance on those requirements. The primary focus is the Washington State Water Pollution Control Revolving Fund (SRF) Programs, also referred to as the Clean Water State Revolving Fund, funded in part by Federal Clean Water Act of 1987 (as amended). The environmental review for Washington State's SRF program is divided into two parts: the State Environmental Review Process (SERP) and Federal Cross-Cutting Authorities (cross cutters).

Information relevant to the Stormwater Financial Assistance Program (SFAP) and the Clean Water Act Section 319 Grant Program (319) is included in this document.

Changes and updates from the previous guidance include: (1) Updates to federal cross cutters, (2) clarifying when SERP applies, and (3) updates on environmental and cultural project review forms. This document will be updated as necessary.

Chapter 1 –Environmental Review for Water Pollution Control State Revolving Fund Projects

This guidance provides information on compliance with environmental review and permitting obligations for the Water Quality Program’s (WQ) four main funding programs. This guidance document is subject to change. The current document focuses on environmental review requirements for the Washington State Water Pollution Control Revolving Fund (SRF) Programs, also referred to as the Clean Water State Revolving Fund, administered by Ecology’s WQ Financial Management Section (FMS). Information relevant to the Stormwater Financial Assistance Program (SFAP) and the Clean Water Act Section 319 Grant Program (319) is included in this document.

The environmental review for Washington State’s SRF program is divided into two parts: the State Environmental Review Process (SERP) and Federal Cross-Cutting Authorities (cross cutters). This Chapter discusses the applicability of each to specific SRF loan and project types.

State Environmental Review Process

The Federal Clean Water Act of 1987 (CWA) allows states to administer SRF programs to finance clean water projects. The CWA requires states to review the potential environmental impacts of construction projects financed through the SRF program. This review is referred to as the SERP. The specific federal requirements for SERP are found in 40 CFR 35.3140.

Generally, this review process is accomplished through compliance with the Washington State Environmental Policy Act (SEPA). Detailed requirements are given in the SEPA Guidelines and Rules (Chapter 43.21C Revised Code of Washington; Washington Administrative Code 197-11). SEPA Guidance documents are available at <http://www.ecy.wa.gov/programs/sea/sepa/e-review.html>. Also see Table 1.

The SRF guidelines presented here are intended to supplement the SEPA Guidelines with federal SERP requirements to ensure environmental documents are acceptable to Ecology when reviewing applications for SRF loans; they are not intended to supersede or replace SEPA Guidelines. The SRF Program is partially funded by the U.S. Environmental Protection Agency (EPA) and is, therefore, subject to federal environmental regulations. To comply with applicable federal statutes and authorities, EPA established specific “SEPA-Plus” requirements in the Operating Agreement with Ecology for administering the SRF Program. These requirements are emphasized in these guidelines.

Questions regarding environmental or cultural review for SRF loans should be directed to the Environmental Review Coordinator at (360) 407-6429. Questions regarding SEPA planning and compliance should be directed to Ecology’s SEPA staff (360) 407-6922.

Does SERP apply to the project?

A SERP environmental review applies to projects involving the construction of a “treatment works”¹ funded under the SRF. Treatment works include wastewater and stormwater collection, storage, and treatment systems. In Washington, such systems are generally referred to as “facilities.”

Non-treatment works projects eligible for SRF funding include repair and replacement of individually owned on-site septic systems, education and outreach efforts, and other water quality activities and projects. These are not treatment works projects and are not subject to SERP.

When to think about starting SERP

All applicants should review SERP requirements during SEPA planning. There are often questions about when to start SERP.

Any recipient with a *facility-planning project* using SRF financing will prepare SERP documents after completing SEPA on any required technical documents, as part of the scope of work in the loan agreement for the planning project. Ecology incorporates SERP into the planning process in order to ensure that the loan recipient fully considers and addresses environmental consequences before actions are taken.

Any applicant applying for SRF financing for a *design or construction project* or *design/construct* must complete SERP prior to submitting the application for funding. This requirement applies to wastewater, reclaimed water, combined sewer, and large on-site system (LOSS) projects.

The CWA considers stormwater projects “treatment works” projects; recipients with *stormwater design projects* that have a SRF component as part of the funding agreement must also comply with SERP. Recipients with stormwater projects that are *design/construct* should plan to meet

¹ The CWA Title VI Section 212(2)(A) states: *The term “treatment works” means any devices and systems used in the storage, treatment, recycling, and reclamation of municipal sewage or industrial wastes of a liquid nature to implement section 201 of this act, or necessary to recycle or reuse water at the most economical cost over the estimated life of the works, including intercepting sewers, outfall sewers, sewage collection systems, pumping, power, and other equipment, and their appurtenances; extensions, improvements, remodeling, additions, and alterations thereof; elements essential to provide a reliable recycled supply such as stand by treatment units and clear well facilities; and acquisition of the land that will be an integral part of the treatment process (including land use for the storage of treated wastewater in land treatment systems prior to land application) or will be used for ultimate disposal of residues resulting from such treatment and acquisition of other land, and interests in land, that are necessary for construction..”*

Section 212(2)(B) further states, *“In addition to the definition contained in subparagraph (A) of this paragraph, “treatment works” means any other method or system for preventing, abating, reducing, storing, treating, separating, or disposing of municipal waste, including storm water runoff, or industrial waste, including waste in combined storm water and sanitary sewer systems. Any application for construction grants which includes wholly or in part such methods or systems shall, in accordance with guidelines published by the Administrator pursuant to subparagraph (C) of this paragraph, contain adequate data and analysis demonstrating such proposal to be, over the life of such works, the most cost efficient alternative to comply with sections 301 or 302 of this act, or the requirements of section 201 of this act.”*

SERP requirements before beginning construction. For more information on how to comply with SERP, see Section 2 in this document.

The Value of Engineering and Technical Planning Reports and SERP

An engineering report or general sewer plan consists of a detailed technical analysis for a treatment works project, including a consideration of alternatives. Ecology views the development of a treatment works engineering report or general sewer plan as the first step in facilities planning and the appropriate point to conduct a thorough environmental review of the treatment works project. Ecology rules (Chapter 173-240 WAC) require Ecology approval of engineering reports or general sewer plans prior to design and construction of most treatment works projects, regardless of the source of funding for the project. The rule also specifies detailed requirements for this document and identifies the types of projects that do not require engineering reports or general sewer plans. Under WAC 173-240-060(3)(r), engineering reports must contain a statement regarding the project's compliance with SEPA or NEPA.

Ecology encourages all municipalities to complete SERP as part of its engineering report so that it may apply for future SRF funding to implement any portion of the project. Under Ecology's SRF rules, a municipality must have an approved engineering report or general sewer plan and SERP approval to be eligible to apply for SRF funds to construct a treatment works project.

Stormwater projects and other "non-sewage" treatment works projects must also include a technical analysis demonstrating the project's effectiveness. This technical review is part of the design process. Ecology will integrate SERP into the design phase when the project is funded by SRF.

Environmental cross-cutter federal authorities

Environmentally related federal laws and authorities required for SRF loans ("cross-cutters") address federal responsibility to protect and conserve specific environmental resources. Cross cutters apply to federally funded actions regardless of which agency (federal, state, local, or tribal) is taking the action.

In its *Draft Funding Offer List and Intended Use Plan* Ecology will identify which SRF funding applicants/recipients for wastewater facility construction (Step 3) and wastewater facility combined design and construction (Step 4) projects are "equivalency" projects and must complete a federal cross cutter review.

Ecology's selection of "non-equivalency" projects does not obviate any requirement to comply with state, local or federal laws, including those listed in this document. Compliance with local clean air authority, Coastal Zone Management Act, floodplain requirements, wetland protection and state archaeological laws may still be required whether Ecology grants SRF funds or not.

Recipients are required to comply with all applicable local and state laws. Please check with the Governor's Office of Regulatory Assistance for permitting assistance in the project area (www.oria.wa.gov).

Cultural resource review is still required. Ecology initiates Section 106 consultation (versus 05-05) on all SRF projects, (equivalency or non-equivalency); to ensure EPA's involvement should it be necessary.

For those projects requiring a cross cutter review, start early. Cross cutter requirements must be completed before signing of a construction loan agreement. Certain cross cutters, such as the Endangered Species Act (ESA) Consultation and Section 106 Consultation under the National Historic Preservation Act, have a long lead time. This can affect the construction schedule.

The federal environmental cross cutters that apply to SRF financed projects in Washington State are:

- 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

Cross cutters like the Civil Rights Act of 1964 or minority and women owned business participation requirements do not fit naturally into this cross cutter review, which focuses on *environmental* cross cutters. SRF financed projects must also comply with these other cross cutters, but they are not discussed in this guide.

For more information on how to comply with environmental cross cutters, refer to Chapter 3 in this document.

Chapter 2 - Procedures for SERP

SERP builds on SEPA review

The Washington state legislature adopted the SEPA in 1971; the act is modeled on the federal NEPA. Chapter 197-11 WAC implements SEPA. SEPA is intended to provide information to agencies, applicants, and the public to encourage the development of environmentally sound proposals. The environmental review process involves the identification and evaluation of probable environmental impacts, and the development of mitigation measures that will reduce adverse environmental impacts. This environmental information, along with other considerations, is used by agency decision-makers to decide whether to approve a proposal, approve it with conditions, or deny the proposal. SEPA applies to actions made at all levels of government within Washington State. By opening up the decision-making process and providing an avenue for consideration of environmental consequences, agencies and applicants are able to develop better proposals. Agencies may also deny proposals that are environmentally unsound.

Background – applicant role and responsibility

The SEPA applies to decisions made by every state and local agency, including counties, cities, ports, and special districts. The SEPA lead agency is responsible for identifying and evaluating the potential adverse environmental impacts of a proposal. As defined under SEPA, the applicant is generally the *Lead Agency* and will be responsible for the preparation, circulation and consideration of the environmental document prior to approving the project. Ecology and other agencies having jurisdiction over the proposed project are accountable for reviewing and considering the information in the environmental document prior to approving any portion of the project.

SEPA environmental review is required for any SERP package. SEPA is required for all agency actions unless specifically exempted by the SEPA Rules (WAC 197-11-800 to 880). Even if exempt under state law (SEPA), federal law (SERP) requires a careful review of all proposed exemptions receiving federal funding (40 CFR 35.3140 *Environmental Review Requirements*). Ecology can return incomplete SERP packages.

Project and non-project SEPA actions

SEPA describes proposals as project or non-project action. A non-project action (WAC 197-11-704 (2)(b)) is a governmental action that involves decisions on policies, plans, or programs that contain standards controlling use or modification of the environment, or that will govern a series of connected actions. For example, the development of a City's Stormwater Management Plan for a specific region is a non-project action. Project actions are governmental decisions to license, fund, or undertake a specific project. A project action would be to construct a stormwater detention pond, as described in the City's Stormwater Management Plan.

When moving from non-project to project level SEPA, Phased Review may streamline the process between planning/design and construction (WAC 197-11-060). Coordinate with the Ecology Project Manager and Environmental Review Coordinator.

Environmental checklist

The SEPA will require an environmental checklist. Ecology will use the checklist as part of the SERP review to learn about the proposal and its probable environmental impacts. The Environmental Review Coordinator will review the checklist against any cross cutter requirements; for example, if the applicant will be undergoing Endangered Species Consultation, it is a good idea to note any listed species on the checklist. The environmental checklist form is located in the SEPA Rules under WAC 197-11-960. Guidance on completing the environmental checklist is available online (<http://www.ecy.wa.gov/programs/sea/sepa/e-review.html>) and in the *SEPA Guide for Project Applicants* (Ecology Publication #02-06-018, revised August 2002).

Mitigation

One of the most important aspects of the SEPA process is the consideration of environmental impacts and possible mitigation measures during agency decision-making. SEPA substantive authority gives all levels of government the ability to *condition* or *deny* a proposal based on environmental impacts.

Mitigation is the avoidance, minimization, rectification, compensation, reduction, or elimination of adverse impacts to the built and natural elements of the environment. Mitigation may also involve monitoring and a contingency plan for correcting problems if they occur.

In determining mitigation, the lead agency should review the environmental checklist and other information available on the proposal, including consultations with other agencies, including Ecology. Mitigation required under existing local, state, and federal rules may be sufficient to eliminate any adverse impacts—or even to deny the proposal.

Additional mitigation can be applied to a proposal with the use of SEPA substantive authority, based on identified potential adverse impacts related to the proposal and the agency's adopted SEPA procedures. Mitigation conditions must be reasonable and capable of being accomplished. Agencies with jurisdiction or expertise, such as Ecology, tribes, and the public may assist the lead agency in determining appropriate mitigation for a proposal. This can be done prior to the threshold determination.

Threshold Determination

After evaluating the proposal and identifying any mitigation measures, the lead agency will determine if the SEPA action will still have any likely significant adverse environmental impacts. The SEPA Rules state that significant “*means a reasonable likelihood of more than a moderate adverse impact on environmental quality*”.

If the lead agency has enough information to conclude that the proposal is unlikely to have a significant adverse environmental impact, the agency will issue a *determination of non-significance* (DNS). If the applicant mitigates the impacts, the agency can issue a *mitigated determination of non-significance* (MDNS). If the information indicates the proposal is likely to have a significant adverse environmental impact, the lead agency can issue a *determination of significance* (DS) and require an *environmental impact statement* (EIS). The DNS and MDNS have a minimum 14-day public comment period (generally) while the EIS will include a public

hearing, an evaluation of alternatives to the proposal and measures that will eliminate or reduce the likely environmental impacts of the proposal.

There are no statutory categorical exemptions for projects that are eligible for SRF financing. Be cautious when applying other exemptions under Section 9 of the SEPA rules, WAC 197-11-800, as the project is also subject to the rules and limitations contained in WAC 197-11-305, and must further meet Ecology's approval and SERP requirements.

The SEPA Handbook provides detailed guidance on the process:

<http://www.ecy.wa.gov/programs/sea/sepa/handbk/hbtoc.html>

A basic overview of SEPA is available at <http://www.ecy.wa.gov/programs/sea/sepa/e-review.html>.

Table 1- The SEPA Process

Is SEPA required?	Is the entire proposal defined?	WAC 197-11-060
	Is there an agency “action”?	WAC 197-11-704
	Is the action “categorically exempt”?	WAC 197-11-305 and 800 through 880
	Has SEPA already been completed?	WAC 197-11-164, 600, and 660
Who is lead agency?	Identify the “lead agency.”	WAC 197-11-922 through 944
Are there likely to be impacts?	Review the checklist and identify likely significant adverse environmental impacts.	WAC 197-11-330
Are there existing documents that analyze the impacts?	Identify documents that analyze probable impacts of the proposal.	WAC 197-11-600 and 330(2)(a)
Can impacts be mitigated?	Identify mitigation required by development regulations, and other local and state laws.	WAC 197-11-158, and 330(1)(c)
	Is the applicant willing to change the proposal to reduce impacts?	WAC 197-11-350
	Consider using SEPA substantive authority for other impacts not adequately addressed.	WAC 197-11-660
After application of identified mitigation, is the proposal likely to have any significant adverse environmental impact?	If not, issue a determination of nonsignificance (which may include mitigation measures).	WAC 197-11-340, 350, and 355
	If yes, issue a determination of significance, and either include an adoption notice or begin the EIS process.	WAC 197-11-360 and Part Four
How is SEPA used in decision-making?	Mitigation under SEPA must be included as permit conditions, or in changes to permit applications for the proposal.	WAC 197-11-660
	Projects may be denied if identified significant adverse impacts cannot be mitigated.	

This table is intended as a general overview of the SEPA process, although many details are not included. Chief amongst these are the numerous points where the public, tribes, and/or other agencies have the opportunity to review and comment on proposals (as this will vary), and the consideration of those comments by the lead agency.

SRF SEPA-plus requirements

SEPA provides a framework for considering the environmental consequences of a project and provides a familiar, well-understood method for citizens in Washington State to provide their input. However, SEPA alone does not meet all of Ecology's environmental review requirements for projects using SRF financing. Several elements must be added.

1. Documentation of the completed SEPA ² review process.
2. Additional public participation opportunity, even for exempt projects.
3. Review, approval, and final SERP determination by Ecology.
4. Posting of the SERP determination on Ecology Water Quality's Environmental Review website.

Public participation

For all projects, public participation and review are essential to the SEPA and SERP processes. An earnest public participation program can improve the planning process and reduce the chance of delays due to public controversy. Each lead agency, consistent with its existing activities and procedures, should include formal and informal public involvement and receive and evaluate public reactions to environmental issues related to its project. Public comments or controversies not addressed during the planning of a proposed project could result in the need for a subsequent environmental document at a later stage or lead to legal challenges, delaying the project and raising the cost significantly. For assistance in this area, the applicant should call the environmental review staff.

SERP requires applicants provide an additional opportunity for the public to comment on the proposal for all projects, no matter what the SEPA decision. SRF applicants must hold a public meeting to describe the preferred alternative and provide public opportunity to comment. This meeting should address all environmental, technical, and financial issues of the project.

These opportunities can take almost any form as long as they are advertised, open to the public, and provide an opportunity for the public to comment on the project (council meetings, public hearings, a public meeting, town hall meetings, etc.). The format of the meeting should be appropriate to the community and the scope of the project. What matters is that the community has an opportunity to learn about the project, the impacts of the project, and to provide input to decision makers.

Applicants for SRF funding must provide documentation of the public participation process with the SERP submittal. The documentation must include:

- Public advertisement of the meeting.
- History of what occurred at the meeting (record, transcripts, agenda, minutes).
- Documentation showing all alternatives were discussed and explained.
- Documentation showing that the potential environmental, social and economic impacts of all alternatives were discussed and explained.

² Ecology recognizes tribal governments may have alternative environmental review procedures

- Documentation that public meeting covered the rate payer (when applicable) impacts of the project.
- Documentation that the public had an opportunity to comment on the proposal.
- The applicant must also document and submit any comments received during or after the public meeting.
- The applicant must address all public comments and include the Ecology environmental review coordinator on this SERP Correspondence.

Other environmental cross cutters (environmental justice, floodplains, critical farmland, etc.) may also require that the funding applicant conduct a public meeting to receive comments regarding impacts to these specific resources. Ecology recommends that funding applicants coordinate their outreach efforts and reviews so that a single meeting can meet all requirements when possible.

Providing public opportunity to learn about the project and provide input is a separate federal requirement outside of SEPA. Always contact Ecology's environmental review coordinator before waiving a comment period under SEPA. Applicants must coordinate a public meeting, even if not required under SEPA.

Cost effectiveness analysis

The Clean Water Act Amendments of 2014, which begin in Fiscal Year (FY) 2017, require cost effectiveness analysis for all SRF loans, regardless of the project. In addition, new requirements specify that if the project involves construction, the applicants must complete the analysis and provide the certification of completion to Ecology before SRF assistance is provided for final design or construction. Cost effectiveness is therefore a stand-alone requirement and no longer a component of SERP environmental review.

Review and determination by Ecology

Applicants should work with Ecology staff during SERP review to ensure the process is thorough and complete and that all the documentation is adequate. Ecology staff will review the SERP submittal against the requirements. When Ecology has completed the review, Ecology will post its determination on the Ecology Water Quality Grants and Loan Environmental Review webpage and send an original signed SERP Checklist and determination letter.

Ecology has authority under WAC 178-98-720 and 35 CFR 35.3140 to review all SERP packages separately from the final SEPA threshold determination. The applicant should work early in the process with Ecology's staff to obtain comment on a proposed SEPA threshold determination for SRF projects. The applicant should be especially diligent and obtain input early from Ecology if applying a SEPA exemption to a SRF project. The public participation requirements, SERP review, public notification, and final determination also apply to SEPA exemptions.

SERP submission

When completed, the applicant must submit the SERP packet to Ecology's regional Project Manager or engineer and the Environmental Review Coordinator. A complete SERP packet submission must include the following information and documentation:

1. A completed SERP coversheet:
<https://fortress.wa.gov/ecy/publications/summarypages/ecy070421.html>
2. SEPA review documentation:
 - a. SEPA checklist.
 - b. The signed SEPA determination. (*Documentation of review and decision required for a project that qualifies as a SEPA exemption.*)
 - c. Documentation that the lead agency solicited public comments (affidavit of publication or similar).
 - d. Any comments received by the lead agency.
3. Public participation documentation:
 - a. Documentation of the meeting advertisement and that it was open to the public.
 - b. Documentation of alternatives considered, the potential environmental impacts, project costs, and ratepayer impacts were on agenda.
 - c. Any comments received and how they were addressed, or statement of no comments received.

For FY 2017 and thereafter, submit cost-effectiveness analysis documentation as a stand-alone plan, or as part of the facilities plan.

Using NEPA to satisfy SERP and/or cross cutter requirements

If another federal agency (e.g., Rural Development or EPA) has completed a NEPA review of the project, the applicant can use that review to satisfy SERP and/or cross cutter requirements. Ensure the standards outlined under WAC 197-11-600 are met for SERP.

To substitute NEPA for SERP or cross cutters, the applicant, Ecology regional Project Manager and Environmental Review Coordinator will complete the following steps:

- Verify that the scope of the NEPA document covers the scope of the Ecology funded project.
- Obtain a copy of the NEPA decision document, signed by the federal agency (FNSI or ROD).
- The Ecology regional Project Manager will document the review and decision process in the project file.
- The Ecology regional Project Manager will complete the *Ecology Environmental Adoption Checklist* and *Ecology Environmental Adoption Letter*. The original is mailed to the applicant with copies to the environmental review coordinator.
- Additional - For cross-cutters:
 - Include in the analysis and documentation formal communication and/or concurrence letters associated with each cross cutter. *Example* – Crosswalk showing permits, DAHP correspondence and summary (text or table) of how cross cutter compliance is met. Have the environmental review coordinator review this step.

- Ecology applies a five-year time clock to environmental and cultural resource documents. Environmental permits often expire after a specified period. The applicant will check to see if any of the cross-cutters need re-visiting and finalize any missing cross cutters.
- SERP Review for Standard Refinance Projects
 - All standard refinance projects must have met SERP requirements in order to be eligible for funding.

Chapter 3 – Additional Federal Laws and Authorities (cross cutters)

SRF recipient responsibilities

Any treatment works project identified as an equivalency project in the SRF Funding *Offer List and Intended Use Plan* (IUP) must comply with identified federal environmental cross cutters as part of environmental review requirements. Any resulting mitigation or other requirements that affect a project's design or schedule are included in the loan agreement as Ecology specifications. The loan recipient must implement the environmental review requirements by including the Ecology specification inserts in the construction bid package.

This section of the guidance discusses the environmental cross cutters that act to protect critical resources (e.g., sole source drinking water aquifers, endangered species, wetlands). Before it can commit funding to a project, Ecology must ensure that the project will have the minimum possible impact on these protected resources:

- The **Clean Air Act (CAA)** establishes air quality standards. This cross cutter requires projects to show how they conform to the Washington State Implementation Plan (SIP), which describes how the state implements, maintains and enforces National Ambient Air Quality Standards (NAAQS). Compliance may require estimating the air pollution emissions associated with the project.
- The **Coastal Zone Management Act (CZMA)** protects the nation's coastal areas. This cross cutter applies to any project located in a county adjacent to the Puget Sound, the Pacific Ocean, or the Lower Columbia River Estuary. Compliance requires receiving CZMA concurrence from Ecology.
- The **Endangered Species Act (ESA)** identifies and protects species at risk of extinction. This cross cutter may apply if the project is located near any endangered species or their critical habitat. Because so many of Washington's rivers are habitat for endangered salmonid species, this cross cutter applies to many water quality projects. Compliance requires an EPA review of the project documentation to determine if coordination with the US Fish and Wildlife Service and the National Marine Fisheries Service (Services) is necessary.
- **Environmental Justice (EJ)** seeks to protect minority, low-income, and tribal populations in a community that may experience disproportionate environmental or human health impacts caused by project activities.
- The **Farmland Protection Policy Act (FPPA)** protects the nation's productive farmland. This cross cutter may apply if the project converts farmland to another purpose. Compliance may require consultation with the US Soil Conservation Service.
- **Floodplain Management Executive Orders** (as revised, 2015) are a series of presidential executive orders that protect floodplain function and protect federally funded projects from flood damage. This cross cutter applies if the project is located in a base floodplain. Compliance may require consultation with the local government and/or Federal Emergency Management Agency.

- The **National Historic Preservation Act (NHPA)** protects archaeological and cultural resources and historic structures. This cross cutter may apply if the project modifies a building older than 50 years old, or if the project involves any amount of excavation.
- The **Safe Drinking Water Act (SWDA)** protects sole source drinking water aquifers. This cross cutter may apply if the project is located over a sole source aquifer. Compliance may require consultation with state groundwater officials and the Environmental Protection Agency.
- **Essential Fish Habitat Consultation Process under the Magnuson-Stevenson Fishery Conservation and Management Act (EFH)** protects habitat for commercially valuable fish species. This cross cutter may apply if the project is located near Essential Fish Habitat (EFH). Compliance may require sending information on EFH near the project area to the EPA.
- **The Protection of Wetlands Executive Orders** seek to avoid to the extent possible adverse impacts associated with the destruction and modification of wetlands, and to avoid direct and indirect support of new construction in wetlands wherever there is a practicable alternative. This cross cutter may apply if the project is located near any wetlands. Compliance may require consultation with the U.S. Corps of Engineers (Corps), Ecology Shorelands and Environmental Assistance Program (SEA), and the Ecology Regional Ecologist.
- The **Wild and Scenic Rivers Act (WSA)** protects the free flowing character of designated rivers. This cross cutter may apply if the project is located in the river basin of a wild and scenic river. Compliance may require consultation with the land managing agency where the river is located.

Federal environmental cross cutter guidance

Each cross cutter has its own procedures, but compliance generally requires three steps.

1. Investigate the protected resources located in the vicinity of the project and evaluate the impact the project could have on the resources.
2. Document that the project will have no impact on the protected resources, or take steps to prevent, minimize, or mitigate for an impact.
3. If necessary, involve the federal resource protection agency and incorporate required modifications or recommendations as appropriate.

The resource agency's level of involvement varies depending on the specific project and cross cutter. Outcomes of cross cutter analysis may require applicants to modify the project based on recommendations from consulting agencies. All project modifications resulting from cross cutter review will also become requirements of the financial assistance agreement.

The following eleven chapters identify information, resources, and procedures specific to each of the environmental cross cutters and provide links to on-line resources.

Applicants should address the environmental cross cutters as is practicable during SERP review. Coordinating these reviews can potentially save time and money, prevent project delays, and improve opportunities to receive funding.

This guidance presents a summary of what Ecology believes most public bodies need to know to comply with this list of environmental cross cutters. EPA provides a document on the application of environmental cross cutters to State Revolving Fund programs throughout the country. See the EPA handbook “Cross-Cutting Federal Authorities”:
<http://www.epa.gov/owm/cwfinance/cwsrf/enhance/DocFiles/Other%20Docs/CrosscutterHandbook.pdf>.

Federal environmental cross cutter report submission and approval

Loan applicants/recipients will prepare a cross cutter report that documents its actions for each environmental cross cutter. When complete, the applicant/recipient will submit the report to the Ecology regional Project Manager for review. Ecology’s regional Project Manager reviews the report for completeness, and initiates formal review with the environmental review coordinator. The environmental review coordinator provides interim reviews of the report, gives feedback on what requirements are left, and provides a final review, signaling that the report is complete. The environmental review coordinator is also responsible for coordinating consultation between the recipient and resource agencies, and participates in discussion on required permits associated with the environmental cross cutters. When federal and state resource agencies have approved all cross cutters and the cross cutter report is complete, Ecology’s regional section manager will send a cross cutter report determination letter with the signed cross cutter checklist to the applicant/recipient. At this point, construction can begin.

Communities with treatment works projects may have begun construction prior to receiving SRF funding. Work that has occurred prior to cross cutter review and approval is not eligible for reimbursement. Communities that want to apply for funds for projects already under construction should contact their Ecology regional engineer as early as possible to coordinate cross cutter review. This approach will ensure the eligibility of as many activities as possible if Ecology awards SRF funding to the applicant.

Chapter 4 - Clean Air Act

Background

All SRF funded equivalency project recipients must conform to State Implementation Plans adopted under the Clean Air Act.

The Federal Clean Air Act (CAA) imposes responsibilities for its implementation on all levels of government. Among other things, the CAA directs EPA to set ambient air quality standards sufficient to protect public health and welfare. Whenever EPA sets or revises an ambient air standard, the CAA requires EPA to designate all areas of each state as attainment (meets the standard), nonattainment (fails to meet the standard), or unclassifiable (insufficient information).

The CAA requires the state to develop a State Implementation Plan (SIP) to bring each nonattainment area into compliance with the standard in a timely manner. A former nonattainment area, which has come into compliance with the standards, is referred to as a “maintenance area.” In Washington, Ecology’s Air Quality Program or a local clean air agency prepares SIPs for nonattainment and maintenance areas, and Ecology submits the SIPs to EPA for approval. The cross cutting authority in the CAA applies to projects located in nonattainment or maintenance areas.

In Washington there are several nonattainment and maintenance areas (for small particulate matter, ozone, and carbon monoxide).

Useful references

- Air Quality Criteria Pollutants and Standards:
http://www.ecy.wa.gov/programs/air/other/Criteria_Stnds.htm
- WA’s Local Clean Air Agencies: <http://www.ecy.wa.gov/programs/air/local.html>
- Air Quality Maps of Maintenance Areas:
http://www.ecy.wa.gov/programs/air/other/namaps/web_map_intro.htm
- Nonattainment Areas in WA:
<http://www.ecy.wa.gov/programs/air/Nonattainment/Nonattainment.htm>
- EPA’s Frequently Asked Questions
http://www.epa.gov/air/genconform/documents/gcgqa_940713.pdf

Procedure

1. Is the proposed project in a nonattainment or maintenance area?
 - If the answer is “no,” the recipient reports that the project lies outside of any of these areas. The project complies with the Clean Air Act (CAA), and no further analysis is necessary.
 - If the answer is “yes,” go to *Step 2*.
2. If the project is located in a nonattainment or maintenance area, determine the direct and indirect emissions resulting from construction of the proposed project. Contact the local air agency to help calculate emissions estimates and determine if project activities will exceed standards listed in the SIP. Document the emissions estimates (and calculation methods) and/or clean air agency determination in the cross cutter report.

The analysis only needs to review temporary or construction related impacts. Ongoing emissions from an operating facility will be permitted separately and are not considered in the analysis.

3. Are the proposed project’s emissions for each nonattainment pollutant below the de minimis thresholds set forth in the CAA conformity regulations? If the answer is “yes,” the project is presumed to conform to the SIP. The project complies with the CAA and no further analysis is necessary. If the answer is “no,” go to *Step 4*.
4. If the proposed project exceeds the de minimis thresholds, prepare a conformity analysis and work with Ecology’s Air Quality Program or a local clean air agency to demonstrate that the project conforms to the approved SIP. Recipients cannot receive funding for projects unless they conform. Attach the analysis and determination from the local Clean Air Agency to the cross cutter report.

Chapter 5 - Coastal Zone Management Act

Background

All SRF funded equivalency project recipients must ensure that activities in the coastal zone are consistent with the enforceable policies of the Coastal Zone Management Act (CZMA).

The federal Coastal Zone Management Act (CZMA) of 1972 created a partnership between the federal government and coastal states and territories. It provides states with the ability to weigh in on projects undertaken by the federal government, or licensed or funded by the federal government. All applicants must ensure activities in the coastal zone are consistent with the state Coastal Zone Management Program (CZMP). Washington's CZMP is administered by Ecology's Shorelands and Environmental Assistance (SEA) Program, which is also responsible for CZMA "federal consistency certification" reviews.

Washington's coastal zone is comprised of the following 15 counties: Clallam, Grays Harbor, Island, Jefferson, King, Kitsap, Mason, Pacific, Pierce, San Juan, Skagit, Snohomish, Thurston, Wahkiakum and Whatcom. Each of these counties border saltwater--the Pacific Ocean, the Puget Sound, or the lower Columbia River estuary. All projects occurring in these counties must meet CZMA requirements.

Useful references

- Coastal Zone Management Act: [16 USC 1451 - Coastal Zone Management Act](#)
- Coastal Zone Management Program Regulations: [15 CFR Part 923](#)
- Subpart D: Federal Consistency with Approved Coastal Zone Management Programs. United States Department of Commerce: [15 CFR Part 930.50](#)
- Ecology's Coastal Zone Management Program:
<http://www.ecy.wa.gov/programs/sea/czm/prgm.html>
- WA Coastal Zone Management Program federal consistency information and forms:
<http://www.ecy.wa.gov/programs/sea/czm/fed-consist.html>

Procedure

1. Is the proposed project located in one of the 15 Washington's coastal counties? If the answer is "no," the applicant does not need to complete consultation. Note the project's location outside of a coastal county in the cross cutter report. No further action is required. If the answer is "yes," go to *Step 2*.
2. Projects located in the coastal zone must meet federal consistency requirements. Prepare a "federal consistency certification" form, and submit it to Ecology's SEA Program for review.

A federal consistency certification describes how the proposed project is consistent with the following six laws. The certification package includes the certification form, a site map, and project description.

- Shoreline Management Act (including local government shoreline master programs).
 - SEPA.
 - Clean Water Act.
 - Clean Air Act.
 - Energy Facility Site Evaluation Council (only energy production e.g., cogeneration facilities).
 - Ocean Resource Management Act.
3. If Ecology's SEA Program concurs with the applicant's federal consistency certification, the project complies with CZMA. Attach a copy of the certification package and the consistency determination to the cross cutter report. No further action is required.
 4. If Ecology's SEA Program cannot issue a consistency determination, Ecology's Water Quality Program will facilitate consultation between the SRF applicant and the SEA Program. Conflicts can be addressed through informal discussions with the CZMA's administering agencies. A project cannot receive funding unless its received a federal consistency determination. The determination must be included in the final cross cutter report, or the date the final determination was received.

Chapter 6 - Endangered Species Act

Background

The purpose of the Endangered Species Act are to provide a means whereby the ecosystems upon which endangered species and threatened species depend may be conserved and to provide a program for the conservation of such endangered species and threatened species.

Projects that are federally funded under the SRF are subject to Section 7(a)(2) of the Endangered Species Act (ESA; 7 U.S.C. § 136, 16 U.S.C. § 1531 et seq):

“...each Federal agency shall, insure that any action authorized, funded or carried out is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction of adverse modification of habitat of such species...after consultation as appropriate...”

Recipients of SRF federal funds are required to coordinate with Ecology and the EPA to ensure compliance with requirements of Endangered Species Act. The EPA or designated lead agency will coordinate as needed with the US Fish and Wildlife Service (USFWS) and/or National Marine Fisheries Service (NMFS) regarding any endangered or threatened species or their critical habitat(s) in or adjacent to the proposed project location. Ecology serves as lead coordinator for the ESA process.

To meet the documentation requirements of the ESA, a Biological Evaluation/Assessment (BE/BA) or similar document containing the following information is required.

1. **Project Description** – Details on the proposed project, the location, the methods and techniques required to accomplish the final product, information about effluent (where/how it is discharged, increased flows, etc.), and basic information on the project schedule. If multi-phased, describe the what, when, where, and how of each phase separately.
2. **Action Area** – Delineate the “action area” by defining the geographic area for the project. This is not the project location; it is all areas that may be affected directly or indirectly by the Federal action. Describe the physical and biological attributes of the action area, such as topography and vegetation. Include a detailed map delineating where the action will occur within the action area.
3. **Species** – Identify listed or proposed species that “may be present.” Ensure the listing is current. Address adjacent species and explain why they are not within the action area. If no species are present or adjacent, state so.
4. **Habitat** - For each species listed, describe their current habitat condition within the action area. If designated critical habitat is present, identify the primary constituent elements that are within the action area. If there is no designated critical habitat covering this area, or no habitat for listed species, state so.

5. **Analysis** – For action areas with listed species and/or designated critical habitat, explain if and how the project may affect listed species and/or designated critical habitat. Document the conclusion, and provide a supporting, logical, and connected rationale. The analysis should consider phases, parts, and all details of the project. It should not be piecemealed. This section should be very straightforward, and as accurate and realistic as possible. Consider range, habitat needs, and recorded locations in relation to the project, forage/food needs, and behaviors. The analysis should include “effects of the action” which are defined as direct and indirect effects of the action on the listed species or critical habitat, together with the effects of other activities that are interrelated or interdependent.
6. **EFH Recommendations** - Include the Essential Fish Habitat Consultation in the document. Refer to the section on the Sustainable Fisheries Act (EFH).
7. **Conclusion/Determination**- Conclude with a summary of the determinations of effects.
8. **Literature Cited/List of Contacts** – Include correspondence and references here.

The EPA requests this level of detail in order to initiate ESA consultation. The recipient should work with the Environmental Review Coordinator if they have questions.

Based on their analysis, the recipient provides a proposed determination in its assessment to Ecology. Ecology checks it for completeness, sends a completed package to the EPA, which may require more information by contacting the point person. Otherwise, EPA will review all ESA compliance requests in the order received. All documentation should include sufficient information to support the proposed determination. Recipients should coordinate early and throughout the planning process with Ecology to help them through the process.

Without a BE/BA or similar level of documentation, EPA is unable to comment on compliance with the requirements of the ESA. In some cases, pre-consultation may be a good avenue for recipients to pursue with the Services if there may be significant questions to address before contacting the EPA.

EPA always encourages SRF programs, and by extension, SRF-funded projects, to engage in environmental review and ESA/EFH analysis as soon as it is practicable.

Useful references

- 16 USC 1531 - Endangered Species Act: <http://www.fws.gov/le/USStatutes/ESA.pdf>
- Endangered Species Consultation Handbook: http://www.nmfs.noaa.gov/pr/pdfs/laws/esa_section7_handbook.pdf
- U.S. Fish & Wildlife Service: Section 7 Consultation Guidance on Preparing a Biological Assessment http://www.fws.gov/midwest/endangered/section7/ba_guide.html
- NMFS Alaska Region, November, 2009 General Format for Section 7 Biological Assessments https://alaskafisheries.noaa.gov/protectedresources/esa/section7/ba_format.pdf
- USFWS & USGS Information, Planning and Conservation System (IPaC) <http://ecos.fws.gov/ipac/>

- USFWS’s Washington Fish and Wildlife Office (WAFWO)
<http://www.fws.gov/wafwo/index.html>
- NOAA Fisheries West Coast Region <http://www.westcoast.fisheries.noaa.gov/>
- USFWS Critical Habitat Portal <http://ecos.fws.gov/crithab/>
- NOAA Fisheries, West Coast Region Critical habitat, Maps & GIS Data
http://www.westcoast.fisheries.noaa.gov/habitat/critical_habitat/critical_habitat_on_the_wc.html
- NOAA Fisheries, West Coast Region, Essential Fish Habitat
http://www.westcoast.fisheries.noaa.gov/habitat/fish_habitat/efh_consultations_go.html
- NOAA Fisheries, West Coast Region, Complying with the Endangered Species Act
http://www.westcoast.fisheries.noaa.gov/habitat/complying_with_the_esa.html
- NOAA Fisheries Species Boundaries Maps:
http://www.nwr.noaa.gov/maps_data/species_population_boundaries.html
- WA Department of Fish and Wildlife priority habitats and species:
<http://wdfw.wa.gov/hab/phspage.htm>
- Fish data for the Northwest: <http://www.streamnet.org/>

Procedure

1. Obtain a current species and designated critical habitat list from the USFWS and the NMFS (together, the “Services”) online or directly from the regional offices. The USFWS has jurisdiction over freshwater fish, bull trout and terrestrial species and the NMFS has jurisdiction over marine and most anadromous species. Prepare the biological assessment. This document must fulfill the requirements under section 7(c) of the ESA. The *Useful references* section of this procedure provides tools to locate and determine the potential effects of the project. Work with Ecology to ensure the level of detail and the analysis is appropriate to the scope of the project. Evaluate the impact the project could have on both terrestrial species under the jurisdiction of the USFWS and anadromous species under the jurisdiction of the National Marine Fisheries Service (NMFS).
2. Prepare a BE/BA or similar document addressing the ESA requirements (1) – (8) listed previously. Include mitigation or protective elements in the project description. These elements are part of the overall project and can influence the effects analysis.
3. Provide clear documentation and an effects analysis. Consider direct, indirect, insignificant, discountable, and beneficial effects in the action area. Include a proposed effects determination in the analysis.
4. Ecology’s Environmental Review Coordinator will review the document for completeness. Ecology can request additional information. When the package is complete, Ecology will forward it to the EPA.
5. The EPA or other lead federal agency will review the documentation and make a determination. The EPA may need to request concurrence from the Services dependent upon the determination. The EPA may request additional information from the recipient in order to make a determination.

6. Once the EPA makes a determination on the project's effect on listed species and/or critical habitat, it will be one of the following:
 - a. **NO EFFECT (NE)**³: EPA will determine the project has No Effect. EPA will send a No Effect letter directly to the contact listed in the BA with a copy to Ecology's Environmental Review Coordinator.
 - b. **MAY AFFECT⁴ NOT LIKELY TO ADVERSELY AFFECT (MANLAA or NLAA)**: All effects are beneficial, insignificant or discountable. If EPA concurs, it will send the recipient's compliance document and a letter requesting informal consultation and concurrence to the Services. The EPA will send correspondence received from the Services directly to the contact listed in the BA with a copy to Ecology's Environmental Review Coordinator.
 - c. **MAY AFFECT, LIKELY TO ADVERSELY AFFECT (MALAA or LAA)**: Listed resources are likely to be exposed to the action or its environmental consequences and will respond in a negative manner to this exposure. If EPA concurs, it will send the recipient's compliance document and send a letter to initiate formal consultation under Section 7(a) (2) of the ESA. The Services may or may not agree the project rises to the level of formal consultation. The EPA will send correspondence received from the Services directly to the contact listed in the BA with a copy to Ecology's environmental review coordinator.
7. **What to expect during informal consultation**: The federal Services or the EPA may ask questions about the proposed project, make recommendations, and otherwise give the opportunity to modify the project to minimize impacts on listed resources. If the Services concur with the *not likely to adversely affect* determination, the recipient has met the requirements of the ESA. Attach the concurrence letters from the Services and other documentation or communications to the cross cutter report. No further action is required. If the Services make a *likely to affect* determination, formal consultation is required.
8. **What to expect during formal consultation**: Formal consultation will require significant communication between the recipient, Ecology, the EPA, and the federal Services regarding the project's effects on listed species and designated critical habitat. An outcome of formal consultation is a "Biological Opinion" (BiOp), which the federal services will mail to the EPA.
 - a. The objective of a BiOp is to determine whether the subject action is likely to jeopardize the continued existence of listed species, and/or result in the destruction or adverse modification of designated critical habitat.
 - b. The BiOp will include a conclusion section presenting the Services' opinion on the aggregate effects of the factors analyzed against baseline conditions, effects of the action and cumulative effects in the action area.
 - c. The BiOp will identify any actions that may not be likely to jeopardize listed species, but still constitute "take" pursuant to section 9 of the ESA.

³ Effect – Noun: *The effects are minor.*

⁴ Affect – Verb: *It does not affect you.*

- d. The Services will then identify Reasonable and Prudent Measures, and specific Terms and Conditions, for an Incidental Take Permit (ITP).
- e. The final Incidental Take Permit (ITP) will set forth the Reasonable and Prudent Measures, and Terms and Conditions under which the facility can operate. Most have a five-year term. A copy of the ITP will be necessary for the cross cutter report.
- f. Coordinator will attach the ITP to the cross cutter report and include it in the Contract File. ITPs have certain conditions; including changing the project footprint in which ESA consultation would be re-initiated. Please contact the Environmental Review Coordinator with any questions.

It may be necessary to re-initiate consultation once the ITP has expired. Contact the Ecology Environmental Review Coordinator.

Chapter 7 – Environmental Justice

Background

All SRF funded equivalency project recipients must identify steps they are taking to ensure environmental justice concerns are addressed.

The SRF loan program incorporates environmental justice review based on Federal Executive Order No. 12898. Environmental justice is defined as the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income in the development, implementation, and enforcement of environmental laws, regulations, and policies. EPA has this goal for all communities and persons in the United States. Environmental justice is achieved when everyone has the same degree of protection from environmental and health hazards and equal access to the decision-making process to have a healthy environment in which to live, learn, and work.

All SRF recipients with identified equivalency projects must consider minority, low-income, and tribal populations in the community to ensure environmental justice concerns have been addressed. SRF recipients must identify and address any “disproportionately high and adverse human health or environmental effects” caused by projects funded through the SRF program to these populations. The recipient must describe alternatives or mitigating options in the cross cutter report.

The description must include:

1. A determination on whether there is a potential for disproportionate human health or environmental risk.
2. A description of the community public participation process.
3. A detailed description on any community areas that historically have or are currently suffering from environmental risks or hazards.

It is recommended that the recipient consult the EPA’s Environmental Justice Guidelines for additional suggestions on how to address environmental justice concerns.

Useful references

- Executive Order 12898:
http://www.epa.gov/compliance/environmentaljustice/resources/policy/exec_order_12898.pdf
- EPA’s Environmental Justice website: www.epa.gov/compliance/environmentaljustice/
- EPA’s Environmental Justice mapping tool: <http://epamap14.epa.gov/ejmap/entry.html>
- EPA’s Environmental Justice Guidelines – Region 2
<http://www.epa.gov/region2/ej/guidelines.htm>
- EPA’s Environmental Justice Analysis Guidance
<http://www.epa.gov/sustainability/analytics/environmental-justice.htm>
- US Census Bureau: <http://factfinder2.census.gov/faces/nav/jsf/pages/index.xhtml>

Procedure

In order to sufficiently consider these concerns, the recipient should include the following in their analysis on the project area and potential impacts.

1. Conduct an analysis of potential environmental impacts around the project and surrounding areas. This is most easily done during the SEPA process. Use the best available information from multiple resources to make the most thorough analysis of impacts to minority, low-income, and tribal populations in the community. Use public participation to identify environmental justice concerns. The results of this preliminary step will help guide actions related to environmental justice. Answer the following two questions during the screening process:
 - a) Does the potentially affected community include minority, low-income, or tribal populations? The recipient should seek out alternative data information resources in addition to census information in order to locate as many minority, low-income, and tribal populations in the potentially affected area.
 - i) If yes, conduct an enhanced public outreach process to the minority, low-income, and tribal populations in the community. This may include multi-lingual advertisements, alternative methods of public outreach, interpreters at meetings, and alternative and easily accessible meeting locations.
 - b) Are the human health and environmental impacts likely to fall disproportionately on minority or low-income members of the community or tribal resources? The recipient should consider cumulative effects associated with the discharge from the facility and by-products from running the facility. Analysis needs to have a special emphasis on other sources of environmental stressors in the area including historical and existing sources. The dependence on the area's natural resources for economic and cultural value should also be identified in this analysis.
 - i) If yes, conduct an enhanced public outreach process to the minority, low-income, and tribal populations in the community to identify effects on the larger population as well as minority, low-income, and tribal members of the population.
 - (1) If disproportionately high impacts are found, the recipient should initiate the development of alternatives and mitigation options or initiate an analysis to identify and assess disproportionately high adverse human health and environmental impacts.
 - (2) Involve members of the community in developing alternatives and mitigation options. This can be done by organizing an advisory board including representatives from community stakeholder groups.
 - (3) All alternatives and mitigation options identified will be included in the cross cutter report. The recipient will also describe any project modifications made based on these suggestions and demonstrate that these changes effectively address disproportionately high human health and environmental impacts. Ecology will determine if the proposed changes

will sufficiently address the identified impacts. Ecology will incorporate these changes in the final loan agreement.

2. Include all the analyses performed on the demographics and impacts to minority, low-income, and tribal populations in the cross cutter report. Describe efforts at enhanced public outreach, project alternatives suggested as a result, and any modifications that are included in the final project.
3. If additional environmental justice issues are identified later in the process, revisit this process to determine the appropriate alternatives or mitigation measures to minimize the impact due to project and facility activities.

Chapter 8 - Farmland Protection Policy Act

Background

The Farmland Protection Policy Act requires SRF recipients with equivalency projects to carefully consider the effect of their project on agricultural land and take alternative or mitigating measures, when appropriate, to ensure that valuable farmland is preserved.

When Congress passed the Farmland Protection Policy Act (FPPA), it acknowledged that the Nation's farmland is a unique natural resource and provides food and fiber necessary for the continued welfare of the people of the United States. Furthermore, Congress noted that, each year, a large amount of the nation's farmland is irrevocably converted from agricultural use to nonagricultural use. As a result, Congress directed all federal agencies to minimize the extent to which federal programs contribute to conversion of farmland to nonagricultural uses, and to assure that federal programs are compatible with state, local government, and private programs and policies to protect farmland.

Because the FPPA can influence the selection of the project site, applicants must address it early in the planning process. If an applicant fails to consider impacts to farms, the project may not be eligible for funding.

Useful references

- FPPA statute: http://www.nrcs.usda.gov/Internet/FSE_DOCUMENTS/stelprdb1042432.pdf
- FPPA regulations: http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&tpl=/ecfrbrowse/Title07/7cfr658_main_02.tpl
- USDA FPPA informational website: http://www.nrcs.usda.gov/wps/portal/nrcs/detail/national/landuse/fppa/?cid=nrcs143_008275
- NRCS Web Soil Survey: <http://websoilsurvey.sc.egov.usda.gov/App/HomePage.htm>
- Conversion Impact Rating form (AD-1006): http://www.nrcs.usda.gov/Internet/FSE_DOCUMENTS/stelprdb1045394.pdf

Procedure

1. Will the project occur on prime, unique, or state or locally important farmland? The identification of important farmlands is determined from currently published or interim soil survey maps and data produced and certified by the NRCS National Cooperative Soil Survey Program. If the answer is “no” and all work on the project will occur on previously disturbed land within the footprint of an existing facility or on land already committed to urban uses, the FPPA does not apply. Make note of the project site’s current land use and zoning in the cross cutter report. If the project does not convert or otherwise adversely impact farmland, the project complies with the FPPA. Attach documentation from the NRCS in the cross cutter report. No further analysis is necessary. If yes, go to **Step 2**.
2. Determine which project alternatives will convert or otherwise adversely impact critical farmland if the project is located outside of an urban area. Complete and submit the US

Department of Agriculture (USDA) form AD-1006 to the Natural Resource Conservation Service (NRCS) to identify critical farmland.

3. Consult with the NRCS and the county planning department if the project converts or otherwise adversely impacts critical farmland. The local office of the NRCS or the State Conservationist may offer advice on:
 - a. Alternative sites.
 - b. Actions the SRF applicant must take to protect important farmlands.
 - c. Sizing of the project as it relates to secondary growth.
 - d. The continued viability of farming and farm support services in the project area.
 - e. Alternatives or mitigation measures Ecology and the SRF applicant should take to reduce potential adverse effects on important farmlands.
4. Consider the recommendations or modifications suggested by NRCS and the county planning department. Document which ones are incorporated into the project design. Provide this information in the cross cutter report.

Chapter 9 - Floodplain Management

Background

In accordance with Executive Order 11988, Floodplain Management, all SRF recipients with equivalency projects must determine whether the project will be located in or affect a floodplain, and incorporate measures to avoid adversely affecting the floodplain or be adversely affected by flooding.

Executive Order 11988, Floodplain Management, requires all Federal agencies “to avoid to the extent possible the long and short term adverse impacts associated with the occupancy and modification of floodplains and to avoid direct or indirect support of floodplain development wherever there is a practicable alternative.”

The order directed federal agencies (and those receiving federal funds including SRF applicants) to provide leadership and take action to:

- Reduce the risk of flood loss.
- Minimize the impact of floods on human safety, health, and welfare.
- Restore and preserve the natural and beneficial values served by floodplains.

There is an eight-step process agencies should carry out as part of the decision-making on projects that have potential impacts to or within the floodplain. Ecology has summarized the eight steps below. For further detail, visit the FEMA website.

The following procedure is adapted from Part II: Decision Making Process in Follow the Revised Guidelines for Implementing Executive Order 11988, Floodplain Management (Updated January 28, 2014), available from FEMA.

Useful references

- Executive Order 11988, Floodplain Management (as amended, 2015): <http://www.fema.gov/executive-order-11988-floodplain-management>
- Federal Emergency Management Agency (FEMA) Floodplain Management <http://www.fema.gov/floodplain-management>
- Washington Flood Hazard Maps: <https://fortress.wa.gov/ecy/coastalatlasc/tools/Flood.aspx>
- FEMA Region X: <http://www.fema.gov/region-x-ak-id-or-wa>

Procedure

1. Is the project within an established base floodplain⁵, or will the project affect an established base floodplain⁶? Follow the procedures as outlined under section 6(c) of the Executive Order 11998 (as amended), and use FEMA local Flood Insurance Rate Maps (FIRMS) online for the most current information. Provide a current map showing the project's proximity to any floodplains in the cross cutter report. If the answer is "no," the project complies with the executive order. No further analysis is necessary. If the answer is "yes," go to *Step 2*.
2. If the project is located within an established base floodplain, choose the option for the identified floodplain action:
 - Free board 2-3 feet above base flood plain.
 - Show how best available science is superior to the current map.
 - Explain how the project involves a critical facility (500 yr. floodplain).
3. Publicly notice an intent to locate an action/project in the floodplain. The public notice must provide a description of the proposed action with enough lead-time to address comments from the public.
4. Contact the city or county floodplain development office to determine if a permit is required. Obtain a permit when required.
5. For the preferred alternative, the agency must identify if the project has impacts in the floodplain or directly or indirectly supports floodplain development that has additional impacts. If the proposed action is outside the floodplain, and has no identifiable impacts or support, go to *Step 10*.
6. If the proposed project has identifiable impacts or support, these effects must be minimized. Further natural and beneficial values must be restored and preserved. Mitigation measures must meet standards established in FEMA's National Flood Insurance Program.
7. The proposed alternative can now be re-evaluated taking into account the identified impacts, the steps necessary to identify these impacts and opportunities to restore and preserve floodplain values. *In the floodplain*: if this reevaluation shows the proposed action is no longer feasible, consider limiting the action to make a non-floodplain site practicable or taking no action. *Outside the floodplain*: if the action has impacts or support, consider modifying or relocating the action to eliminate or reduce these effects or taking no action.
8. If the agency head finds that the only practicable alternative is locating in the floodplain, public notice of the reasons must be given for this finding (including the alternatives considered).

⁵ *Base Floodplain* – area that has a one percent or greater chance of flooding in any given year

⁶ *Floodplain* – the lowland and relatively flat areas adjoining inland and coastal waters including flood prone areas of offshore islands.

9. After a reasonable period to allow for public response, the proposed project can be approved.

These steps may be updated when the EPA releases their guidance on how to interpret the revised Floodplain Management Standards.

Chapter 10 - National Historic Preservation Act

Background

All SRF recipients must take into account the effect of the action on cultural and historic resources and take actions to minimize those impacts.

Section 106 of the National Historic Preservation Act requires federal agencies to take into account the effects of its actions on historic properties. The Act requires consultation between agency officials and other parties with an interest in the proposed project, including the responsibility for government-to-government consultation with potentially interested Indian tribes. The goal of consultation is to identify historic properties and cultural resources potentially affected by the proposed action, assess the effects, and seek ways to avoid, minimize, or mitigate any adverse effects on historic properties and cultural resources.

Useful references

- Ecology's Executive Order 05-05/Section 106 Project Review form (ECY 05-05/106 Form) <https://fortress.wa.gov/ecy/publications/SummaryPages/ECY070537.html>
- National Historic Preservation Act, 16 USC 470: <http://www.achp.gov/nhpa.html>
- Protection of Historic Properties, 36 CFR 800: http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title36/36cfr800_main_02.tpl
- Archaeological and Historic Preservation Act, 16 USC 469a-1: http://www.nps.gov/history/local-law/FHPL_ArchHistPres.pdf
- Advisory Council for Historic Preservation: <http://www.achp.gov/>
- National Register of Historic Places: <http://www.cr.nps.gov/nr>
- Washington State Department of Archaeology and Historic Preservation (DAHP) <http://www.dahp.wa.gov/>
- Washington Information System for Architectural and Archaeological Records Data (WISAARD) <http://www.dahp.wa.gov/learn-and-research/find-a-historic-place>
- Tribal cultural resources contact information: <http://www.dahp.wa.gov/sites/default/files/Washington%20Tribes%20Contact%20List.pdf>
- Governor's Office of Indian Affairs (GOIA): <http://www.goia.wa.gov/>
- Tribal information map: <http://www.goia.wa.gov/Tribal-Information/Map.htm>

Contact the Washington State Department of Archaeology and Historic Preservation (DAHP) and the Governor's Office of Tribal Affairs (GOIA) for further information on areas of tribal interest.

Procedure

For Section 106 of the National Historic Preservation Act, and for Executive Order 05-05 Archaeological and Cultural Resources, Ecology may begin early consultation and planning but not initiate formal consultation with area tribes or with DAHP until a funding mechanism is in place for any ground-disturbing activities, or potential survey requirements. See 36 CFR Part 800.1(c) *Timing* or contact DAHP for further information.

Ecology has EPA-delegated federal authority for Section 106, and is the lead agency for Executive Order 05-05. It is the responsibility of Ecology to initiate communication with DAHP, and Government-to-Government consultation with area tribes to meet cultural resource review requirements.

All documents must adhere to the Washington State Standards for Cultural Resource Reporting (DAHP, February 2014). Use DAHP's Cultural Resource Report Cover Sheet for cultural resources surveys. Document Ecology as the lead agency on the survey and in WISAARD. http://www.dahp.wa.gov/sites/default/files/CRSURVEYcoversheet_Aug2011.doc.

Following is the procedure that Ecology will follow to meet Section 106 requirements.

1. Will the project involve any ground disturbing activities or involve any structures 50 years or older?
 - If the answer is “no,” the applicant must document this in the cross cutter report. Ecology will review and determine if further action is required.
 - If the answer is “yes,” go to *Step 2*.
2. For activities involving structures 50 years or older - complete a Historic Property Inventory form on DAHP's website for its review. The recipient must designate Ecology as an owner of the data entered into DAHP's database. DAHP may require investigation that is more intensive or mitigation of impacts to the structure depending on the historical significance of the building. Proceed to *Step 3*.
3. For ground disturbing activities - complete Ecology's Executive Order 05-05/Section 106 Project Review form (ECY 05-05/106 Form) or an archaeological survey. The recipient must designate Ecology an owner of data entered into DAHP's database. The recipient must determine the Area of Potential Effect (APE) and include this information in the 05-05/106 Form or the survey. Submit information to the Ecology Environmental Review Coordinator. Proceed to *Step 4*.
4. Submit an electronic copy of the ECY 05-05/106 Form or two hard copies and an electronic (.pdf) copy of the archaeological survey, along with any previous tribal and DAHP correspondence on the project to the environmental review coordinator. If the recipient uploads its survey for review to WISAARD, notify Ecology's Environmental Review Coordinator and ensure they are listed as the contact for Ecology. Go to *Step 5*.
5. Ecology will develop a *Preliminary Determination*: A correspondence packet will be sent out electronically or by U.S. Postal Service containing the recipient's documentation, tribal

correspondence signed by Ecology's Water Quality Program Manager, and Ecology's preliminary determination on the potential for an archaeological site or historic resource/property within the project APE. Ecology will include any recommendations, if necessary, from surveys or assessments, in the preliminary determination. For *No Adverse Effect* Findings, DAHP, potentially interested tribes, the recipient and others will have approximately 35 days to comment on the correspondence packet. Go to *Step 6*. If Ecology, the recipient, DAHP, or the tribes determine there will be an *Adverse Effect* Finding, go to *Step 7*.

6. Ecology will develop a *Final Determination*: After the comment period, Ecology will review any comments received and develop a Final Determination or Ecology will request more information on behalf of DAHP and/or the tribes, and consultation will continue. If DAHP and the tribes concur with the preliminary determination, Ecology will send out a final determination. The final determination may contain mitigation measures required by law in order to avoid an adverse effect finding. The recipient will incorporate all mitigation measures into the project.
7. If the project will have an *Adverse Effect* on archaeological sites or historic resources, Ecology will consult with the DAHP and tribes per 36 CFR 800.6. EPA will be consulted should there be a dispute among the parties. The Section 106 process will follow the steps for resolving adverse effects as outlined under 36 CFR 800. A similar process is followed for state funded projects.

For all projects, the recipient will write an inadvertent discovery plan (IDP), if one is not in place already. Every person working on the project site must be familiar with the IDP procedures in case any cultural resources are discovered.

Any post construction discoveries must follow the procedures as outlined under 36 CFR 800.13 and the Archaeological and Historic Preservation Act (AHPA), Pub. L. No. 93-291 (1974).

Specific components of records on archaeological sites, cemeteries, cultural resources, and historic properties are exempt from public disclosure (RCW 42.56.300) and the recipient and Ecology will maintain confidentiality.

Chapter 11 - Safe Drinking Water Act

Background

SRF recipients with equivalency projects must evaluate the risk of contamination to a sole source aquifer and integrate appropriate preventative measures.

Congress passed the Safe Drinking Water Act in 1974 to protect public health by regulating the Nation's public drinking water supply. Congress amended the law in 1986 and 1996. The law requires many actions to protect drinking water and its sources: rivers, lakes, reservoirs, springs, and ground water wells. The Safe Drinking Water Act is also a cross cutter intended to protect the Nation's sole-source drinking water aquifers.

State and local governments and water utilities play a critical role in protecting source water, because protective actions must be tailored to unique local situations. States provide the resources to help fund local protection activities such as wellhead protection programs. Local governments can ensure that wastewater treatment plants discharging to ground water are not located near water supplies and can protect land in the source water area from development through acquisition or conservation easements.

There are several sole-source drinking water aquifers located in Washington.

Useful references

- EPA's Sole Source Aquifer Program (SSA):
<http://yosemite.epa.gov/r10/water.nsf/sole+source+aquifers/SSA>
- Map of SSA in the Northwest:
<http://yosemite.epa.gov/r10/water.nsf/Sole+Source+Aquifers/ssamaps>

Procedure

1. Is the project located within an aquifer review area or its surrounding source areas as delineated on EPA sole source aquifer maps? An aquifer review area is the aquifer and its source area, as delineated on the EPA Sole Source Area (SSA) maps. Refer to the SSA maps available (link above) to make this determination. If the answer is "no," the cross cutter does not apply. Document the location of the project in relation to sole source aquifers on the map in the cross cutter report. No further analysis is necessary. If the answer is "yes," go to *Step 2*.
2. Complete EPA's Region 10 Sole Source Aquifer Checklist. The checklist and EPA contact information is available online, located under the "Project Review Authority and Coordination" section of this website:
<http://yosemite.epa.gov/r10/water.nsf/sole+source+aquifers/SSA>.

3. Submit the Sole Source Aquifer Checklist to the county hydrologist, Department of Environmental Health, or state Department of Health for review. Provide results of the review to Ecology's Environmental Review Coordinator.
4. The environmental review coordinator will submit the local review to EPA Sole Source Aquifer Program for review and approval. If EPA's review determines that the project will not contaminate the aquifer, with or without conditions, the recipient will receive a formal approval from the EPA. Attach this approval and any supporting documentation to the cross cutter report. The requirements for this cross cutter have been met.
5. If the project could contaminate a sole source aquifer, an applicant must determine an alternative site or come up with mitigation measures. A ground water assessment may be required. Work with Region 10 EPA Sole Source Aquifer Protection Program to identify alternative sites or to find adequate mitigation measures. Provide a description of project modifications or mitigation measures in the cross cutter report.

Chapter 12 - Sustainable Fisheries Act (Essential Fish Habitat)

Background

SRF recipients with equivalency construction projects must consult with EPA and the National Oceanic and Atmospheric Administration (NOAA) on any federally funded actions (including State Water Pollution Control Revolving Funds) that may adversely affect essential fish habitats (EFH).

Marine fish depend on healthy habitats to survive and reproduce. Throughout their lives fish use many types of habitats including seagrass, salt marsh, coral reefs, kelp forests, and rocky intertidal areas, among others. Various activities on land and in the water constantly threaten to alter, damage, or destroy these habitats. NOAA designated fisheries, regional Fishery Management Councils, and federal and state agencies work together to address these threats by identifying EFH for each federally managed fish species and developing conservation measures to protect and enhance these habitats.

The Sustainable Fisheries Act (SFA) of 1996, also known as the Magnuson-Stevens Act, (MSA) calls for direct action to stop or reverse the continued loss of fish habitats. Toward this end, Congress mandated the identification of habitats essential to managed species and measures to conserve and enhance these habitats. Congress also directed that fisheries management plans (FMP) be developed to protect these essential fish habitats; NOAA implements and enforces the management measures in the FMPs.

Note: EFH Consultation encourages the use of existing environmental review procedures, such as ESA Consultation or NEPA, to fulfill MSA requirements. See the NOAA EFH Consultation Guidance for more information. <http://www.habitat.noaa.gov/protection/efh/consultations.html>

Useful references

- Magnuson-Stevens Fishery Conservation and Management Act: <http://www.nmfs.noaa.gov/sfa/magact/>
- NOAA Northwest Regional Office Essential Fish Habitat: <http://www.westcoast.fisheries.noaa.gov/permits/index.html>
- NOAA Essential Fish Habitat Consultation Guidance: <http://www.habitat.noaa.gov/protection/efh/consultations.html>
- Essential Fish Habitat Mapper: <http://www.habitat.noaa.gov/protection/efh/habitatmapper.html>
- Essential Fish Habitat Maps and Data: http://www.westcoast.fisheries.noaa.gov/habitat/fish_habitat/efh_consultations_go.html

Procedure

1. Is there any essential fish habitat that could be affected by project activities? If “no,” provide maps and document that the project does not include any essential fish habitats or possible effects. If “yes,” compile information to determine the severity of the impact. This may include information regarding the project, EFHs in the vicinity, and the effect the project will have on the EFH. Include the date of the resources used to ensure a current listing of EFHs. Compile this information into an Essential Fish Habitat Assessment or combined document. Work with Ecology when compiling the required information to ensure the level of detail and supplemental documentation meets reporting requirements. The project description in the Assessment must include any mitigation or protective elements incorporated into the project.
2. Use the data analysis to propose an impact determination on essential fish habitat as defined by NOAA.
3. Ecology will review the recipient’s assessment to ensure it is complete and adequate. Ecology may request additional information, analysis, or documentation to complete the assessment. When Ecology believes the assessment is complete, Ecology will forward the document to EPA.
4. EPA will evaluate the assessment and make a formal determination regarding the project’s effect on EFH(s). EPA may request additional information from the recipient before making a formal determination. The determination will be:
 - a. The project has **NO EFFECT** on EFH. This project does not meet the “may adversely affect” test and no consultation is required. NOAA is not required to concur on No Effect determinations. No further analysis is required.
 - b. The project is **MAY ADVERSELY AFFECT** EFH. The conclusion when there is any adverse effect to the species or its habitat as a direct or indirect result of the action or any of its interrelated and interdependent actions.

If the EPA determines the project *may adversely affect* EFH then formal consultation with NOAA will be initiated. NOAA will respond to the EPA with EFH conservation recommendations.

In the context of determining whether an action “may adversely affect” EFH, it is appropriate to consider avoidance and minimization measures that are incorporated into the proposed action. Measures such as careful alternatives analysis, design stipulations, and “best management practices” can lessen or eliminate potential adverse effects to EFH, and thus can narrow the scope of necessary EFH Conservation Recommendations. In contrast to avoidance and minimization, proposals for compensatory mitigation should not be used to counterbalance or buy down potential adverse effects to EFH below the “may adversely affect” threshold. EFH consultations need to evaluate potential adverse effects of actions separately from any proposed compensatory mitigation, even though the net effect of a particular project could be considered neutral or even positive for EFH if sufficient compensatory mitigation is attached to the action.

The recipient must incorporate the EFH conservation recommendations into the project or pursue further consultation through the EPA regional office and NOAA. The recipient will describe the required modifications or mitigation measures in the cross cutter report.

Chapter 13 - Wetland Protection

Background

All SRF recipients with equivalency projects must avoid and minimize the loss or alteration of wetlands and their buffers

Wetlands play an integral role in maintaining the quality of life through material contributions to our national economy, food supply, water supply, and water quality. Wetlands also provide flood control, fish, wildlife, and plant resources, and contribute to the health, safety, recreation, and economic well-being of all people.

Wetlands provide essential habitat for the breeding, spawning, nesting, migration, wintering, and ultimate survival of a large portion of migratory and resident fish and wildlife. Affected species include migratory birds, commercially and recreationally important finfish, shellfish, and other aquatic organisms. Wetlands also contain many unique species and communities of native plants.

Executive Order 11990, Protection of Wetlands, and other implementing rules govern the protection of wetlands. Section 404 of the CWA establishes a program to regulate the discharge of dredged or fill material into waters of the United States, including wetlands. EPA and the U.S. Army Corps of Engineers have promulgated a number of regulations to implement the permitting program.

The federal government and activities it supports (such as the SRF program) must, to the extent possible, avoid the long- and short-term adverse impacts associated with the destruction or modification of wetlands. Federally supported actions must also avoid direct or indirect support of new construction in wetlands wherever there is a practical alternative.

If impacts to wetlands are unavoidable, recipients must meet all local, state, and federal permitting requirements, including any requirements for compensatory mitigation, prior to starting construction.

Useful references

- Department of Ecology Wetland contacts:
<http://www.ecy.wa.gov/programs/sea/wetlands/contacts.htm>
- Protection of Wet Lands Executive Order 11990:
<http://water.epa.gov/lawsregs/guidance/wetlands/eo11990.cfm>
- Statement of Procedures on Floodplain Management and Wetlands Protection:
<http://www.epa.gov/compliance/resources/policies/nepa/floodplain-management-wetlands-statement-pg.pdf>
- EPA Compensatory Mitigation Clean Water Act Section 404
http://water.epa.gov/lawsregs/guidance/wetlands/wetlandsmitigation_index.cfm
- EPA: Section 404 Regulations:

http://water.epa.gov/lawsregs/lawsguidance/cwa/wetlands/regs_index.cfm

- Interagency Wetland Mitigation Guidance: <http://www.ecy.wa.gov/programs/sea/wetlands/mitigation/guidance/index.html>
- 2011 Modeled Wetland Inventory for Western Washington: <http://waecy.maps.arcgis.com/apps/OnePane/basicviewer/index.html?appid=22edd2e4e7874badbef2a907a3cd4de6>
- Joint Aquatic Resource Permit Application: <http://www.epermitting.wa.gov/default.aspx>
- National Wetlands Inventory: <http://www.fws.gov/wetlands/>

Procedure

1. Will the project be located in or affect a wetland? Resources for identifying wetlands include the National Wetland Inventory (NWI), the 2011 Modeled Wetland Inventory for Western Washington, and where available, local wetland inventories. The absence of a wetland on the NWI or other remote mapping product does not mean that a wetland is not present. Site investigations and in some circumstances delineation surveys, may be necessary. If “no,” the project is in compliance with the cross cutter. Provide documentation in the cross cutter report using wetlands inventory maps or similar resources. No further analysis is necessary. If “yes,” go to **Step 2**.
2. If the project is located in or may affect a wetland:
 - a. Complete and submit a Joint Aquatic Resource Permit Application (JARPA) to local, state, and federal permitting agencies to determine if a permit(s) is required. Obtain a permit(s) when required.
 - b. Provide copies of any wetland surveys and delineations to Ecology’s Regional Project Manager.
 - c. Ecology’s Regional Project Manager will notify the appropriate wetland ecologist contact from the Shorelands and Environmental Assistance (SEA) Program.
3. Prepare an assessment describing alternatives considered, the chosen alternative, a discussion of its effect on the wetlands, and the mitigation measures the recipient will implement. If a practicable alternative is identified that avoids impacts to wetlands, it must be selected. This assessment may be combined with the similar assessment of impacts to floodplains. If there will be unavoidable impacts to wetlands, include a copy of the proposed mitigation plan.
4. Submit this assessment to Ecology’s Regional Project Manager, and environmental review coordinator for review and comment. Ecology must coordinate with the appropriate contact from the SEA Program and the Corps to review mitigation measures to ensure the proposed actions are sufficient to meet EPA’s “no net loss” of wetlands goals. A recipient must incorporate required changes from Ecology or the Corps into the final mitigation plan.
5. Provide an opportunity for the public to review and comment on the project, impacts to wetlands, and any proposed project changes.
6. Describe the chosen alternative, how impacts to wetlands are avoided or minimized, and any changes to the project made as a result in the cross cutter report, and attach the wetland assessment and final mitigation plan to the report.

Chapter 14 - Wild and Scenic Rivers Act

Background

The Wild and Scenic Rivers Act prohibits federal assistance for projects that would have direct and adverse effects on, invade, or unreasonably diminish the special values of a designated wild and scenic river.

According to the Federal Wild and Scenic Rivers (WSR) Act, certain selected rivers of the nation possess outstanding remarkable scenic, recreational, geologic, fish and wildlife, historic, cultural, or other similar values. The WSR requires selected rivers preserved in free-flowing condition and the immediate environments of these rivers protected for the benefit and enjoyment of present and future generations. Congress declared the national policies for dams and other construction projects at appropriate sections of the Nation's rivers needs to be balanced by a policy that would preserve other selected rivers. These rivers or segments of rivers are to be maintained in their free-flowing condition to protect water quality and fulfill other conservation purposes.

The WSR establishes a national wild and scenic rivers system, designating the initial components (streams and stream segments) of that system, and prescribing the standards for adding components to the system.

Useful references

- Wild and Scenic Rivers Act: <http://www.nps.gov/rigr/parkmgmt/upload/wsr-act.pdf>
- National Wild and Scenic Rivers Information: <http://www.rivers.gov/rivers/>
- National Wild and Scenic Rivers System publications on determining potential impacts to a Wild and Scenic River: <http://www.rivers.gov/publications.php>
- Flow Chart for evaluation standards under Section 7 of the Wild and Scenic Rivers Act: <http://www.rivers.gov/documents/section7/process-flowchart.pdf>
- Projects Located within a WSR Corridor Flowchart: <http://www.rivers.gov/documents/section7/process-flowchart-within-corridor.pdf>
- Projects Located outside a WSR Corridor Flowchart: <http://www.rivers.gov/documents/section7/process-flowchart-outside-corridor.pdf>

Procedure

1. Is the project is located in the corridor of the drainage basins of one of the currently designated Wild and Scenic River (WSR) - the Klickitat River, the Skagit River, or the White Salmon River? If yes, see “[Projects Located within a WSR Corridor Flowchart.](#)”
2. Is the project located outside a WSR corridor, but is adjacent to a WSR drainage? If yes, consult the “[Projects Located outside of a WSR Corridor Flowchart.](#)”
3. If “no” to both, include a statement to that effect in the cross cutter report and no further analysis is required.
4. If the project is located in the drainage basins of the currently designated WSR determine the land management agency surrounding the segment of river.

For projects that may have the potential to affect free-flow, scenery, recreation, fish or wildlife values of a WSR, work with the Ecology Regional Project Manager and the land management agency to analyze the project’s effect on the free flowing character of the river, as described under section 7 of the Wild and Scenic Rivers Act.

Mitigation may be required. Incorporate avoidance/mitigation measures into the proposed action to the maximum extent feasible. Provide copies of any suggested modifications and recommendations in the cross cutter report. Incorporate recommended measures to protect the character of the river. Describe these modifications clearly in the cross cutter report and explain if and why any recommendations were not incorporated.

Provide the final analysis and supporting documentation from the land management agency demonstrating there are no effects to the free flowing character of the river in the cross cutter report, then the project satisfies the requirements of the cross cutter.

Appendix A

Abbreviations and Acronyms

BA	Biological Assessment
BO	Biological Opinion
CAA	Clean Air Act
CZMA	Coastal Zone Management Act
CZMP	Coastal Zone Management Program
DAHP	Washington State Department of Archaeology and Historic Preservation.
DNS	Determination on non-significance, in regards to the State Environmental Policy Act
EAGL	Ecology Administration for Grants and Loans
EFSEC	Energy Facility Site Evaluation
EIS	Environmental Impact Statement
ESA	Endangered Species Act, 16 USC 1531.
EFH	Essential Fish Habitats
EPA	The Federal Environmental Protection Agency
FEMA	Federal Emergency Management Agency
FIRM	Flood Insurance Rate Map
FMP	Fisheries Management Plans
FPPA	Farmland Protection Policy Act
NMFS	National Marine Fisheries Service
NEPA	National Environmental Policy Act
NRCS	National Resources Conservation Service
ORMA	Ocean Resource Management Act

SRF The Water Pollution Control Revolving (Loan) Fund

SEA Ecology's Shorelands and Environmental Assistance Program

SEPA State (of Washington) Environmental Policy Act, *Chapter 43.21C RCW*

SERP State Environmental Review Process

SIP State (of Washington Air Quality) Implementation Plan

SSA Sole source aquifer

USDA United States Department of Agriculture

USFWS United States Fish and Wildlife Service

WISAARD Washington Information System for Architectural and Archaeological Records Data

Appendix B

SERP and cross cutter Final Products

The following are lists of what the applicant/recipient and Ecology can expect to have in their project files once SERP and cross cutter requirements have been completed and approved.

SERP (no NEPA adoption):

- ✓ Ecology's SERP coversheet (completed by the applicant).
- ✓ Project's documentation of SEPA review:
 - SEPA checklist covering entire scope of the project funded by Ecology.
 - SEPA determination.
 - Affidavit of publication.
 - Any comments received during the SEPA process and public comment period.
- ✓ Documentation of public meeting and all comments (oral comments should be documented and included along with written comments).
- ✓ Ecology's SERP determination letter (completed by Ecology).
- ✓ Ecology's SERP checklist (completed by Ecology, signed by Ecology Environmental Review Coordinator and Ecology Project Manager).

cross cutters:

- ✓ Cross cutter report including all supporting documentation and analyses for all cross cutters (some items may be submitted separately for a timely review, such as a BA, but supporting documentation for all cross cutter in the form of a report must be in the project file for review to be complete.).
- ✓ Ecology's cross cutter checklist (completed by Ecology, signed by Ecology Environmental Review Coordinator and Ecology Project Manager).
- ✓ Ecology's cross cutter determination letter (completed by Ecology).

SERP and cross cutter adoption from NEPA process:

- ✓ Documentation the scope of work that was reviewed by the federal agency for NEPA is the same scope of work for the Ecology funded project.
- ✓ Documentation that all required cross cutter were evaluated by the federal agency.
- ✓ Documentation for all cross cutter, similar to the cross cutter report. This should include consideration of alternatives, public review and comment, and all cross cutter determinations and mitigation outcomes.
- ✓ Ecology's Environmental Review Adoption Letter (completed by Ecology).
- ✓ Ecology's Environmental Review Adoption Checklist (completed by Ecology).

Appendix C

Environmental Review Forms and Checklists

The following are links to forms and checklists for recipients and Ecology for SERP and cross cutter review and approval.

SERP Cover Sheet (for use by recipients)

<https://fortress.wa.gov/ecy/publications/summarypages/ecy070421.html>

SERP Checklist (for use by Ecology Staff)

<https://fortress.wa.gov/ecy/publications/summarypages/ecy070419.html>

Cross cutter Checklist (for use by Ecology staff)

<https://fortress.wa.gov/ecy/publications/summarypages/ecy070420.html>

Environmental Review Adoption Checklist (for use by Ecology staff)

<https://fortress.wa.gov/ecy/publications/summarypages/ecy070422.html>

Ecology's Executive Order 05-05/Section 106 Project Review form (for use by recipients)

<https://fortress.wa.gov/ecy/publications/SummaryPages/ECY070537.html>

The latest forms and Ecology Determinations may be located on Ecology's Water Quality Grants and Loans Environmental Review Webpage:

<http://www.ecy.wa.gov/programs/wq/funding/Res/EnvRev/EnvRevMain.html>

Appendix D

Information on SEPA

General Information on Washington's State Environmental Policy Act can be found on the internet at <http://www.ecy.wa.gov/programs/sea/sepa/e-review.html>

Electronic versions of SEPA forms may be downloaded from:
<http://www.ecy.wa.gov/programs/sea/sepa/forms.htm>

SEPA Handbook: <http://www.ecy.wa.gov/programs/sea/sepa/handbk/hbtoc.html>

SEPA rule, 197-11 WAC: <http://apps.leg.wa.gov/WAC/default.aspx?cite=197-11>

SEPA statute, Chapter 43.21C RCW: <http://apps.leg.wa.gov/RCW/default.aspx?cite=43.21C>

Water Quality Grants and Loans Environmental Review Website:
<http://www.ecy.wa.gov/programs/wq/funding/Res/EnvRev/EnvRevMain.html>

Appendix E

Ecology Water Quality Staff Responsibilities

This section outlines the process for coordinating environmental review between the applicant, Ecology's Regional staff, Ecology's Financial Manager, and the Environmental Review Coordinator. It is subject to change. Ecology will update this guidance to reflect any significant changes that would influence the applicant.

SERP Approval

1. Potential applicants should contact Ecology regional staff during the *planning phase* of their projects. The intent of beginning SERP early is to ensure that applicants and Ecology are given enough time to consider potential environmental impacts during the planning and design steps and allow for public review and comment of the chosen alternative.
2. Ecology regional staff act as the primary contact and are responsible for ensuring the applicant submits all required materials:
 - a. Applicants may upload SERP materials directly to Ecology Administration for Grants and Loans (EAGL).
 - b. The Ecology regional staff are responsible for ensuring the Environmental Review Coordinator obtains copies for review and tracking.
 - c. The Environmental Review Coordinator is available for assistance in reviewing draft SERP packages, providing technical assistance, and answering questions.
 - d. The Environmental Review Coordinator is responsible for tracking SERP packages.
3. The potential SRF applicant prepares and submits to regional staff a SERP submittal packet for regional review. The applicant should provide an electronic copy and two hard copies of the SERP packet.
4. The potential SRF applicant must include the following in the a SERP packet to ensure it will be considered for review:
 - a. A completed *SERP cover sheet*.
 - b. Documentation of State Environmental Policy Act (SEPA) review (checklist, determination, affidavit of publication, any comments received).
 - c. Public meeting documentation. The public hearing or meeting must discuss the environmental impacts of the project, the alternatives considered, the capital and operation costs of the preferred alternative, and the projected ratepayer impacts of the project. Applicants must include documentation in the form of meeting minutes, agendas, or similar.
5. Ecology's Regional staff will review the SERP submittal using the *SERP checklist*. An adequate submittal includes all items on the *SERP checklist* that are appropriate to the project. The regional staff or applicant provide a written justification to the Environmental

Review Coordinator (email is sufficient) for leaving items unchecked. Region staff send an unsigned copy of the *SERP checklist* with the SERP package for review.

6. Ecology's Regional staff will coordinate with the Environmental Review Coordinator on proposed SEPA Categorical Exemptions for further review. *An exemption approved under SEPA may requires further review under SERP.*
7. Region staff are responsible for submitting adequate complete SERP packages to the Environmental Review Coordinator. Region staff can send the documents electronically or by mail, task through SharePoint, or notify the Environmental Review Coordinator that the documents are in EAGL awaiting review. It is the region's responsibility to notify the Environmental Review Coordinator that the *SERP checklist* is ready to be reviewed and signed.
8. The Environmental Review Coordinator will review all SERP packages for completeness. If complete, the Environmental Review Coordinator or the delegate SRF Engineer will sign the *SERP checklist*.
9. If the Environmental Review Coordinator determines the SERP submittal is inadequate, the Environmental Review Coordinator consults with regional staff and the potential applicant to clarify concerns or obtain additional documentation.
10. If the Environmental Review Coordinator agrees that the SERP submittal is adequate, the Environmental Review Coordinator signs the checklist, scans the document, and sends it to the region. The Environmental Review Coordinator will coordinate all environmental documentation in a centralized location.
11. Ecology's Regional staff will then add their signature to the *SERP checklist*. Regional staff prepares the *SERP determination letter* for the Regional Section Manager's signature. The Regional Section Manager signs the *SERP determination letter* prepared by regional staff.
12. Regional staff mail the original copy of the *SERP determination letter* and the *SERP checklist* to the potential SRF applicant, makes a copy for the regional project file, and emails a PDF copy to the Environmental Review Coordinator.
13. The applicant has now met the prerequisite for submitting a funding application for a design or construction project.
14. The Environmental Review Coordinator will post completed *SERP determination letters* on Ecology's Environmental Review Website at:
<http://www.ecy.wa.gov/programs/wq/funding/Res/EnvRev/EnvRevMain.html>
15. For wastewater projects, if the SERP review is not complete and approved by the application deadline, the design or construction project is not eligible to apply for funding in that cycle. Applicants with stormwater projects that include a design element are eligible to submit a funding application prior to SERP approval. SERP approval for such projects will be a requirement of the funding agreement. SERP approval must be complete prior to application for stormwater construction projects.
16. SERP is not considered complete for a project if significant deviation from these steps has occurred with no documented explanation supporting the reason why.

Cross cutter approval

1. In Ecology's *Draft Funding Offer List and Intended Use Plan* it will identify which SRF funding applicants/recipients for wastewater facility construction (Step 3) and wastewater facility combined design and construction (Step 4) projects are "equivalency" projects and must complete federal cross cutter review.
2. Ecology's selection of "non-equivalency" projects does not obviate any requirement to comply with state, local or federal laws, including those listed in this document. Cultural resource review is still required. Ecology initiates Section 106 consultation (versus 05-05) on all SRF projects, (equivalency or non-equivalency); to ensure EPA's involvement should it be necessary.
3. Cross cutter review may begin after the *Draft Offer List and Intended Use Plan* list has been published, as some reviews have a long lead time. For Section 106 of the National Historic Preservation Act, and for Executive Order 05-05 Archaeological and Cultural Resources, early consultation and planning may start, but formal consultation may not be initiated with area tribes or with the Department of Archaeology and Historic Preservation (DAHP) until a funding mechanism is in place for any ground-disturbing activities, or potential survey requirements.
4. If a Step 3 project, all review and final determinations must be complete before the agreement is signed by the Water Quality Program Manager. If a Step 4 project, all review and final determinations must be complete before construction activities begin.
5. The recipient conducts a review and writes a *cross cutter report* to determine the project's potential environmental impacts based on the required federal cross cutters discussed in the *Combined Funding Program Environmental Review Guidance*. Regional staff may act as the primary contact for technical assistance and assist recipients in gathering documentation for those cross cutters that do not require consultation with an outside agency when needed.
6. The recipient submits two copies of the *cross cutter report* to Ecology's regional staff. This submittal will include separate reports for the Endangered Species Act, Essential Fish Habitat, and the National Historic Preservation Act. The Environmental Review Coordinator is responsible for coordinating review under the Endangered Species Act and Essential Fish Habitat and coordinates Section 106 Consultation under the National Historic Preservation Act.
7. The recipient may request that the Environmental Review Coordinator complete an "*interim review*" of the draft cross cutter report prior to finalization.
8. When the cross cutter report is complete, the regional staff confirms that the recipient has addressed all required cross cutters using the *cross cutter checklist*. The recipient must have completed all federal, state, local and tribal consultation where required and any required permits must have been received.
9. Once completed, Ecology regional staff completes *cross cutter checklist*, and forwards the final copy of the *cross cutter report* and other environmental review documents to the Environmental Review Coordinator. The Ecology regional staff should request a final review.

10. The Environmental Review Coordinator reviews the final *cross cutter report*. If the information is insufficient, the Environmental Review Coordinator works with the applicant and regional staff to obtain the needed documentation. If the report is complete, the Environmental Review Coordinator co-signs the *cross cutter checklist* and updates the *interim cross cutter review report*, if any had been prepared.
11. With all the documents finalized, the regional staff prepares the *cross cutter determination letter* for the Regional Section Manager's signature. The Regional Section Manager signs the *cross cutter determination Letter* prepared by regional staff.
12. Regional staff mails the original copy of the *cross cutter determination letter* and the *cross cutter checklist* to the recipient, puts a copy in the project file, and sends a PDF copy to the Environmental Review Coordinator and financial manager.
13. Ecology's regional staff, financial manager, and Environmental Review Coordinator incorporate any project modifications or mitigation actions agreed to as part of the SERP and cross cutter reviews into the SRF loan agreement.
14. Until the Regional Section Manager concurs that the project is in compliance with federal cross cutters, the Water Quality Program Manager cannot sign the loan agreement with the applicant (Step 3) or construction activities cannot begin (Step 4).
15. Regional staff must contact the Environmental Review Coordinator and financial manager if, during the course of the project, design changes require revisions to the environmental review. The recipient may not move forward with construction until Ecology approves any required revisions.